Ministry for the Environment
Manatū Mō Te Taiao

BRIEFING NOTE

Container Return Scheme - Consultation feedback and next steps

Date Submitted:	18 August 2022	Tracking #: BRF-1989	
Security Level	Policy and Privacy In-Confidence	MfE Priority:	Not Urgent

	Action sought:	Response by:
Hon David PARKER, Minister for the Environment	Agree to report back to Cabinet before the end of 2022, seeking Cabinet's agreement to implement a NZ CRS and to its key design elements Agree to meet with officials to discuss the advice contained in this paper	1 September 2022

Actions for Minister's Office Staff	**Return the signed report to MfE.**
Number of appendices #3	Appendix 1: Pathway to implementation of a NZ CRS Appendix 2: Supplementary information on the scope of containers Appendix 3: Scheme start up under the deposit model

Key contacts

Position	Name	Cell phone	1st contact
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Container Return Scheme - Consultation feedback and next steps

Key Messages

1. This briefing provides you with information and advice about feedback received on the New Zealand Container Return Scheme (NZ CRS) proposal from the *Transforming Recycling* consultation. It also proposes next steps, including meeting with Ministry officials to discuss the feedback and reporting back to Cabinet before the end of 2022.
2. Overall, consultation feedback demonstrated very high levels of support for the implementation of a NZ CRS. Most[1] submitters also supported the proposed scheme design elements including the deposit amount, financial model, mixed model network and scope of beverage container materials, with some key exceptions:
    - many submitters opposed the proposed exemption of fresh milk from the scheme
    - large alcohol/glass industry stakeholders opposed the inclusion of glass within the scope of the scheme
    - the larger beverage producers, retailers and some businesses/industry bodies raised concerns about the proposed scheme financials, including the scheme fees, deposit level, mandated take-back requirements for retailers and GST treatment
    - some NGOs and local government submitters raised concerns about the proposed industry-led governance structure. This view was also reflected in the 3,996 Kiwi Bottle Drive pro forma submissions.
3. In response to consultation feedback, this paper provides updated advice on the following key design elements of a NZ CRS, as summarised below:
    - **scope of containers:** this paper provides options for the treatment of milk to inform a proposed discussion with officials. At this stage we recommend that glass be included in the NZ CRS, as proposed in consultation, and that refillable beverages are exempt for now, and reconsidered for inclusion at a later review
    - **return network:** at this stage, we recommend proceeding with a mixed-model return network with mandated retail take-back. We are working with PricewaterhouseCoopers (PwC) and Sapere to consider consultation feedback.
    - **scheme financials:** we propose undertaking preliminary analysis to inform in-principle Cabinet decisions in November 2022, followed by a detailed network analysis to inform the regulatory settings. Updated advice on GST from the Inland Revenue Department (IRD) is also provided in this paper.
    - **governance arrangements:** we recommend that the scheme should be not-for-profit and industry-led, as proposed in the consultation. Legislative and regulatory arrangements would set out in detail how the managing agency will be monitored

[1] When referring to submitters, support for positions is based on the following classifications: 'few' 1 – 25%; 'some' 26-50%; 'many' 51-75%; 'most' 76-99%, 'all' 100%.

and managed to ensure performance is met and to minimise concerns raised by submitters (eg, ensuring community participation).

Decision pathway for the implementation of a NZ CRS

4. Subject to discussion with officials, we recommend that you report back to Cabinet in November 2022 seeking Cabinet's agreement to implement a NZ CRS and to its key design elements. Appendix 1 sets out the indicative next steps to progress implementation of a NZ CRS. Key components are:
   - further advice about the proposed legislative framework and pathway for implementing a NZ CRS
   - following Cabinet decisions in November and completion of the detailed network study, final agreement on the scheme financial design elements and agreement to draft legislation and regulations (to be progressed in parallel)
   - in mid-2023, Cabinet agreement to introduce legislation and regulations to the House.

Next steps

5. We will work with your office to arrange a time to discuss the advice contained in this paper.

Recommendations

We recommend that you:

a. **Note** that public consultation on a New Zealand Container Return Scheme spanned from a period of 10 weeks from 13 March to 22 May 2022

b. **Note** that overall, most submitters support the implementation of a NZ CRS

c. **Note** that most submitters support the proposed key design elements including the deposit amount, financial model, mixed model network and scope of beverage container materials

d. **Note** that many submitters did not support the proposed exemption of fresh milk and wanted fresh milk included in the NZ CRS

e. **Note** that a few submitters (largely from industry) while generally supportive of a scheme, opposed some of the proposed key design elements – in particular, the NZD 20 cent deposit level, the mandated retail take-back obligations, and (for large alcohol/glass stakeholders), the inclusion of glass within the scheme

f. **Note** that in response to consultation feedback, we are recommending further consideration of some design elements of a NZ CRS and, in the case of scheme financials, a detailed return network study

g. **Note** that on 17 February 2022, the Cabinet Environment, Energy and Climate Committee invited you to report back on the development of options for a NZ CRS before the end of 2022 [ENV-22-MIN-0002]

h. **Agree** to report back to Cabinet before the end of 2022 seeking Cabinet's agreement to implement a NZ CRS and to its key design elements

Yes/No

i. **Note** the indicative next steps to progress implementation of a NZ CRS set out at Appendix 1

j. **Agree** to meet with Ministry officials to discuss the advice contained in this paper

Yes/No

Signature

Shaun Lewis Director - Systems Change and Investment **Waste and Resource Efficiency**	PP

Hon David PARKER, **Minister for the Environment**	
Date:	

Purpose

1. This briefing:
   - provides you with information and advice about feedback received on the NZ CRS proposals within the *Transforming Recycling* consultation[2]
   - sets out a proposed approach to seeking Cabinet decisions for the implementation of a NZ CRS
   - seeks your agreement to a meeting before mid-September with Ministry officials to discuss the advice contained in this paper and to report back to Cabinet before the end of 2022.

Context

2. In September 2021, Cabinet Environment, Energy and Climate Committee (ENV) directed the Ministry for the Environment (the Ministry) to prepare a draft consultation document on the option of a NZ CRS in line with Cabinet direction on proposed key design considerations [ENV-21-MIN-0048 and ENV-21-MIN-0049].
3. In February 2022, Cabinet approved the release of the *Transforming Recycling* consultation document and invited the Minister for the Environment to report back to Cabinet on the development of options for a NZ CRS before the end of 2022 [ENV-22-MIN-0002]. In March 2022, the Ministry released the *Transforming Recycling* consultation document, setting out the following proposals:
   - a NZ CRS
   - improvements to kerbside recycling
   - separation of businesses' food scraps from general waste.

Overview of submissions received

4. The *Transforming Recycling* consultation was open for the extended timeframe of 10 weeks from 13 March to 22 May 2022. Overall, the Ministry received 6,399 submissions through Citizen Space (the Ministry's consultation hub), email and post (Table 1).

Table 1: Submission types and number of submissions

Submission type	Number of submissions
Quick submissions	1,518
Detailed submissions	338
Pro forma submissions – Kiwi Bottle Drive	3,996
Pro forma submissions – 'An Opportunity for a Reuse Scheme'	452
Hastings District Council survey (processed as detailed submissions)	95
Total	6,399

[2] You will be briefed on the consultation feedback on proposals relating to kerbside recycling and business food waste in September 2022.

Consultation feedback

5. As set out in Table 2, consultation feedback demonstrated very high levels of support (90 per cent) for the implementation of a NZ CRS and many key design elements.

Table 2: Overall support and key design considerations of the proposed NZ CRS[3]

Key CRS design consideration	In support (quick submission)	In support (detailed submission[4])	Combined total (where applicable)	Kiwi Bottle Drive form submission
Overall support for a CRS (% and number of submissions)	92%	90%	90%	a further 3,996 indicated support
20 cent deposit amount	90%	77%	87%	a further 3,979 indicated support
Deposit financial model	-	89%	89%	-
Scope of containers (glass, plastic, metal, liquid paperboard)	90%	81%	88%	a further 3,982 indicated support
Fresh milk exemption	40%	32%	39%	a further 3,978 indicated they **do not** support the exemption
Return targets (85 % by year 3, and 90% by year 5)	-	85%	85%	-
Governance (not-for-profit, industry led)	-	76%	76%	a further 3,696[5] indicated that they **do not** support an industry led scheme
Mixed model with a high level of mandated return-to-retail	-	86%	86%	a further 3,696 submitters support a mixed model network but want to see more depots

6. Details of consultation feedback and our advice on key design elements are set out below. Consultation also elicited many additional aspects relating to the CRS design and

[3] Note: The percentages set out in this table are subject to a final quality assurance process as the submissions analysis report is finalised

[4] These figures include survey data collected via the Ministry's submission tool, emailed submissions and the results of a survey carried out by the Hasting District Council which asked its constituents a selection of questions from the *Transforming Recycling* Consultation. There were 95 responses to the survey.

[5] This is the number of submitters that signed the form submission with no changes so can be taken as agreeing with this statement. Another 300 submitters also signed the submission but did not specifically indicate agreement to this aspect of the submission.

its interactions with kerbside. This includes whether liquid paperboard is included in kerbside, the treatment of lids, refillable containers and eco-modulation. These matters are being worked through, but they do not prevent a CRS from being taken forwards and supplementary information can be found in Appendix 2.

Areas for further consideration

7. We recommend further consideration is given to certain key design elements in response to consultation feedback. We will work with your office to set up a time to discuss the components outlined below and discussed in detail in this paper:
   - scope of containers
   - return network
   - elements that impact the scheme financials, including the deposit level, scheme fees, network configuration and treatment of GST
   - governance arrangements.

Scope of containers

8. While the scope of containers is contentious for some groups, our analysis and advice following consultation remains largely unchanged to what was proposed through public consultation [BRF-586 refers]. Overall, many submitters agreed with the scope of beverage containers proposed to be included in the NZ CRS. This includes glass (all colours), metal, plastic (PET, HDPE, PP and bio-based PET and HDPE) and liquid paperboard (LPB).

Fresh milk exemption

9. Many submitters (61 per cent) opposed exempting fresh white milk, largely based on the need for simplicity and consistency of approach with other beverage types. Many of those opposed stated that they did not understand why dairy milk containers would be exempted, noting that it gave the dairy industry a competitive advantage over more sustainable alternatives that also have nutritional value.[6]
10. Others were concerned that exempting fresh milk from the NZ CRS would create a precedent for many other product types and noted that an exemption would mean a loss of high value material recovery from HDPE milk bottles. The New Zealand Beverage Council (NZBC) opposed the proposed exemption of milk and Fonterra supported the proposed exemption, however both stakeholders supported a review of the exemption post-implementation and possible future inclusion.
11. If fresh milk is not included in the CRS, most submitters supported the Ministry investigating how to target the commercial recovery of fresh milk beverage containers through other means. There were mixed views on the proposal for the Ministry to investigate declaring milk containers a priority product and including them within another scheme.

[6] Key stakeholders who agree with the proposal to exempt fresh milk include Fonterra, Foodstuffs, Woolworths and Visy Recycling. ***In-confidence:*** *The dairy industry (including Synlait, Goodman-Fielder, and Fonterra) provided feedback through their representation on the 2020 CRS co-design process and previously supported the inclusion of fresh milk in a CRS alongside other stakeholders*.

12. We are seeking a discussion with you on options for the treatment of fresh milk, presented in Table 3. These options draw from consultation feedback, previous options and advice [BRF-202 refers[7]] and Cabinet direction [ENV-21-MIN-0048 refers].

Table 3: Policy options for the treatment of fresh milk within the NZ CRS

	Sub-option i	Sub-option ii	Sub-option iii	Sub-option iv
Option 1: Exempt fresh milk	Exempt fresh milk with no additional terms or conditions *(as proposed in the consultation document)*	Declare fresh milk beverage containers in all packaging formats as a priority product *(an option presented via consultation)*	Target commercial recovery of fresh milk containers through the proposed duty of care obligations through the new proposed waste minimisation legislation *(an option presented via consultation)*	Exempt fresh milk for now, and re-consider fresh milk for inclusion at a set review date (at 3 years following scheme commencement)
Option 2: Include fresh milk	Apply a deposit level of NZD 20 cents, aligned with other packaging types (assuming the NZD 20 cent deposit scenario)	Reduce the refundable deposit level to NZD 10 cents for fresh white milk only (assuming all other packaging is NZD 20 cents)	Reduce the refundable deposit level for fresh milk and for milk alternatives to NZD 10 cents (eg including dairy alternatives, such as plant milks)	N/A

Refillables exemption

13. While the proposed exemption of refillable containers from a NZ CRS was supported by many (61 per cent) submitters, most (87 per cent) also support a requirement for the NZ CRS to support the refillables market. We heard support and suggestions for how the Government could promote and incentivise the uptake of refillable containers more generally. Some submitters suggested that refillable options and research should be enabled and undertaken.

14. The pro forma submission 'An Opportunity for a Reuse Scheme', supported by 452 submitters, argued that the proposed CRS is an opportunity to implement a centralised, complementary reuse scheme and advocated for including reusables in the CRS with lower scheme fees.

15. At this stage, the Ministry's advice is that beverage containers that are intended for refilling and have an established return/refillables scheme would be exempt from the NZ CRS for now, and reconsidered for inclusion at a set review date, within 3 years of scheme commencement (fresh milk could also be reconsidered at this time).

16. Noting the consultation feedback, and the potential for refillable containers to further reduce the emissions footprint of beverage production and consumption in New

[7] BRF-202 outlined options for fresh milk (in all packaging types), including: include at the same refundable deposit as other packaging types; include at a lower deposit; include with no deposit; exempt entirely; include in-principle but delay implementation until after scheme establishment; and apply any of the aforementioned options to fresh milk in HDPE containers only.

Zealand, the Ministry is undertaking further work to develop and analyse options for domestic beverage reuse/refilling systems and will update you in the first quarter of 2023.

Glass beverage containers

17. Although most (88 per cent) submitters supported the proposed scope of eligible containers (including glass), many alcohol beverage producers and their associations/industry bodies, as well as a few individual submitters, were against including glass and wished to see a separate scheme for glass operate alongside NZ CRS.
18. The GPF has appointed a consultant to further develop its alternative proposal for a product stewardship scheme for glass containers, due in October 2022. If the GPF's finalised alternative scheme is similar to its previous proposal, the key points of difference to a NZ CRS would likely be the absence of a refundable deposit for glass beverages (nearly one billion containers annually) and the inclusion of non-beverage container glass (estimated to be approximately 2 per cent of the total glass volume to market[8]) [2021-B-07757 refers]. The Ministry included analysis on a 'no-deposit' product stewardship scheme option within the interim regulatory impact statement (RIS) that accompanied the *Transforming Recycling* consultation.
19. Many other beverage producers, industry bodies, and most individual submitters and councils want to see glass included within the scheme to reduce confusion and inefficiencies. This includes Woolworths, Foodstuffs, Retail NZ, WasteMINZ, TOMRA, Pact Group, Zero Waste Network and Para Kore (joint submission), Greenpeace Aotearoa and the Kiwi Bottle Drive form submission.
20. Our advice at this stage is that glass should be included in the NZ CRS. Further advice will be presented to you alongside the November Cabinet paper, taking into account the GPF's alternative proposal.

Return network

21. We consulted on a 'mixed model' CRS return network with a high degree of mandated retail participation. In addition, we sought feedback on the potential size (in square meters) of retail outlets that sell beverages that could be required to take back containers.
22. Overall, there was strong support for the proposed mixed return model, on the basis that it would be convenient for consumers and lead to high return rates.
23. Foodstuffs New Zealand, Woolworths New Zealand and the Food & Grocery Council of New Zealand supported the mixed model but opposed mandated return to retail, recommending that instead participation should be voluntary.[9] Concerns raised

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[8] The latest GPF report estimates total container glass to market in 2020/21 was 258,748 tonnes (beverage and non-beverage), the GS1 and PWC 2020/21 estimates for beverage container glass to market was 253,610 tonnes. The difference based on these two information sources is 5,138 tonnes (or approximately 2 per cent).

[9] Foodstuffs commented that they expected that most supermarkets would voluntarily participate in a CRS. The Foodstuffs co-operatives own and develop retail stores including PAK'nSAVE, New World and Four Square.

included cost impacts and practical matters such as how to manage volumes, noise, safety and traffic at retail sites.

24. Large beverage producers raised concerns about the overall costs, which they said would be much higher than modelled based on a mandated retail take back model[10], and would lead to increased costs for consumers. They also emphasised the need for flexibility and diversity in the scheme, which they were concerned would not happen if supermarkets dominated the return network.
25. Some submitters highlighted the importance of ensuring that the scheme coordinates with existing collection networks and builds on existing waste minimisation initiatives from stakeholders like local government, the Zero Waste Network and Para Kore, NGOs, and registered charities. The Zero Waste Network and Para Kore's joint submission supported a convenient mixed return network model, but also wanted to see a hybrid return network that includes a network of more resource recovery centres/zero waste hubs and more depots. They were concerned that a higher ratio of retail take back may limit the opportunities for community organisations to benefit from the scheme.
26. Those that supported the Kiwi Bottle Drive form submission also wanted to see more procurement of Māori-led businesses, iwi, and other social and community enterprises. Other suggestions for return locations were dairies, schools, home collections or mobile return points for rural populations of less than 1,000, universities, parks, cafes, and petrol stations.
27. In terms of minimum thresholds above which mandated retail return would apply, most individual submitters supported a minimum store threshold, with most supporting over $100m^2$. There were mixed views on whether shop-floor-size requirements should differ between rural and urban locations, but submitters agreed that there should be exemptions for retailer participation in a mixed-model return network.
28. We consider that convenience and accessibility is key to a successful network, and you have options regarding the degree of take back for retailers that sell beverages. For example, adjustments to the minimum floor size threshold that mandates participation, the use of exemptions and the option to set a minimum service level for depots could all be used to adjust the makeup and convenience levels of the network.
29. At this stage, we recommend that we proceed with a mixed-model return network with mandated retail take-back and undertake further work on detailed network design.
30. We are working with PWC and Sapere to consider consultation feedback[11] to inform in principle decisions in November 2022. In addition, the Ministry is undertaking a detailed study, due in February 2023, to provide options for the network at different configurations settings. These will in turn impact the scheme's costs, discussed below. Following completion of this work, we will provide advice about how to strike the right balance between costs and recovery outcomes, and flexibility within the network.

10 Lion, Asahi, and CCEP engaged the New Zealand Institute of Economic Research (NZIER) and Deloitte to provide an independent assessment of the proposed CRS, titled 'New Zealand's Proposed Container Return Scheme' (20 May 2022). They have requested a meeting with you to discuss the report and its findings.

11 Including the report prepared by NZIER and Deloitte for Lion, CCEP and Asahi referred to in footnote 10

Scheme financials

31. The scheme financials include the refundable deposit amount, the financial model, scheme fees and their eco-modulation, methods of deposit refund payment and GST. The scheme financials are highly integrated with other key design considerations such as the network, targeted recovery rates and incentives.
32. Submissions demonstrated high levels of support (87 per cent) for the proposed NZD 20 cent deposit level, with many noting that it struck the right balance between the incentive to recycle and costs. A few submitters also suggested the deposit level be higher (eg, NZD 30, 40 or 50 cents).
33. In addition to most individual submitters, key stakeholders in support of a NZD 20 cent deposit included many councils, the WasteMINZ Territorial Authorities Officers (TAO) Forum, the WasteMINZ Product Stewardship, Behaviour Change, and Recycling & Resource Recovery Sector Groups, the NZ Product Stewardship Council, Eco Central, ReGroup, TOMRA, SaveBOARD, Three Boys, Eddyline, Garage Project and Apollo Foods.
34. While typically conditionally supportive of a scheme, many industry, big beverage (Coca-Cola, Frucor-Suntory, Lion, DB, Asahi, etc) and retail submitters had strong views for a 10 cent deposit and that the refundable deposit should also be GST inclusive (consistent with Australia). These submitters are concerned about the proposed scheme costs, scheme fees, NZD 20 cent deposit level, mandated take-back requirements for retailers and the treatment of GST.
35. In terms of deposit refund payment type, most submitters strongly preferred or preferred to receive their refunds via electronic funds transfer (74 per cent), 'all options' (72 per cent), cash (68 per cent), donations (60 per cent), 'other' options such as electronic currency (56 per cent) and vouchers (55 per cent).
36. The deposit financial model[12] was proposed for the NZ CRS and most submitters (89 per cent) were in support. Submitters in favour noted the deposit model works well for European schemes, is more equitable than the refund model and provided stronger incentives for the scheme. A few submitters, mainly businesses, provided conditional support, noting clarity would be needed on how the unclaimed deposits would be used to offset scheme costs.
37. A few submitters did not support the deposit financial model, they supported the alternative 'refund' financial model (like Australian schemes). These submitters noted that the deposit model may mean smaller beverage producers face higher upfront costs, and that the refund model allows for payments to be made 'in arrears' and that to enable this model, the government should provide an up-front loan to the scheme.
38. The proposed use of scheme fee eco-modulation to incentivise more recyclable packaging was also supported by most submitters (91 per cent).

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[12] The deposit financial model requires beverage producers to pay the full refundable deposit and scheme fees to the (not for profit) Managing Agency, regardless of how many containers come back for redemption and recycling. The refund financial model allows the Managing Agency to charge producers 'in arrears' for redeemed containers only. The latter model risks the potential for a perverse incentive, given that fewer containers recycled directly reduces upfront scheme costs for the beverage industry to the extent that it may impact the way the scheme is operated in an industry-led scheme. Further information on the relative merits of the different models can be found in ENV-21-MIN-0049.

39. The scheme fee quantum was not included as a specific consultation question as these fees are largely variable. However, the scheme fee assumptions were transparent within the consultation documentation and are an important variable in the PWC financial model. The scheme fee cost assumptions are therefore a focus area for big beverage and feedback from some industry associations.
40. Leveraging different assumptions about scheme fee costs, some industry stakeholders have made a case for a NZD 10 cent deposit level, reasoning that:
    - NZD 10 cents would be harmonised with Australia[13]
    - the impact on households is higher [than NZD 10 cents] with a NZD 20 cent refundable deposit and this would disproportionately impact low income households
    - a NZD 20 cent refundable deposit would not increase recovery rates that much and other variables are equally important, including marketing/education
    - the proposed mixed network model that includes retail take back obligations would increase the scheme costs, potentially above those modelled by PWC
    - the targets may be achieved[14] with a NZD 10 cent deposit if other changes are also made (noting that some international schemes also have support from other regulatory measures, such as tax incentives and disposal bans for beverage containers; and suggested the proposed retail take back obligations are dropped)
    - a NZD 20 cent deposit would impact on consumer purchasing behaviour and see a larger drop in beverage sales than has been modelled by PwC.
41. A few submitters have also noted the importance of not conflating the refundable deposit with scheme fees. For simplicity of communications, these two elements are often combined, however the Ministry acknowledges the importance of this feedback, especially regarding eco-modulation of scheme fees which could see some packaging formats have very low or possibly no scheme fees.
42. We note that the policy case for an NZ CRS has been developed with industry input through the co-design process during 2020, then updated to include updated beverage container sales and recycling data for 2020/21. Key assumptions were also tested with industry stakeholders to ensure COVID impacts were reflected in the PWC model.
43. The trends from the 2020/21 update highlighted an overall increase in beverage container sales (9 per cent and 7 per cent respectively in the two years from 2018/19 – 2021/20), and a relative decrease in recycling (dropping to an estimated 45 per cent by weight across all beverage container types), further underscoring the case for the NZ CRS proposal.
44. The interim Regulatory Impact Statement (RIS) included scenarios for NZD 10, 15, 20 and 30 cent deposit levels. Based on the consultation proposal assumptions, for

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[14] Some industry submissions also noted the proposed recovery targets were too ambitious.

households who recycle, the net cost impact showed a small difference between the NZD 10 cent and NZD 20 cent deposit scenarios (assuming 100 per cent pass through of costs, an increase from NZD $1.40 to NZD $1.50 per week in year one[15]), and the latter prevents at least an additional 141 million containers per year from becoming landfill or litter[16].

45. Following consultation feedback from the beverage industry in particular, and pending receipt of new information such as those that would reliably inform product level price elasticity assumptions, further work including further sensitivity testing will be undertaken on the NZ CRS financial modelling.
46. Further, as noted previously, the network assumptions have also been challenged by industry and require further work in the context of the exact regulatory settings that would achieve the desired level of convenience in New Zealand, without incurring unnecessary cost. This work is already underway and will be concluded in time to inform Cabinet's decision on the scheme's regulatory settings, noting that, a mixed model allows for a wide spectrum of outcomes.
47. While the assumptions have been challenged, the beverage industry's modelling has underestimated the handling fee assumption in the PWC model (an inflation adjusted NZD 7-cent assumption was used for the consultation), and based on updated advice from IRD, the proposed change in the treatment of GST (discussed further below) would also create a significant reduction in household costs (GST was 54 per cent of the net cost for households that recycle in a NZD 20 cent scenario). Thus, counterbalancing costs information will also be considered within the updated modelling.
48. Since the consultation was released, new data has also emerged on willingness to pay for litter reduction, and this has been highlighted in the glass/alcohol submissions. This new data will also be reviewed and considered within the CBA update.
49. With respect to the financial model, much of the rationale for the refund model stems from arguments relating to cash flow management at scheme start up. The solution to the concern stems from careful management of scheme implementation and start up under the deposit model. An outline of how the scheme start up could occur under the deposit model is included in Appendix 3.
50. Noting the above, the Ministry is working through the feedback with PWC and Sapere and we will provide you with updates and further advice on these matters in order to inform Cabinet decisions on the option for an NZ CRS and its design.

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[15] These per household scheme fee cost estimates do not account for scheme related cost-benefits also experienced by the average participating household. For example, these net scheme fee costs will likely be somewhat or almost entirely offset by households buying fewer beverage containers, such as the 6.5% reduction in sales observed following establishment of the Queensland scheme, which resulted in a net cost increase to households of only 93 cents per month for non-alcoholic beverages.

[16] The targets assume that an 84 per cent recovery rate is achieved under the NZD 20 cent deposit scenario. At 90 per cent recovery, 282 million additional containers would be diverted from landfill and litter over the 10 cent scenario base case (78% recovery). Both scenarios are based on a 'mid' level of convenience, more characteristic of mandated retail take back networks.

Treatment of GST

51. The Inland Revenue Department (IRD) previously noted its support for the proposed design, in particular the NZD 20 cent deposit. Following consultation, IRD has updated its advice to the Ministry.
52. IRD have confirmed that GST will apply to the increased price of scheme containers. However, the proposed deposit amount is GST inclusive, and households and businesses that return their containers will not pay any extra GST under the scheme (all other things being equal). Further, when a bottle is returned, the scheme authority can claim a deduction for the GST component of the refunded deposit.
53. Practically, in the NZD 20 cent deposit scenario, if GST is inclusive and assuming a GST credit of NZD 2.6 cents (3/23rds of 20 cents) is claimable for returned containers, this would reduce the financial impact of the scheme.
54. IRD will provide guidance so that all participants within the scheme have clarity on the GST implications.

Governance

55. The proposal for a not-for-profit scheme was widely supported.
56. However, although supported by a range of industry bodies (for example the Food & Grocery Council and Brewers Guild) and businesses, the proposal for the scheme to be industry-led attracted some concerns from environmental groups (eg, the New Zealand Product Stewardship Council) and some Local Government representatives (eg, Auckland City Council and the TAO Forum). This view was also reflected in the Kiwi Bottle Drive pro forma submission which attracted just under 4,000 signatures. Key objections raised were:
    - concerns about conflicts of interest and politics across industry bodies
    - that a small number of larger bodies would end up dominating decision-making
    - that it was important that governance of such a scheme should represent diverse stakeholders and community interests, not just industry
    - that the managing agency be based on Te Tiriti partnerships, with Māori engaged on all levels of the scheme.
57. The Ministry has recently received a report commissioned from Eunomia Research & Consulting which provides analysis and recommendations on legislative and regulatory options to implement a New Zealand CRS. Based on a review of best practice European schemes and analysis of the New Zealand context, the report recommends the establishment of a single managing agency which is owned by the beverage and retail industry and responsible for managing all the scheme finances, data, collections (including depots) logistics, and meeting targets.[17]

[17] Eunomia have advised that this approach will enable industry the flexibility to develop the most cost-effective system within the respective government's regulatory framework and enable the Government to take an independent monitoring role.

58. To ensure optimal performance, Eunomia's report recommends that a range of matters are mandated via legislation and/or regulation, including:
    - the minimum refundable deposit amount and mandated retail take-back
    - minimum obligations of producers and retailers in managing the scheme
    - reporting requirements, targets and penalties
    - that the government reserve the right to appoint board representation
59. Eunomia's report also recommends that the managing agency be appointed via an application process which would enable specific requirements to be evaluated, imposed and monitored by the Government. These requirements could ensure that community and social outcomes are achieved and mandate representation on the board and/or management of particular groups, including Māori.
60. In this context, we recommend that the scheme should be not-for-profit and industry led, as proposed in the consultation. We propose that legislative and regulatory arrangements would set out in detail how the managing agency will be monitored and managed to ensure performance is met and to minimise concerns raised by submitters (eg, community interests not being adequately represented).

Kerbside recycling crossovers

61. We are coordinating to ensure that our advice is aligned and complementary to the kerbside standardisation project. We will continue to update you as this progresses.

Approach to Cabinet decisions and pathway to implementation

62. On 17 February 2022, the Cabinet Environment, Energy and Climate Committee invited you to report back on the development of options for a NZ CRS before the end of 2022 [ENV-22-MIN-0002].
63. Subject to discussion with officials and further advice, we recommend that you report back to Cabinet in November 2022 seeking Cabinet's agreement to implement a NZ CRS and to key design elements. Appendix 1 sets out the indicative next steps (including advice to be provided and key decisions required) to progress implementation of a NZ CRS. In summary, we are anticipating that:
    a. prior to Cabinet decisions in November, we will provide you with an additional briefing setting out the proposed legislative framework and pathway for implementing a NZ CRS
    b. following Cabinet decisions in November and the completion of the detailed network study[18], agreement to (either by way of Cabinet agreement or approval of delegated Ministers):
        i. confirm the proposed deposit level and degree of mandated retail take back
        ii. begin drafting legislation and regulations required

[18] Expected by February 2023, refer paragraph 45

c. in mid-2023, Cabinet agreement to introduce legislation and associated regulations to the House (with legislation and regulation to be progressed in parallel)

Risks and mitigations

64. While there is wide public and industry support for a NZ CRS, we anticipated and received opposition by some industry stakeholders in response to the proposed design considerations for a NZ CRS.
65. Several industry submissions include references to industry-funded analysis that suggests the costs of the NZ CRS will exceed what has been modelled and proposed. The Ministry will work with PWC to review this feedback and where appropriate, adjust and/or undertake further sensitivity testing on key assumptions in order to inform Cabinet's final decision on key design aspects that impact costs and recovery rates.
66. Should Cabinet decide to implement a NZ CRS, the Ministry proposes to progress new legislation as part of broader amendments to the Waste Minimisation Act 2008 (WMA) [BRF-586 refers]. If this process is delayed, the alternative would be a standalone bill.
67. There is a general risk of delays caused by resourcing constraints at the Ministry and for contracted consultancy expertise due to Covid-19.

Legal issues

s 9(2)(h)

[redacted]

72. The Ministry has been working with Eunomia Research Consulting to develop legislative pathway options and recommendations for the NZ CRS, based on best practice internationally. This work is near completion and will be included in our upcoming advice.

Financial, regulatory and legislative implications

73. Information on financing the scheme start up can be found in Appendix 3 and the subsequent briefing.

Next steps

74. The Ministry is undertaking further work to support advice to Ministers and Cabinet. This includes procurement for an updated CRS Cost Benefit Analysis and financial modelling. This will ensure that we provide you with robust and sound advice.
75. We will work with your office to arrange a time to discuss the advice contained in this paper.
76. Subject to your agreement, officials intend to lodge a Cabinet paper in mid-late November to seek Cabinet's agreement to implement a NZ CRS, and to its key design elements.

Appendix 1: Pathway to implementation of a NZ CRS

<table>
<tr><th colspan="2">Indicative decisions and pathway to implementation</th><th>Timing</th></tr>
<tr><td>1</td><td>Briefing 1 (this paper) - Consultation feedback and next steps
(1) Summary of consultation feedback
(2) Advice on key design elements recommended for further consideration
(3) Recommendation to implement a NZ CRS and indicative pathway to implementation</td><td>August 2022</td></tr>
<tr><td>2</td><td>Briefing 2 - Legislative framework and general update
(1) Legislative framework (enabling powers, regulatory settings and allocation of roles and responsibilities)
(2) Legislative pathway (via WMA review or separate legislation)
(3) Update on progress of financial analysis to date
(4) Treatment of excluded containers</td><td>September / October 2022</td></tr>
<tr><td>3</td><td>ENV Cabinet Paper 1 - Report back to Cabinet
(1) Agreement to implement a NZ CRS
(2) Agreement to key design elements relating to:
• Scope
o Fresh milk
o Container materials
o Refillables
o Lids
o Container size
• Overall return network model (mixed, mandated return to retail)
• Refund model (deposit)
• Governance arrangements (not for profit, industry led)
• Approach to GST treatment
(3) In principle agreement to financial/network elements (subject to detailed network study):
• Deposit level
• Degree of mandated return to retail
(4) Delegated authority to Ministers to approve (to be confirmed – see below):
• deposit level and degree of mandated return to retail
• detailed design elements
• the drafting of legislation</td><td>November 2022</td></tr>
<tr><td>4</td><td><u>Either</u> ENV Cabinet paper 2 <u>or</u> Agreement by delegated Ministers (as above)
(1) Confirm:
• Degree of mandated takeback (detailed network configuration) settings
• Deposit level
(2) Agree legislative framework and pathway for CRS
(3) Agree to move to drafting legislation</td><td>First Quarter 2023</td></tr>
<tr><td>5</td><td>LEG Cabinet Paper: Seeking agreement to introduce legislation (enabling powers) and regulation (setting key design elements) to the House to enable the implementation of a CRS. Legislation and regulation to be progressed together.</td><td>Mid-2023</td></tr>
</table>

Appendix 2: Supplementary information on the scope of containers

Overall scope of containers

1. Overall, most (89 per cent) submitters agreed with the scope of beverage containers that were proposed to be included in the NZ CRS. This includes glass (all colours), metal, plastic (PET, HDPE, PP and bio-based PET and HDPE) and liquid paperboard (LPB). A few submitters said the scope is too broad, and few others said it was too narrow.

Plant milks and fresh milk

2. Some submitters (including councils, Foodstuffs, Woolworths and Glass Packaging Forum) said plant milks were for a staple for many and should be treated the same as fresh milk to ensure a level playing field.
3. However, plant milk is typically sold in harder-to-recycle packaging material (liquid paperboard (LPB). Also exempting plant milks from the NZ CRS would see a significant volume of LPB containers with no means of being recycled. Fresh milk alternatives are also potentially more difficult to define and may lead to many 'bleeding edge' definition and scope clarification issues.
4. The Glass Packaging Forum's (GPF) submission noted that milk should be included, partly to ensure a level playing field for fresh milk and alternative products. The GPF also noted that the rationale for exempting fresh milk should also apply to glass beverages (eg, largely consumed at home, high recovery rates of 75 per cent according to their 2020/21 accreditation report[19]).

Lids (beverage and non-beverage)

5. The consultation document asked whether consumers should be encouraged to put lids back on their containers (if possible) and sought feedback on alternative means to capture and recycle beverage container lids that cannot be put back on containers.
6. Most (78 per cent) submitters agreed that people should be encouraged to put lids back on their containers as they were a common and potentially, more dangerous litter type that could cause environmental harm, such as risk to marine life.
7. However, we note that additional engagement with those dealing with waste, such as recyclers, has elucidated their concern that when lids are left on liquid remains in the bottles and these bottles may end up being landfilled in the recycling process as they do not typically have the means to manage them. Industry stakeholders typically representing glass such as the GPF, Brewers Association, DB, Lion, and the Brewers Guild outlined that 'lids-on' can cross-contaminate material, some of these submitters stating that it would increase sorting time and cost, particularly if the lid and container are made from different materials.

[19] The GPF's 2020/21 voluntary scheme accreditation report also notes that of the 193,065 tonnes it estimates is recovered (75% from 258,748 tonnes), only 118,243 tonnes is recycled into new glass containers. This equates to a container-to-container recycling rate of approximately 46%, rather than 61% as reported by the GPF.

8. Certain industry submitters who support 'lids-on' containers often tailored their support by stating that this should be encouraged rather than mandated or regulated (eg, CCEP, NZBC, Frucor Suntory). Some industry submitters (eg, CCEP, Reclaim NZ) noted that the removal of lids from containers should be compensated through the handling fee paid to return facilities, as seen in overseas schemes.
9. Most (87 per cent) submitters agreed there should be alternative ways to return lids which could not be put back or had been littered via the scheme as they were a common type of litter that could impact wildlife if not captured.
10. We are coordinating with the kerbside standardisation project to work through feedback and options for the collection of lids (beverage and non-beverage). We will provide advice to you on beverage container lids alongside the next Cabinet paper.

Container size

11. Most (77 per cent) submitters supported the proposal that eligible beverage containers would be three litres or smaller.[20]
12. However, a few submitters also noted that there should be a lower size limit, and Foodstuffs and CCEP suggested the lower size limit should be 150mL. Foodstuffs noted that the exemption of these smaller containers would be on the basis of the disproportionate cost and would align with the Australian model. CCEP noted that very small containers fall through sorting machines and are impossible to bale, therefore a lower size limit would recognise a practical constraint in the capability of collection and processing facilities.
13. TOMRA's submission noted that the lower size limit should be 100mL, as in all EU schemes, noting that automated return systems including reverse vending machines and bulk collection systems are unable to accurately identify most containers below 100ml. TOMRA also noted that while South Australia currently has no lower size limit, the South Australian Govt has recently published a discussion paper which includes a minimum size of 150mL to align with other Australian states, and TOMRA expects that Northern Territory will follow.
14. We will provide advice and recommendations to you on beverage container size alongside the next Cabinet paper.

Liquid paperboard (LPB) in kerbside recycling

15. We are coordinating with the kerbside standardisation project to work through feedback and options for the collection of LPB. Investigation is underway to see if it is technically feasible and affordable to collect LPB in kerbside recycling noting that the three councils who currently collect liquid paper board at kerbside for recycling are all landfilling this material. It is possible that a CRS collection point may be the only effective solution for this material.
16. We will provide advice to you on this alongside the next Cabinet paper.

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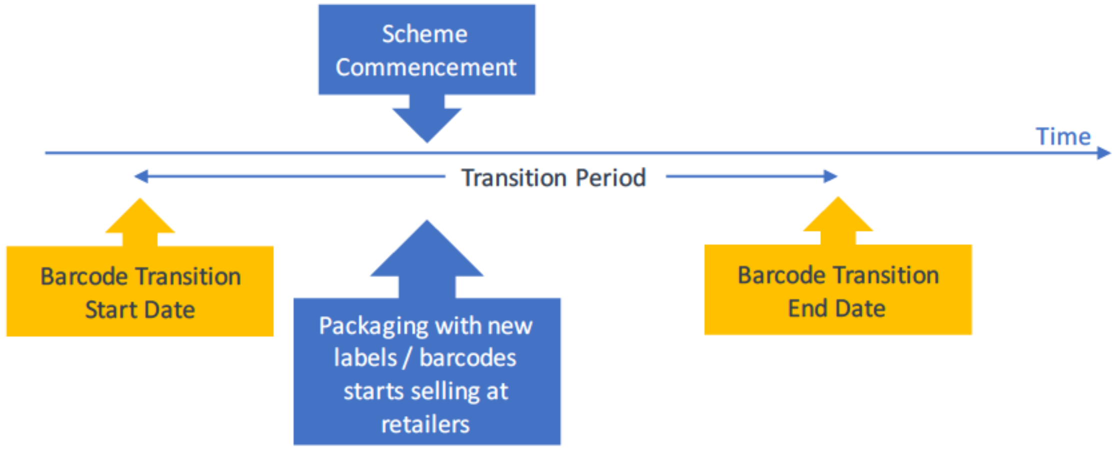
[20] Industry stakeholders who supported the proposed size included Woolworths, GPF, Packaging Forum, Brewers Association, DB, Lion, Garage Project, Spirits NZ, Brewers Guild, NZBC, Reclaim, NZ AMR, Pact Group, Zero Waste Network and Para Kore (joint submission), Greenpeace, Fonterra, and Super Liquor.

Appendix 3: Scheme start up under the deposit model

1. Scheme commencement is a challenging time and comes with some risk which requires careful management by the managing agency responsible for the scheme.
2. When a scheme commences, beverage suppliers are usually given a period of time to transition existing products to new labels and barcodes, and to sell older stock through the supply chain. This transition period is typically 3 to 6 months and spans a period of time either side of the scheme commencement date.

Figure 1: Indicative scheme commencement barcode transition period



3. From the scheme commencement date and under the deposit financial model, suppliers are responsible for paying the deposit amount plus pre-agreed scheme fee for all labelled eligible containers at the time they supply the newly labelled container into the market (eg, to a wholesaler or retailer).
4. Some schemes establish regulatory requirements for timely supply of information (such as a monthly product sales declaration) and payment by suppliers to the managing agency. Other schemes leave these details up to the agreement that exists between the managing agency and the supplier. In any case, the supplier would first supply their sales declaration to the scheme's managing agency, then, once an invoice for scheme costs based on their declaration is issued, suppliers have an obligation to pay the invoice.
5. It is important to note that the Ministry's modelling assumes 100% of scheme costs are passed through to consumers, noting that, to the extent they choose to do so, beverage producers will pass these additional costs on when the eligible containers were first sold by the supplier. Further, that cost recovery is enabled by the approximate 2-month window between suppliers invoicing customers for their sales and the scheme invoicing suppliers for the deposit and any scheme fees associated with their sales declaration.
6. The scheme fee is typically set by the Managing Agency board as part of the annual budget review, taking into account assumed return rates forecast, related costs (handling fees, logistics, counting and processing, management, marketing, etc.) and incomes (revenue from sales of material, unredeemed deposits and potentially, interest) and is fixed for the coming year, and then adjusted annually.

7. By using the phrase ‘in arrears’ to describe a preferred refund financial model, this may have created some confusion that the deposit model requires suppliers to forecast their sales in advance; and that the managing agency will incorrectly forecast scheme costs and over or under charge producers.
8. While the latter has happened to some extent in other schemes, if the Managing Agency’s forecast of returns in incorrect, it is required to operate the scheme as not-for-profit. If fees are too low, the beverage industry companies that seek to establish a scheme must take financial responsibility and bare the loan costs to keep the scheme afloat (any loan costs would likely be recovered through the scheme within 1 to 3 years) or if fees are too high, the Managing Agency would be required to use any surplus to offset scheme costs.
9. While the scheme start-up costs are typically higher due to the need to forecast return rates and service loan costs[21], this is counter balanced by return rates typically averaging at lower levels in year one. However, the month the scheme opens there is typically higher levels of participation. Thus, careful management of scheme start up phasing, including the network being ready, should be considered in conjunction with the Managing Agency. Timely communications to scheme participants are also essential.
10. As an illustrative example of the process in action, when the Lithuanian return to retail scheme return rates exceeded forecast expectations in year one, the managing agency was forced to adjust scheme fees in the first six months (as opposed to the normal 12 month review).
11. This reflects that start up does have some risk, and that there is a need for the managing agency to have an adaptable approach with respect to scheme fees, and that this flexibility to some extent mitigates the risk. Further, it also highlights the more successful a scheme is, the more it cost to operate, as the scheme is ‘handling’ more containers and scheme fees are largely variable costs, of which, the handling fee is the largest component.

[21] Scheme loan facilities are typically provided industry representation on the board, another reason why the scheme is proposed to be industry led.