



## Briefing: Proposed approach for report back to Cabinet and review of waste levy investment in CAB-24-MIN-0138

Date submitted: 25 June 2024

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Security level: Policy and Privacy

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Penny SIMMONDS Minister for the Environment	Approve Sign and send the attached letter to the Minister for Regulation	1 July 2025

Actions for Minister's office staff
<b>Return</b> the signed briefing to the Ministry for the Environment ( <a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a> ) <b>Forward</b> the attached letter to the Minister for Regulation once signed by the Minister for the Environment <b>Follow up</b> with the office of the Minister for Regulation <b>Return</b> the letter signed by the Minister for Regulation to the Ministry for the Environment

Appendices and attachments
Appendix 1: Proposed procurement scope to support decisions 22 and 23 of CAB-24-MIN-0138 revised v3 Appendix 2: Letter to Minister for Regulation

Key contacts at Ministry for the Environment			
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General Manager	Glenn Wigley		X

Minister's comments
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# Proposed approach for report back to Cabinet and review of waste levy investment in CAB-24-MIN-0138

## Key messages

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1. On 29 April 2024, Cabinet invited you to:
  - a) In consultation with the Minister for Regulation, to report back to Cabinet by October 2024 on the performance of government spending funded by the levy, with a focus on value for money, whether private investment is being crowded out, on improved environmental outcomes, and on the market failures surrounding waste disposal that have resulted in the need for a levy [decision 22]; and
  - b) Independently review the process for making investment decisions using the [levy] and back-office functions in the Ministry for the Environment relating to the [levy], with a focus on value for money [decision 23].
2. Officials met with you on 21 May to discuss the approach to implementing these decisions. We also consulted Treasury officials, Ministry for Regulation officials, and Under-Secretary for Infrastructure Simon Court. We discussed their feedback with you in followup conversations across the last several weeks. This process helped clarify the proposed approach as several aspects of Cabinet decision 22 were open to interpretation (as outlined in paragraphs 3 and 4 below).
3. We propose splitting decision 22 into two parts. The Ministry will lead the “market failure” piece, approaching it mainly as a forward-looking analysis looking at a framework for future decisions across whole of levy, as well as the policy rationale for the levy.
4. The balance of the decision is about performance, value for money and outcomes, which we believe is best supported with external advice. Under-Secretary Court indicated the scope of this work should also include the portion of the levy allocated to local government because it directly relates to the “crowding out” issue.
5. We have worked with you to refine the scope further, particularly regarding the scope of work for [decision 22]. You also sought input from the Minister of Finance, the Minister for Infrastructure and the Minister for Local Government who have supported the scope revisions.
6. We have revised the scope for decision 22 accordingly, as outlined in Appendix One. We have also revised the letter to the Minister for Regulation to reflect these changes in Appendix Two.
7. We propose to use different third parties for each decision. The opportunity for potential efficiencies by using one third party was considered given both decisions look at the use of the levy through a value for money lens. However, one looks at performance and the other at the cost-efficiency of resources. Suppliers that would be best suited to delivering on decision 22 (economics and finance specialists) are not well suited to deliver on decision 23 (assurance specialists).
8. Reporting back to Cabinet by October, even the end of that month, will be challenging particularly against a backdrop of significant organisational change over coming months. We request your urgent approval of the recommendations in this briefing, then we will

conduct the procurement phase at pace. There may be a need for you to reconsider whether the October report back is achievable to allow time for Cabinet paper preparation and consultation. The achievability may be impacted by the procurement and proposals received by consultants. We will continue to monitor this situation and give you further advice regarding the timing of the report back as we progress.

## Recommendations

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We recommend that you:

- a. **Approve** the scope of, and approach to, decision 23 of Cab-24-MIN-038, which has not changed and does not require input from the Minister for Regulation.

Yes | No

- b. **Agree** to send the attached letter to the Minister for Regulation in relation to decision 22

Yes | No

- c. **Agree** to discuss report back timing with officials at an upcoming policy meeting

Yes | No

## Signatures

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Michelle Kazor

Programme Director – Waste Investments

**25 June 2024**

Hon Penny SIMMONDS

**Minister for the Environment**

**Date**

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# Proposed approach for report back to Cabinet and review of waste levy investment in CAB-24-MIN-0138

## Purpose

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7. To seek your agreement on the proposed scope and approach to decision 22 subject to final consultation with the Minister for Regulation, and for decision 23 in CAB-24-MIN-0138 regarding investment of the waste disposal levy.

## Background

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8. On 29 April 2024, Cabinet invited you to:
  - In consultation with the Minister for Regulation, report back to Cabinet by October 2024 on the performance of government spending funded by the levy, with a focus on value for money, whether private investment is being crowded out, on improved environmental outcomes, and on the market failures surrounding waste disposal that have resulted in the need for a levy **[decision 22]**; and
  - Independently review the process for making investment decisions using the [levy] and back-office functions in the Ministry for the Environment relating to the [levy], with a focus on value for money **[decision 23]**.

## Analysis and advice

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9. We considered the decisions individually and alongside other decisions at length, as there were several potential interpretations. We also consulted Treasury officials, Ministry for Regulation officials, and Under-Secretary for Infrastructure Simon Court.
10. We also have worked with you to refine the scope further, particularly regarding the scope of work for [decision 22]. You sought input from the Minister of Finance, the Minister for Infrastructure and the Minister for Local Government who have since given support to the approach.
9. This process helped land key elements of the approach that we propose in this briefing:
 

*Decision 22 comprises two distinct pieces of work*
10. The “market failure” element is interpreted as being about clarification of first principles that guide the levy regime. Under-Secretary Court considered it to be mainly a forward-looking analysis that will provide a basis for consideration of how to optimise investment of the levy. The Ministry will undertake this work itself including looking at a framework for future decisions across whole of levy (not just on waste), as well as the policy rationale for the levy.
11. The balance of the decision is about performance, outcomes and value for money. We believe this is best supported with external advice. This will bring the right skillsets to this work, alleviate capacity constraints within the Ministry, and avoid potential perceptions of a lack of independence if the Ministry was to conduct this review itself.

12. Under-Secretary Court indicated the scope of this work should include the portion of the levy allocated to local government because it directly relates to the “crowding out” issue.
13. Cabinet did not explicitly include in its recommendations the requirement for examination of local government use of the levy. But for the purpose of completeness, and on discussion with Under Secretary Court, the scope (see Appendix One) includes the review of a small number of local government case studies to address any perceived risks in that domain.
14. This consideration of the potential for crowding out is not an investigation into the merits of levy distribution to central or local government. It is meant to inform whether any further parameters or mitigations might be needed to maximise its most effective investment. These considerations have been outlined in the draft letter to the Minister for Regulation in Appendix Two.

*Decision 23 requires independent review*

15. A key element of decision 23 was the requirement by Cabinet that this review be undertaken independently. While the review must necessarily be retrospective, it will also give consideration to future requirements relating to levy administration, with the view to drawing insights or making recommendations that may increase the efficiency and effectiveness of these functions in the near term.
16. Decision 23 work does *not* require input or consultation with the Minister for Regulation, although we did discuss this adjacent component of the levy report back with Under Secretary Court. He understood the relationship between the two components but did not give feedback into the scope for decision 22.

*Separate procurements for each decision will achieve the best results*

17. Since both decisions look at investment of the levy with a value for money lens, the opportunity for potential efficiencies by using a single third party to support both was considered. However, the evaluation of performance in decision 22 is significantly different to the review of the cost-efficiency of resources funded by the levy. The proposed scope of each piece of work is set out in Appendix One.
18. The Ministry for Regulation gave feedback regarding specific suppliers that would be best suited to delivering on decision 22. Some of those suppliers (economics and finance specialists) would not be well suited to also deliver on decision 23 (assurance specialists) and therefore it is most suitable to handle these as two separate procurements.
19. Because of their economics expertise, we recommend the following four suppliers be contacted directly to bid for the work associated with decision 22 – Martin Jenkins, Sapere, Castalia and NZIER. These are Tier 1 and 2 suppliers from the Finance and Economics AoG Consultancy Panel. We have tested this list with officials from the Minister for Regulation’s office. Quotes from these suppliers will be assessed by a procurement panel of representatives from the Ministry for the Environment and the Ministry for Regulation.
20. Based on the nature of the engagement and its significance, we suggest using only Tier 1 Assurance AoG Consultancy Panel members for decision 23. Due to the very tight timeframe for the requirements, 9(2)(b)(ii) we recommend the following three suppliers be contacted directly to bid for this work – EY, KPMG and PWC.

Quotes from these suppliers will be assessed by a procurement panel of representatives from the Ministry for the Environment.

#### *High-level timeframes through to October report back*

21. The exact timeframes are subject to when we can send the Request for Quotes out to the suppliers and the subsequent contractual arrangements. The risks to these timeframes are covered in the risks and mitigations section. The process will be progressed on the fastest timeframes possible and indicative high-level timeframes are included below in table 1:

<b>Activity</b>	<b>Indicative Timeframe:</b>
Requests for Quotes (proposals) sent <sup>1</sup>	Early July
Proposals received by	Late July
Proposals assessed and chosen suppliers contracted	Early August
Suppliers deliver final reports	late September
Ministry prepares briefing and discusses with Minister	Late September-October
Report back to Cabinet	To be confirmed – November

## **Te Tiriti analysis**

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22. No Tiriti issues are associated with the proposals in this briefing.

## **Other considerations**

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### **Consultation and engagement**

23. Feedback from the Ministry for Regulation and Under-Secretary Court is noted above. The Ministry for Regulation has been invited to be represented on the procurement panel for decision 22.
24. Treasury made a number of suggestions on aspects of the proposed approach, including requiring a cost-benefit analysis to determine value for money. Their suggestions have been taken into this briefing. Treasury was invited to be represented on both procurement panels but declined in order to preserve an independent view.

### **Risks and mitigations**

25. The key risk to addressing both decisions satisfactorily is that they have tight timeframes and are being conducted against a backdrop of significant organisational change within

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<sup>1</sup> The request for quote for decision 23 will proceed as soon as we have your approval. The request for quote for decision 22 will not go out until after we have received the response from the Minister for Regulation.

the Ministry. Quick approval turnaround and utilising independent third parties will assist in mitigating this risk.

## Next steps

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26. If you agree to send the attached letter to the Minister for Regulation regarding decision 22, your office will work with his office to secure his approval promptly.
27. Procurement for decision 23 will commence as soon as you approve the scope and approach by returning this signed briefing.



## **Appendix 1: Proposed procurement scope to support decisions 22 and 23 of CAB-24-MIN-0138**

### **1. Proposed procurement scope for the report back to Cabinet on the performance of government spending funded by the levy (decision 22)**

Objective 1: Provide a report giving independent advice on how well the Central Government investment is performing in terms of outcomes, giving consideration to:

- value for money<sup>1</sup> from use / investment of the Central Government portion of the levy through the waste funds (Waste Minimisation Fund and Plastics Innovation Fund)
- outputs and outcomes being achieved through the above, both quantitative and qualitative benefits (quantitative examples - tonnes of waste diverted to beneficial use; associated emissions reduction; displacement of virgin plastic use etc)
- potential for outcomes to be achieved in the near future arising from recent investment decisions.

Objective 2: examine whether *there are situations in which investment of the levy* (by either central government and/or local government) *may have the effect of* crowding out or having a negative impact on private capital investment. This analysis should:

- draw on a small number of central and local government case studies
- be intended to identify potential mitigations, if any risks are identified

Objective 3: Provide any recommendations on how the performance of government investment of the levy could be improved.

To deliver these objectives the consultant would consider:

- relevant market dynamics in the waste sector
- project level outputs, outcomes and benefits, as well as portfolio level outcomes and benefits
- the potential performance that might be reasonably expected from investments made since the central government investment model was reset in 2022, based on forecast performance measures and current status reporting of a reasonable sample of projects; noting that the vast majority of projects awarded Government funding since the levy expanded are still in progress and outcomes will not be measurable until post-project completion
- how criteria such as value for money, additionality, potential outcomes and benefits, and potential for 'crowding out' are assessed and managed

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<sup>1</sup> Consultants will be expected to include definitions and proposed measures in their proposals

- performance for the two-three years prior to the substantial increase of the waste levy across a reasonable sample of projects including recently closed or closing projects to verify reported outcomes and outputs, which may include interviewing a sample of recipients and reviewing data gathered by the Ministry for the Environment
- the consultant will undertake a cost benefit analysis of investments to determine value for money. The consultant will propose an approach to CBA that reflects the tight timeframe for this work.

## **Out of Scope**

- The review is not a financial audit of the Central Government's waste investment funds.
- This work excludes review of the administrative delivery of the waste investment funds, apart from consideration of how potential for 'crowding out' is addressed and mitigated through fund decision-making processes. Administration and 'back office' functions are subject to review as part of a separate process [refer CAB-24-MIN-0138, decision 23].
- The external review should not be concerned with detailed policy analysis or regulatory impact analysis relating to the waste disposal levy or consideration of the merits of levy distribution to or between central or local government.
- The review will not consider the portion of the levy that will be allocated post 1 July 2024 to the Government's waste work programme.

## **2. Proposed scope for the independent review of the process for making investment decisions and back-office functions in the Ministry (recommendation 23)**

Objective 1: Review the processes for making (waste levy) waste investment decisions, with a focus on value for money<sup>1</sup>.

To deliver objective 1, the consultant would conduct a process review, considering value for money associated with the end-to-end waste investment funds decision-making process (WMF & PIF) which includes [three key phases](#):

- Expression of Interest (EOI) – initial conversations, EOI submission and assessment, moderation and approvals
- Application – application submission, independent panel assessment<sup>2</sup>, assessment, due diligence, moderation and approvals
- Contracting – project planning, deed of funding negotiation, external due diligence, legal review

In addition, how post-project evaluation feeds into decision making is also in scope.

The consultant would provide a report setting out their findings with respect to the efficiency and effectiveness of the process for making waste investment decisions. Value for money conclusions will need to be provided in consideration of the output of objective 2c (administration of the waste investment funds).

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<sup>2</sup> High value projects (funding request over \$1 million) or high-risk projects only.

Objective 2: Review back-office functions funded by the levy, with a focus on value for money, including:

- a) collecting, distributing and administering the levy
- b) levy compliance, monitoring and enforcement; and
- c) funds administration.

To deliver objective 2 the consultant would:

- consider these functions and activities against the Ministry's regulatory responsibilities and assess the value for money of delivery against departmental expenditure since levy rates were increased in 2021.
- assess whether the current appropriated departmental funding from FY26 onwards will be adequate to deliver on the Ministry's regulatory responsibilities. If not, provide an assessment of the indicative level of departmental funding required to deliver on these functions/activities.
- provide any recommendations that helps to avoid 'dead weight loss' from the administration of the two key levy functions.

#### **Out of scope**

- Investment decision-making processes for other Ministry administered funds such as the Contaminated Sites Remediation Fund and the Freshwater Improvement Fund (previously not funded by levy).
- Decision-making processes with respect to WMF projects that are funded with Climate Emergency Response Funding
- Back-office functions not funded by the levy in FY24 e.g. Waste operations compliance, monitoring and enforcement activities not related to levied facilities.
- The Ministry's overhead allocation methodology. Allocation methodology is reviewed annually as part of Audit NZ's audit.
- Waste Investments activities funded by the Climate Emergency Response Fund
- Detailed assessment of specific processes, methodologies or systems employed by the two levy administrative function areas.



MO tracking code/[code]

Date

Hon. David Seymour  
Minister for Regulation

Dear Mr Seymour

On 29 April 2024, Cabinet invited me in consultation with you, to report back to Cabinet by October 2024 on the performance of government spending funded by the levy, with a focus on value for money, whether private investment is being crowded out, on improved environmental outcomes, and on the market failures surrounding waste disposal that have resulted in the need for a levy. [CAB-24-MIN-0138 decision 22 refers.]

I seek your support for the approach I am proposing to this report back. The approach has been developed in consultation with Under-Secretary Court, officials from the Ministry for Regulation and from Treasury. I have also solicited input from the Minister of Finance, the Minister for Infrastructure, and the Minister for Local Government, who are supportive of the proposed approach.

The review work would be split into two parts. The Ministry for the Environment will lead the “market failure” piece. This would mainly be a forward-looking analysis considering a framework for future decisions across the whole of levy (not just on waste), as well as considering the policy rationale for the levy.

The balance of Cabinet’s decision is about performance, which is best supported with external advice. This will bring the right skillsets to this work and avoid potential perceptions of a lack of independence if the Ministry was to conduct this review itself.

Cabinet did not explicitly include in its recommendations the requirement for examination of local government use of the levy. But for the purpose of completeness, and on discussion with Under Secretary Court, the scope includes the review of a small number of local government case studies to address any perceived risks in that domain.

This consideration of the potential for crowding out is not an investigation into the merits of levy distribution to central or local government. It is meant to inform whether any further parameters or mitigations might be needed to maximise its most effective investment.

The detailed scope of the work to be procured from a third party is attached to this letter in Appendix One. The scope was socialised with Under Secretary Court earlier this month and his insights and advice were incorporated.

Minister for the Environment  
Minister for Tertiary Education and Skills  
Associate Minister for Social Development and Employment



The timeframe for the report back is very tight. Accordingly, I would appreciate it if you could sign and return this letter to me as soon as possible so that work can get underway.

Kind regards,

Approved

Hon Penny Simmonds  
**Minister for the Environment**

Hon David Seymour  
**Minister for Regulation**  
Date:



## **Appendix One: proposed scope of procurement [refer dec 22, CAB-24-MIN-0138]**

### **Proposed procurement scope for the report back to Cabinet on the performance of government spending funded by the levy (decision 22)**

**Objective 1: Provide a report giving independent advice on how well the Central Government investment is performing in terms of outcomes, giving consideration to:**

- value for money<sup>1</sup> from use / investment of the Central Government portion of the levy through the waste funds (Waste Minimisation Fund and Plastics Innovation Fund)
- outputs and outcomes being achieved through the above, both quantitative and qualitative benefits (quantitative examples - tonnes of waste diverted to beneficial use; associated emissions reduction; displacement of virgin plastic use etc)
- potential for outcomes to be achieved in the near future arising from recent investment decisions.

**Objective 2: examine whether *there are situations in which investment of the levy (by either central government and/or local government) may have the effect of crowding out or having a negative impact on private capital investment.* This analysis should:**

- draw on a small number of central and local government case studies
- be intended to identify potential mitigations, if any risks are identified

**Objective 3: Provide any recommendations on how the performance of government investment of the levy could be improved. To deliver these objectives the consultant would consider:**

- relevant market dynamics in the waste sector
- project level outputs, outcomes and benefits, as well as portfolio level outcomes and benefits
- the potential performance that might be reasonably expected from investments made since the central government investment model was reset in 2022, based on forecast performance measures and current status reporting of a reasonable sample of projects; noting that the vast majority of projects awarded Government funding since the levy expanded are still in progress and outcomes will not be measurable until post-project completion

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<sup>1</sup> Consultants will be expected to include definitions and proposed measures in their proposals





- how criteria such as value for money, additionality, potential outcomes and benefits, and potential for 'crowding out' are assessed and managed
- performance for the two-three years prior to the substantial increase of the waste levy across a reasonable sample of projects including recently closed or closing projects to verify reported outcomes and outputs, which may include interviewing a sample of recipients and reviewing data gathered by the Ministry for the Environment
- the consultant will undertake a cost benefit analysis of investments to determine value for money. The consultant will propose an approach to CBA that reflects the tight timeframe for this work.

## Out of Scope

- The review is not a financial audit of the Central Government's waste investment funds.
- This work excludes review of the administrative delivery of the waste investment funds, apart from consideration of how potential for 'crowding out' is addressed and mitigated through fund decision-making processes. Administration and 'back office' functions are subject to review as part of a separate process [refer CAB-24-MIN-0138, decision 23].
- The external review should not be concerned with detailed policy analysis or regulatory impact analysis relating to the waste disposal levy or consideration of the merits of levy distribution to or between central or local government.
- The review will not consider the portion of the levy that will be allocated post 1 July 2024 to the Government's waste work programme.