



9(2)(a)

Dear 9(2)(a)

Thank you for your email of 04 August 2021 requesting the following under the Official Information Act 1982 (the Act):

- all briefings, notes, reports, aides memoire and other written material relating to the proposed review of the Waste Minimisation Act.

Please provide all reports in an electronically searchable format and include all attachments.

The Ministry has interpreted the scope of your request to include papers and written material related to the Ministry's project to develop new waste legislation, including written material sent to the Minister for the Environment's office. The Ministry has taken the timeframes for in-scope papers to start from when the Legislation project began (August 2020); up until the date of request which is 4 August 2021.

The Ministry has excluded the following from the scope of the request:

- draft written material developed by Ministry staff for internal 'working' purposes (eg. rough thinking material)
- emails related to this topic; and
- project planning documents/files which are only of interest to Ministry staff (eg. lists of which staff are working on which topics; internal meeting agendas, timeframe planning notes).

The Ministry identified nine documents as being in scope of your request as listed in the enclosed document schedule.

Six documents are being released in part to you. Some information within these documents has been withheld under the following sections of the Act:

- 9(2)(a) to protect the privacy of natural persons
- 9(2)(f)(iv) to maintain the constitutional conventions for the time being which protects the confidentiality of advice tendered by Ministers of the Crown and officials. The release of this information is likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

Please note the following for documents one and six:

- Document one: *New waste legislation for Aoteroa NZ (Draft v02)* - public consultation is now occurring later than envisaged earlier in 2021, due to policy development and stakeholder engagement taking more time

- Document six: *Pre-consultation Engagement Plan: Waste Legislation Review* - many of the dates on the document are incorrect as timeframes have changed.

Three documents are withheld in full under 9(2)(f)(iv) to maintain the constitutional conventions for the time being which protects the confidentiality of advice tendered by Ministers of the Crown and officials. The release of this information is likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: ministerials@mfe.govt.nz.

Yours sincerely



Glenn Wigley
Director - Policy and Regulatory

Document schedule

Document no.	Document date	Content	Decisions	OIA applied	sections
1	30 September 2020	New waste legislation for Aoteroa NZ (Draft v02)	Release in part	9(2)(f)(iv)	
2	1 October 2020	Project Overview: New waste and resource efficiency legislation for New Zealand	Release in part	9(2)(f)(iv)	
3	11 March 2021	Memo – WRE Legislation project – update for 15 March 2021 meeting	Release in part	9(2)(f)(iv)	
4	31 March 2021	2021-B-07701 Update on new waste legislation – sent 31.03.2021	Release in part	9(2)(a) 9(2)(f)(iv)	
5	13 April 2021	Slides for initial ministerial briefing 13 April 2021	Release in part	9(2)(f)(iv)	
6	April 2021	Pre-consultation Engagement Plan: Waste Legislation Review	Release in part	9(2)(f)(iv)	
7	January 2021	Waste Minimisation and Resource Efficiency Reform Bill: Request for Priority in the 2021 Legislation Programme	Withheld in full	9(2)(f)(iv)	
8	August 2021	Draft cabinet paper (as of 4 August)	Withheld in full	9(2)(f)(iv)	
9	August 2021	Draft consultation document (as of 4 August)	Withheld in full	9(2)(f)(iv)	

NAME OF PROJECT: **NEW WASTE LEGISLATION
FOR AOTEAROA NZ**

PROJECT PLAN

Author: Charlie Hanna
Version #: Draft V02
Version date: 30 September 2020

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the Official Information Act 1982

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1. Project identification

Project name	New Waste Legislation for Aotearoa New Zealand.
Governance	Waste & Resource Efficiency Portfolio Board
Project Lead	Charlie Hanna
Project Manager:	Kathy Bass & Nicola White

2. Document information

Date	Version	Author	Comments
14 September 2020	01	Charlie Hanna	First draft.
30 September 2020	02	Charlie Hanna	Second draft. Reflects 25/09/2020 comments of Nicola White (manager).
13 October 2020	03	Charlie Hanna	Final draft completed. Meg Larken made minor additions to Section 14: Risk Register.

3. Approval to proceed

Name and role of approver(s):	Date approval was given:
<p>Waste and Resource Efficiency Programme Board meeting of 01/10/2020:</p> <ul style="list-style-type: none"> - Project discussed and verbal approval to proceed given. <p>13/10/2020 via email between Nicola White and Glenn Wigley:</p> <ul style="list-style-type: none"> - Nicola and Glenn agree to maintain this Project Plan as a 'living document', and that for now, it does not require formal Deputy Secretary signature. 	1 st October 2020

4. Background

1. Aotearoa New Zealand has a longstanding and increasing problem with waste. We send increasing amounts of waste to landfill each year. Many resources are disposed of, rather than being re-used, recovered or recycled.
2. There is good news however: the Government has an ambitious work programme planned to turn around New Zealand's waste management system and reduce the often adverse environmental, economic and social impacts of the current approach.
3. A **key driver for legislative change** is the waste levy increase and expansion (announced July 2020) which will entail strengthening the waste management system. That will include creating stronger incentives to recover materials rather than dispose of them, improving data collection, monitoring and enforcement of landfills subject to the levy, significant investment to improve resource recovery, and other steps to move New Zealand further up the waste hierarchy and towards a more circular economy.
4. The Waste Minimisation Act 2008 (the Act) needs to be strengthened so that it effectively supports the levy changes. Necessary changes include revision of Waste Minimisation Fund (WMF) arrangements, which are not appropriate for allocating and administering the increased revenue; associated institutional changes to put new administrative arrangements in place; and more effective compliance, monitoring and enforcement powers.
5. **Other drivers** for a full review of legislation include:
 - Growing experience with the Act has shown that there is scope to streamline and strengthen some of the existing regulatory tools (eg product stewardship schemes, banning powers);
 - There are likely to be regulatory tools operating elsewhere that can be added to the "toolbox" in New Zealand, such as the power to mandate recycled content and more;
 - The proposed "strategic investment" approach to waste and resource efficiency can be embedded in legislation by requiring a regularly updated long term strategy with strong links through to local authority plans;
 - A recognition that the Act needs to be broadened to support efforts to move towards a circular economy and to clean up our past, rather than the current narrow focus on reducing waste to landfill;
 - The Act needs to connect more effectively with related legislation and workstreams - including climate change, RMA reform, and changes in local government;
 - s 9(2)(f)(iv) [REDACTED]
 - The Litter Act 1979 needs to be integrated and strengthened to support more effective responses to inappropriate disposal of waste.

6. [REDACTED]

s 9(2)(f)(iv)

7. New legislation should:

- Be future focussed – supporting a lower-waste future in which resource recovery and material re-use is favoured over disposing of materials as waste; and
- Be enabling – supporting actors in the waste system to use available tools and processes (eg. the waste levy, product stewardship, compliance and enforcement processes) to achieve positive results.

5. Purpose and objectives

The **purpose** of this project is to deliver new **waste and resource efficiency legislation** for Aotearoa New Zealand. Such legislation should support the vision and goals of the new *New Zealand Waste and Resource Efficiency Strategy*, and enable NZ to shift towards a more circular economy, where less waste is produced and disposed of, and materials are ‘re-circulated’ into other productive uses.

The **over-arching objectives** of the project are to:

1. ensure we have the **regulatory tools and levers** needed to give effect to the new *Waste & Resource Efficiency Strategy*.
2. s 9(2)(f)(iv)
3. Create the administrative framework and institutions needed to **underpin priority-setting** and the **allocation of levy funds**, including embedding a strategic investment approach into the legislation and future system.
4. Clearly **define responsibilities** between central and local government
5. Update requirements for collecting and reporting **waste and resource recovery data**
6. Update and broaden powers for **compliance, monitoring and enforcement** activities.
7. Design strong **accountability and reporting** provisions.
8. Fix **miscellaneous aspects** of the existing legislative regime.

The **practical objectives** of the project are to:

1. Undertake research, analysis and targeted engagement to develop proposals for new waste and resource efficiency legislation for New Zealand;
2. Publish a discussion paper on proposed legislative changes (with Cabinet’s approval), for wide public consultation;
3. Obtain public, technical and sectoral feedback on the proposals, using that feedback to revise the proposals as appropriate;
4. Obtain Cabinet approval of final policy proposals for new legislation;
5. Prepare and introduce a draft Bill to the House of Representatives;
6. Support the Bill through the parliamentary process including providing advice to the select committee hearing submissions;
7. s 9(2)(f)(iv)

6. Scope of work

In scope	Out of scope
Undertake research and analysis to develop proposals for new waste and resource efficiency legislation for New Zealand.	Direct policy work on use of the tools/levers within existing legislation (such as the waste levy, and product stewardship processes). This work is being done through separate and distinct workstreams within MfE's Waste Directorate.
Plan and implement engagement with stakeholders within and outside MfE.	Engagement on other waste projects eg. Long-term infrastructure plan, regulated product stewardship.
Engage with sector and subject-matter experts (including an Advisory Group) to assist in developing proposals for a Discussion Paper for public consultation.	Engagement with these personnel on other MfE projects or programmes.
Cabinet approval of a Discussion Paper of proposed legislative changes, for public consultation.	Formal approval of Discussion Paper by stakeholders other than Cabinet.
Public consultation on the Discussion Paper	Consultation and/or changes to other projects within the Ministry's work programme
Preparation of policy proposals, and taking legislation through the House	Planning for implementation. This will need to begin once the final shape of the Bill is settled but is likely to be a separate project.

s 9(2)(f)(iv)

7. Deliverables

This project will deliver:

s 9(2)(f)(iv)

8. s 9(2)(f)(iv)

s 9(2)(f)(iv)

- **Phase 3:** analysis of feedback received, preparation of proposals for new legislation, Cabinet decisions on proposals.
- **Phase 4:** drafting of new legislation, working with legal team and *Parliamentary Counsel Office* (PCO).
- **Phase 5:** Bill introduced to the House and Select Committee consideration (submissions, hearings, development of Select Committee report including proposed changes to the Bill).
- **Phase 6:** Remaining parliamentary stages through to enactment.

Phase 1 will involve the MfE project team carrying out research and analysis to develop proposals for how legislation could be created or amended for various topics (eg. allocation of levy funds, product stewardship etc).

The MfE project team will consult with other Ministry teams where they can provide insight and input to relevant topic areas. For example, we will be engaging with Waste Operations on matters of compliance and enforcement; and the Environmental Risk and Innovation team in regards to international agreements.

Where appropriate, ideas will be tested with members of an Advisory Board - comprised of experienced waste sector individuals from business, NGO and Te Ao Maori perspectives. This Advisory Board will also be supporting the MfE-led project to develop a *New Zealand Waste & Resource Efficiency Strategy*. We will also engage with the Waste Advisory Board (WAB) at regular intervals.

MfE will also engage with central government agencies to ensure alignment between this legislation project and related policy or strategy work. Phase 1 will conclude with seeking Cabinet approval to consult on the Discussion Paper.

Phase 2: in addition to the release of a Discussion Paper for public feedback, we will also seek input via online meetings or workshops, and possibly targeted in-person meetings. This consultation will be coordinated/merged with that on the proposed waste strategy.

In **Phase 3**, MfE will analyse feedback received, engage further with relevant stakeholders and the WAB where needed, and prepare advice about the form and content of new waste and resource efficiency legislation. The aim is for Cabinet to make decisions on the post-consultation advice by the end of 2021.

In **Phase 4**, MfE policy and legal teams will develop drafting instructions for the Parliamentary Counsel Office (PCO). ^{s 9(2)(f)(iv)} [REDACTED] Next, we will seek *Cabinet Legislation Committee* approval of draft legislation.

Phase 5 is the process of a Bill being introduced to the House of Representatives, and being considered by the relevant select committee. MfE will need to support the minister through the legislative process and can expect to advise the select committee. This will include an initial briefing, analysis and departmental report on written and oral submissions, advice as needed on potential changes to the Bill, and input into the select committee's report on the Bill. ^{s 9(2)(f)(iv)} [REDACTED]

^{s 9(2)(f)(iv)} [REDACTED]

Phase 6 is the final parliamentary stages – a second reading, Committee of the Whole House stage (where there can often be changes made by supplementary order paper), and a third reading. MfE will need to support the Minister and work closely with PCO throughout this process.

Note: This project plan does not cover preparation for or actual implementation of legislative changes. That work will need to begin once the final content of the Bill is settled and continue while the Bill proceeds through the House.

9. ^{s 9(2)(f)(iv)} [REDACTED]

^{s 9(2)(f)(iv)} [REDACTED]

10. Resources

Personnel roles and responsibilities

Role	Responsibilities
Project Manager	Ultimately responsible for the project's success. Ensures the project delivers the business benefits required by the organisation.
Project Lead	Direct, plan and monitor delivery of the project's deliverables. Ensure that quality controls are planned and performed correctly.
Project Team members	Undertake activities as directed by the Project Lead. Identify and log risks and issues to ensure prompt action can be taken.

Financial management – to come following confirmation of new hires in October

Summary budget for the project

Item	Capital	Operating	Total
Eg. may be some consultancy costs, engagement costs.			
As above			
As above			
TOTAL	\$xx	\$xx	\$xx

11. Stakeholder management

The intention is that the legislation project "piggy-backs" on the communications and engagement plan for the strategy, in particular by combining the public consultation on both projects. However, the two projects will have different needs and levels of engagement, so the legislation project will be developing its own supplementary plan to ensure appropriate and effective engagement through the policy development process. This will include some engagement with the strategy's ropu and advisory board, other targeted engagement with interested parties, as well as regular updates for the WAB.

The other main difference is that the public will have further opportunities to influence the legislation through the parliamentary and select committee process.

12. Project controls

Project limitations, linkages and dependencies

Limitation, linkage or dependency	Description and how it will be managed
Linkage: NZ Waste Strategy project	The Waste Strategy will set the context for a review of the Waste Minimisation Act and related legislation, which will run on similar timelines until mid-2021. A single oversight group, and regular meetings between project teams, will ensure alignment.

s 9(2)(f)(iv)

Monitoring and reporting

Report	Purpose	Timing	Audience
Project Status Report	Summary of the project status	Every 2 nd Monday each month (ie. fortnightly)	W&RE Board
Project Closure Report	A final assessment on the project's achievements, lessons learned and how/ when benefits will be measured	April 2023 (following Bill enactment).	W&RE Board

Risk, Issue and Change Management

An initial risk profile is attached as *Appendix Two*.

Information management

The Te Puna file location for this project is: 16 – Policy Development and Implementation – Resource Efficiency > 07 – Policy Development – Resource Efficiency > 01 – Waste Minimisation Act Review.

13. Appendix One: detailed schedule

Tasks	Start	End
To be populated in October/November.		

14. Appendix Two: Risk register

Description	Impact of risk	A Likelihood (1-5)	B Impact (1-5)	A x B Risk exposure (1-25)	Risk Mitigation Plan	Risk Owner	Status
Insufficient resources (people, budget, access to legal) to deliver project on time and to appropriate quality	Project runs late, which means that have to continue to administer system for longer under existing (inadequate) legislation				Urgent recruitment of staff Close involvement of MfE legal Division budgeting systems Clear and consistent signalling of risks of delay for government (especially financial consequences)	Kathy and Nicola	Recruiting in progress
Competing demands for space on the legislation programme – generally and from MfE	As above				Clear and consistent signalling of risks of delay and need for priority– within MfE (Te Purengi etc), to Ministers and Cabinet, to the sector, to other agencies. High quality work and engagement to build support so that the Bill is likely to proceed smoothly rather than face challenges.	Project lead	

Project Overview: New waste & resource efficiency legislation for New Zealand

What are we doing and why?

- Reviewing & updating the WMA, the Litter Act, and any other relevant provisions elsewhere. Expect to produce a new single integrated Act.
- To ensure we have effective and fit for purpose legislation to support the step change we are seeking in approaches to waste, which will be driven by the upcoming levy changes and the new waste strategy under development.
- To streamline and strengthen existing provisions, especially on CME.

What is in scope?

- All aspects of existing waste-related legislation are up for review/amendment. We want to retain what works well, and strengthen where useful.
- Adding new elements, eg if other jurisdictions have had success with different regulatory levers (eg, mandatory recycled content in products).
- Here are the key parts:
 - Arrangements for the collection & distribution of **increased levy funds**
 - Supporting the **new Strategy** to guide actions and investment at central and local levels.
 - Responsibilities of TA's incl. **WMMP's**
 - Strengthening **CME**
 - **Institutional arrangements** – provision for appropriate supporting institutions and administrative arrangements (whether in MfE or somewhere else).
 - Strengthening **litter** and **illegal dumping** provisions
 - Requirements for **waste data**
 - s 9(2)(f)(iv)
 - Fixing miscellaneous aspects of existing Act.

The Road Ahead

- First year (policy analysis, engagement and public consultation) intentionally follows same timeframes as NZ Waste Strategy.
 - **Policy analysis & engagement** from now to mid-2021
 - **Public consultation** on discussion paper s 9(2)(f)(iv)
 - **Cabinet policy decisions** in s 9(2)(f)(iv)
 - **Legislative drafting** – s 9(2)(f)(iv)
 - **Bill introduced to House & Select Committee** – s 9(2)(f)(iv)
 - **New legislation enacted** – s 9(2)(f)(iv)

Engagement

- Use Advisory Group & rōpū for the Strategy as 'sounding board' for legislative review.
- More targeted engagement with particular groups – eg. local government, private sector.
- Strong connections with relevant MfE teams (eg. Waste Operations), and other agencies.
- Regular engagement with WAB.
- Public consultation process in tandem with the strategy consultation
- Parliamentary and Select Committee processes allow public to influence the legislation.

Memo (internal)

To: Waste and Resource Efficiency Portfolio Board

From: Charlie Hanna – Senior Policy Analyst & Legislation project lead

Date: Thursday 11 March 2021.

CC: Kathy Bass, Manager; Nicola White, Principal.

Re: WRE Legislation project – update for 15 March 2021 meeting.

Purpose


To provide an update on progress on the Legislation project, including recent and upcoming activity, and current project issues.

Background

This project was established in August 2020, as part of the work programme developed following Cabinet's decision to expand the waste levy.

The WRE Portfolio Board viewed the [Project Plan](#) and gave approval to proceed on 1 October 2020. The plan is for a full overhaul and replacement of existing legislation (the Waste Minimisation and Litter Acts, and possibly some provisions from the HSNO Act), rather than more minor amendments.

The project aims to have new legislation on waste and resource efficiency ^{s 9(2)(f)(iv)} that will:

1. ensure we have the **regulatory tools and levers** needed to give effect to the new *Waste & Resource Efficiency Strategy*.
2. Create the administrative framework and institutions needed to **underpin priority-setting** and the **allocation of levy funds**, including embedding a strategic investment approach into the legislation and future system.
3. Clearly **define responsibilities** between central and local government
4. Update requirements for collecting and reporting **waste and resource recovery data**
5. Update and broaden powers for **compliance, monitoring and enforcement** activities.
6. Design strong **accountability and reporting** provisions.
7. Fix **miscellaneous aspects** of the existing legislative regime.
8. 

The project plan outlines 6 phases of work:

- Phase 1: analysis, development of proposals, and development and Cabinet approval of a Discussion Paper (to be consulted on in *Phase 2*).
- Phase 2: public consultation on a Discussion Paper (alongside consultation on a draft Waste Strategy).
- Phase 3: analysis of feedback received, preparation of proposals for new legislation, Cabinet decisions on proposals.
- Phase 4: drafting of new legislation, working with legal team and *Parliamentary Counsel Office* (PCO).
- Phase 5: Bill introduced to the House and Select Committee consideration (submissions, hearings, development of Select Committee report including proposed changes to the Bill).
- Phase 6: Remaining parliamentary stages through to enactment.

Recent Activity

The August – December 2020 period was mainly occupied with setting up and scoping and planning the project, recruiting staff, and bringing new staff up to speed.

Other set-up work since October has included:

- Providing material on the project for briefings to the new Minister, Cabinet papers, the draft AIP, cross-agency workshop and other outlines of the division's work programme;
- Communications activity, including a presentation and session about the project to the WasteMINZ conference in October 2020, and content in MfE's newsletter to councils (Feb 2021).
- Initial meetings with most parts of the WRE Division to discuss the scope of the legislation and what different projects and teams might wish to see included;
- Participation in workshops and meetings arranged by the strategy project with the advisory group and ropu;
- Preparation and submission of a formal bid for inclusion on the government's legislation programme. On advice from PCO, the proposed legislation is classed as large and complex;

Current state

As of 11 March 2021, the project team comprises:

<i>Person</i>	<i>Role</i>	<i>Time commitment</i>	<i>Other work</i>
Charlie Hanna (project lead)	Senior analyst	80%	General work
Nicola White	Principal analyst	40%	10% on general principal engagement across projects and division
Meg Larken	Senior analyst	50%	NES tyres (50% until about May 2021)
Matt Cowan	Senior analyst	50%	Back-up on NES tyres; AIP project, including leading phase 2 work on investment approach; general work
Jess Price	Policy analyst	60%	Labelling; general work
Sassi Berger	Policy analyst	50%	AIP project; general work

Francesca Williams provides support from the legal team. Jonathan Ryan is also providing support with project management and planning.

We have mapped the topics to be covered in the project, developed an indicative working outline of the possible content of a new Act, carried out initial research on several topics, and established working links with others across the WRE Division.

Appendix 1 contains an **indicative outline of the new Act** to give an indication of the scale and content of the work.

Upcoming activities

March	<ul style="list-style-type: none">• Research, analysis and internal engagement on all topics• Updating project planning• Planning engagement activities• Briefing to Minister Parker with information on objectives, scope, likely content, timeframes, links, potentially contentious issues, key policy choices etc (by end March)
April	<ul style="list-style-type: none">• Research, analysis and internal engagement on all topics• Pre-consultation engagement to test emerging thinking (eg the WasteMINZ TAO Forum, strategy project's Advisory Group)• Engagement with other agencies as needed on individual topics

May	<ul style="list-style-type: none"> • Briefing and policy session with Minister Parker • Prepare draft consultation document and covering Cabinet paper • Prepare initial regulatory impact assessment • Planning and budgeting the project for next financial year
June	<ul style="list-style-type: none"> • Consultation with other agencies • Provide draft Cabinet paper and consultation document to Minister's office for ministerial review and consultation • Planning for consultation process
July	<ul style="list-style-type: none"> • Cabinet committee and Cabinet consideration • Detailed planning and preparation for consultation activity
August	<ul style="list-style-type: none"> • Release of consultation document • Engagement activities

Issues

Timeframes are very tight

s 9(2)(f)(iv)

Given the length of time it has taken to get the project up and running with staff in place, the result is that we now have around two months to complete the bulk of our analysis and preparation of initial advice on options. That will be challenging, given the many different topics, their complexity, and the linkages with the different parts of the work programme and other Ministry and government reforms.

Resourcing is also tight

There are currently approximately 3.0 – 3.5 FTE working on this project, now that Nicola has joined the project in a temporary principal role. Experience to date is that it is hard to achieve good progress with this level of resourcing. Planning, briefing, linking and communications activity consumes a significant amount of time, and competing demands from other projects and tasks mean that it has been hard to date for people to give the attention needed to research and analysis for this project.

That should improve with Nicola coming on board from 1 March, Meg's work on NES tyres winding down after April, and the recruitment of a new full-time principal in

future. Even so, the project is operating with a minimum level of resourcing at present: more people with legislative experience would be helpful.

The work is complex, because it links to all of the Division and its projects

As a foundation project and a key enabler for the Division's future work, the legislation project involves regular and detailed interaction with every part of the Division so that it can provide the statutory underpinnings that will be needed for future projects and initiatives. This means that the team must work closely with others on every topic, which takes time.

The same point applies in relation to the links to other reforms underway, in particular the RMA changes, potential local government changes, and the emissions reduction work.

As a result, a high proportion of project time goes on internal planning and engagement.

Conclusion

We are monitoring these issues and timelines closely. If progress over the next month proves inadequate, we may need to look at one or more of:

- delaying the consultation stage;
- minimising our pre-consultation engagement; and/or
- keeping the analysis and options reasonably high level at this stage.

We note that interested parties will be able to comment during the consultation period and there is time for further analysis following that.

s 9(2)(f)(iv)

s 9(2)(f)(iv)

Recommendations

We recommend that the Portfolio Board:

- Notes this update;
- Provide any initial feedback on the indicative outline in Appendix 1.

Appendix 1 – Indicative outline of potential content of new legislation on waste (as at 9 March 2021)

s 9(2)(f)(iv)		s 9(2)(f)(iv)	
Part 1: Preliminary provisions			
s 9(2)(f)(iv)			
Part 2: Roles and responsibilities <i>(descriptive/mapping part to explain who does what)</i>			
s 9(2)(f)(iv)		s 9(2)(f)(iv)	
Part 3: General duties in relation to waste			
s 9(2)(f)(iv)		s 9(2)(f)(iv)	
Part 4: Strategy, planning and reporting			
s 9(2)(f)(iv)		s 9(2)(f)(iv)	

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s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

Part 5: Waste levy

s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

Part 6: Product stewardship – streamlined and strengthened version of existing regime

s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

Part 8: General regulatory powers

s 9(2)(f)(iv)

[Redacted]

s 9(2)(f)(iv)

[Redacted]

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s 9(2)(f)(iv)

s 9(2)(f)(iv)

s 9(2)(f)(iv)

s 9(2)(f)(iv)

s 9(2)(f)(iv)

Part 9: Hazardous waste – to come, if needed

Part 10: Contaminated land – to come

Part 11: Enforcement – to develop with CME team, legal

s 9(2)(f)(iv)

s 9(2)(f)(iv)

Part 12: Other

s 9(2)(f)(iv)

Schedules

s 9(2)(f)(iv)

Other policy issues that may not result in provisions:

- s 9(2)(f)(iv) [Redacted]
- [Redacted]

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Update on new waste legislation

Date Submitted:	31 March 2021	Tracking #:	2021-B-07701
Security Level	IN-CONFIDENCE	MfE Priority:	Non-Urgent

To Hon David Parker, Minister for the Environment	Action sought: Note our proposed objectives, content and timeframes for new waste legislation. Provide views on the initial policy considerations identified in this briefing. Note that we propose to discuss the new legislation with you at a monthly policy session in April.	Response by: 14 April 2021
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Actions for Minister's Office Staff	Return the signed report to MfE.
Number of appendices and attachments	Nil

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Matt Cowan	s 9(2)(a)	
Responsible Manager	Kathy Bass	022 012 0838	
Director	Glenn Wigley	027 491 7806	✓

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Update on new waste legislation

Key Messages

1. This briefing updates you on our work to develop new waste legislation. It also seeks your views on some initial policy considerations.

Objectives and content

2. In January 2021, you submitted a bid to repeal the Waste Minimisation Act 2008 (WMA) and the Litter Act 1979 and replace them with a single new piece of legislation.
3. The new Act will enable a complete “re-set” of the purposes and principles, governance arrangements, and roles and responsibilities in waste legislation. It will also strengthen and clarify regulatory and enforcement powers. This is an important part of the work to put the foundations in place for transforming how we think about and manage waste, alongside the development of a new long-term waste strategy, expanded investment, and other parts of the Government’s waste and resource efficiency work programme.
4. The new Act will:
 - Embed a long-term strategic approach across central and local government for achieving change, supported by consistent data collection, evaluation and reporting
 - Provide enhanced regulatory tools and levers to support the waste strategy and emissions reductions
 - Create the governance and administrative framework needed to support effective investment of waste levy funds
 - Create stronger accountability and reporting provisions
 - Update and broaden compliance, monitoring and enforcement powers, and
 - Fix miscellaneous aspects of the existing legislation.
5. Table 1 on pages 7-8 provides a summary of the potential content of the new Act.

Initial policy considerations

s 9(2)(f)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

- s 9(2)(f)(iv) [Redacted]

9. We would welcome your view on these tools, and whether there are other tools you would like us to explore for potential inclusion in the new legislation.

Timeframes

10. We are planning a joint consultation on proposals for the new legislation and new waste strategy s 9(2)(f)(iv)

11. [Redacted]

12. [Redacted]


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Recommendations

13. We recommend that you:

- a. **Note** our proposed objectives, content and timeframes for the new waste legislation
- b. **Provide views** on the initial policy considerations identified in this briefing – namely:
 - s 9(2)(f)(iv) [REDACTED]
 - [REDACTED]
- c. **Note** that we propose to discuss the new legislation with you at a monthly policy session in April.

Signature



Glenn Wigley
Director, Waste and Resource Efficiency, Regulatory and Policy

30/3/21.

Date

Hon David Parker
Minister for the Environment

Date

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Update on new waste legislation

Supporting material

Purpose

1. This briefing updates you on our work to develop new waste legislation. It also seeks your views on some initial policy considerations.

Context

2. In June 2020, as part of its decision to increase the waste levy, Cabinet noted that MfE would review the Waste Minimisation Act 2008 (WMA) and the Litter Act 1979 (Litter Act) to ensure we have the necessary tools and arrangements in place to support the delivery of a new waste strategy and the transformation of the waste sector (CAB-20-MIN-0264.01).
3. In January 2021, you submitted a bid to repeal the WMA and Litter Act and replace them with a single new piece of legislation. ^{s 9(2)(f)(iv)}
s 9(2)(f)(iv)

4. Separately, you are shortly planning to introduce regulations under the WMA to implement the waste levy increases and additional waste data reporting requirements. These regulations will be carried over into the new Act.

Analysis and Advice

Existing legislation

5. The WMA encourages a reduction in the amount of waste generated and disposed of. It contains provisions for, among other things:
 - Establishing regulated product stewardship schemes
 - Controlling the sale and disposal of certain products
 - Imposing the waste levy and using the revenue to support waste minimisation activities, and
 - Requiring territorial authorities (TAs) to promote effective and efficient waste management and minimisation, and enabling them to make waste bylaws.
6. The WMA needs updating for several reasons, including:
 - It contains technical deficiencies (e.g., inadequate compliance and enforcement provisions, minimal procedural requirements for significant regulatory powers, and unduly narrow definitions)
 - It lacks a range of powers and provisions that many other countries have introduced in recent years
 - Its provisions governing the use of levy funds will not be fit for purpose for the amount of revenue the expanded levy is expected to generate, and
 - There is scope to improve how the Act works with the Local Government Act 2002 and the Resource Management Act 1991 (and its replacements).

7. The Litter Act prohibits littering and dumping in public places. It contains provisions for, among other things, granting enforcement officers and litter wardens powers to issue fines and abatement notices.
8. The Litter Act needs updating to include the control of litter in a new and comprehensive Act on waste, and in doing so, to reframe how litter is thought of and managed. The Litter Act is out of date, and its enforcement and penalty provisions are not fit for purpose.
9. While reviewing the WMA and Litter Act, we will also review waste-related provisions in other legislation to ensure they align with the new legislation – specifically the:
 - *Resource Management Act 1991* (RMA) – which controls the environmental impacts of waste facilities such as recycling plants and landfills.
 - *Local Government Act 2002* – which identifies solid waste collection and disposal as a core service to be considered by local authorities.
 - *Hazardous Substances and New Organisms Act 1996* – which controls the import, manufacture, use and disposal of hazardous chemicals.
 - *Import and Export (Restrictions) Act 1988* – which enables control of transnational movement of waste as required by various international agreements.
10. We will also be ensuring the new legislation aligns with the RMA reforms.

Objectives

11. A new Act will enable a complete “re-set” of the purposes and principles, governance arrangements, and roles and responsibilities in waste legislation. It will also strengthen and clarify regulatory and enforcement powers.
12. This is an important part of the work to put the foundations in place for transforming how we think about and manage waste, alongside the development of a new long-term waste strategy, expanded investment, and other parts of the Government’s waste and resource efficiency work programme.
13. The new Act will:
 - Embed a long-term strategic approach across central and local government for achieving change, supported by consistent data collection, evaluation and reporting
 - Provide enhanced regulatory tools and levers to support the waste strategy and emissions reductions
 - Create the governance and administrative framework needed to support effective investment of waste levy funds
 - Create stronger accountability and reporting provisions
 - Update and broaden compliance, monitoring and enforcement powers, and
 - Fix miscellaneous aspects of the existing legislation.

Potential content

14. Table 1 below provides an early indication of the possible content of the new legislation, and the extent to which the content is an update of the existing legislation or new content.

s 9(2)(f)(iv) [Redacted]

[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]

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s 9(2)(f)(iv)

[Redacted text block]

- [Redacted list item 1]
- [Redacted list item 2]
- [Redacted list item 3]
- [Redacted list item 4]
- [Redacted list item 5]
- [Redacted list item 6]
- [Redacted list item 7]
- [Redacted list item 8]
- [Redacted list item 9]
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- [Redacted list item 26]
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- [Redacted list item 46]
- [Redacted list item 47]
- [Redacted list item 48]
- [Redacted list item 49]
- [Redacted list item 50]

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¹ <https://www.labour.org.nz/release-taking-action-to-reduce-waste-and-plastics>

s 9(2)(f)(iv)

22. We would welcome your view on these tools, and whether there are other tools you would like us to explore for potential inclusion in the new legislation.

Timeframes

23. s 9(2)(f)(iv)

24.

Table 2: Current timeframes

Date	Actions
s 9(2)(f)(iv)	<ul style="list-style-type: none">- Review existing legislation and develop options- Targeted engagement with local government, iwi, NGOs and industry- Prepare consultation document- Provide consultation document to you and Cabinet- Publish consultation document- Review submissions- Provide final policy recommendations to you and Cabinet- Prepare draft legislation- Introduce legislation- Select committee process- Legislation enacted

Consultation and Collaboration

25. We discussed plans to review the WMA and Litter Act at the WasteMINZ industry conference in October 2020. Industry feedback was positive, with most agreeing that the Acts need an overhaul.

26. ^{s 9(2)(f)(iv)}
Ahead of this, we may hold targeted engagement with select local authorities, iwi, NGOs and waste industry members in April-May 2021.

27. We are developing the proposals in collaboration with colleagues working on RMA reforms.

Risks and Mitigations

28. Any potentially contentious issues, like those noted above, will be carefully checked with you. They will also be subject to targeted engagement with selected stakeholders and/or testing with the advisory group supporting work on the new strategy, before they are included as proposals for public consultation.

29. The timeframes for developing the new legislation are tight – particularly for reviewing the existing legislation and developing new proposals. ^{s 9(2)(f)(iv)}

^{s 9(2)(f)(iv)}

Legal Issues

30. None arising from this briefing.

Financial, Regulatory and Legislative Implications

31. None arising from this briefing.

Next Steps

32. We propose to discuss the new legislation with you at a monthly policy session in April. We then plan to provide you with further advice on the new legislation in May and ^{s 9(2)(f)(iv)}

^{s 9(2)(f)(iv)}



Ministry for the
Environment
Manatū Mō Te Taiao

New legislation on waste

Prompts for an initial discussion on potential directions, topics
and key issues

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The new legislation is one of the “foundation” projects

It will support all other parts of the long term work programme.

Ideally enacted by early 2023.

The sector strongly supports the need for new legislation and is waiting to see proposals.



Overall aim of the reform

To provide the legal foundations for a clear and comprehensive system for managing waste and resource recovery that drives New Zealand towards a circular economy, including:

- Embedding a nationally driven strategic approach
- Regulatory powers to support movement up the waste hierarchy towards a circular economy
- Effective compliance, monitoring and enforcement powers for all parts of the system, including control of litter

Key topics for discussion today

1. Future roles and responsibilities
2. Use of levy funds
3. Impose basic duties of care?
4. Improve existing regulatory powers
5. New regulatory powers?
6. Other possible topics to include

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Key question: future roles and responsibilities

Which roles sit best with which actors?

Roles, responsibilities

Strategy, planning, reporting

Infrastructure provision (landfill, MRF, recovery centres...)

Collection services (business, residential)

Operation of RPS, CRS systems

Levy collection from landfills

Monitoring & enforcement (unlawful disposal, product bans, landfill standards etc)

Funding, investment decisions

Contaminated sites remediation

Information, education

Actors

Cabinet

Minister

MfE

EPA

Standing advisory body(ies)

Regional council

Territorial authority

Business

NGOs

Other?

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Use of levy funds

Permitted uses: Currently restricted by WMA to projects/matters to promote or achieve waste minimisation (and for TAs, must be in accordance with the waste management and minimisation plan).

s 9(2)(f)(iv)

Overall allocation: Currently 50% to central government and 50% to TAs.

s 9(2)(f)(iv)

Central government fund: Currently a single fund, contestable, administered by MfE, decisions by Minister.

s 9(2)(f)(iv)

Impose basic duties of care?

s 9(2)(f)(iv)

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Improve existing regulatory powers

The current Act is imbalanced: there are 15 separate provisions on product stewardship schemes (including substantial regulation making powers), but one section on other equally significant potential regulatory interventions (s 23).

s 9(2)(f)(iv)

Particular powers to improve include:

- Phase-out and bans of products and materials
- Mandatory disposal labelling of products and materials
- Mandatory product stewardship schemes
- Take-back services
- Refundable deposits

Create new regulatory powers or requirements?

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Other possible topics to include

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Pre-consultation Engagement Plan

Waste Legislation Review

April 2021

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Document information

Date	Version	Author	Comments
22 April 2021	01	Sassi Berger & Charlie Hanna	First draft, emailed to Kathy Bass for review/feedback on 22.04.2021

Context

The Ministry for the Environment (MfE) is endeavouring to deliver new **waste and resource efficiency legislation** for Aotearoa New Zealand. Such legislation should support the vision and goals of the new *New Zealand Waste and Resource Efficiency Strategy*, and enable NZ to shift towards a more circular economy, where less waste is produced and disposed of, and materials are 're-circulated' into other productive uses.

The **over-arching objectives** of the project are to:

1. ensure we have the **regulatory tools and levers** needed to give effect to the new *Waste & Resource Efficiency Strategy*.
2. Provide the legislative underpinning for the proposed container return scheme (tbc).
3. Create the administrative framework and institutions needed to **underpin priority-setting** and the **allocation of levy funds**, including embedding a strategic investment approach into the legislation and future system.
4. Clearly **define responsibilities** between central and local government
5. Update requirements for collecting and reporting **waste and resource recovery data**
6. Update and broaden powers for **compliance, monitoring and enforcement** activities.
7. Design strong **accountability and reporting** provisions.
8. Fix **miscellaneous aspects** of the existing legislative regime.

Purpose of this Plan

This document outlines the **main stakeholders** we plan to engage with from April to July 2021 **s 9(2)(f)(iv)** **s 9(2)(f)(iv)** **their interests** in new waste legislation, and **expected timeframes** for engagement.

The focus is on some core **stakeholders** (we do not plan to engage with all interested parties ahead of consultation). Public consultation will provide further opportunities for stakeholder engagement.



Approach & core stakeholders

Rōpu and Advisory Group

The Rōpu (Māori experts group) and the Advisory Group are considered partners rather than stakeholders and we have had an ongoing dialogue with them about the legislation (alongside the strategy project) over late 2020 and through early 2021.

The **Rōpu** bring a strong appreciation of mātauranga Māori, will want the legislation to capture the Māori worldview, and will be keenly interested in how the Purpose/Principles and Treaty sections of the new Act reflect such concepts.

The **Advisory Group** comprise waste sector experts, with broad experience across business, NGO and academic sectors. They may have views and feedback on various aspects of proposed new legislation – for example, from how terms are defined, to how levy funds are invested.

We will provide an update on the legislation project to both groups via a Zoom meeting scheduled for 29 April (alongside strategy team). We will possibly follow this up by sending in writing some key questions we're considering via our analysis. After giving the groups some time to consider our material, we envisage **one or two follow-up meetings with Rōpu and Advisory Group members who have a particular interest** in the legislation's development.

Territorial Authorities

Territorial Authorities are important stakeholders for the new legislation as they operate waste management services and facilities, and undertake waste minimisation activity in line with their *Waste Minimisation and Management Plans* (WMMPs).

We have engaged verbally with the *TA Waste Liaison Officers Group* (representing Bay of Plenty and Waikato councils), and received their written feedback on the legislation (March-April 2021).

We will also engage with the **WasteMINZ TAO Forum** (who represent the majority of TAs) via webinar in late May. The purpose will be to over-view the emerging legislative proposals ahead of seeking Cabinet agreement to go out for public consultation.

Central government

We will consult with government departments on a draft Cabinet paper between 26 May and 9 June. We'd also like to send agencies an over-view of the key topics and questions being analysed in advance of departmental consultation, to give them an indication of the main areas to be covered in the Cabinet paper.

We will focus on the stakeholders that have already shown interest by coming to our cross-agency workshop in February this year.

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Local Government New Zealand (LGNZ)

Deputy Secretary Sam Buckle spoke to the LGNZ Chief Executive's Forum on 19 April, providing an overview of MfE's waste work programme.

Depending on further Deputy Secretary or Director-level engagement, we may organise a meeting in late May/early June with LGNZ policy staff to discuss the main legislative changes we are considering. This could also double as an opportunity to discuss the strategy work.

Waste Management Industry Forum

Glenn Wigley and Shaun Lewis maintain an ongoing dialogue with the *Waste Management Industry Forum* (a collaboration of several large waste and recycling companies). Their next meeting is on 21 May, and we will provide Legislation material to send to the Forum 3-4 days in advance.

Māori

In addition to working with the rūpu (described earlier in this document), we will work with Te Arawhiti (the Office for Māori Crown Relations) and MfE's Office of the Chief Executive for advice on appropriate channels for engaging with Māori in the pre-consultation phase of this project.

Public consultation

We will write a discussion document outlining the changes and seeking feedback from all interested individuals and groups. The Minister may also wish to make a statement on the beehive website announcing that consultation is open for the new waste legislation. We will also ensure WasteMINZ will share it with its members to maximise input from waste stakeholders.

s 9(2)(f)(iv)

Engagement support – MfE contacts

Where useful, we will keep the relevant MfE Communications & Engagement staff aware of our engagement activity. Our contacts are **Amāl Alsheemy** and **Nicole Were**.

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Engagement Plan overview table

The below table summarises the engagement described in this *Pre-consultation Engagement Plan*, including approximate timeframes. It also includes other legislation project activity/milestones occurring over the same period, for context.

Month	Engagement Activity	Other Activity
March	Verbal presentation to <i>TA Waste Liaison Officers Group</i> (representing Bay of Plenty and Waikato councils).	Legislation team undertaking topical analysis
April	29.04: Advisory Group & Rōpu meeting focussed on Strategy (Legislation update to be provided)	Legislation team undertaking topical analysis
May	Meetings with Advisory Group and Rōpu members with particular interests in feeding back on legislative proposals (dates in mid-late May tbc)	s 9(2)(f)(iv)
	Written material to support MfE Directors for 21 May meeting with <i>Waste Management Industry Forum</i>	s 9(2)(f)(iv)
	Send brief written over-view of main legislative topics under consideration, to central government stakeholders ahead of departmental consultation (19-25 May)	
	Webinar to WasteMINZ TAO Forum (in week 24-28 May)	
	Pre-consultation engagement with key Māori stakeholders (groups and methods tbc)	
June	<i>Possible</i> : meeting with LGNZ policy and/or executive staff (early June)	s 9(2)(f)(iv)
		s 9(2)(f)(iv)

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July	n/a	s 9(2)(f)(iv)
s 9(2)(f)(iv)		

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