

In Confidence

Office of the Associate Minister for the Environment

Chair, Cabinet Environment, Energy and Climate Committee

Final policy proposals to implement amendments to the Basel Convention to better manage the international trade in plastic waste

Proposal

- 1 This paper seeks Cabinet's agreement to amend, by Order in Council, the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (Imports and Exports Order).
- 2 These amendments are required to meet new international obligations for the trade in plastic waste under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention). These amendments come into effect on 1 January 2021.

Relation to government priorities

- 3 These amendments are an operational adjustment that requires Cabinet approval. These amendments must be made by 1 January 2021. On this date the new international obligations for the trade in plastic waste will come into effect for New Zealand.
- 4 The proposed amendments are also in line with the Government's priority to transition to a clean, green, carbon neutral New Zealand by better managing waste, and are closely linked with work being done to improve the quality of plastic recycling in New Zealand including:
 - 4.1 phasing out low-value plastic in packaging
 - 4.2 standardising kerbside recycling
 - 4.3 developing a container return scheme
 - 4.4 increasing domestic recycling infrastructure capacity and capability.

Executive Summary

- 5 The Basel Convention is an international agreement that aims to protect human health and the environment from the dangers posed by hazardous and household waste, and regulates the international movement of those wastes. It requires 'prior informed consent' (prior consent) from importing countries for transboundary movements of wastes listed under the Basel Convention. New Zealand has been a Party to the Basel Convention since 1995.

- 6 In May 2019, Parties to the Basel Convention agreed to amend annexes to the Convention to better manage the international trade in plastic waste (Basel Amendment). The Basel Amendment will require exporting countries or exporters to get consent from receiving countries before shipping most mixed plastic waste (with the exception of mixtures of PE, PP and/or PET)¹. New Zealand is legally bound at international law to implement the Basel Amendment by 1 January 2021 when the Amendment comes into effect.
- 7 The aim of the Basel Amendment is to encourage the trade in high-value plastic waste for recycling, while discouraging the trade in low-value, mixed plastic waste as these exports tend to lead to more residual waste, which results in worse environmental outcomes.
- 8 The export of hazardous plastic waste will continue to require prior consent from receiving countries, and the export of separated plastic waste can continue without prior consent if it is destined for recycling in an environmentally sound manner.
- 9 New Zealand meets its obligations under the Basel Convention through the Imports and Exports Order. New Zealand currently does not have the rules in place to meet the new obligations under the Basel Amendment for the trade in mixed plastic waste.
- 10 I propose to amend the Imports and Exports Order to implement the new requirements for the trade in mixed plastic waste. This would mean that imports and exports of mixed plastic waste (with the exception of mixtures of PE, PP, and/or PET) would require prior consent from receiving countries and a permit from the Environmental Protection Authority (EPA).
- 11 The effect of the amendments to the Imports and Exports Order will be that New Zealand will be compliant with the new Basel Convention obligations for the trade in plastic waste. To comply with these obligations, the amendments to the Imports and Exports Order must come into effect by 1 January 2021.
- 12 I am seeking Cabinet agreement to instruct the Parliamentary Counsel Office (PCO) to draft the amendments to the Imports and Exports Order to give effect to the Basel Amendment.
- 13 I am also seeking Cabinet agreement to make a separate technical amendment to the Imports and Exports Order to specifically introduce a 'transit shipment' permit for hazardous and household waste. Currently each transit shipment through New Zealand requires a separate import and export permit. This is not the intended approach for such shipments, or what happens operationally. This amendment is not a requirement to implement the Basel Amendment, but will improve the operation of the Imports and Exports Order.

¹ Under the Basel Amendment mixtures of PE (polyethylene), PP (polypropylene), and/or PET (polyethylene terephthalate) can be exported without consent, if they are destined for separate recycling, and almost free from contamination.

Background

International trade in plastic waste

14 Currently there is limited international regulation on the trade in plastic waste for recycling (unless it is hazardous or mixed with other waste). It is often more cost effective for developed countries to export their plastic waste to developing countries (where processing and disposal costs are lower) than to recycle or dispose of it themselves. Some countries (including New Zealand) also do not have enough infrastructure to adequately recycle plastic waste.

15 Plastic waste is made up of seven main types of plastic. The different types of plastic have different recycling attributes and different values as commodities. Plastic types 3 (PVC), 4 (LDPE), 6 (PS) and 7 (other plastics) are generally lower in value than other types of plastic due to the volume needed for recycling, the cost of collecting and sorting, and limitations in how they can be used. These plastics are often mixed together as the economic and technical feasibility of recovering them has traditionally been poor. To access markets for these lower value plastics, exporters include higher value types such as PET (1) and HDPE (2) to increase the value of the bales.

16 Generally, developed countries export bales of mixed plastic waste. While the high-value plastic waste is extracted for recycling, low-value plastic waste and/or residual waste is often dumped in landfills, or burned, with significant impacts for the environment and human health. Mismanaged plastic waste can flow into the ocean through river systems, or as a result of flooding and tropical storms, and become marine plastic litter, which has well documented consequences for marine life and seabirds.

17 There is a role for the international trade in plastic waste to recover recycling material that may otherwise end up in landfill. But the relatively limited regulation of the trade in plastics for recycling has led to limited transparency about:

- 17.1 the type of plastic waste exported or imported for recycling or disposal
- 17.2 how the importing country manages or disposes of plastic waste (including residual waste).

The decision to better manage the international trade in plastic waste

18 In May 2019, Parties to the Basel Convention (including New Zealand) agreed by consensus to amend annexes to the Convention to better manage the



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international trade in plastic waste, especially plastic waste that is most at risk of becoming marine plastic litter (Basel Amendment). The Basel Amendment creates three distinct categories for plastic waste.

- 19 Under the Basel Amendment, exporting countries or exporters will have to obtain consent from receiving countries before shipping most mixed plastic waste, and hazardous plastic waste. These types of plastic waste tend to pose higher risk to the environment and human health.
- 20 Plastic waste that is clean, has been separated into single streams by type ('separated plastic waste') and is destined for recycling in an environmentally sound manner, will remain outside the controls of the Basel Convention. Bales of separated plastic waste are generally higher value than bales of mixed plastic waste, and have lower levels of contamination² and less residual waste as a result. This means they pose a lower risk to the environment and human health.
- 21 The aim of the Basel Amendment is to encourage the trade in high-value plastic waste for recycling, and discourage that of low value plastic waste (such a mixed plastic waste). The Basel Amendment is likely to lead to less low-value, hard to recycle plastic waste being dumped or burned overseas.
- 22 The Basel Amendment aims to strike a balance between enabling trade, and ensuring environmental integrity. This reflects the fact that not all countries have the infrastructure or capacity to process the waste, and there is economic value in the trade of some plastic waste. It also acknowledges that greater global regulation is necessary to prevent poor environmental management of such exports.

New Zealand must implement the Basel Amendment by 1 January 2021

- 23 The Basel Amendment comes into effect on 1 January 2021 for all Parties that have not opted out. As New Zealand has not opted out, it is legally bound at international law to implement the Basel Amendment domestically by 1 January 2021.
- 24 If New Zealand has not implemented the Basel Amendment by 1 January 2021 it will not meet its obligations under the Basel Convention. Businesses will likely be prevented from exporting some plastic waste to countries we currently export to. This is because the Environmental Protection Authority (EPA) would be unable to issue permits for these exports. It is likely that New Zealand exporters could only export mixed plastic waste to those countries that have not implemented the Basel Amendment.
- 25 I have been advised that there are unlikely to be many countries that will not implement the Basel Amendment, although due to COVID-19 some countries may have a slight delay in completing implementation. It is expected that most of our destination markets § 6(a) will implement the Basel Amendment.

² Contamination can be by dirt, food residue, waste ('gross contamination'), or when unspecified or unrecyclable materials are included in bales (for example, where PVC (3) is found in a bale of clear PET (1)).

- 26 Not implementing the Basel Amendment would lead to uncertainty for industry about how to manage exports of plastic waste. There would likely be more plastic landfilled in the short term as New Zealand does not have the necessary infrastructure currently to manage all types of plastic waste. Where trade is possible, there would be a lack of regulation and a risk that residual waste would continue to enter the environment as a result.
- 27 There is also a risk to New Zealand's international reputation if we do not implement the Basel Amendment before 1 January 2021. Parties agreed to the Basel Amendment by consensus and if New Zealand has not implemented the Basel Amendment by the time it comes into effect, there may be an international perception that New Zealand is not willing to address issues associated with its own waste, or the international trade of plastic waste.

Options to implement the Basel Amendment

- 28 In March 2020, Cabinet agreed to public consultation on options to amend the Imports and Exports Order to implement the amendments to the Basel Convention, and approved the consultation document *Managing the trade in plastic waste – New Zealand's approach to implementing amendments to the Basel Convention* [ENV-20-MIN-0013].
- 29 The consultation document sought feedback on two options to implement the Basel Amendment. Both options would amend the Imports and Exports Order to include mixed plastic waste in the permit system. However, they differ on the specifications for separated plastic waste:
- 29.1 *Option 1:* Permits for imports and exports of mixed plastic waste, **without** specifications for separated plastic waste.
- 29.2 *Option 2:* Permits for imports and exports of mixed plastic waste, **with** specifications for plastic waste (such as a specific maximum rate for contamination).
- 30 Cabinet invited me to report back on final policy proposals to implement the Basel Amendment.

Analysis

Proposed approach to implement the Basel Amendment

- 31 I propose to amend the Imports and Exports Order to include imports and exports of mixed plastic waste (with the exception of mixtures of PE, PP and/or PET) in the permitting system. A permit would be required from the EPA for imports and exports of most mixed plastic waste before shipment.
- 32 As part of the permit process the EPA must seek consent from the importing country and transit countries on behalf of the permit applicant. This is in line with New Zealand's existing obligations under the Basel Convention, and the process in New Zealand for imports and exports of other waste listed under the Convention.

- 33 Exports of mixed plastic waste are the primary environmental concern that led to the Basel Amendment. While high-value plastic waste in a mixed bale is extracted for recycling, low-value plastic waste and/or residual waste is often dumped in landfills, or burned. For this reason, the Basel Amendment regulates exports of this type of waste.
- 34 I do not propose to set specifications for imports and exports of separated plastic waste. However, best practice guidance would be provided to the sector.
- 35 Separated plastic waste tends to be higher value, have lower contamination rates and less residual waste. The Basel Amendment does not specify contamination rates for separated plastic waste, though states that such exports should be “almost exclusively” one type of plastic, and notes that “international and national specifications may offer a point of reference”. This will be reflected in any guidance that is developed for the sector on exporting plastic waste.
- 36 This approach meets the requirements of the Basel Amendment. It also:
- 36.1 still allows the trade in plastic waste, subject to consent for imports and exports of low-value, hard to recycle plastic (such as mixed plastic waste)
 - 36.2 increases transparency around the trade in low-value, hard to recycle plastic waste
 - 36.3 decreases the likelihood that low-value, hard to recycle plastic waste will be disposed of offshore in an environmentally harmful manner
 - 36.4 reflects current industry practice (domestic and international) and is in line with policy changes happening in New Zealand’s plastic waste management sector
 - 36.5 gives industry some flexibility to adjust to changing markets where necessary.
- 37 Under the Imports and Exports (Restrictions) Act 1988 (Imports and Exports Act) it is an offence to import or export any goods which are prohibited, or to fail to comply with the requirements of a permit granted under an Order under the Act. Offences are liable to a fine not exceeding \$5000 for individuals, \$25,000 for corporations, or an amount equal to three times the value of the goods to which the offence relates, whichever is the greater. These offence provisions will apply to the new requirements for the trade in mixed plastic waste.
- 38 The scope of this work is to implement the Basel Amendment in time to meet New Zealand’s obligations under the Basel Convention. I consider this to be just one step on a pathway to ensure the quality of plastic waste (and other waste) for recycling.

39 As part of the Ministry for the Environment's wider policy work to align quality assurance processes officials will:

39.1 look for opportunities to work with councils and recyclers to ensure systems incentivise the trade in high-value waste for recycling^{s 9(2)(f)(iv)}

39.2 consider the effectiveness of the provisions in the Imports and Exports Order in relation to compliance, monitoring and enforcement of the trade in hazardous and household wastes.

40 This is in line with the Basel Convention's broader aim to reduce the generation of hazardous and other waste, and the requirement that Parties take all practicable steps to ensure that hazardous wastes and other wastes are managed in a manner which will protect human health and the environment.

Current industry practice

41 When plastic waste is collected for processing, different types of plastic waste can be mixed together ('mixed plastic waste'), or separated into single streams ('separated plastic waste').

42 Exports of separated plastic waste from New Zealand generally have relatively low levels of contamination. This is because:

42.1 importing countries and importers set specifications for contamination

42.2 contamination rates impact the value of a separated bale.

43 Based on feedback from stakeholders, exports of separated plastic waste typically have very low levels of gross contamination³ (0-0.5 per cent). Contamination by other types of plastic is also low but can vary (0.5-3 per cent)⁴.

Wider work on resource efficiency

44 The government is currently progressing a number of policy work programmes to improve New Zealand's recycling as we move towards a circular economy that maximises the recovery and reuse of materials.

45 In particular there are work programmes that will increase the quality of plastic waste for recycling, and further decrease contamination levels. This work supports the proposed approach to implement the Basel Amendment.

46 In December 2019, the Prime Minister and I announced a plan to set targets to phase-out hard to recycle plastics in packaging, starting with PVC (3) and PS (6).

³ Contamination by unrecyclable material such as dirt, stones and food residue.

⁴ For example where PVC is found in a bale of clear PET.

- 47 PVC and PS are small volumes (estimated at 0.19 per cent and 2.47 per cent respectively) of the overall plastic waste stream but have disproportionately large impacts on our recycling system. Both material types have limited markets in New Zealand and internationally, and are typically exported in bales of mixed plastic waste. PVC is also a significant contaminant in the recycling stream as it is difficult to distinguish from PET by sight. It only takes a small concentration of PVC to lead to significant quality reductions in a bale of clear PET.
- 48 Phasing out the use of PVC and PS in packaging would increase the quality of separated bales of plastic waste, and decrease the amount of contamination in these bales.
- 49 There is also work being progressed to standardise kerbside collection of recycling. Efficiencies across the kerbside system will make it easier for communities to recycle, increase the quality of plastics available for recycling and reduce contamination rates.
- 50 As part of this work, there is a recommendation that councils only collect plastic types 1 (PET), 2 (HDPE) and 5 (PP). These types of plastic are considered high-value (relative to other types of plastic), and there are markets for them in New Zealand and overseas. Approximately 36 (out of 67) local councils have already moved away from collecting low-value plastics to focus on collecting types 1, 2 and 5.
- 51 Limiting the types of plastic that are collected to those which are high-value, will lead to less low-value plastic in the recycling system overall. This will mean fewer exports of mixed value plastic, and less low-value plastic waste contaminating separated bales (whether they are processed in New Zealand or exported to overseas markets).
- 52 The Ministry for the Environment is also working with other agencies and industry to increase domestic infrastructure capacity and capability. Recent funding allocated as part of COVID 'wave three' investment will facilitate improvements over the next few years. For example, upgrades at materials recovery facilities (MRFs), such as including optical sorters, would support sorting and separating of quality recyclable materials for further processing either onshore or via export markets. There is also opportunity to develop plastic recycling plants to increase the amount of onshore recycling of plastics such as PET (1), HDPE (2), LDPE (4), and PP (5).
- 53 Improving and developing domestic infrastructure will lead to higher quality plastic for recycling from better separation, and in the medium-long term, less risk from plastic waste, and increased ability for New Zealand to deal with its own waste.
- 54 As New Zealand moves away from using low-value plastic in packaging, and there is less low-value plastic collected at kerbside combined with an increase in domestic capacity and capability, I consider there will be:

- 54.1 a decrease in the likelihood of mixed plastic waste being disposed of in an environmentally harmful manner offshore in the short-medium term
- 54.2 an increase in the quality of bales of separated plastic waste (less contamination) for export in the short-medium term.

Specifications for separated plastic waste and quality assurance

- 55 Due to the current low rates of contamination for exports of separated plastic waste, and the wider work that the Ministry for the Environment is progressing to increase the quality of plastic waste for recycling, I do not consider it to be necessary at this time to set specifications (eg, maximum contamination rates) for exports of separated plastic waste. Setting specifications would go beyond the requirements of the Basel Amendment.
- 56 In addition, during the Ministry's targeted engagement with stakeholders, while some stakeholders considered that a maximum contamination rate would be important they noted that the timeframes to implement this were too short. They stated that industry would need more time to change current systems before a contamination rate could be included in the regulations.
- 57 I have also considered whether an additional quality assurance requirement is needed for exports of separated plastic waste which do not require consent under the Basel Amendment, or a permit from the EPA.
- 58 In order to encourage the export of high-value, separated plastic waste it is important to limit barriers to these exports.
- 59 As outlined above, I consider that because of current domestic practices, the wider resource efficiency policy work, and international market settings, the amount of low-value plastic waste that is likely to contaminate exports of separated plastic waste, while already low, is likely to decrease further.
- 60 The cost and imposition to establish a regulated quality assurance system for these types of plastic exports would be high, and when considering the relatively low levels of contamination in bales of separated plastic waste, on balance such a system is not needed.
- 61 However, to help further mitigate the risk of contamination in bales of separated plastic waste, guidance will be provided to industry on best practice for exporting plastic waste. The document *Technical guidelines for the identification and environmentally sound management (ESM) of plastic wastes and for their disposal* under the Basel Convention is currently being updated and will give additional clarity. The guidance is expected to be finalised by mid-2021. In the interim, guidance may refer to other international or national standards.
- 62 The Ministry for the Environment will also look into ongoing opportunities to work with councils and recyclers on assuring the quality of plastic waste for recycling.

63 I recommend that the Ministry for the Environment reviews the implementation of the Basel Amendment as part of the ongoing monitoring of New Zealand's imports and exports of hazardous and other waste under the Basel Convention. This would enable the Ministry to assess changes in the domestic and international markets, including whether contamination rates or a regulated quality assurance system may be needed in the future.

Parliamentary treaty examination

64 Standing Order 397, which governs presentation of treaties to the House of Representatives, applies only to positive treaty actions and not to treaty actions subject to tacit acceptance (like the Basel Amendment). The Government has committed as a matter of policy to present amendments which are more than minor and/or technical to the relevant Committee.

65 I consider the Basel Amendment to be minor and technical and therefore not subject to the Parliamentary treaty examination process as it

65.1 is in line with the objectives of the Basel Convention, and requiring prior consent for the trade in mixed plastic waste is reflective of the types of waste the Convention was established to manage

65.2 still allows the trade in plastic waste, subject to prior consent for certain types of plastic waste

65.3 is in line with changes already happening in New Zealand's plastic waste management sector

65.4 reflects changes happening in the international market, particularly in relation to restrictions set by importing countries.

Additional amendment to the Imports and Exports Order

66 Officials have advised me that an additional technical amendment to the Imports and Exports Order is required to correct an unintended approach to transit shipments of hazardous and household waste. While this is separate to the amendments to implement the Basel Amendment, this change is minor, and necessary to improve the operation of the Imports and Exports Order.

67 The Basel Convention includes a process for informed consent of transit shipments rather than there needing to be import and export permits from countries of transit. The consent to transit is given to the original exporting country.

68 In New Zealand, transit often occurs where a ship carrying hazardous waste temporarily visits a New Zealand port and the waste remains on the ship. It also occurs where the shipment is transferred to another vessel (usually referred to as transshipment).

69 Under the Imports and Exports (Restrictions) Act 1988 (Imports and Exports Act) all goods (including hazardous wastes) leaving New Zealand are exports and all goods arriving are imports. A transit movement therefore involves both

an import and then immediately, or shortly after, an export of the same goods under the Act's definitions. The Imports and Exports Order also uses these definitions and therefore has no provision for transit permits.

- 70 New Zealand's implementation of transit shipments is problematic under the existing wording of the Imports and Exports Order as the Order requires a permit for all imports and exports of goods. This means that each transit shipment through New Zealand requires a separate import and export permit. This is not the intended approach for such shipments, and is currently not what happens operationally.
- 71 Issuing separate import and export permits in place of a single transit permit involves unnecessary paperwork, and it may make transit difficult if New Zealand could otherwise dispose of the waste onshore. New Zealand could also be responsible for any liability for the transit waste after it leaves New Zealand. Under the Basel Convention, liability in the event of an accident offshore, or for an illegal shipment, sits with the exporting country and not with transit countries.
- 72 Officials have advised me that this is an unintended approach to transit shipments. I propose an additional amendment to the Imports and Exports Order to ensure that there is a specific transit permit provision for hazardous and household waste. This amendment is not a requirement of the Basel Amendment, but will improve the operation of the Imports and Exports Order.

Financial Implications

- 73 New Zealand data on plastic production, use and disposal is not readily available due to limited means of collecting data, and the commercially sensitive nature of existing data. There is no aggregated national dataset. Eunomia's Situational Analysis Report, prepared for the Ministry in 2018, and the Prime Minister's Chief Science Advisor's report *Rethinking Plastic* in 2019 have provided some recent assessments of the information that is known about plastic recycling in New Zealand. However, there are still large gaps in our understanding of the material flows of plastic through the country. The assessment below is based on the available information.
- 74 I anticipate that implementing the Basel Amendment will incur minor costs on industry and government.
- 75 Financial impacts for all stakeholders will largely depend on whether exporters continue to export mixed plastic waste, or whether they will move to mainly exporting separated plastic waste.
- 76 For example, the EPA will incur some additional costs to include mixed plastic waste in the existing permit system, and to process permits for mixed plastic waste. However, this will align with similar work that the EPA already does. The costs associated with permitting will be dependent on whether or not industry and exporters continue exporting mixed plastic waste (which would require a permit).

77 Based on current international market demand for mixed plastic waste, and changes to domestic practices for use and collection of low-value plastics, I expect that there will be low numbers of permit applications for exports of mixed plastic waste. § 9(2)(f)(iv)

78 There may be costs to councils and MRFs if exporters change from exporting mixed plastic waste to separated plastic. As outlined above, due to current domestic and international markets I expect there to be a decrease in exports of mixed plastic waste.

79 This may require changes to kerbside collections, and sorting and processing systems. Some of these changes are already happening in response to shifts in the international and domestic markets. For example, the work to standardise kerbside collections and increase domestic infrastructure capacity and capability. In addition, any costs may be balanced with the benefits from achieving higher value plastic waste due to more sorting and separation. This is also in line with the objective of the Basel Amendment.

Legislative Implications

80 The changes to the Imports and Exports Order can be made by Order in Council. These changes must come into force by 1 January 2021, to ensure that New Zealand is compliant with our international obligations.

81 I am seeking agreement to issue drafting instructions to the Parliamentary Counsel Office to amend the Imports and Exports Order to include most mixed plastic waste, and to provide for transit permits for transit movements of hazardous and household wastes.

Impact Analysis

Regulatory Impact Statement

82 A regulatory impact assessment (RIA) has been prepared by the Ministry for the Environment and accompanies this paper.

83 The Ministry for the Environment's Regulatory Impact Analysis Panel has reviewed the RIA *Implementing amendments to the Basel Convention to better manage the trade in plastic waste* produced by the Ministry for the Environment and dated June 2020. The review team considers that the RIA meets the Quality Assurance criteria.

84 The RIA provides a good explanation of New Zealand's obligations in relation to the Basel Convention and the consequences of not amending regulations to comply with changes to Basel Convention obligations. The use of a supplementary analysis to distinguish between the otherwise similar impacts of the two primary options is helpful.

85 Monetisation of costs is limited in the absence of data and good overseas comparisons, but the monitoring and review commitments set out in the RIS should provide a sound basis for evaluating whether the preferred option is meeting its objectives and whether any adjustment to regulations will be necessary in future.

Human Rights

86 There are no human rights implications in this proposal and there are no inconsistencies between the proposal and the Human Rights Act 1993.

Consultation

87 The Imports and Exports Order does not have a statutory requirement to consult. However, I consider that the management and export of plastic waste for recycling is of direct interest to a number of stakeholders.

88 In March 2020, Cabinet agreed to public consultation on options to amend the Imports and Exports Order to implement the amendments to the Basel Convention, and approved the consultation document *Managing the trade in plastic waste – New Zealand’s approach to implementing amendments to the Basel Convention* [ENV-20-MIN-0013].

89 The Ministry for the Environment undertook targeted engagement with key stakeholders in the waste sector between 4 – 22 May 2020. This included a virtual workshop to outline the new requirements under the Basel Convention, and discuss the proposed options.

90 Overall stakeholders were supportive of the Basel Amendment and global efforts to improve the quality of plastic waste exported for recycling. Stakeholder views differed on how to implement the Amendment in New Zealand however the majority preferred the proposed approach.

91 The EPA, the Ministry of Foreign Affairs and Trade, the Ministry for Business, Innovation and Employment, and Customs have been consulted on the proposals outlined in this paper. The Treasury and the Department of the Prime Minister and Cabinet have been informed.

92 s 9(2)(h)

A large section of text is redacted with grey bars. The redaction covers approximately seven lines of text.

93 Customs has raised some concerns about the risk associated with not requiring a permit for exports of separated plastic waste. As outlined above, I do not consider this risk to be high and any outstanding risk will be mitigated by upcoming changes to domestic plastic waste management, international

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market demands, and the provision of guidance as to best practice for exports of plastic waste for recycling.

Communications

- 94 The EPA and Customs will communicate the new requirements by using regular communication channels with industry.

Proactive Release

- 95 Consideration of proactive release of this paper will be delayed to coincide with consideration of proactive release for a subsequent and related Cabinet paper for the Cabinet Legislation Committee that is intended to be lodged following this paper. The proactive release of both papers can then be considered at the same time. Any release is subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Associate Minister for the Environment recommends that the Committee:

- 1 note that in May 2019 Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal agreed, by consensus, to amend Annexes II, VIII and IX of the Convention to better manage the international trade in plastic waste
- 2 note that the amendments to the Basel Convention will regulate imports and exports of most mixed plastic waste as this waste tends to have more residual waste and worse environmental outcomes
- 3 note that the amendments come into effect on 1 January 2021 for all Parties that have not opted out
- 4 note that New Zealand has not opted out of the amendments and so is legally bound to implement them by 1 January 2021
- 5 note that as the amendments will enter into force through a process of tacit acceptance, the amendments are not subject to the Parliamentary treaty examination process and will not be presented to Parliament
- 6 note that New Zealand implements its obligations under the Basel Convention through the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004
- 7 note that while the Minister of Commerce and Consumer Affairs has parliamentary responsibility for the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004, the Associate Minister for the Environment has policy responsibility for waste and can recommend changes to the Order
- 8 note that in March 2020, Cabinet agreed to public consultation on options to amend the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to implement the amendments to the Basel Convention, and approved the consultation document *Managing the trade in plastic waste – New Zealand’s approach to implementing amendments to the Basel Convention*

- 9 note that Cabinet invited the Associate Minister for the Environment (Hon Eugenie Sage) to report back to Cabinet following public consultation for final policy decisions
- 10 agree to amend the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 by adding the requirement that the import and export of mixed plastic waste (with the exception of mixtures of PET, PE, and/or PP) requires consent from the importing country and a permit from the Environmental Protection Authority
- 11 agree that the costs to implement this proposal be met from either cost recovery, existing Environmental Protection Authority funding, or wider Vote Environment baseline as appropriate, to be determined by relevant Ministers over time
- 12 note that the Basel Convention includes a provision for informed consent of transit shipments for hazardous and household waste, without there needing to be import and export permits from countries of transit
- 13 note that New Zealand's implementation of transit shipments is problematic under the existing wording of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 as the Order requires permits for all imports and exports of goods which means each transit shipment requires a separate import and export permit (although this is not what happens operationally)
- 14 note that issuing import and export permits in place of a single transit permit involves unnecessary paperwork, may make transit shipments difficult, and could make New Zealand responsible for any liability for the waste after it leaves New Zealand
- 15 agree to amend the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 to introduce a transit permit provision for shipments of hazardous and household waste
- 16 invite the Associate Minister for the Environment to approve the issuing of drafting instructions to the Parliamentary Counsel Office to give effect to the above approaches
- 17 agree to delegate authority to the Associate Minister for the Environment to take further decisions on minor and technical issues in line with the policy decisions agreed by Cabinet.

Authorised for lodgement

Hon Eugenie Sage

Associate Minister for the Environment

Appendix 1.

Regulatory Impact Assessment: *Implementing amendments to the Basel Convention to better manage the international trade in plastic waste*

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