



PROACTIVE RELEASE COVERSHEET

Minister	Hon Penny Simmonds	Portfolio	Environment
Name of package	Government response to the Environment Committee's report on the petition of Lydia Chai: ban plastic waste exports to developing countries	Date to be published	29 January 2025

List of documents that have been proactively released

Date	Title	Author
16 November 2024	Cabinet paper: Government response to the Environment Committee's report on the petition of Lydia Chai: ban plastic waste exports to developing countries	Ministry for the Environment
21 November 2024	CAB-23-MIN-0243	Cabinet Office

Information redacted

NO

Policy and Privacy

In-Confidence

Office of the Minister for the Environment

LEG - Cabinet Legislation Committee

Government response to the Environment Committee's report on the petition of Lydia Chai: ban plastic waste exports to developing countries

Proposal

- 1 This paper seeks Cabinet approval to table the Government's response to the Environment Committee's (the Committee) report on the petition of Lydia Chai (Appendix 1) under Standing Order 256.

Relation to government priorities

- 2 The work programme supports the following Coalition Government priorities:
 - 2.1 rebuilding the economy, improving productivity and building resilience;
 - 2.2 improving and protecting the environment from harm;
 - 2.3 supporting the delivery of New Zealand's climate change targets, by reducing waste emissions.
- 3 A constructive Government response to this petition would support the Minister of Foreign Affairs' request to elevate New Zealand's priority relationships in Southeast Asia, particularly with Malaysia.

Executive Summary

- 4 Lydia Chai presented a petition on 1 August 2022 requesting a ban on plastic waste exports to Malaysia and other developing countries due to concerns about the impacts on the environment and human health. The Committee recommended four actions for Government, including to set a deadline for the phase-out of unlicensed plastic waste exports.
- 5 The Government's response does not support the Committee's recommendation to set a deadline for the phase out of unlicensed exports of plastic waste, partly due to trade risks and the need for increased capacity of New Zealand's onshore processing. It does not accept the need to develop more comprehensive policy to avoid the creation of plastic waste as initiatives to achieve this are already underway.
- 6 The response accepts the recommendation to increase investment in onshore processing infrastructure and reviewing the Imports and Exports (Restrictions) Act 1988 and the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 that could strengthen export monitoring and controls. The response provides other regulatory and non-regulatory approaches, already part of my Waste and Resource Recovery work programme that would support a reduction in plastic waste generation.

- 7 Following Cabinet agreement, I will table the Government's response in the House before the end of 2024.

Background

- 8 Lydia Chai presented a petition on 1 August 2022 requesting a ban on plastic waste exports to Malaysia and other developing countries. The petitioner argued that
- 8.1 developing countries, like Malaysia, do not have capacity to effectively handle the world's plastic waste and it is causing significant harm to the environment and human health. This also included the impact on the handling of domestic waste, which was not recycled but sent to landfill or illegally dumped as the focus was on processing imported higher-value waste plastics where there was economic value.
- 8.2 the Basel Convention is not working effectively due to insufficient monitoring and reporting of what happens to exported waste once it leaves the country of origin.
- 9 In general, the points raised by submitters (Plastics New Zealand (Plastics NZ) and the Waste and Recycling Industry Forum), including the Ministry for the Environment, were cautious about banning plastic waste exports given the potential implications and unintended consequences.
- 10 Submitters noted that New Zealand cannot currently reprocess/recycle all our plastic waste onshore due to infrastructure constraints and there are genuine international markets for some types of plastic waste.

The Environment Committee's recommendations

- 11 The Environment Committee (the Committee) published its report on 1 September 2023 with the following recommendations:
- 11.1 to set a deadline for the phase out of unlicensed exports of plastic waste to countries beyond Australia and develop more comprehensive policy to avoid the creation of plastic waste;
- 11.2 to increase investment in plastic reprocessing infrastructure in Aotearoa New Zealand, recognising facilities in Australia;
- 11.3 consider regulations to strengthen the licensing and monitoring of waste exports until new waste legislation is operative;
- 11.4 increase monitoring of plastic exports to ensure that the Basel Convention requirements are being implemented.
- 12 The Committee's report summarises the submissions made by the petitioner, the Ministry for the Environment, Plastics NZ and the Waste and Recycling Industry Forum. Note, the responses were based on the previous Government's policy.
- 13 The Government response is aligned with my proposed Government approach for improving waste outcomes, including a new waste strategy and this term's work plan to achieve them [Cabinet paper *Waste and resource efficiency work programme* refers].

Analysis and response to the Environment Committee recommendations

- 14 Overall, the Government response (Appendix 1) supports two out of the four recommendations. The response outlines the Government's reasons for accepting or rejecting each recommendation and thanks the Committee and petitioner.

Recommendation 1 – to set a deadline for the phase out of unlicensed exports of plastic waste to countries beyond Australia and develop more comprehensive policy to avoid the creation of plastic waste

- 15 The Government response does not support the first part of the recommendation to set a deadline for the phase out of unlicensed exports because it would be challenging and risky to set a deadline without detailed analysis of the volumes, types and destination of plastic waste exports and some form of formal agreement with Australia that they are willing and able to accept our future unlicensed plastic waste exports. There could be financial implications for this form of agreement and a risk we could be open to legal challenge under the World Trade Organisation if New Zealand attempts to restrict exports to only one country without sufficient rationale and evidence.
- 16 Restricting or stopping trade between New Zealand and one other country, or a group of countries, could be seen as an unfair trade barrier under the World Trade Organization General Agreement on Tariffs and Trade 1947. There may also be implications for New Zealand's free-trade agreements, the Trans-Tasman Mutual Recognition Agreement with Australia or our relationship with other Pacific Island nations. The Ministry of Foreign Affairs and Trade (MFAT) agree with this assessment.
- 17 New Zealand would continue to outsource its waste problem to another country, albeit one that has high environmental practices. It would also mean Australia would benefit from the value-add from processing the plastic waste into a ready input for manufacturing. New Zealand would ideally build the capacity to retain some or all this value-add onshore, acknowledging it is difficult to predict how the market will respond to trade restrictions.
- 18 Other risks of this approach include plastic waste ending up in landfill, stockpiled or dumped if domestic infrastructure and Australian capacity cannot handle waste that would have otherwise been exported elsewhere. In addition, relying on one export country is very risky, as any change in policy or Government could result in our exports being significantly limited or stopped altogether (as was the case with China's National Sword Policy). Given the volatile nature of the plastics recycling market, narrowing our exports to just one destination leaves New Zealand in a vulnerable position if done in isolation of other supporting actions (see recommendation 2).
- 19 The Government response rejects the second part of the recommendation as several initiatives are underway to avoid the creation of plastic waste, including the Global Plastics Treaty negotiations, ongoing investment from the Waste Minimisation Fund and encouraging industry-led initiatives such as the Recycling Industry Forum.¹ These will provide ways to drive a reduction in plastic waste generation.

¹Established by the Ministry for the Environment in May 2024, the Recycling Leadership Forum (the Forum) brings together representatives from across the packaging supply chain from retail, packaging manufacturers, food and grocery brands, the recycling sector and local government to improve the recyclability and recovery of packaging materials, including plastic packaging.

Recommendation 2 – *to increase investment in plastic reprocessing infrastructure in Aotearoa New Zealand, recognising facilities in Australia with a focus on facilities that can prepare plastic waste for recycling/processing*

20 The Government response accepts this recommendation. Cabinet has agreed the strategic waste levy investment priorities.² These include investing in waste and resource recovery infrastructure, and plastics is one of several waste streams prioritised. Incentivising an increase in plastic reprocessing on its own, could create a surplus of recycled polymer with no corresponding demand. Therefore, interventions to stimulate onshore demand for recycled plastic polymers, such as recycled content requirements, would reduce this risk. The demand drivers will also come from our key trading partners, such as the European Union, driving demand for recycled-content packaging affecting our exporters such as Fonterra.

21 An achievable step forward is to increase the onshore facilities that can prepare plastic waste for recycling/reprocessing.³ Once in a flake or pellet form, the plastic waste can be made into new plastic products and the environmental impacts managed in New Zealand and not exported to a country with lower environmental controls. Investment in these types of facilities will result in improvements to the local economy.⁴

Recommendation 3 – *consider regulations to strengthen the licensing and monitoring of waste exports until new waste legislation is operative*

22 The Government response rejects this recommendation. It would not be an efficient use of resources to consider regulations at this time. The Government's priority is reforming the Waste Minimisation Act 2008 (WMA) and the Litter Act 1979.

Recommendation 4 – *increase monitoring of plastic exports to ensure that the Basel Convention requirements are being implemented*

23 The Government accepts this recommendation. I am aware there are limitations in the way the Imports and Exports (Restrictions) Act 1988 and the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 are drafted, particularly in relation to monitoring, inspection and enforcement functions. As this is the primary legislation for several Multilateral Environment Agreements⁵ it needs to be fit-for-purpose. Subject to Cabinet approval, other priorities and available resourcing, the Ministry for the Environment, in collaboration with the Ministry of Business, Innovation and Employment (MBIE) and other relevant agencies, could undertake a policy review of these regulatory settings.

A life cycle approach to reducing plastic exports

24 The Committee's recommendations largely focus on the export of plastic waste for processing, recycling and/or disposal overseas. Therefore, the Government response provides other regulatory and non-regulatory approaches that could be considered individually or as a package of measures as different plastic types and products may require a different intervention approach.

² CAB-24-MIN-0138 refers.

³ Such as sorting, washing, shredding/grinding, drying and pelletising or flaking the plastic.

⁴ Taking into account international trade obligations.

⁵ Such as the Stockholm Convention on persistent organic pollutants and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

- 25 The Government response indicates the Government could review the plastic waste export situation in the future. If plastic waste exports to developing countries remained a concern the Ministry for the Environment could investigate options, in collaboration with relevant agencies, to restrict plastic waste exports.

Cost-of-living Implications

- 26 Cost-of-living implications will be carefully considered for any proposed future interventions, and these decisions will be brought to Cabinet as appropriate.

Timing of the government response

- 27 The Committee's report was received by the previous Government and the Government's response is now overdue. I propose to table a response in the House as soon as possible.

Financial Implications

- 28 There are no financial implications with issuing the Government response to the petition. Any financial implications for Government, industry or other stakeholders will be considered when providing advice on the policy work and initiatives referred to in the Government response.

Legislative Implications

- 29 A legislative bid has been submitted for the review of the WMA and the Litter Act. There is no legislative bid for the review of the Imports and Exports (Restrictions) Act 1988 or the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004, both administered by MBIE.
- 30 However, until a policy review is complete, it is not yet certain what amendments may be required to that legislation. The Ministry for the Environment will discuss the policy review with MBIE and the Parliamentary Counsel Office and provide advice on whether a legislative bid is required. If required, a legislative bid will come to Cabinet.

Impact Analysis

- 31 All policy proposals submitted to Cabinet for future decision will be accompanied with a Regulatory Impact Statement and Climate Implications of Policy Assessment when required.

Population Implications

- 32 No specific population implications have been identified for these proposals.

Human Rights

- 33 The proposals in the work programme are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Use of external Resources

- 34 No external resources have been used to develop this paper.

Consultation

- 35 The Ministry for the Environment met with the following organisations in the preparation of this paper: Secretariat of the Pacific Regional Environmental Programme, Plastics New Zealand, Enviro NZ Waste Solutions, Waste and Recycling Industry Forum, Officials from Department of Climate Change, Energy, the Environment and Water (Australia) and from the Cook Islands Government.
- 36 The following departments were consulted on this paper: MFAT, New Zealand Customs Service, Environment Protection Authority, MBIE, Ministry of Primary Industries, Ministry for Regulation. The Treasury and Department of Prime Minister and Cabinet were informed.
- 37 External consultation on elements of the work programme will take place as required.

Communications and proactive release

- 38 The attached Government response will become publicly available following tabling in the House before the end of December 2024. We do not propose any additional communications.
- 39 We intend to proactively release this Cabinet paper within 30 working days of Cabinet making its decision.

Recommendations

The Minister for the Environment recommends that the Committee:

1. **note** that on 1 August 2022 the House was presented with the petition of Lydia Chai, which requested a ban of plastic waste exports to Malaysia and other developing countries. On 1 September 2023 the Environment Select Committee published its final report recommending action;
2. **agree** to direct Ministry for the Environment officials to work with the Ministry of Business, Innovation and Employment, subject to prioritising and available resourcing, to review the Imports and Exports (Restrictions) Act 1988 and the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004, and the Minister for the Environment will return to Cabinet if a legislative bid is required;
3. **approve** the Government response;
4. **invite** the Minister for the Environment to present the Government response to the House in accordance with Standing Order 252;
5. **invite** the Minister for the Environment to write to the petitioner enclosing a copy of the Government response, after the response has been presented to the House.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Government Response to the Environment Committee's Report on the Petition of Lydia Chai: Ban Plastic Waste Exports to Developing Countries

Portfolio **Environment**

On 21 November 2024, the Cabinet Legislation Committee:

- 1 **noted** that:
 - 1.1 on 1 August 2022, the House was presented with the petition of Lydia Chai, which requested a ban of plastic waste exports to Malaysia and other developing countries;
 - 1.2 on 1 September 2023, the Environment Select Committee published its final report (the report) recommending actions for the Government, including the setting of a deadline for the phase-out of unlicensed plastic waste exports;
- 2 **directed** the Ministry for the Environment to work with the Ministry of Business, Innovation and Employment, subject to prioritising and available resourcing, to review the Imports and Exports (Restrictions) Act 1988 and the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004;
- 3 **approved** the Government response to the report, attached as Appendix 1 to the paper under LEG-24-SUB-0243;
- 4 **invited** the Minister for the Environment to present the Government response to the House in accordance with Standing Order 252;
- 5 **invited** the Minister for the Environment to write to the petitioner enclosing a copy of the Government response, after the response has been presented to the House.

Janine Harvey
Committee Secretary

Present: (see over)

Present:

Rt Hon Winston Peters
Hon Chris Bishop
Hon Simeon Brown (Chair)
Hon Paul Goldsmith
Hon Brooke van Velden
Hon Casey Costello
Hon Andrew Bayly
Hon Nicole McKee
Hon Penny Simmonds
Hon Andrew Hoggard
Hon Scott Simpson, MP
Todd Stephenson, MP
Jamie Arbuckle, MP

Officials present from:

Officials Committee for LEG
Leader of the House's Office