



## PROACTIVE RELEASE COVERSHEET

<b>Minister</b>	Hon Penny Simmonds	<b>Portfolio</b>	Environment
<b>Name of package</b>	Documents related to the Waste Minimisation (Waste Disposal Levy) Amendment Bill 2024	<b>Date to be published</b>	ASAP

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
29/4/2024	Cabinet paper: Investment of the waste disposal levy to achieve Government priorities (CAB-413)	Ministry for the Environment
29/4/2024	Minute of Cabinet decision (CAB-24-MIN-0138)	Cabinet Office
23/5/2024	Cabinet paper: Waste Minimisation (Waste Disposal Levy) Amendment Bill: approval for introduction (CAB-437)	Ministry for the Environment
23/5/2024	Minute of Cabinet decision (LEG-24-MIN-0105)	Cabinet Office
2/2/2024	Briefing: Further information on waste levy (BRF-4169)	Ministry for the Environment
21/3/2024	Briefing: Waste Minimisation (Waste Disposal Levy) Amendment Bill: Scope and timeline (BRF-4313)	Ministry for the Environment
28/3/2024	Aide Memoire: Advice on waste levy (BRF-4548)	Ministry for the Environment
3/4/2024	Briefing: Draft Cabinet paper: Investment of the waste disposal levy to achieve Government priorities (BRF-4559)	Ministry for the Environment
11/4/2024	Briefing: Revised Cabinet paper: Investment of the waste disposal levy to achieve Government priorities (BRF-4591)	Ministry for the Environment
24/4/2024	Aide memoire: Talking points for the Budget Sensitive Cabinet paper: Investment of the waste disposal levy to achieve Government priorities (BRF-4614)	Ministry for the Environment
7/5/2024	Briefing: Cover briefing for CAB-437 Waste Minimisation (Waste Disposal Levy) Amendment Bill: approval for introduction (BRF-4684)	Ministry for the Environment

**Information redacted: Yes**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982 (OIA). Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

**Summary of reasons for redaction**

Some information has been withheld from the documents (Cabinet papers, briefings aide-memoires) listed above, which relate to:

- matters under active consideration (withheld under s9(2)(f)(iv) of the OIA to protect the confidentiality of advice tendered by Ministers of the Crown and officials)
- free and frank advice (withheld under s9(2)(g)(i) of the OIA)
- information that is or will soon be publicly available (withheld under s18(d) of the OIA)
- legally privileged content (withheld under s9(2)(h) of the OIA to maintain legal professional privilege)
- matters referring to commercial information (withheld under s9(2)(b)(ii) of the OIA to avoid prejudice to the commercial position of the person who supplied or who is the subject of the information).

**Policy and Privacy****Sensitive**

Office of the Minister for the Environment

Cabinet

**Investment of the waste disposal levy to achieve Government priorities****Proposal**

- 1 The purpose of this paper is to:
  - 1.1 agree changes to the Waste Minimisation Act 2008 (the Act) that will enable the central government allocation of the waste disposal levy (the levy) to be spent on a broader range of environmental outcomes;
  - 1.2 agree to further step increases to the levy over three years (2025/26 to 2027/28) that will provide additional revenue for central and local government;
  - 1.3 identify activities and Crown responsibilities that can be funded by the levy in order to deliver savings for the 2024/25 to 2027/28 budget period (with further opportunities to identify savings across Government in outyears);
  - 1.4 confirm strategic investment priorities for waste (including resource recovery infrastructure and contaminated sites and vulnerable landfill remediation).

**Relation to government priorities**

- 2 The proposal will support the government's fiscal plan and ability to achieve environmental goals.

**Executive Summary**

- 3 The Waste Minimisation Act (the Act) establishes a waste disposal levy (levy) to raise revenue for waste minimisation and increase the cost of waste disposal. The Act establishes controls on how the levy is allocated between central and local government and how it is spent. Changes to the rates and coverage of the levy can be made by regulation (or through legislative amendment).
- 4 The levy was initially set in 2009 at \$10 per tonne for landfills that take municipal waste. Since 2021, a series of incremental changes have been made to expand the coverage of the levy to additional landfill sites and increase levy rates. The final increases are scheduled to take effect on 1 July 2024.
- 5 The central and local government shares of the levy are required to be spent on waste minimisation activity. For central government, the focus to date has been on expanding our resource recovery and recycling network through investment into contestable Waste Minimisation Fund and Plastics Innovation Fund projects.

- 6 There is an opportunity to make changes to the Act to broaden the scope of activities fundable via the levy and continue the incremental increases in the levy rates. This will enable us to fund a broader range of waste-related and environmental outcomes, and to also achieve overall savings in respect to the 2024/25 to 2027/28 budget period.
- 7 I am proposing to make changes to the Act that will enable wider waste and other environmental priorities to be funded by the levy, including:
- 7.1 activities that reduce environmental harm and/or increase environmental benefits;
  - 7.2 waste-related emergency spending;
  - 7.3 funding my waste-related and hazardous substances work programme;
  - 7.4 projects to achieve remediation of contaminated sites, including landfills vulnerable to the impacts of severe weather events.
- 8 This will require a significant change to the purpose of the Act and key provisions within it. Widening the purposes for which the levy can be spent may be regarded as further diminishing the link between those paying the levy and the outcomes being funded. However, this should be considered alongside the additional flexibility and range of environmental priorities that can be supported.
- 9 I also propose to make additional incremental levy increases in 2025/26, 2026/27, and 2027/28, albeit at a lower rate of increase than over the last four years, as follows:

<b><i>Proposed future rates for the waste disposal levy per tonne</i></b>			
	Levy rate on and from:		
<b>Waste facility</b> (waste types accepted)	1 July 2025	1 July 2026	1 July 2027
<b>Municipal landfill (class 1)</b> (Household and commercial waste)	\$65	\$70	\$75
<b>Construction and demolition fill (class 2)</b> (construction and demolition wastes)	\$35	\$40	\$45
<b>Managed or controlled fill (class 3, 4)</b> (inert but lightly contaminated soils and rubbles)	\$15	\$15	\$20

- 10 These changes to levy rates are modelled to raise an additional \$171 million in revenue between 2024/25 and 2027/28 (noting 50 per cent of levy revenue is allocated to territorial authorities in accordance with the Act).
- 11 The amendments and additional re-prioritisation using levy revenue will enable around \$220 million in Crown savings over a four-year period (beginning in the 2024/25 financial year). Initial savings are based on offsetting costs associated with funds and responsibilities administered by the Ministry for the Environment (the Ministry). There are further opportunities to identify additional savings in relation to other environmental funds and initiatives administered by other agencies, while maintaining a strategic link between the levy and waste/environmental priorities.

- 12 There are limits to how much levy revenue can be strategically invested into waste minimisation without the risk of crowding out private investment or creating ongoing subsidies for onshore processing. I therefore consider it would be appropriate to set an envelope for the levy revenue allocated to waste-related investments (including contaminated sites and vulnerable landfill remediation).
- 13 I seek approval for officials to identify the appropriate quantum for waste-related investments and work with other agencies to identify a wider range of environmental activities across Government that will generate additional savings opportunities from Budget 2025.
- 14 I intend to progress the legislative amendment through Budget night legislation (with all stages under urgency), to enable the savings to be reflected in Budget 2024 and in place from the 2024/25 financial year.

## Background

*The Waste Minimisation Act establishes a levy for central and local government to spend on waste minimisation*

- 15 The levy is established in the Act to raise revenue for promoting and achieving waste minimisation and increase the cost of waste disposal to recognise that disposal imposes costs on the environment, society, and the economy.
- 16 By increasing the cost of disposal, the levy can provide a financial incentive for those generating waste to reduce what they send to landfill. It can also make alternatives like recycling and composting more commercially viable.
- 17 The Act requires the Secretary for the Environment (the Secretary) to distribute and spend the levy funds. After paying any required refunds to operators, the Secretary distributes the remainder on:
  - 17.1 paying 50 per cent to territorial authorities (shared on a population basis);
  - 17.2 collecting and administering the levy and waste minimisation projects;
  - 17.3 funding waste minimisation projects that the Minister has approved for funding.
- 18 The levy is hypothecated, meaning both local and central government must spend levy funds to promote or achieve waste minimisation.
- 19 The levy was established in 2009, at the rate of \$10 per tonne for waste disposed of at municipal landfills (those that take household waste). Between 2009 and 2020, levy revenue ranged between \$24-\$36 million per annum.

*Changes have been made to expand the levy to more landfills, increase levy rates, and improve waste data*

- 20 In 2021, regulations were amended to substantially expand the coverage and increase the rate of the levy, as outlined in table 1.

**Table 1: Coverage and rates for the waste disposal levy and tonnage reporting**

Waste facility (waste types accepted) <sup>1</sup>	Levy rate on and from:					Date tonnage reporting obligations began
	1 July 2009	1 July 2021	1 July 2022	1 July 2023	1 July 2024	
<b>Municipal landfill (class 1)</b> (Household and commercial waste)	\$10	\$20	\$30	\$50	\$60	1 July 2009
<b>Construction and demolition fill (class 2)</b> (construction and demolition wastes)	-	-	\$20	\$20	\$30	1 January 2022
<b>Managed or controlled fill (class 3, 4)</b> (inert but lightly contaminated soils and rubbles)	-	-	-	\$10	\$10	1 January 2023
<b>Industrial monofills</b> (wastes generated from a single industrial process)	Levy does not apply*					1 January 2023
<b>Cleanfills (class 5)</b> (virgin excavated natural materials)	Levy does not apply*					1 January 2023
<b>Transfer stations</b>	Levy does not apply*					1 January 2023

\* levies do not apply to these sites for a range of reasons, including the types of material accepted, availability of information to support establishment of a levy and, in the case of transfer stations, the nature of the site (at which wastes are consolidated but not disposed of).

- 21 The final planned increase for the levy is set for 1 July 2024. This will increase projected levy revenue from around \$222 million to \$257 million per annum, shared equally between central and local government.
- 22 Presently, the central government share of the levy is required to be spent on waste minimisation activity. The focus to date has been on expanding our resource recovery and recycling network with investment into contestable Waste Minimisation Fund and Plastics Innovation Fund projects.
- 23 I consider there is an opportunity to make changes to the Act to broaden the scope of activities fundable through the levy and continue the incremental increases in levy rates to fund a broader range of waste-related and environmental outcomes, and to also achieve overall savings in respect to the budget period.

## Analysis

*I propose to broaden the scope of activities and responsibilities that can be funded through the levy*

- 24 As outlined above, levy funds must currently be spent on activities that minimise waste. This has resulted in levy funds supporting a range of projects through contestable

<sup>1</sup> As part of the expansion of the levy to additional sites, different levy rates were set for different site types to reflect the need to gradually increase a levy for sites that were previously unlevied; the availability of waste minimisation opportunities for different waste types; and the likely cost of alternatives to landfill disposal.

funds focused on reducing the generation of waste, improving our recycling infrastructure and performance, and reducing emissions from waste.

- 25 This investment has been beneficial to help reduce the current resource recovery infrastructure deficit, which was estimated to be between \$2.1 and \$2.6 billion in 2020.<sup>2</sup> It has also helped to achieve emissions reductions and unlock further capital investment.
- 26 I have considered options for how the use of the levy could be broadened to support a wider range of waste-related activities. In conjunction with the Minister of Finance and the Associate Minister of Finance (Minister Bishop), I have also considered options to enable the levy to fund a wider range of the Crown's environmental funds and responsibilities, recognising that waste contributes to a range of environmental harms.
- 27 Using resources and materials generates many environmental impacts throughout their life cycle, from extraction and production, to use and disposal. Impacts can include greenhouse gas emissions, discharges, biodiversity and habitat loss, and impacts from inappropriate disposal and littering.
- 28 I propose changing the Act so that levy funds can be used to support activities and responsibilities that address waste reduction, reduce harm from waste, and support environmental outcomes. This can in turn contribute towards meeting Government priorities, including those outlined in the National Party fiscal plan and *Blueprint for a Better Environment*.
- 29 This will require a significant change to the purpose of the Act and key provisions within it. My policy intent in making these changes is to provide additional environmental, social, economic and cultural benefits through spending the levy to:
  - 29.1 encourage appropriate waste management and minimisation and a decrease in waste disposal; and
  - 29.2 improve and protect the environment from harm.
- 30 Examples of the additional types of activities I propose to fund are outlined in table 5 below, which sets out cost savings estimates.
- 31 Widening the purposes for which the levy can be spent may be regarded as further diminishing the link between those paying the levy and the outcomes being funded. In terms of legislative design, the proposed change will provide for a less direct relationship between those paying the levy and those receiving benefits from its investment. However, this should be considered alongside the additional flexibility and range of environmental priorities that can be supported.<sup>3</sup>
- 32 Amending the purpose of the Act to accord with the new policy will require additional changes throughout the legislation to bring it in line with the new purpose.

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<sup>2</sup> Grant Thornton (2020) *Report of waste disposal levy investment options*.

<sup>3</sup> Based on Legislation Design and Advisory Committee guidance, the proposed approach is like a levy, in that the revenue is earmarked for a particular purpose (unlike general taxation); however, the connection between the group paying the levy and those who benefit from it is relatively indirect. Because of this, it does not fit clearly within the guidance provided by the Office of the Auditor General and the Treasury for setting charges in the public sector. Therefore during drafting, the intent of Parliament in authorising this approach will need to be made clear, so that the empowering Act provides adequate authority.

- 33 I do not propose to make consequential changes to how local government can spend their share of the levy as part of the current process. This means that central government would have a wider scope of investment, while local government would continue to invest their share of the levy to promote or achieve waste minimisation, in a manner consistent with their waste management and minimisation plans.

*Matters the Secretary for the Environment may spend the levy on*

- 34 The current Act outlines matters the Secretary may spend the levy on, as outlined at paragraph 17. As well as these matters, I propose the following additions:
- 34.1 activities that reduce environmental harm and/or increase environmental benefits;<sup>4</sup>
  - 34.2 waste-related emergency spending;<sup>5</sup>
  - 34.3 funding the waste-related and hazardous substances work programme.<sup>6</sup>
- 35 To support these changes, I also seek Cabinet agreement to:
- 35.1 define 'emergency' in line with the definition in the Civil Defence Emergency Management Act 2002;
  - 35.2 add provisions to indicate that financial assistance to councils for dealing with emergency waste may be available where waste management that is necessary or desirable to address public health/environmental risk is beyond the resources of the affected council/s;
  - 35.3 specify additional detail on which specific wastes associated with an emergency event would be eligible for funding, along with consequential changes to reflect this in the interpretation section of the Act.

*Matters the Minister for the Environment may spend the levy on*

- 36 The current Act provides for the Minister for the Environment to approve projects to promote or achieve waste minimisation. I propose the following changes:

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<sup>4</sup> These activities could include environmental remediation and freshwater initiatives such as the Kaipara Moana Remediation Programme and the Freshwater Improvement Fund. The Kaipara Moana Remediation Programme is a \$100 million multi-year Vote Environment appropriation with the purpose of halting degradation and working towards more productive, sustainable and high value use of land within the Kaipara catchment. The Freshwater Improvement Fund supports the management of New Zealand lakes, rivers, streams, groundwater and wetlands.

<sup>5</sup> Such costs could include the costs incurred by local government for the collection, temporary storage, transport and processing of waste and restoration of waste and recycling infrastructure associated with an emergency.

<sup>6</sup> The Ministry's waste-related and hazardous substances work programme includes policy development and implementation, funding and investment, collecting and publishing data, compliance monitoring and enforcement, education and non-regulatory initiatives, and project management and administrative support.



- 36.1 enabling the Minister to approve funding of projects to achieve remediation of contaminated sites, including landfills vulnerable to severe weather impacts;<sup>7</sup>
  - 36.2 making additional amendments to support the intention of this change (including to the purpose of Part 3 of the Act, relating to the levy).
- 37 I also seek Cabinet agreement to:
- 37.1 revoke the Contaminated Sites Remediation Fund funding criteria agreed by Cabinet in 2006 [CAB Min (06) 25/3 refers] and replace them with criteria the Minister for the Environment sets by notice in the Gazette under section 38 of the Act;
  - 37.2 rename the Contaminated Sites Remediation Fund the Contaminated Sites and Vulnerable Landfills Fund (or funding stream) (to reflect the wider focus of my proposed fund).

*Supporting amendments – levy waivers*

- 38 Remediation of contaminated sites frequently involves disposal of some contaminated materials to landfill. At present, such disposal is subject to the levy and I am concerned that this cost may become a barrier to remediation in some cases.
- 39 I propose to amend the Act to provide more flexibility to manage this situation, through an expanded ability to waive certain wastes from the levy and for the Secretary to impose conditions as appropriate. This is currently constrained to an ability to do so only in “exceptional circumstances”.
- 40 I am seeking Cabinet agreement to:
- 40.1 amend section 29 of the Act to enable the Secretary to waive the levy in relation to waste from the remediation of vulnerable landfills and contaminated sites as appropriate (in addition to doing so in exceptional circumstances);
  - 40.2 add an empowering provision specifying the Secretary can impose conditions as appropriate in writing to any approved levy waiver.

*Supporting amendments – data regulations*

- 41 Table 1 above outlines record-keeping and reporting obligations that have been established, which substantially increase the information we have available on the types and quantities of waste being managed and disposed of.
- 42 Additional record-keeping and reporting obligations scheduled to take effect from 1 July 2024 include:
- 42.1 All landfill classes, cleanfills, and transfer stations reporting on the types of waste they receive (in broad activity categories including ‘construction and demolition’, ‘residential kerbside collections’). This information will enable

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<sup>7</sup> Such projects could include those currently funded through the Contaminated Sites Remediation Fund such as former mining and industrial sites, and closed landfills vulnerable to the effects of severe weather impacts. The types of activity that could be funded include site investigations, remediation plans and on-site remediation works.

better identification of waste minimisation opportunities, assist with monitoring and support better estimation of greenhouse gas generation from landfill sites.

- 42.2 Territorial authorities reporting on levy spending and waste minimisation activities. This information will improve ability to audit and measure outcomes from territorial authorities' investment of the levy funds they receive.
- 43 The changes to the levy and reporting requirements have already been established in regulation and the next scheduled changes will take effect on 1 July 2024.<sup>8</sup>
- 44 A minor legislative amendment is required to remedy a discrepancy in reporting requirements in the Waste Minimisation (Information Requirements) Amendment Regulations 2023. Clause 5A of the regulations creates an obligation for disposal facility operators to report to the Ministry on a monthly basis. However, clause 5A was intended to refer to regulation 6 of the Waste Minimisation (Information Requirements) Regulations 2021 which requires quarterly reporting. I propose that the error is remedied through amendment regulations.
- I propose to increase levy rates to increase incentives to minimise waste and raise additional revenue to achieve environmental priorities*
- 45 Changes made to levy coverage and rates to date are outlined in table 1 above, including the scheduled increases to take place on 1 July 2024.
- 46 I propose to extend levy increases in another three steps (in 2025/26, 2026/27 and 2027/28), albeit at a lower rate of increase than over the last four years – as outlined in table 2.

<b>Table 2: Proposed future rates for the waste disposal levy</b>				
	Levy rate on and from:			
<b>Waste facility</b>	1 July 2024 (already in regulation)	1 July 2025	1 July 2026	1 July 2027
<b>Municipal landfill (class 1)</b>	\$60	\$65	\$70	\$75
<b>Construction and demolition fill (class 2)</b>	\$30	\$35	\$40	\$45
<b>Managed or controlled fill (class 3, 4)</b>	\$10	\$15	\$15	\$20

- 47 The standard process for amending levy rates is by regulation, in line with provisions in the Act.<sup>9</sup> I am proposing to make these amendments via primary legislation in this instance, in order to enable the associated savings that are enabled through these changes to be reflected in Budget 2024.

<sup>8</sup> The details are set out in the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 and the Waste Minimisation (Information Requirements) Amendment Regulations 2023.

<sup>9</sup> The standard process includes consideration of advice from the Waste Advisory Board; consultation with affected parties; and consideration of costs and benefits.

- 48 The proposed levy rates remain low relative to some other countries including the United Kingdom and most Australian States, as shown in appendix 1.
- 49 The additional levy revenue that would be generated will provide additional opportunities for supporting central government waste-related and environmental activities and responsibilities, as outlined further below.
- 50 There is a risk that increasing levy rates (without supporting changes to compliance, monitoring and enforcement tools within the Act) may increase levy avoidance behaviours such as waste being disposed of at the wrong landfill type or being disposed of informally (eg illegally dumped) (resulting in reduced levy revenue and increased environmental harm). I intend to pursue additional legislative changes in the future to make further improvements to the Act, including its penalties and offences regime.
- 51 The Ministry of Business, Innovation and Employment (MBIE) supported the proposal to gradually increase the levy by a small amount over four years because it will enable increased investment in construction and demolition waste infrastructure and incentivise waste minimisation in the construction and demolition sector.
- 52 MBIE considered further policy work is required on the types of materials that can go into construction and demolition landfills (class 2), and the most suitable differential between the levies for municipal (class 1) and construction and demolition landfills (class 2). MBIE noted that bringing levy rates for these sites closer together could help reduce the incentive for inappropriate disposal of certain material types.
- 53 There is also the potential for increased transportation and disposal costs that may particularly affect certain sectors such as construction and demolition, and certain recycling practices such as metal recycling that generate relatively high portions of waste byproduct due to the nature of the materials being recycled.
- 54 Additional information on cost-of-living implications is outlined below.

*Strategic investment of the levy will help deliver on the Government's priorities for waste and wider environmental priorities*

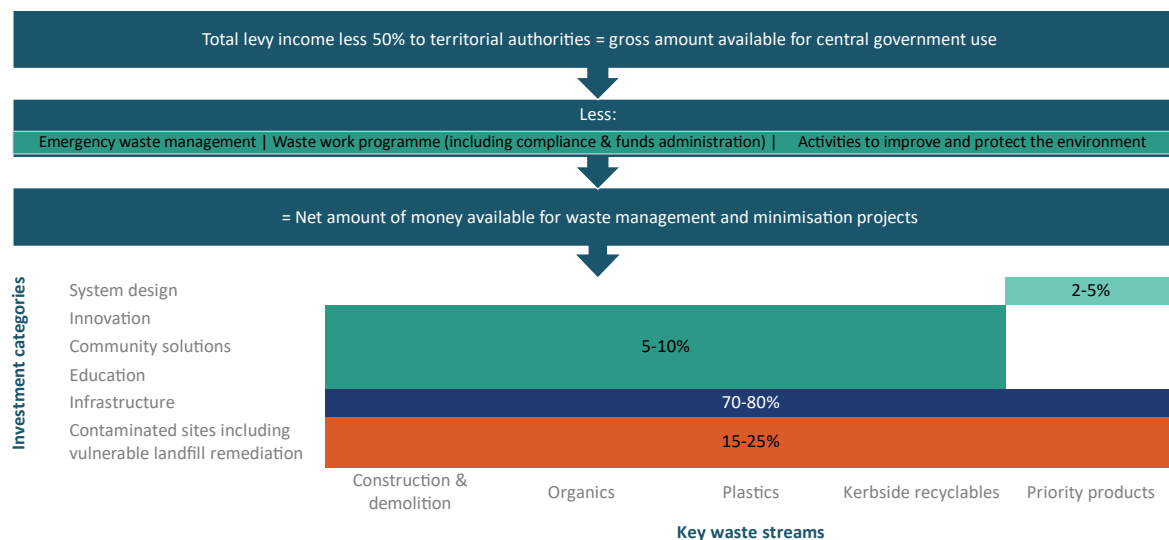
- 55 Table 3 outlines the projected levy revenue that will be available for central and local government to invest with the proposed levy increases.

<b>Table 3: Projected revenue under proposed increases to levy rates (2024/25 to 2027/28)</b>				
	Total revenue (\$m) and central/local government shares	Additional revenue (above existing projections)	Central government additional revenue	Local government additional revenue
Under existing regulations	1,025 (of which 512 allocated to central government and 512 allocated to local government)	0	0	0
Under proposed additional increases	1,195 (of which 598 allocated to central government and 598 allocated to local government)	171	85	85

\* some figures may not sum to totals correctly due to rounding

- 56 Over time, projected levy revenue can be expected to stabilise or reduce somewhat as waste minimisation policies and interventions take effect.
- 57 I am seeking to confirm priorities for waste-related use of the levy to ensure a robust and strategic approach to reducing waste and delivering on Government priorities. My waste-related investment priorities include both the types of activity to invest in (such as remediation and infrastructure) and waste streams (including those where there is significant opportunity to build local reprocessing infrastructure and/or where there are significant volumes of materials for potential recovery such as construction and demolition waste, organic waste and plastics).
- 58 Organic waste can generate greenhouse gases (particularly biogenic methane) when it breaks down in landfills. This is a key focus for emissions reduction plan (2022 to 2025) actions and is likely to continue to be critical to achieving ongoing biogenic methane emissions reductions. The waste and agriculture sectors together produce all of New Zealand's biogenic methane emissions.
- 59 Setting indicative funding "envelopes" for investment priorities will provide an indication to potential investors and others of Government priorities, to assist with their own investment decisions.
- 60 Figure 1 shows the estimated ranges I am considering for these funding envelopes (shown as percentages of available levy funds per category). The actual levy funds that these percentages equate to would depend on the outcome of the budget savings exercise, as well as actual levy receipts over time.

**Figure 1: Proposed waste-related investment priorities for central government portion of the waste disposal levy\***



\* Percentages relate to waste-related investment of the levy. Central government levy revenue would also be spent on collecting and administering the levy; activities that reduce harm or increase environmental benefits; waste-related emergency spending; and the waste and hazardous substances work programme.

- 61 I intend to consult with relevant Ministers on all projects seeking over \$10 million of levy investment, as outlined in table 4.

<b>Table 4: Large funding approval framework</b>	
<i>Funding range</i>	<i>Approval by</i>
Over \$10 million	Minister for the Environment after consultation with the Minister of Finance, Minister for Infrastructure, Minister for Regional Development and other Ministers relevant to the project
\$1 - \$10 million	Minister for the Environment
Under \$1 million	Deputy Secretary (under delegated authority)

*I propose to use levy revenues to deliver savings over the four-year period 2024/25 to 2027/28*

- 62 I propose to use the levy to offset additional costs and generate \$220 million in savings over the next four years, as outlined in table 5. This reflects the wider use of the levy enabled by the proposed legislative changes to cover costs associated with a range of existing Government environmental funds and responsibilities.
- 63 These savings are based around offsetting costs associated with funds and responsibilities administered by the Ministry (primarily related to waste minimisation, remediation and freshwater).
- 64 The proposal to increase levy rates generates around an additional \$85 million in central government levy revenue over the period, which will be used for waste- and environmental-related activities. A further \$135 million of existing levy revenue will be re-prioritised over the same period, as outlined in table 5. This generates the total savings figure of \$220 million. Additional levy revenue not allocated to these savings and programmes sums to \$377 million over four years.
- 65 There is an opportunity to consider options for this levy revenue to support a wider range of environmental activities across Government in Budget 2025 and outyears. As levy revenue continues to increase (albeit subject to success of waste minimisation initiatives), I consider there to be limits to the amount that can be strategically invested into waste minimisation, without risk of crowding out private investment or creating ongoing subsidies for onshore processing such as recycling.
- 66 Consequently, I consider it would be appropriate to set an envelope around the levy revenues allocated towards waste minimisation and waste-related investments (including contaminated sites and vulnerable landfill remediation) annually. This quantum could be reviewed by Ministers on an ongoing basis.
- 67 I seek approval for officials to identify a suitable quantum for waste-related investment and a wider range of environmental activities across Government that will generate additional savings opportunities from Budget 2025.

**Table 5: Proposed savings to be generated with re-prioritisation and legislative changes (\$,000)**

			24/25	25/26	26/27	27/28	Total
		Levy revenue (central government)	126,500	144,854	154,143	172,144	597,642
<i>Waste-related savings</i>							
Non-Departmental	CERF	CERF - Waste Initiatives – MYA	-23,300	-23,600			-46,900
Non-Departmental	CSRF	Contaminated Sites Remediation Fund		-5,128	-2,628	-2,628	-10,384
Departmental (CERF & non-CERF)	Waste	Waste-related work programme	-15,150	-16,480	-7,600	-7,600	-46,830
Sub-total - waste related							-104,114
<i>Additional environmental savings</i>							
Non-Departmental		Kaipara Moana Remediation - MYA	-11,125	-14,400	-14,500	-13,900	-53,925
Non-Departmental		Freshwater Improvement Fund	-47,000	-15,000			-62,000
Sub-total - environment							-115,925
Total savings							-220,039
<i>Remaining levy revenue to be allocated on waste and environmental priorities*</i>							
			29,925	70,246	129,415	148,016	377,603

CERF = Climate Emergency Response Fund | CSRF = Contaminated Sites Remediation Fund | MYA = multi-year appropriation

\* this category would include Waste Minimisation Fund, collection and administration of the levy, and other savings yet to be identified for outyears.

## Implementation

- 68 I intend to progress the legislative amendment through Budget night legislation under urgency to enable the changes from the start of the 2024/25 financial year. Other changes to supporting policies and procedures will also be made (including relevant conditions issued by Gazette notice).

## Cost-of-living Implications

- 69 The proposed legislative amendments to what central government can spend the levy on involve a re-distribution of existing funds and will not have cost-of-living implications.
- 70 Increases to levy rates (including those scheduled by regulation to take effect on 1 July 2024 and those I am proposing to make via legislative amendment) will have cost-of-living implications.

- 71 Officials consider the scheduled levy increases that take effect on 1 July 2024 are likely to have a minimal impact on cost-of-living for households, such as the cost of a weekly council kerbside rubbish collection. A household that puts out one average sized bag of waste per week (around 6.5 kg), will dispose of around 338 kg per year. A change from \$60 per tonne (the levy rate that will be in effect from 1 July 2024) up to \$75 per tonne (from 1 July 2027) would equate to an increase in levy costs of around \$5.07 per annum per household (plus GST).
- 72 For a trailer-load of waste deposited in a municipal landfill levy-related costs would increase by about \$1 for every \$5 increase in the levy rate (based on the average weight of a trailer-load of rubbish, 200 kg). This would be a \$3 plus GST increase across the period.
- 73 The cost is also scheduled to increase for construction and demolition landfills (from \$20 to \$30 per tonne on 1 July 2024, and progressively to \$45 per tonne by 1 July 2027). This category of landfill is less common, with currently only 13 sites registered with the Ministry and paying the levy. Construction and demolition waste materials are frequently also disposed of in other landfill types including municipal landfills (which will be subject to a levy increase) and those that take largely inert materials (for which the levy will increase to \$20 per tonne by 1 July 2027).
- 74 The net impact of these changes on construction and demolition is difficult to estimate. Based on estimates of how much waste is produced during construction of a new-build house, levy costs for waste disposal could increase by around \$46 per house, while levy costs for disposal of materials from a typical house demolition could increase by around \$206.
- 75 As well as the waste generated by households and construction and demolition, the main sectors of the economy that generate waste include hospitality, manufacturing, wholesale and retail trade and the primary sector.
- 76 In general, the impact on smaller businesses is expected to be relatively low while larger producers of waste could face more substantial cost increases. Increased costs for larger generators of waste could be minimised over time by the increasing availability of opportunities to divert waste through investment of increased levy revenue in waste minimisation.

## Financial Implications

- 77 These proposals will enable levy revenue to be spent in ways that better align with Government priorities for waste and the environment, within the context of an overall need for fiscal restraint. They will also provide additional funding for local government waste minimisation initiatives.
- 78 The amendments and additional re-prioritisation using levy revenue will enable around \$220 million in Crown savings over a four-year period (beginning in the 2024/25 financial year). This includes funding waste minimisation projects with emissions reduction benefits through the levy rather than using Climate Emergency Response Fund funding.
- 79 The proposals will also enable ongoing outyear funding for the waste-related work programme, contaminated sites remediation and some outyear funding for the Kaipara Moana Remediation Programme and Freshwater Improvement Fund, as outlined in table 5 above.

- 80 Based on this proposal, a wider set of environmental activities would be funded from levy revenue (through a scope expansion of the Waste Minimisation appropriation). This allows for a reduction, or closure, of the separate appropriations through which these activities are currently funded. By reducing or closing these appropriations, savings for the Crown are generated.
- 81 The detailed financial decisions associated with this paper are outlined in the Budget 2024 Cabinet paper, also being considered by Cabinet on 29 April 2024. Any changes to the recommendations put forward in this paper that alter proposed savings figures will also affect the Budget 2024 package, which may require further trade-offs and risks delays in finalising the Budget 2024 package.

### *Treasury views*

- 82 The Treasury supports the policy direction set out in this Cabinet paper, particularly to realise savings for Budget 2024 and to consider additional uses of waste levy revenue ahead of Budget 2025.
- 83 9(2)(g)(i)
- 84 Treasury officials will work with the Ministry for the Environment (and other agencies as necessary) to determine an appropriate annual quantum for the WMF, to be confirmed through Budget 2025.

### **Legislative Implications**

- 85 I had proposed this amendment Bill as a category 3 on the Government's Legislation Programme for 2024. Subject to Cabinet approval, I now intend to bring a Bill to the House going through all stages under urgency, as part of Budget night legislation.
- 86 Proceeding with legislative amendments of this nature under urgency does present some risk of errors and unintended consequences. I also considered advancing more targeted amendments that would have provided some savings from 2024/25 but would not have provided for the wider savings outlined in this paper.
- 87 I also have a 9(2)(f)(iv) on the Government's Legislation Programme for wider reform of waste legislation. If this proceeds, it will provide a further opportunity to make any required improvements to the legislation.

### **Impact Analysis**

#### *Regulatory Impact Statement*

- 88 Due to the timeframes, no impact assessment has been completed for this paper. A Supplementary Analysis Report will be provided when the Bill is brought to the Cabinet Legislation Committee.

#### *Climate Implications of Policy Assessment*

- 89 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to this proposal, as it not expected to result in any significant, direct emissions impacts that meet the CIPA threshold. The



impacts of this proposal would be at a policy level rather than as a result of legislative change to the Act. The purpose of this proposal is to re-prioritise and create additional spending categories for the waste disposal levy revenue. Waste minimisation projects (that reduce emissions from waste) can continue to be supported.

## **Population Implications**

90 No specific population implications have been identified for these proposals.

## **Human Rights**

91 These proposals are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

## **Use of External Resources**

92 No external resources have been used to develop this paper.

## **Consultation**

93 In 2021, the Ministry consulted the public on proposals for wider waste legislation reform, some of which were also relevant to my targeted amendment proposals.

94 Submitters were asked their views on priorities for investment of the levy. Responses included support for funding for waste infrastructure; compliance monitoring and enforcement; and behaviour change activities. Although not prompted by a question, some submitters also referred to the need to support the remediation of contaminated sites and/or landfills vulnerable to the impacts of climate change; while several other submitters did not support the use of levy funds to fund such remediation activities.

95 Given the Budget sensitive nature of my current proposals and the tight timeframe to achieve savings from the 2024/25 financial year, officials have not undertaken any additional engagement as part of development of these proposals.

96 The Legislation Design and Advisory Committee was informed of an earlier iteration of these proposals (with a narrower scope) and advised it did not have any comment on the overall proposal.

97 The following departments were consulted on this paper: Department of Internal Affairs, MBIE, Ministry of Justice, Ministry for Primary Industries, National Emergency Management Agency (NEMA) and the Treasury.

98 The Department of Conservation, Department for Prime Minister and Cabinet, Inland Revenue, Kāinga Ora – Homes and Communities, Waka Kotahi NZ Transport Agency, Department of Corrections, Ministry of Education, Ministry of Health, Ministry of Social Development, Ministry of Housing and Urban Development, Office for Māori Crown Relations/Te Arawhiti and Te Puni Kōkiri were informed.

99 The views of the Treasury are outlined in the financial implications section above.

100 NEMA, the Department of Internal Affairs and the Ministry for Primary Industries supported improved provision for helping local government with costs associated with managing wastes generated by emergencies.

101 Additional agency feedback has been incorporated into the paper as appropriate.

## Communications

- 102 I anticipate a high level of sector interest in my priorities for investment of the levy. After Budget announcements, I would like to publicise my priorities for investing the levy as appropriate. I would also like to provide a general update on my plans as part of my opening address at the annual WasteMINZ conference on 28 May 2024.
- 103 I am also intending to publish a *Review of the Effectiveness of the Waste Disposal Levy*. It is a statutory requirement under the Act for the responsible Minister to periodically review the effectiveness of the levy.

## Proactive Release

- 104 I intend to proactively release this paper and associated Cabinet committee papers and minutes within 30 business days of final decisions being confirmed by Cabinet (following consideration of the proposed draft Bill by the Cabinet Legislation Committee), subject to redaction as appropriate under the Official Information Act 1982.

## Recommendations

The Minister for the Environment recommends that Cabinet:

### *Upcoming changes to the waste disposal levy and reporting requirements*

- 1 **note** that the Waste Minimisation Act 2008 establishes a waste disposal levy (levy) for central and local government to spend on waste minimisation
- 2 **note** that the levies for municipal and construction and demolition landfills are scheduled to increase by \$10 per tonne on 1 July 2024
- 3 **note** that new reporting obligations for territorial authorities, landfills, and other waste sites are due to take effect on 1 July 2024:
  - 3.1 all landfill classes, cleanfills, and transfer stations reporting on the types of waste they receive
  - 3.2 territorial authorities reporting on levy spending and waste minimisation activities
- 4 **note** that officials estimate that the cost-of-living impact of these changes will be minor

### *Legislative amendments to align investment of the waste disposal levy with Government priorities*

- 5 **note** the purpose of the Waste Minimisation Act 2008 is to encourage waste minimisation and a decrease in waste disposal in order to protect the environment from harm; and provide environmental, social, economic, and cultural benefits
- 6 **note** there is an opportunity for legislative amendment to the Waste Minimisation Act 2008 to enable levy revenue to be spent in ways that better match Government priorities for the environment and waste, within the context of an overall need for fiscal restraint

- 7 **agree** to amend the Waste Minimisation Act 2008 to:
- 7.1 expand the purpose of the Act to enable a wider range of activities as outlined in 7.2 and 7.3 to be funded by the levy under the Act
  - 7.2 include the following additional matters on which to distribute and spend the levy:
    - 7.2.1 activities that reduce environmental harm and/or increase environmental benefits
    - 7.2.2 costs associated with managing waste generated by an emergency
    - 7.2.3 funding the Ministry for the Environment's waste-related and hazardous substances work programme
  - 7.3 enable the Minister to approve funding of projects to achieve remediation of contaminated sites, including landfills vulnerable to the impacts of severe weather
  - 7.4 define "emergency" in line with the definition in the Civil Defence Emergency Management Act 2002 and make consequential changes to the interpretation section of the Act in line with this change and the provisions at 7.6
  - 7.5 enable the Minister for the Environment to specify additional detail on the nature of the financial assistance to councils for dealing with emergency waste, where waste management is necessary or desirable to address public health/environmental risk is beyond the resources of the affected council/s
  - 7.6 enable the Minister for the Environment to specify additional detail on which specific wastes associated with an emergency event would be eligible for funding
  - 7.7 enable the Secretary to waive the levy in relation to waste from the remediation of contaminated sites including vulnerable landfills as appropriate (in addition to providing for waivers in exceptional circumstances)
  - 7.8 add an empowering provision specifying the Secretary can impose conditions in writing as appropriate to any approved levy waiver
  - 7.9 make consequential amendments necessary to give effect to the policy above

*Associated regulatory amendments*

- 8 **agree** to amendment regulations so that clause 5A of the Waste Minimisation (Information Requirements) Amendment Regulations 2023 refers to regulation 6 of the Waste Minimisation (Information Requirements) Regulations 2021 to ensure that waste disposal facility operators continue to report to the Ministry for the Environment at their current quarterly frequency
- 9 **agree** to directly amend Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 as follows:

<b><i>Proposed future rates for the waste disposal levy</i></b>			
	Levy rate on and from:		
Waste facility	1 July 2025	1 July 2026	1 July 2027
<b>Municipal landfill (class 1)</b>	\$65	\$70	\$75
<b>Construction and demolition fill (class 2)</b>	\$35	\$40	\$45
<b>Managed or controlled fill (class 3, 4)</b>	\$15	\$15	\$20

*Drafting*

- 10 **invite** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the decisions set out above through a Bill to amend the Waste Minimisation Act 2008 and amendment regulations to amend the Waste Minimisation (Information Requirements) Amendment Regulations 2023 and the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009
- 11 **authorise** the Minister for the Environment to further clarify and develop matters relating to proposals in this paper, in a manner that is within scope of the agreed policy recommendations, and develop commencement, transitional, and any other provisions with the Parliamentary Counsel Office, through the drafting process
- 12 **note** that the amendment Bill was submitted as a category 3 on the Legislation Programme 2024 and its introduction and first reading were planned for late July 2024, but it is now proposed to introduce it and go through all stages under urgency as part of Budget night legislation

*Contaminated sites remediation and waste minimisation investment*

- 13 **agree** to revoke the Contaminated Site Remediation Fund criteria agreed by Cabinet in 2006 [CAB Min (06) 25/3]
- 14 **agree** to revoke the criteria for the Waste Minimisation Fund listed in the New Zealand Gazette notice number 2022-go3927
- 15 **agree** the Minister for the Environment will issue new funding criteria for projects to be funded

*Waste investment priorities*

- 16 **note** that setting and communicating investment priorities will provide greater certainty to stakeholders and investors and help to unlock significant additional private investment capital
- 17 **agree** the waste priorities for investing the central government portion of the levy include the following investment categories and note the indicative portions of levy revenue to be invested in each category:
  - 17.1 system design (2–5 per cent);
  - 17.2 innovation, community solutions and education (5–10 per cent);
  - 17.3 infrastructure (70–80 per cent);

- 17.4 contaminated sites including vulnerable landfill remediation (15–25 per cent).
- 18 **agree** the next round of priority waste streams for investing the central government portion of the levy include:
- 18.1 construction and demolition materials;
  - 18.2 organic waste;
  - 18.3 plastics;
  - 18.4 kerbside recyclables;
  - 18.5 priority products the Minister has declared by notice in the Gazette under section 9 of the Act.
- 19 **note** the Contaminated Sites Remediation Fund shall be renamed the Contaminated Sites and Vulnerable Landfills Fund (or funding stream)
- 20 **note** the proposed increase in funding for contaminated sites and vulnerable landfill remediation by funding this through the levy will enable an overall increase in remediation work, achieving a significant reduction in harm to the environment
- 21 **note** the Minister for the Environment will consult with the Minister of Finance, Minister for Infrastructure, and Minister for Regional Development and any other relevant portfolio Ministers on all projects seeking over \$10 million in levy funding
- 22 **invite** the Minister for the Environment, in consultation with the Minister for Regulation, to report back to Cabinet by October on the performance of government spending funded by the levy with a focus on value for money, whether private investment is being crowded out and improved environmental outcomes
- 23 **invite** the Minister for the Environment to independently review the process for making investment decisions using the waste disposal levy and back-office functions in the Ministry for the Environment relating to the waste disposal levy with a focus on value for money

#### *Financial implications*

- 24 **note** that the proposals outlined in this paper will generate \$220 million total operating savings over the forecast period, subject to approval through the Budget 2024 Cabinet paper
- 25 **note** that any changes to the paper's proposals that impact savings for Budget 2024 may require further trade-offs and risks delays in finalising the Budget 2024 package
- 26 **note** that the associated savings are dependent on passing both Budget legislation and the legislative amendments outlined in recommendations 7 and 9
- 27 **note** these savings are based on an approach involving use of the levy to fund a wider range of waste-related activities as well as broader environmental initiatives administered by the Ministry for the Environment
- 28 **note** that there are limits to how much levy revenue can be strategically invested into waste minimisation without the risk of crowding out private investment or creating ongoing subsidies for onshore processing

- 29 **note** that setting an annual envelope for the levy revenue allocated to waste-related investments (including contaminated sites and vulnerable landfill remediation) would provide clarity on the scale of investment required for waste-related purposes and would also support ability to identify additional savings across Government
- 30 **note** that there are further opportunities to identify additional savings through utilising levy revenue for environmental funds and initiatives administered by other agencies
- 31 **direct** officials to identify a suitable annual quantum for waste-related investment as well as a wider range of environmental activities across Government that will generate additional savings opportunities from Budget 2025
- 32 **agree** that Budget 2025 will include a specific quantum for waste-related investments

*Communications*

- 33 **note** the Minister for the Environment intends to use a range of channels to communicate plans for the waste portfolio.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment

## Appendix 1: Table of Other Waste Levy Rates

State/country	Levy rate in home currency – for 2023-24 per tonne	NZ dollar equivalent based on conversion rates as at April 2024	Additional information																				
<b>New South Wales</b>	Metropolitan Area: \$163.20  Regional Area: \$94	\$177.98  \$102.52	Other levy rates apply to recovered fines, alternative daily cover and prescribed shredder floc. The rates have increased by the Consumer Price Index.  Lower levy rates for virgin excavated natural material.																				
<b>Queensland</b>	\$91-\$185 (no GST).	\$99.24 - \$201.76	There are two levy zones with different rates and increase at different rates to reflect the differences between South East Queensland and regional areas in terms of waste volumes and opportunities for recycling and resource recovery.																				
<b>Western Australia</b>	\$70	\$76.34 per tonne	Future levy rates: <table border="1"> <thead> <tr> <th>Financial year</th><th>Levy rate to take effect</th><th>Levy rate per tonne</th><th>Levy cubic</th></tr> </thead> <tbody> <tr> <td>2024–25</td><td>1 July 2024</td><td>\$85</td><td>\$129</td></tr> <tr> <td>2025–26</td><td>1 July 2025</td><td>\$88</td><td>\$133</td></tr> <tr> <td>2026–27</td><td>1 July 2026</td><td>\$90</td><td>\$136</td></tr> <tr> <td>2027–28</td><td>1 July 2027</td><td>\$93</td><td>\$141</td></tr> </tbody> </table>	Financial year	Levy rate to take effect	Levy rate per tonne	Levy cubic	2024–25	1 July 2024	\$85	\$129	2025–26	1 July 2025	\$88	\$133	2026–27	1 July 2026	\$90	\$136	2027–28	1 July 2027	\$93	\$141
Financial year	Levy rate to take effect	Levy rate per tonne	Levy cubic																				
2024–25	1 July 2024	\$85	\$129																				
2025–26	1 July 2025	\$88	\$133																				
2026–27	1 July 2026	\$90	\$136																				
2027–28	1 July 2027	\$93	\$141																				
<b>Tasmania</b>	\$21.36	\$23.30	The landfill levy rate is expressed in Government Fee. An initial rate of \$20 per tonne for the first 2 years  After two years, the levy will increase to 24 fee units (around \$40 per tonne)  After a further two years, the levy will increase to 36 fee units (\$60 per tonne).																				
<b>South Australia</b>	\$78 (non-Metropolitan)  \$156 (Metropolitan Adelaide)	\$85.07  \$170.13	Different levy rates apply to liquid waste and shredder floc.																				
<b>Victoria</b>	\$64.55 (municipal waste from rural premises)  \$129.27 (prescribed metro premises)	\$70.40  \$140.98	The waste levy rates are based on the fee value and units, in Schedule 2 of the <i>Environment Protection Act 2017</i> .  Different levy rate for industrial waste from rural premises.																				
<b>United Kingdom</b>	Standard rate £102.10  Lower rate £3.25	\$213.07  \$6.78	The lower rate is applied mainly to inert waste. The UK charge is a landfill tax. Tax credits are available when waste is recycled, incinerated, or reused.																				



# Cabinet

## 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.*

### Investment of the Waste Disposal Levy to Achieve Government Priorities

Portfolio                      Environment

On 29 April 2024, Cabinet:

#### Upcoming changes to the waste disposal levy and reporting requirements

- 1        **noted** that the Waste Minimisation Act 2008 (the Act) establishes a waste disposal levy (levy) for central and local government to spend on waste minimisation;
- 2        **noted** that the levies for municipal and construction and demolition landfills are scheduled to increase by \$10 per tonne on 1 July 2024;
- 3        **noted** that new reporting obligations for territorial authorities, landfills, and other waste sites are due to take effect on 1 July 2024, with:
  - 3.1      all landfill classes, cleanfills, and transfer stations reporting on the types of waste they receive;
  - 3.2      territorial authorities reporting on levy spending and waste minimisation activities;
- 4        **noted** that officials estimate that the cost of living impact of these changes will be minor;

#### Legislative amendments to align investment of the levy with Government priorities

- 5        **noted** that the purpose of the Act is to encourage waste minimisation and a decrease in waste disposal in order to protect the environment from harm, and to provide environmental, social, economic, and cultural benefits;
- 6        **noted** that there is an opportunity for legislative amendment to the Act to enable levy revenue to be spent in ways that better match Government priorities for the environment and waste, within the context of an overall need for fiscal restraint;
- 7        **agreed** to amend the Act to:
  - 7.1      expand the purpose of the Act to enable a wider range of activities, as outlined in paragraphs 7.2 and 7.3 below, to be funded by the levy under the Act;



- 7.2 include the following additional matters on which to distribute and spend the levy:
- 7.2.1 activities that reduce environmental harm and/or increase environmental benefits;
  - 7.2.2 costs associated with managing waste generated by an emergency;
  - 7.2.3 funding the Ministry for the Environment's waste-related and hazardous substances work programme;
- 7.3 enable the Minister for the Environment (the Minister) to approve funding of projects to achieve remediation of contaminated sites, including landfills vulnerable to the impacts of severe weather;
- 7.4 define 'emergency' in line with the definition in the Civil Defence Emergency Management Act 2002, and make consequential changes to the interpretation section of the Act in line with this change and the provisions outlined in paragraph 7.6 below;
- 7.5 enable the Minister to specify additional detail on the nature of the financial assistance to councils for dealing with emergency waste, where waste management that is necessary or desirable to address public health/environmental risk is beyond the resources of the affected council/s;
- 7.6 enable the Minister to specify additional detail on which specific wastes associated with an emergency event would be eligible for funding;
- 7.7 enable the Secretary for the Environment (the Secretary) to waive the levy in relation to waste from the remediation of contaminated sites, including vulnerable landfills as appropriate (in addition to providing for waivers in exceptional circumstances);
- 7.8 add an empowering provision specifying that the Secretary can impose conditions in writing as appropriate to any approved levy waiver;
- 7.9 make consequential amendments necessary to give effect to the policy above;

### Associated regulatory amendments

- 8 **agreed** to amendment regulations so that clause 5A of the Waste Minimisation (Information Requirements) Amendment Regulations 2023 refers to regulation 6 of the Waste Minimisation (Information Requirements) Regulations 2021, to ensure that waste disposal facility operators continue to report to the Ministry for the Environment at their current quarterly frequency;
- 9 **agreed** to directly amend Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 as follows:

<b><i>Proposed future rates for the waste disposal levy</i></b>			
	Levy rate on and from:		
	1 July 2025	1 July 2026	1 July 2027
<b>Municipal landfill (class 1)</b>	\$65	\$70	\$75
<b>Construction and demolition fill (class 2)</b>	\$35	\$40	\$45
<b>Managed or controlled fill (class 3, 4)</b>	\$15	\$15	\$20

## Legislative implications

- 10 **invited** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the decisions set out above through a Bill to amend the Act and amendment regulations to amend the Waste Minimisation (Information Requirements) Amendment Regulations 2023 and the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009;
- 11 **authorised** the Minister for the Environment to further clarify and develop matters relating to the proposals in the paper under CAB-24-SUB-0138, in a manner that is within scope of the agreed policy, and to develop commencement, transitional, and any other provisions with the Parliamentary Counsel Office, through the drafting process;
- 12 **noted** that:
  - 12.1 the Amendment Bill has a category 3 on the 2024 Legislation Programme (to be passed by the end of 2024), with its introduction and first reading planned for late July 2024;
  - 12.2 it is now proposed that the Amendment Bill be introduced and go through all stages under urgency as part of Budget night legislation;

## Contaminated sites remediation and waste minimisation investment

- 13 **agreed** to revoke the Contaminated Site Remediation Fund criteria agreed by Cabinet in 2006 [CAB Min (06) 25/3];
- 14 **agreed** to revoke the criteria for the Waste Minimisation Fund listed in the *New Zealand Gazette* notice number 2022-go3927;
- 15 **agreed** that the Minister for the Environment will issue new funding criteria for projects to be funded;

## Waste investment priorities

- 16 **noted** that setting and communicating investment priorities will provide greater certainty to stakeholders and investors, and help to unlock significant additional private investment capital;
- 17 **agreed** that the waste priorities for investing the central government portion of the levy include the following investment categories, and note the indicative portions of levy revenue to be invested in each category:
  - 17.1 system design (2–5 percent);
  - 17.2 innovation, community solutions and education (5–10 percent);
  - 17.3 infrastructure (70–80 percent);
  - 17.4 contaminated sites including vulnerable landfill remediation (15–25 percent);

- 18 **agreed** that the next round of priority waste streams for investing the central government portion of the levy include:
- 18.1 construction and demolition materials;
  - 18.2 organic waste;
  - 18.3 plastics;
  - 18.4 kerbside recyclables;
  - 18.5 priority products the Minister has declared by notice in the *New Zealand Gazette* under section 9 of the Act;
- 19 **noted** that the Contaminated Sites Remediation Fund will be renamed the Contaminated Sites and Vulnerable Landfills Fund (or funding stream);
- 20 **noted** that the proposed increase in funding for contaminated sites and vulnerable landfill remediation by funding this through the levy will enable an overall increase in remediation work, achieving a significant reduction in harm to the environment;
- 21 **noted** that the Minister will consult with the Minister of Finance, Minister for Infrastructure, and Minister for Regional Development, and any other relevant portfolio Ministers, on all projects seeking over \$10 million in levy funding;
- 22 **invited** the Minister, in consultation with the Minister for Regulation, to report back to Cabinet by October 2024 on the performance of government spending funded by the levy, with a focus on value for money, whether private investment is being crowded out, on improved environmental outcomes, and on the market failures surrounding waste disposal that have resulted in the need for a levy;
- 23 **invited** the Minister to independently review the process for making investment decisions using the waste disposal levy and back-office functions in the Ministry for the Environment relating to the waste disposal levy, with a focus on value for money;

### Financial implications

- 24 **agreed** that, in addition to the decisions above, Cabinet revisits the waste minimisation scope change and levy increases prior to Budget 2025;
- 25 **noted** that any changes to the proposals that impact savings for Budget 2024 may require further trade-offs and risks delays in finalising the Budget 2024 package;
- 26 **noted** that the associated savings are dependent on passing both Budget legislation and the legislative amendments outlined in paragraphs 7 and 9 above;
- 27 **noted** that these savings are based on an approach involving the use of the levy to fund a wider range of waste-related activities, as well as broader environmental initiatives administered by the Ministry for the Environment;
- 28 **noted** that there are limits to how much levy revenue can be strategically invested into waste minimisation without the risk of crowding out private investment or creating ongoing subsidies for onshore processing;

- 29 **noted** that setting an annual envelope for the levy revenue allocated to waste-related investments (including contaminated sites and vulnerable landfill remediation) would provide clarity on the scale of investment required for waste-related purposes and would also support the ability to identify additional savings across Government;
- 30 **noted** that there are further opportunities to identify additional savings through utilising levy revenue for environmental funds and initiatives administered by other agencies;
- 31 **directed** officials to identify a suitable annual quantum for waste-related investment as well as a wider range of environmental activities across Government that will generate additional savings opportunities from Budget 2025;
- 32 **agreed** that Budget 2025 will include a specific quantum for waste-related investments;

### Communications

- 33 **noted** the Minister for the Environment intends to use a range of channels to communicate plans for the waste levy.

Rachel Hayward  
Secretary of the Cabinet

**IN C O N F I D E N C E**

**Policy and Privacy**

**Sensitive**

Office of the Minister for the Environment

LEG - Cabinet Legislation Committee

**Waste Minimisation (Waste Disposal Levy) Amendment Bill:  
approval for introduction**

**Proposal**

- 1 This paper proposes introduction of the Waste Minimisation (Waste Disposal Levy) Amendment Bill (the Bill – see appendix one) into the House of Representatives.
- 2 The Bill gives effect to Cabinet's decisions in April 2024 to make changes to the Waste Minimisation Act 2008 (the Act) to:
  - 2.1 enable the central government allocation of the waste disposal levy (the levy) to be spent on a broader range of environmental outcomes
  - 2.2 increase levy rates over three years (2025/26 to 2027/28)
  - 2.3 make associated minor regulatory amendments.

**Policy**

- 3 The Waste Minimisation (Waste Disposal Levy) Amendment Bill was submitted as a category 3 priority on the 2024 Legislation Programme (with its introduction and first reading initially proposed for late July 2024).
- 4 The Act establishes a levy to raise revenue for waste minimisation and increase the cost of waste disposal, along with controls on how the levy is allocated between central and local government and how it is spent.
- 5 In April 2024, Cabinet agreed to legislative amendments that broaden the scope of activities funded via the levy, while maintaining a strategic link between the levy and waste/environmental priorities (CAB-24-MIN-0138 refers).
- 6 Alongside matters to promote or achieve waste minimisation, Cabinet agreed to changes to the Act that enable the central government portion of the levy to also be spent on:
  - 6.1 activities that reduce environmental harm and/or increase environmental benefits;
  - 6.2 waste-related emergency spending;
  - 6.3 funding the Ministry for the Environment (the Ministry's) waste-related and hazardous substances work programme;
  - 6.4 remediation of contaminated sites, including landfills vulnerable to the impacts of severe weather events.

## IN CONFIDENCE

- 7 Cabinet agreed to directly amend Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 to increase levy rates over three years (2025/26 to 2027/28), as outlined in table 1.

<b>Table 1: Current and agreed future rates for the waste disposal levy (per tonne, GST-exclusive)</b>					
	Levy rate on and from:				
Waste facility	1 July 2023	1 July 2024	1 July 2025	1 July 2026	1 July 2027
<b>Municipal landfill (class 1)</b>	\$50	\$60	\$65	\$70	\$75
<b>Construction and demolition fill (class 2)</b>	\$20	\$30	\$35	\$40	\$45
<b>Managed or controlled fill (class 3, 4)</b>	\$10	\$10	\$15	\$15	\$20

- 8 Cabinet also agreed to amend the Act to enable levy waivers for waste being disposed of from contaminated site remediation projects, so that the levy does not create a barrier to remediation.
- 9 These legislative amendments are necessary because the Act currently establishes that levy revenue can currently only be spent on matters to promote or achieve waste minimisation, and some supporting central government roles (related to collecting and administering the levy and administering waste minimisation projects funded through the levy).
- 10 It is not proposed to make consequential changes to how local government can spend their share of the levy as part of the current process. This means that central government would have a wider scope of investment, while local government would continue to invest their share of the levy to promote or achieve waste minimisation, in a manner consistent with their waste management and minimisation plans.
- 11 I intend to progress the legislative amendment through Budget night legislation under urgency to enable the changes from the start of the 2024/25 financial year. There will be no select committee process.
- 12 The Bill has been developed rapidly to enable savings from the 2024/25 financial year onwards. The savings are achieved by using the levy to offset costs associated with funds and responsibilities administered by the Ministry (primarily related to waste minimisation, remediation, and freshwater). This timeline means there may be criticism from the sector because they will not have the opportunity to provide input, either through consultation on the policy proposals or as part of a select committee process.

*The Bill allows for increased investment in environmental priorities including contaminated site remediation – but some stakeholders may prefer to retain a narrower waste minimisation focus*

- 13 In widening the purposes for which central government can spend the levy revenue, further consideration must in turn be given to how appropriate it is for waste disposal facilities (and waste disposers) to contribute money for the wider waste and environmental purposes on which the levy is proposed to be spent.
- 14 In this instance, I consider the wider purpose to be appropriate. As outlined in the Cabinet paper seeking policy approvals, using resources and materials generates many environmental impacts throughout their life cycle, from extraction and production, to use and disposal. Impacts can include greenhouse gas emissions, discharges, biodiversity and habitat loss, and impacts from inappropriate disposal and

**IN CONFIDENCE**

littering. Applying a levy at the point of disposal is an efficient point at which to collect a levy that can help remedy a range of environmental harms.

- 15 However, the sector may have a range of views on this. Parts of the sector have advocated for increasing the contestability of levy funds over time. Advocates note this could be achieved by reducing the share that local government receives – currently set at 50 per cent – and instead allocating more funds into the contestable Waste Minimisation Fund.
- 16 The net impact of the proposed legislative changes could instead be to decrease contestable funds available for waste minimisation, although that will depend on funding decisions that have not yet been made. Cabinet directed officials to identify a suitable annual quantum for waste-related investment as well as a wider range of environmental activities across Government that will generate additional savings opportunities from Budget 2025 (CAB-24-MIN-013 refers).
- 17 Levy revenue can already be used for some Ministry functions. However, widening this to include more of the Ministry's waste and hazardous substances work programme may also be questioned by some stakeholders, who may consider the government should fund core government roles via baseline funding.
- 18 Cabinet invited the Minister for the Environment (the Minister), in consultation with the Minister for Regulation, to report back to Cabinet by October 2024 on the performance of government spending funded by the levy. Cabinet further invited the Minister to independently review the process for making investment decisions using the levy and back-office functions in the Ministry relating to the levy, with a focus on value for money.
- 19 This review and report-back will provide an opportunity to consider any concerns the sector may have about levy investment.

*Opportunity for wider waste reform in the future*

- 20 No outstanding policy issues relate to the policy agreed by Cabinet (CAB-24-MIN-0138 refers). However, I have a [REDACTED] 9(2)(f)(iv) [REDACTED] on the 2024 Legislation Programme for wider reform of waste legislation.
- 21 Given that this amendment Bill has been developed under a tight timeline, the wider reform of the waste legislation could be an opportunity to remedy any unintended consequences if they arise. It will also provide an opportunity to make additional amendments that will improve overall outcomes achieved by the Bill, including to compliance monitoring and enforcement tools within the Act.

**Impact analysis**

- 22 Due to the rapid timeframes, an impact assessment was not tabled alongside the Cabinet paper seeking policy agreement. Instead, a Supplementary Analysis Report (SAR) is attached with this paper (appendix two).
- 23 The Ministry for the Environment Regulatory Impact Assessment Panel (Panel) considers that the Supplementary Analysis Report: Waste Minimisation (Waste Disposal Levy) Amendment Bill 2024 partially meets the quality assurance criteria for regulatory impact analysis.

**IN CONFIDENCE**

- 24 The SAR is complete, convincing and well set out. The impact and cost/benefit analyses are generally robust and sufficient to provide final reassurance of Cabinet's decisions.
- 25 Having reached that assessment, the Panel notes that the SAR acknowledges that parts of the analysis are severely constrained by timeframes, earlier Ministerial direction, data limitations, and no stakeholder consultation.
- 26 Information on the Climate Implications of Policy Assessment was summarised in CAB-24-SUB-0138.

**Compliance**

- 27 The Bill complies with:
  - 27.1 the disclosure statement requirements (see appendix three);
  - 27.2 the principles and guidelines set out in the Privacy Act 2020;
  - 27.3 relevant international standards and obligations.
- 28 The Bill does not include any Treaty of Waitangi provisions and consultation with the Treaty Provisions Officials Group has therefore not been undertaken. Compliance with the principles of the Treaty is addressed below under 'Te Tiriti o Waitangi / Treaty of Waitangi implications.'
- 29 The Ministry of Justice is vetting the Bill against the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

*Te Tiriti o Waitangi / Treaty of Waitangi implications*

- 30 Consultation on the waste strategy and legislative amendment proposals that took place in 2021 clarified that Māori have interests in effective waste management. This consultation was not related to the specific proposals for this Bill but the wider waste legislative reform proposals. There was particular emphasis in the feedback on the interconnectedness of environmental systems. Poor management of waste can have impacts on Māori interests in climate, biodiversity and other environmental outcomes including land use, soil, freshwater and coastal marine environments. Submitters also outlined that they valued Māori participation in the waste system.
- 31 The Bill does not alter the relationship between Māori and the waste system. Involvement of Māori currently occurs at both a statutory and operational level, including through:
  - 31.1 a requirement for the Minister to consider the need for Waste Advisory Board members to have knowledge, skill, and experience relating to, among other things, tikanga Māori;
  - 31.2 consultation with Māori (as persons or organisations who may be significantly affected) when considering the making of regulations under the Act;
  - 31.3 efforts to improve participation of Māori groups and entities in waste fund investment, including requirements for Waste Minimisation Fund applicants to specify benefits for Māori in their projects.



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- 32 The proposals are not intended to impact the Crown's Treaty settlement obligations. The limited timeframe for developing the Bill did not allow for engagement with iwi/Māori on these proposals or full assessment of possible Treaty impacts.
- 33 No existing Treaty Settlements establish specific obligations for the Crown in relation to waste minimisation.

**Consultation**

*Agency consultation*

- 34 The following agencies were consulted: the Department of Conservation, Department of Corrections, Department of Internal Affairs, Inland Revenue, Kāinga Ora – Homes and Communities, Ministry for Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry for Primary Industries, Ministry of Social Development, National Emergency Management Agency, the Treasury, Waka Kotahi NZ Transport Agency, and Te Puni Kōkiri.
- 35 The following agencies were informed: Department for Prime Minister and Cabinet and the Office for Māori Crown Relations/Te Arawhiti.
- 36 No substantive feedback was received on this paper.

*Public consultation*

- 37 No public consultation has taken place on these specific proposals. In 2021, the Ministry consulted the public on proposals for wider waste legislation reform (noting this did not include all of the specific proposals in this Bill) and the feedback is also relevant to these targeted amendment proposals.

*Government caucus and other political parties*

- 38 Ministerial and Coalition Partner consultation was undertaken on this paper, as well as on the initial policy proposals.

**Binding on the Crown**

- 39 The Bill is binding on the Crown.
- 40 The Act binds the Crown (section 4), and the Bill does not change this.

**Creating new agencies or amending law relating to existing agencies**

- 41 The legislation will not create a new agency, amend the existing coverage of the Ombudsmen Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

**Allocation of decision-making powers**

- 42 The Bill gives decision-making powers to the Secretary for the Environment (the Secretary), in relation to:
- 42.1 spending the levy on activities that reduce environmental harm/increase environmental benefits; emergency waste; and the Ministry's functions, duties

**IN C O N F I D E N C E**

and powers relating to waste management and minimisation and hazardous substances. This is an operational role, as decisions about the quantum of funding available will be determined as part of appropriations including Vote Environment and, in the case of emergency waste, guided by detail set by the Minister by gazette notice as outlined at paragraph 43.2;

- 42.2 approving levy waivers for contaminated site remediation. This extends an existing role undertaken by the Secretary (who can already grant waivers in exceptional circumstances). Policies and procedures to support this role will be developed at an operational level.
- 43 The Bill also gives decision-making powers to the Minister, in relation to:
  - 43.1 funding of contaminated site remediation projects. This extends an existing role (in approving waste minimisation projects) and will include the same decision-making provisions including the ability to set or vary criteria for approving a project by notice in the Gazette (having first obtained and considered the advice of the Waste Advisory Board);
  - 43.2 gazetting of matters related to funding for emergency waste. This is a new role. The Bill will establish matters the Minister must consider when making decisions. It is not proposed that the Minister be required to consult before making these decisions, because of the need to respond rapidly to an emergency situation. Officials have existing systems in place for engaging with affected parties informally (for example, regular engagement occurred during the response and recovery phases of Cyclone Gabrielle).

**Associated regulations**

- 44 The Bill amends Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 to insert additional levy rates that will apply on and from 1 July 2025 (as outlined in table 1).
- 45 I am also seeking approval to authorise the submission to the Executive Council of the Waste Minimisation (Information Requirements) Amendment Regulations 2023 Amendment Regulations 2024 (see appendix four). The amendment regulations correct a cross-referencing error relating to the frequency of reporting obligations (which should be quarterly not monthly).
- 46 These changes will meet the 28-day rule and should take effect from 1 July 2024.

*Regulations Review Committee*

- 47 I do not consider there are grounds for the Regulations Review Committee to draw the amendment regulations to the attention of the House of Representatives as a Standing Order requirement.

*Certification by Parliamentary Counsel*

- 48 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

**I N C O N F I D E N C E**

**Other instruments**

- 49 As outlined in section 41(4)(b) of the Act, regulations made to prescribe the rate of the levy are a disallowable instrument. Such regulations must be confirmed by an Act of Parliament.
- 50 This provision will not be altered by the Bill.

**Definition of Minister/department**

- 51 The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

**Commencement of legislation**

- 52 The Bill will come into force on 1 July 2024.

**Parliamentary stages**

- 53 It is proposed that the Bill be introduced to the House and proceed through all stages under urgency, as part of Budget night legislation, to enable the savings to be reflected in Budget 2024 and in place from the 2024/25 financial year. It is not proposed to refer the Bill to select committee.

**Publicity**

- 54 I anticipate a high level of sector interest in the Bill. As noted in CAB-24-SUB-0138, I intend to provide a general update on my plans for the portfolio as part of my opening address at the annual WasteMINZ conference on 28 May 2024. If appropriate, this would also provide an opportunity to communicate these changes to the legislation and levy rates.
- 55 I will also notify the sector to ensure they are aware of the correction to the inconsistency in the Waste Minimisation (Information Requirements) Amendment Regulations 2023. The Ministry will use existing communication channels to inform regulated parties about the revision to the regulations.

**Proactive Release**

- 56 I intend to proactively release this paper and associated Cabinet committee papers and minutes within 30 business days of final decisions being confirmed by Cabinet, subject to redaction as appropriate under the Official Information Act 1982.

**IN C O N F I D E N C E****Recommendations**

The Minister for the Environment recommends that the Committee:

***Process for development of the Bill***

- 1 **note** that the Waste Minimisation (Waste Disposal Levy) Amendment Bill was submitted as a category 3 priority on the 2024 Legislation Programme (with its introduction and first reading initially proposed for late July 2024);
- 2 **note** there has not been public consultation or engagement with Māori on the policy decisions, because of the short timeframe for development;
- 3 **note** an impact assessment was not tabled alongside the Cabinet paper seeking policy agreement (CAB-24-SUB-0138) but a Supplementary Analysis Report is attached to this paper;

***Policy enabled through the Bill***

- 4 **note** that policy decisions for the Bill were agreed by Cabinet in April 2024 (CAB-24-MIN-0138 refers);
- 5 **note** that to give effect to these policy decisions, the Waste Minimisation (Waste Disposal Levy) Amendment Bill enables the central government allocation of the waste disposal levy to be spent on a broader range of environmental outcomes as well as waste minimisation, makes incremental increases to waste disposal levy rates, and makes supporting amendments to better enable remediation of contaminated land;
- 6 **note** the Bill amends Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 to provide for further incremental increases to waste disposal levy rates;
- 7 **note** the Bill does not make changes to the share of the waste disposal levy revenue received by territorial authorities (50 per cent), or the matters on which territorial authorities must spend their share of the levy (which will remain the promotion and achievement of waste minimisation, in accordance with matters outlined in their waste management and minimisation plans);

***Amendment regulations***

- 8 **note** Cabinet agreed to changes to the Waste Minimisation (Information Requirements) Amendment Regulations 2023 to correct a cross-referencing error which incorrectly provided for monthly rather than quarterly reporting;
- 9 **authorise** the submission to the Executive Council of the Waste Minimisation (Information Requirements) Amendment Regulations 2023 Amendment Regulations 2024;
- 10 **note** that it is intended that the Waste Minimisation (Information Requirements) Amendment Regulations 2023 Amendment Regulations 2024 come into force on 1 July 2024;
- 11 **note** that this timeline complies with the 28-day rule;

**I N C O N F I D E N C E**

***Parliamentary process***

- 12 **approve** the Waste Minimisation (Waste Disposal Levy) Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 13 **agree** that the Bill be introduced on 30 May 2024;
- 14 **agree** that the government propose that the Bill be:
  - 14.1 progressed through all stages under urgency;
  - 14.2 enacted by 1 July 2024.

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment

**I N C O N F I D E N C E**

**Appendices**

**Appendix One:** [REDACTED] 18(d) [REDACTED]

**Appendix Two:** [REDACTED] 18(d) [REDACTED]

**Appendix Three:** [REDACTED] 18(d) [REDACTED]

**Appendix Four:** [REDACTED] 18(d) [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED]



# Cabinet Legislation Committee

## Minute of Decision

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*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.*

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### Waste Minimisation (Waste Disposal Levy) Amendment Bill and Associated Regulations

Portfolio                      Environment

On 23 May 2024, the Cabinet Legislation Committee:

#### Process for development of the Bill

- 1        **noted** that the Waste Minimisation (Waste Disposal Levy) Amendment Bill (the Bill) holds a category 3 priority on the 2024 Legislation Programme (to be passed by the end of 2024);
- 2        **noted** that there has not been public consultation or engagement with Māori on the policy decisions, because of the short timeframe for development;
- 3        **noted** that an impact assessment was not provided when policy decisions were agreed, and that a Supplementary Analysis Report is attached to the paper under LEG-24-SUB-0105;

#### Policy enabled through the Bill

- 4        **noted** that in April 2024, Cabinet agreed the policy matters for inclusion in the Bill [CAB-24-MIN-0138];
- 5        **noted** that to give effect to the agreed policy decisions, the Bill:
  - 5.1        enables the central government allocation of the waste disposal levy to be spent on a broader range of environmental outcomes as well as waste minimisation;
  - 5.2        makes incremental increases to waste disposal levy rates;
  - 5.3        makes supporting amendments to better enable remediation of contaminated land;
- 6        **noted** that the Bill amends Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 to provide for further incremental increases to waste disposal levy rates;
- 7        **noted** that the Bill does not make changes to the share of the waste disposal levy revenue received by territorial authorities (50 percent), or the matters on which territorial authorities must spend their share of the levy (which will remain the promotion and achievement of waste minimisation, in accordance with matters outlined in their waste management and minimisation plans);

**Amendment regulations**

- 8 **noted** that in April 2024, Cabinet agreed to changes to the Waste Minimisation (Information Requirements) Amendment Regulations 2023 to correct a cross-referencing error which incorrectly provided for monthly rather than quarterly reporting [CAB-24-MIN-0138];
- 9 **authorised** submission to the Executive Council of the Waste Minimisation (Information Requirements) Amendment Regulations 2023 Amendment Regulations 2024 [PCO 26431/2.0];
- 10 **noted** that the Waste Minimisation (Information Requirements) Amendment Regulations 2023 Amendment Regulations 2024 will come into force on 1 July 2024;
- 11 **noted** that the above timeline complies with the 28-day rule;

**Parliamentary process**

- 12 **approved** the Waste Minimisation (Waste Disposal Levy) Amendment Bill for introduction [PCO 26256/4.2], subject to the final approval of the government caucuses and sufficient support in the House of Representatives;
- 13 **agreed** that the Waste Minimisation (Waste Disposal Levy) Amendment Bill be introduced on 30 May 2024 under Budget urgency;
- 14 **agreed** that the Government propose that the Bill be:
- 14.1 introduced on Budget night, 30 May 2024;
  - 14.2 passed through all stages under Budget urgency;
  - 14.3 enacted by 1 July 2024.

Sam Moffett  
Committee Secretary

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**Present:**

Rt Hon Winston Peters  
Hon Chris Bishop (Chair)  
Hon Dr Shane Reti  
Hon Paul Goldsmith  
Hon Tama Potaka  
Hon Nicole McKee  
Hon Casey Costello  
Hon Penny Simmonds  
Hon Andrew Hoggard  
Jamie Arbuckle, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG





## Briefing - Further information on waste levy

Date submitted: 2 February 2024

Tracking number: BRF-4169

Security level: Sensitive

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Chris BISHOP <b>Minister Responsible for RMA Reform</b> Hon Simon WATTS <b>Minister of Climate Change</b> Hon Penny SIMMONDS <b>Minister for the Environment</b>	Review and discuss with officials	To enable finalisation of Budget information for MOF by 16 February

Actions for Minister's office staff	
1.	<b>Return</b> the signed briefing to the Ministry for the Environment ( <a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a> ).

Appendices and attachments

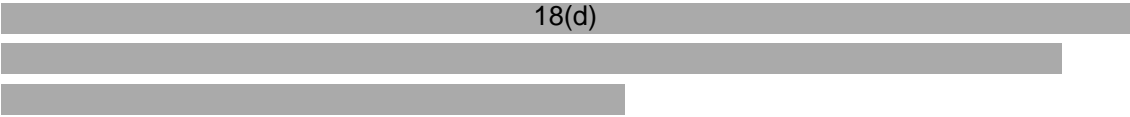
Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Stephanie Hill	9(2)(a)	
Programme Director	Jonathan Ryan	9(2)(a)	✓

Minister's comments

# Further information on waste levy

## Key messages

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1.  18(d)
2. Following an initial discussion between Ministers, we are providing you with additional advice on implementing your preferred option to broaden the scope of the waste levy.
3. With appropriate changes to existing legislation (the Waste Minimisation Act 2008), broadening the scope of the waste levy (ie, what it can be spent on) may enable savings of an estimated \$103 million over four years, whilst retaining the hypothecated nature of the waste disposal levy. The savings would be achieved by using levy funds to offset other waste-related costs currently borne by the Crown.
4. The Treasury may instead advocate for alternative options that involve generating savings of \$100 million (or more) over four years, through returning some of the waste disposal levy to consolidated Crown funds. This would effectively convert some or all of the levy into a tax.
5. Options are available for how and when savings could be achieved. These expanded priorities for the waste levy would involve legislative change, meaning savings could only be available from the 2024/25 financial year if an urgent legislative amendment process were followed. A standard legislative change process would enable more time for analysis of options, input from stakeholders, and technical legislative design but could risk not realising all projected savings until 2025/26.
6. If the legislation is not progressed under urgency there could be an option to fill some of the savings gap with Climate Emergency Response Fund money that is currently earmarked for waste emissions reduction projects. This would enable savings from Budget 2024 and subsequent years.
7. Widening the scope of the waste levy and re-prioritising its investment may provide opportunities to support a wider range of government priorities including severe weather recovery and greater remediation of vulnerable landfills but may impact the achievability of government waste and waste emissions reduction targets, with less funding for investment in those areas.

## Recommendations

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We recommend that you:

- a. **use** this briefing note to support discussion of your preferred option and alternatives with the Minister of Finance
- b. **meet** with officials to further discuss your preferred option/s, following discussions with the Minister of Finance

Yes | No

## Signatures

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Jonathan Ryan  
**Programme Director, Climate Change  
Mitigation and Resource Efficiency**

2. 

Hon Chris BISHOP  
**Minister Responsible for RMA Reform**

Hon Simon WATTS  
**Minister of Climate Change**

Hon Penny SIMMONDS  
**Minister for the Environment**

# BRF 4169 - Further information on waste levy

## Purpose

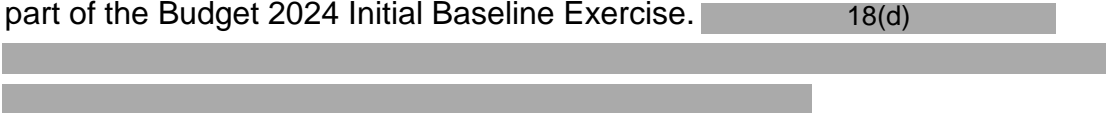
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1. This briefing note provides Ministers with further analysis on their preferred option and alternatives for achieving targeted savings from the waste disposal levy (waste levy) and Waste Minimisation Fund (WMF).

## Background

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### **Legislative changes to the waste levy provide an opportunity to achieve targeted budgetary savings**

2. On 21 December 2023, the Minister of Finance wrote to you, setting a further savings target for the Ministry for the Environment of \$49.1 million per annum as part of the Budget 2024 Initial Baseline Exercise. 18(d)  

3. We provided you initial advice on how the Ministry can achieve its requested savings targets on 29 January 2024 (BRF-4127 refers), which Ministers discussed on 31 January 2024.
4. We heard from you that in relation to potential cost savings from the waste levy and WMF, your preferred approach to explore further is option three: broadening the scope of the waste levy to fund a broader set of Government waste-related activities and in doing so achieve savings by offsetting costs currently borne by the Crown.
5. We also provided you advice on alternatives including redirecting \$100 million or more of levy revenue to the consolidated Crown account over the four-year forecast period. This would require new legislation that has the effect of converting some or all of the current waste levy into a tax. We note this option may still be recommended by the Treasury.
6. This briefing note provides you with further information on potential targeted savings and implementation including opportunities and risks, to enable you to discuss an approach with the Minister of Finance ahead of making a final submission to Treasury on 16 February 2023.

### **The Waste Minimisation Act establishes that central and local government shall spend the waste levy on waste minimisation**

7. The statutory purpose of the waste levy is to raise revenue for promoting and achieving waste minimisation and increase the cost of waste disposal to

recognise that disposal imposes costs on the environment, society, and the economy.

8. The waste levy was established as a hypothecated fund – ie, to be used for specified purposes – to raise revenue that can be invested into achieving waste objectives. The waste levy also:
  - provides financial incentives for those generating waste (including businesses and households) to reduce what they send to landfill
  - makes alternatives like recycling and composting more commercially viable by increasing the cost of disposal.
9. A hypothecated levy has a range of benefits, including transparency; building trust and public support (ie, while the public may face higher disposal charges, they also may benefit from improved waste reduction options such as additional recycling services); and reliability of funding (which is relevant in the context of the estimated \$2.1 to \$2.6 billion deficit in waste and resource recovery infrastructure).
10. The Waste Minimisation Act 2008 (the Act) requires the Ministry to distribute and spend the waste levy on paying any required refunds to operators then:
  - a. paying 50 per cent to territorial authorities (shared on a population basis)
  - b. collecting and administering the levy and waste minimisation projects; and/or funding waste minimisation projects that the Minister has approved for funding, generally administered through the WMF and Plastics Innovation Fund.
11. The Minister for the Environment received an initial briefing on investment into waste minimisation and resource recovery in December 2023 (BRF-3992). A follow up briefing with more detail on investment processes, controls, and a draft investment strategy (based on current legislation) will be provided next week (BRF-4090 refers).
12. The waste levy was established in 2009, at the rate of \$10 per tonne for waste disposed of at municipal landfills (those that take household waste). Between 2009 and 2020, levy revenue ranged between \$24-\$36 million per annum.
13. In 2021, the relevant regulations were amended to substantially expand the coverage and increase the rate of the levy. As a result, modelling shows the levy will peak around \$260m per annum from July 2024 before tapering off as waste reduction policies and investments take effect.<sup>1</sup>

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<sup>1</sup> Levy projections are based on a range of data inputs but remain imprecise. Levy revenue is based on actual tonnages disposed of to landfill, which in turn depends on how the market responds to rising

## Analysis and advice

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### **Legislation could be changed to widen the scope of levy investment in line with the purpose of the Waste Minimisation Act**

14. The purpose of the Act is to encourage waste minimisation and a decrease in waste disposal in order to—
  - a. protect the environment from harm
  - b. provide environmental, social, economic, and cultural benefits.
15. As noted above, the purpose of the waste levy is somewhat narrower – it can currently only be used for activities (such as community projects, infrastructure and services) that promote or achieve waste minimisation. It cannot be used for activities that involve transferring waste or cleaning up old waste sites (unless this includes an element of waste minimisation). This has meant that the waste levy could generally not, for instance, be used to fund clean-up or remediation of old landfill sites or to help clean up waste from severe weather events.
16. The central government activities that can be funded by the levy are also restricted (to collection and administration of the levy and investment projects); more general policy development and implementation and other aspects of the Ministry work programme cannot currently be funded by the waste levy.
17. BRF-4127 outlined that an expanded set of priorities for the levy could contribute towards Government priorities, including those outlined in the National Party manifesto for waste and Minister for the Environment's letter of priorities. These include:
  - addressing the environmental impacts of waste including through substituting and consolidating other existing initiatives, such as the Contaminated Sites Remediation Fund (CSRF)
  - contributing to the costs of managing waste associated with civil emergencies
  - funding more of the Ministry's waste work programme.
18. The preliminary analysis of officials is that these expanded priorities are in keeping with the overall purpose of the Act (although wider than the current requirement to promote or achieve waste minimisation with levy investments), and that with an appropriate legislation change these activities could be funded in

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disposal charges, the impact of waste minimisation policies implemented, levels of compliance, and other factors.

a way that is consistent with the overall intent of the Act (ie, the waste levy would remain hypothecated).

## Detail of areas in which savings could be made through use of levy revenue

19. The potential savings which could be achieved through widening the scope of the levy are summarised in table 1.

<b>Table 1: Indicative cost savings to the Crown from broadening the scope of the waste levy</b>					
<b>Activity</b>	<b>2024/25*</b>	<b>2025/26</b>	<b>2026/27</b>	<b>2027/28</b>	<b>Total over four years (\$millions)</b>
Vulnerable landfills (savings to be realised by closing the CSRF and funding via the levy)	4.6	5.1	2.6	2.6	15.0
Indicative emergency waste management costs**	9(2)(f)(iv)				
MfE's non-levy funded waste work programme	16.3	16.5	7.6	7.6	48.0
<b>Total</b>	<b>30.9</b>	<b>31.6</b>	<b>20.2</b>	<b>20.2</b>	9(2)(f)(iv)
CERF waste initiatives	11.0 – 21.0	11.0 – 21.0			22.0 – 42.0

\* contingent on further advice on suitable legislative pathways

\*\* based on the desired waste-related funding priorities, there are options as to the appropriate level of funding to be set aside for this purpose

## Addressing the environmental impacts of waste, including through the Contaminated Sites Remediation Fund

20. The National Party's *Blueprint for a Better Environment* National outlines that New Zealand's waste management practices are an important part of maintaining and preserving our unique environment. The *Blueprint* states that fit-for-purpose legislation and management and mitigation of environmental risks including from historical landfills are crucial.

21. Current provision for remediation of contaminated sites (including some historical landfills, as well as other contaminated sites such as former mining and industrial sites) is through the Contaminated Sites Remediation Fund (CSRF).

### **Potential cost savings**

22. The CSRF is a contestable fund with an annual appropriation of \$2.628 million. With legislative change, the waste levy could be used to fund the CSRF, either at its current level or – potentially – at a higher level that better reflects the range of challenges and priorities relating to contaminated sites (particularly vulnerable landfills) that we currently face.
23. Addressing these environmental risks is a potential cost pressure for the government. Costs could be both proactive – ie, remediating sites before they cause a problem and potentially reactive, for example, supporting local government and communities after a landfill site is breached.
24. Active and closed landfills across New Zealand are at risk from changes in temperature, precipitation and sea-level caused by climate change. Landfills situated within coastal or river margins or on floodplains are becoming more vulnerable to erosion and may be at risk of containment failure.
25. The breach of these sites results in the release of pollutants and wastes, with consequences for public health, ecosystems, and the local economy. For example, an extreme rain event in the Fox River catchment in March 2019 washed away a large section of Westland District Council's closed Fox Landfill. The erosion resulted in the discharge of the waste contained within the landfill to 21 kilometres of riverbed and 51 kilometres of the coastline.
26. It took over 3,000 days of combined Department of Conservation, New Zealand Defence Force and volunteer effort to clean up the equivalent of more than 14,500 household rubbish bags of waste from the riverbed and coastline. Clean-up costs were estimated at about \$1.5 million across a number of agencies (including a contribution from the CSRF).
27. Estimates of the number of vulnerable sites are variable but are typically in the hundreds. Remediation costs are site-specific, but three recent examples have ranged between \$1.7 and \$6.5 million. At Minister Simmonds' request, officials are currently preparing advice on funding options for high-risk vulnerable landfills.

### **Waste-related emergency spending**

28. The frequency and magnitude of emergency events is already increasing, in part, as a result of climate change. The Canterbury and Kaikoura earthquakes, Cyclone Gabrielle, the Fox River landfill eroding, the COVID-19 pandemic, and many other large-scale events have underscored the importance of resilient waste management and minimisation facilities and services across the regions, as well as their vulnerability.
29. This indicates the need for some level of allocated response funding, whereby funds could be accumulated on an ongoing basis in contingency to be drawn on as required to assist communities with waste-related emergency costs as needs arise.



30. While the waste levy can and already has been used to relieve cost pressures for both local and central government, pending an expanded levy scope, further cost savings such as those under consideration toward the Cyclone Recovery and National Resilience Plan could be partially met through use of the waste levy.

**Potential cost savings**

31. Expanded provisions in the WMA to help manage waste and resource recovery activities following major emergency events would help reduce the current and future financial burden of these events on central and local Government. To reflect the sporadic nature of civil emergencies, a portion of the levy could be set aside in contingency towards waste related emergency spending (table 1).
32. As an indication of the potential demands on Crown funding, emergency funds required in the aftermath of Cyclone Gabrielle included a \$15 million Solid Waste Management fund, and a \$102 million Local Authority fund for sediment and debris management. Significant business support funds also included waste management and resource recovery aspects.

33. 9(2)(f)(iv)

**Funding more of the Ministry's waste work programme**

34. As outlined in the Secondary Briefing to the Incoming Minister: Waste and resource efficiency programme (BRF-3966), the waste work programme includes policy development and implementation, funding and investment, collecting and publishing data, compliance monitoring and enforcement, education and behaviour change, and supporting project management and administrative support.
35. Current activities are a combination of:
- those that can be funded by the waste levy under the current legislation (collecting and administering the levy, including related compliance, monitoring and enforcement activity as well as the associated ICT systems; and investing the levy through the WMF, including associated monitoring and auditing)
  - roles and delivery that cannot be funded by the levy (all remaining components of the work programme) (as outlined in table 1 currently appropriated funding for this purpose is approximately \$48 million over four years)

**Potential cost savings**

36. Expanding the scope of the levy could also support other priority work programme areas not currently levy-funded such as improving recycling, addressing construction and demolition waste and other priorities. Enabling some or all of the activity outlined at paragraph 35 to be funded through the waste levy rather than through existing departmental funding would enable continuation of

priority work to continue progress towards meeting existing and proposed targets (noting a general savings exercise is also underway that may affect these budgeted figures and impact progress).

## **Advice on next steps for implementing changes to the waste levy**

### **When cost savings are available will depend on the option chosen and how it is implemented**

37. Officials note the Treasury may still be recommending the option to centralise waste levy funds (ie, effectively converting it into a tax). You also have choices around timing and scope of legislative changes. Whether or not you choose to progress with the proposed legislative change to change the scope of what the levy can be spent on, officials recommend you consider further amendments to the Act to ensure fit-for-purpose legislation that will help you to achieve the priorities for waste issues as outlined in the National Party manifesto.
38. Pathway options include:
- a **truncated legislative amendment** approach – officials would need to do further analysis of whether a targeted amendment could be progressed to enable changes to how the levy could be spent from 2024/25. If it is possible, it would involve rapid policy development, urgent legislation, and limited opportunities to engage. While some aspects of the proposals have been canvassed previously with stakeholders (and found general support), others such as the use of levy revenue for core government activities such as policy development and implementation may not be supported by the sector and could be subject to criticism.
  - a **standard legislative amendment** approach<sup>2</sup> (with or without additional amendments to add further value) – an amendment solely to what the waste levy could be spent on should require relatively limited and targeted amendments to the WMA (although it is likely to be of considerable interest to the sector). This option could also provide an opportunity to gain further benefits from the process of amending the legislation, drawing on policy analysis that has already been done on a range of improvements to the Act.<sup>3</sup> Depending on the scope of proposed changes, some savings could be realised from the second-half of the 2024/25 financial year, or else from 2025/26.

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<sup>2</sup> Steps would include developing policy proposals and gaining Cabinet approval to consult, public consultation, Cabinet approval of final policy proposals, the Parliamentary Counsel Office drafting a Bill and its introduction and progression through the House (including Select Committee).

<sup>3</sup> Opportunities could include improvements to the Act's compliance, monitoring and enforcement provisions (to ensure ongoing ability to collect the levy), enabling provisions for a beverage container return scheme, potential to widen the base for the waste levy by also enabling a levy for waste-to-energy, and to consider more equitable distribution settings for local government. Policy work has already been done on these matters.

- a **new Bill to enable a waste tax**, either as an urgent or standard legislative approach could also be taken– this would follow a similar process to what is outlined above, but would be a more complex process. If following an urgent process, additional risk would arise because of the greater complexity and potential for inadequate analysis of risks and benefits in a truncated time period.
39. In addition to these legislative options, there is a possible administrative option (ie not requiring legislative change) of allocating some waste levy funds to waste emissions reductions projects in planning or underway currently ear-marked to be funded through the Climate Emergency Response Fund (CERF). This could be a potential back-stop option if legislative change does not generate savings in the desired timeframe, or if some proposed savings options are not progressed.
  40. The Ministry received a CERF appropriation of \$103 million towards delivery of actions from the first emissions reduction plan. A total of \$10 million of departmental and non-departmental CERF allocated to reducing emissions from waste was returned to the Crown in 2023.
  41. Under the general savings target for the Budget 2024 Initial Baseline Exercise the Ministry has put forward an additional savings option of \$16.7 million uncontracted CERF funding for waste initiatives.
  42. There is a potential opportunity to save an additional \$22-\$42 million (the total is dependent on the contractual obligations at the time of budget decisions) by allocating levy revenue to fund these projects.

### **There are also options for how cost savings are realised**

43. As outlined above, waste levy revenue is allocated to both local and central government. We have heard you are mindful of the cost pressures already facing local government, and would not want any cost savings to be achieved solely through the local government portion of the levy.
44. Options to consider further include savings being achieved just through changes to the central government portion of levy funds, or through both central and local government shares. Achieving savings from local government as well as from central government could be done, but would be a more complex legislative change and would necessitate changes to supporting regulations as well.

## **Other considerations/implications**

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### **Consultation and engagement**

45. Given the 2024 Initial Baseline Exercise is budget sensitive, no external consultation or engagement has been undertaken.
46. Public consultation on a range of changes to the Act took place in 2021. That consultation proposed to continue hypothecation of the waste levy, including to

broaden its use to include measures to minimise harm from waste; for cleaning up closed landfill sites or other contaminated sites; data collection; ongoing partnerships and long-term education programmes; litter clean-up activities; and a wider range of compliance and enforcement activities by central and local government.

47. There was a wide variety of views on what waste levy funds should be spent on. A general theme was that levy funds should continue to be used to increase waste minimisation but with a wider scope and more flexibility to facilitate a transition to a circular economy. Many local government submitters also wanted levy funds to be used to address concerns over historic or vulnerable landfills and contaminated sites.

## **Risks and mitigations**

48. The main risks associated with these proposals are process risks and risks of failing to meet priorities and targets.
49. In terms of process risk, proceeding with proposals under urgency does lead to a higher risk of overlooking details or unforeseen consequences which may require subsequent amendment. There is also likely to be a high degree of sector interest in the proposals, and a longer timeframe would provide more opportunities for discussion with stakeholders.
50. Elements of the waste sector have expressed a preference for increasing contestability of funds over time, while these proposals would likely see a reduction in the availability of contestable funds. Transparency about how priorities are set and what can and cannot be funded could help to mitigate these risks to an extent.
51. Waste levy revenue is projected to reduce over time as investment outcomes reduce waste volumes to landfill. This could result in insufficient revenue to fund an increased set of priorities. To the extent possible, this could be mitigated by making forecasting as accurate as possible. Amendments to legislation could also help to mitigate, for example by including consideration of other disposal activities that should also be made subject to a levy (eg waste-to-energy); and/or making targeted improvements to compliance, monitoring and enforcement tools available in the Act (which would maximise the Ministry's ability to collect the levy from all eligible sites).
52. Waste levy funding for emissions reductions has been modelled into emissions abatement under the emissions reduction plan and forecast achievability of emissions budgets. Alternative emissions reduction opportunities may be considered as part of the emissions reduction plan two process. However, they may not be sufficient (or more costly) to meet targets (including biogenic

methane) if the enabling infrastructure investment is significantly reduced in the interim.<sup>4</sup>

## **Financial, regulatory and legislative implications**

53. This advice has financial and legislative implications. Officials will provide further advice on this as policy development continues, depending on the outcome of your discussions with the Minister of Finance.

## **Next steps**

54. Officials can support you in your discussions with the Minister of Finance and provide further analysis as required to support progression of preferred options.

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<sup>4</sup> In recent years investment of the waste levy, supplemented by the CERF, has been focussed on reducing emissions from waste. These investments have leveraged significant private sector funding and achieved biogenic methane abatement to date, at an average levy investment cost of \$39 per tonne of CO<sub>2</sub>-e, around half the current NZ ETS price of \$69 per tonne, as at 24 January 2024).



## Briefing: Waste Minimisation (Waste Disposal Levy) Amendment Bill: Scope and timeline

Date submitted: 21 March 2024

Tracking number: BRF-4313

Security level: Policy and Privacy - Budget sensitive

MfE priority: Urgent

### Actions sought from Ministers

<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Penny SIMMONDS <b>Minister for the Environment</b>	Confirm scope, timeline and consultation required for the Waste Minimisation (Waste Disposal Levy) Amendment Bill	28 March 2024

### Actions for Minister's office staff

Return the signed briefing to the Ministry for the Environment ([ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)).

### Appendices and attachments

1. Overview of policy and legal matters within scope of amendment Bill

### Key contacts at Ministry for the Environment

<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Matthew Ide	-	-
Responsible Manager	Monique Esplin	9(2)(a)	-
General Manager	Glenn Wigley	9(2)(a)	✓

### Minister's comments

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# Waste Minimisation (Waste Disposal Levy) Amendment Bill: Scope and Timeline

## Key messages

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1. As part of the Government's fiscal sustainability programme, you are planning targeted policy savings by amending the Waste Minimisation Act 2008 (WMA) to permit broader use of the central government portion of waste levy funds. This change will enable savings by reducing overall Crown costs for waste-related activities and exposure to costs resulting from declared emergency events. 18(d)
2. Work is underway to ensure the Waste Minimisation (Waste Disposal Levy) Amendment Bill (the Bill) is delivered in the timeframes required. The legislative bid for this Bill was submitted as a category 3 priority for the Legislative Programme, which means it is a priority to be passed by the end of the year (ie, late-July for introduction of the Bill to the House, based on the indicative timeline).
3. Based on the direction to realise cost savings to the Crown from early in FY2024/25 onwards, the Bill's scope at this stage will be limited to amendments that permit additional activities to be levy funded to enable fiscal savings and align with the broader purpose of the WMA and government priorities. This will allow the central government portion of levy funds to support the remediation of contaminated sites (including vulnerable closed landfills), emergency waste management activities, and the Ministry for the Environment's waste-related work programme.
4. The recommended process steps and timeline reflect your preference for a truncated legislative process to deliver the desired amendments as rapidly as possible. Consequently, stakeholder engagement and engagement with Treaty partners is not currently part of the initial policy development process. However, we recommend that a Select Committee process is retained to ascertain stakeholder views on the proposals. You may also wish to proactively advise stakeholders about this Bill, its scope, and opportunities for engagement. We welcome the opportunity to discuss your preferred option(s) further at the earliest opportunity.
5. Following your decisions on this briefing we will incorporate your direction into policy development and draft a Cabinet paper for your review in early April. Additionally, following your discussion with Ministers Willis, Bishop, and Watts on 18 March, the Cabinet paper will also: seek Cabinet agreement on your investment priorities for waste levy funds over the next three years; outline the final phase of the increase and expansion of the waste levy; and provide an overview of further improvements to waste data that will come into effect from July 2024.
6. We propose that the Cabinet paper is presented to the Cabinet Economic Policy Committee on 1 May (to be considered by Cabinet on 6 May), which would require lodgement on 25 April. Agency and ministerial consultation (10 working days) would commence on 10 April. Note that there is an alternative approach via an earlier Cabinet committee (Cabinet Business Committee on 15 April), this is unlikely to be feasible, in part due to the Easter holiday break, as it would require reducing ministerial consultation to five days commencing prior to Easter (next week).

## Recommendations

We recommend that you:

- a. **note** we are seeking your direction on scope, process and timeline for the proposed legislative amendment, noting your preference for progressing the Waste Minimisation (Waste Disposal Levy) Amendment Bill as soon as possible
- b. **confirm** the scope of the Waste Minimisation (Waste Disposal Levy) Amendment Bill will include targeted amendments to the central government portion of the levy to enable the following:

(1) contributing to the costs of addressing environmental harm from contaminated sites, including vulnerable closed landfills
(2) contributing to the costs of managing waste associated with declared civil emergency events through establishing a contingency allocation
(3) funding the Ministry for the Environment's waste-related work programme

Yes | No | Discuss

- c. **agree** to also include the following in scope of the Waste Minimisation (Waste Disposal Levy) Amendment Bill:

(4) the efficient and effective use of levy waiver and/or exemptions to support activities such as the remediation of vulnerable closed landfills when disposing of waste materials to a levied landfill site
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Yes | No | Discuss

- d. **note** the proposed process steps and indicative timeline do not allow for public, stakeholder and Māori consultation and engagement during the policy development process due to the Budget-sensitive nature of the proposals and the desire to rapidly progress the Bill
- e. **agree** that you intend to progress the Waste Minimisation (Waste Disposal Levy) Amendment Bill under urgency

Yes | No | Discuss

- f. **agree** to the process steps and indicative timeline as outlined in the table below, which includes a truncated Select Committee process:

Process step	Approximate timeline
Initial policy development and regulatory impact assessment	Now to mid-April
Draft Cabinet paper to Minister's office	Early April
Ministerial and agency consultation	10-23 April
Lodge Cabinet paper in CabNet	25 April
Cabinet committee meeting	1 May (Cabinet Economic Policy Committee – ECO)
Cabinet meeting	6 May
Development of amendment Bill	May-June
Cabinet paper seeking agreement on draft Bill	June/July (Cabinet Legislation Committee – LEG)
Bill introduced to the House for first reading	Late-July
Select Committee	August



Second and third readings and passing of the Bill	August
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Yes | No | Discuss

- g. **note** that the Cabinet paper will cover: seeking policy agreement on the proposals to broaden the use of waste levy funds; seeking agreement on your investment priorities for waste levy funds over the next three years; outlining the final phase of the increase and expansion of the waste levy; and providing an overview of further improvements to waste data that will come into effect from July 2024.

## Signatures

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Glenn Wigley  
General Manager – Waste & HSNO Policy  
**Climate Change Mitigation and Resource Efficiency**  
**Date 21 March 2024**

Hon Penny SIMMONDS  
**Minister for the Environment**  
**Date**

# Waste Minimisation (Waste Disposal Levy) Amendment Bill: Scope and timeline options

## Purpose

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1. This briefing provides advice on the scope and timeline for the Waste Minimisation (Waste Disposal Levy) Amendment Bill (the Bill) and seeks your confirmation of the proposed approach to stakeholder consultation.
2. Note that this advice is coming to you ahead of confirmed Budget decisions, however it is informed by the recent discussion you had with Minister Willis, Minister Bishop, and Minister Watts on waste levy matters in relation to Budget 2024. The need for urgency and the expectation that savings would be available within the next financial year (2024/25) requires progressing this work as soon as possible.

## Background

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3. As part of the Government's fiscal sustainability programme, you are planning targeted policy savings by amending the Waste Minimisation Act 2008 (WMA) to enable the central government portion of waste levy funds to be spent on additional waste-related activities. This change will support government priorities and enable savings by reducing overall Crown costs for waste-related activities and exposure to costs resulting from declared emergency events.
4. This amendment Bill will enable savings that contribute to budget savings proposals you submitted for Budget 24. This includes both:
  - 18(d)
  - the directive for agencies to identify savings of either 6.5 per cent or 7.5 per cent (whichever is applicable) per annum from departmental and non-departmental over the next four years.
5. Projected levy revenue modelling (accounting for the final regulated increases on 1 July 2024) shows the levy will peak around \$260 million per annum from July 2024 before tapering off as waste reduction policies and investments take effect.<sup>1</sup> Over the next four years there will be approximately \$500 million in levy revenue allocated to central government.
6. The total value of the Waste Disposal Levy (targeted policy savings) proposal is \$101.83m. This includes Crown savings unlocked by broadening the use of waste levy funds through this amendment (and enabled by replacing Climate Emergency Response Fund (CERF)

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<sup>1</sup> Projected levy figures are based on a range of data inputs and are dependent on the final levy rate increase proceeding on 1 July 2024. Levy revenue is based on actual tonnages disposed of to landfill, which in turn depends on how the market responds to rising disposal charges, the impact of waste minimisation policies implemented, levels of compliance, and other factors.

allocation with levy funds). In addition, potential baseline waste-related departmental and non-departmental savings of \$51.97m will be enabled through use of levy funds and reduced expenditure.

7. [REDACTED] 9(2)(f)(iv) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
8. The proposed amendments to the WMA will support wider waste outcomes that are aligned to government priorities. These include:
- reducing environmental harm from contaminated sites, including closed landfills vulnerable to the impacts of severe weather events
  - reducing the impact of waste on communities and the environment from declared emergency events
  - a range of outcomes from the Ministry's work programme such as increased reuse and recycling, reduced emissions from waste, reduced plastic pollution, improved access to waste data, and involvement in international agreements to reduce and better manage waste.
9. The analysis and advice presented in this briefing reflects the content in the waste-related budget savings proposals and legislative bid you have submitted [BRF-4127, BRF-4169 and COR0189 refer].

## Analysis and advice

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10. This section provides advice to clarify and confirm the scope and process for the Bill, noting the need to progress the Bill rapidly within limited timeframes and for savings to be made from early in FY2024/25 onwards. We also wish to confirm your preferred approach for external engagement during this process.

## Confirming scope of the waste levy amendment Bill

### A narrow scope will enable a focus on fiscal savings

11. Retaining a narrow scope to the Bill will be crucial to it being progressed within limited timeframes and minimising complexity (full details of process steps and timeframes are outlined in the following section).
12. Amendments to waste levy provisions in the WMA will be limited to those that permit additional activities to be levy funded, enabling fiscal savings and align with the broader purpose of the WMA and government priorities. These will be targeted to achieve the following outcomes using waste levy funds (with any exclusions, such as activities not consistent with the WMA to be identified as part of policy development):

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[REDACTED] 9(2)(f)(iv) [REDACTED]  
[REDACTED]

- contributing to the costs of addressing environmental harm from contaminated sites, including closed landfills vulnerable to the impacts of severe weather events due to climate change, and funding the Contaminated Sites Remediation Fund (CSRF)
  - contributing to the costs of managing waste associated with declared civil emergency events by establishing a contingency allocation
  - funding the Ministry's waste-related work programme.
13. An additional legislative amendment is identified that could support the objective of improving the management of vulnerable landfills and contaminated sites. This would involve accommodating appropriate levy waiver and/or exemption provisions within the WMA<sup>3</sup> to more explicitly allow for the levy to not be charged on materials being shifted from vulnerable landfills and contaminated sites into levy-liable landfills.
14. This was not referenced in the earlier briefings but was subsequently identified as complementary and potentially within scope. Paying the levy on waste disposed of from the remediation of contaminated sites, including vulnerable landfills, is perceived to be a barrier to their remediation (ie, an additional cost to the removal of vulnerable landfills). The intent of any change to existing settings would be to ensure levy funds spent on the remediation of a contaminated site, including vulnerable landfills and the relocation of the waste materials are not then used to cover levy payments on the waste materials disposed of at a levied landfill.
15. Note that including amendments to the existing levy waiver and exemption provisions in the WMA within the timeframes available broadens the scope of the work. If you agree, officials will analyse this matter further by looking at historical costs associated with the excavation of vulnerable landfills and other contaminated sites. If this issue is not addressed in this process, existing provisions in the legislation can continue to be used in the interim (though we note in most cases this will result in material being subject to the waste levy as the ability to waive the levy can only apply if exceptional circumstances justify it). The issue could then be addressed within any wider waste legislation reforms later.

### **Some in-scope matters require further analysis**

16. For some of the areas where targeted amendments are proposed, there are several matters (policy and legal) that will be subject to further analysis to confirm what is achievable within the wider WMA legislative framework. The main points are summarised below (detailed further in Appendix 2):
- Incorporation of the current scope of the CSRF within waste levy funding settings – the CSRF is a relatively broad fund with guiding principles (from Cabinet decisions to establish the fund) that confirm scope of funded activities [CAB Min (06) 25/3 refers]. In contrast, section 25 of the WMA sets out the purpose of the levy and is narrow by comparison (ie, purpose is to *“enable a levy to be imposed on waste disposed of to (a) raise revenue for promoting and achieving waste minimisation; and (b) increase the cost of waste disposal to recognise that disposal imposes costs on the environment,*

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<sup>3</sup> Relevant WMA provisions: the Secretary for the Environment has discretion to waive a levy payment if satisfied that exceptional circumstances justify the waiver (section 29); the Minister may recommend establishing regulations specifying the type, volume or weight of waste that is exempt from the levy; the Minister must be satisfied that exceptional circumstances apply (section 41).

*society and the economy*”). The purpose may not be able to be interpreted widely enough to enable the waste levy to fund the remediation of all types of contaminated sites (eg, sites where the contamination is not caused by waste but arises from past use or activity where hazardous substances have caused contamination). We are in the process of seeking legal advice and identifying any risks and unintended consequences of this proposal.

- Establishment of parameters for when and for what purpose levy funds can be used for to support emergency waste management activities – this would consider which emergency events should be in scope, and the types of waste management activity that could be covered. This would also consider what elements need to be specified in primary legislation versus other guidance or operational sources.
- Subject to your approval, consideration of the types of waste that could be exempt or waived from levy liability and deciding which mechanism is suitable to use – this would seek to achieve a balance between reducing levy cost burden and incentivising waste minimisation and ensuring the decision-making is fair and transparent.

***Future legislative amendment can consider a broader range of issues***

17. 9(2)(f)(iv)  
This process will be the appropriate vehicle to consider more fundamental changes to the WMA (such as amendments to overarching purpose, core definitions, levy provisions directly affecting local government). Any wider reform of waste legislation could also entail appropriate consultation with stakeholders.

**Recommended timeline and process steps**

18. You have indicated your preference for a truncated legislative amendment process. On this basis, we have provided you with a timeline that delivers the desired amendments as rapidly as possible (see table 1 below).

**You will need to balance the need for urgent amendment with the benefits of engaging with stakeholders**

19. The truncated timeline includes officials briefly consulting on draft policy proposals with other relevant agencies and departments, and for your office to consult with your Ministerial colleagues, which is required before lodging a Cabinet paper. It also allows for officials to consult with the Legislation Design and Advisory Committee to test aspects of the proposals if appropriate.
20. The process outlined below does not include external consultation with sector stakeholders or Māori at this stage. An alternative timeline that incorporates some external engagement can be provided at your request. Further information on engaging with Māori is outlined in the Te Tiriti analysis section.
21. Officials note that targeted external consultation would improve the quality and scrutiny of the Ministry’s analysis and proposals, reducing potential implementation issues in the future. Ensuring well-designed amendments will reduce the likelihood of needing to make further amendments once introduced. It would also enable you to better meet your obligations as a Treaty partner. Targeted consultation could also improve sector support for the changes and reduce reputational risks, though we do note that the proposed changes are relatively narrow in scope.

### Progress through the House will likely require use of urgency

22. You have indicated your preference to progress this Bill urgently and it is possible for you, to elect to proceed the Bill under urgency. Officials consider use of urgency is likely to be required to achieve the proposed amendments to the WMA within desired timeframes (refer to table 1 below). A Minister may move an urgency motion for specified business, particularly bills. The motion can be moved without advance notice, and is not debated by the House, although the Minister must inform the House why the Government wishes to take urgency.
23. Dealing with business under urgency enables the House to proceed with that business until it is completed. For example, a bill that is dealt with under urgency may be introduced and passed through all its stages, while under normal circumstances a bill cannot be taken through more than one stage each sitting day. The sitting hours of the House may also be extended to allow the business to be completed.
24. Use of urgency does not automatically preclude Select Committee consideration. Regardless of whether you incorporate external engagement during policy development, officials recommend the draft Bill be subject to consideration by a truncated Select Committee process during its introduction to the House. A Select Committee stage would provide an opportunity for affected and interested parties to make submissions on this Bill.
25. Select Committees typically consider draft legislation for between four and six months. When legislation is introduced under urgency, this step may sometimes be omitted; more often, a truncated Select Committee step can be included. Some recent legislation introduced as part of the Government's 100-day plan or other coalition agreements has included Select Committee consideration.<sup>4</sup>
26. Subject to your decision, we will incorporate your preferred approach for the Select Committee process within the overall timeline for the Bill.
27. Table 1 below sets out the key process steps and timelines. Timelines are indicative only, because the steps are subject to input from a range of parties (such as the Ministry of Justice, other agencies and the Parliamentary Counsel Office (PCO)). In part, the ability to achieve tight timeframes may also be affected by the complexity of the policy options (as outlined in the preceding section).
28. Note this timeline differs from the version submitted in the legislative bid which proposed that the date of enactment and commencement was June/July 2024, as this did not originally allow for any Select Committee process.

Table 1: Proposed process for delivering rapid amendments to the Waste Minimisation Act		
Step	Proposed approach	Approximate timeline
Initial policy development and regulatory impact assessment	Internal policy development and discussion of preliminary advice with Minister. Preparation of regulatory impact statement.	Now to April

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<sup>4</sup> For example, the Misuse of Drugs (Pseudoephedrine) Amendment Bill was referred to the Health Select Committee for four weeks. Other repeal and amendment bills have proceeded without a select committee stage.

Draft Cabinet paper	Draft Cabinet paper with policy proposals for changes to use of levy (also to include investment priorities, overview of final phase of levy increase, overview of waste data improvements)	Early April
Ministerial and agency consultation	Ten working days for ministerial and agency consultation. There are requirements to consult on draft Cabinet papers with other agencies (opportunities to reduce standard timelines) and Ministers (can also shorten timeframes, with Ministers' agreement).	Expected 10-23 April
Cabinet paper seeking agreement on policy proposals	Paper is lodged in CabNet for consideration by Cabinet Economic Policy Committee and then (if agreed) by Cabinet on 6 May.	1 May (Cabinet Economic Policy Committee – ECO)
Development of amendment Bill	Preparation of drafting instructions (by MfE legal) and drafting of Bill (by PCO). Preparation of agency disclosure statement. Ministry of Justice vets Bill for compliance with the Bill of Rights Act. No exposure draft is proposed.	May-June
Cabinet paper seeking agreement on draft Bill	As above, consultation with other agencies and Ministers on the draft Cabinet paper is required.	June/July (Cabinet Legislation Committee – LEG)
Bill introduced to the House for first reading	Noting that there are no House sitting days scheduled between 28 June and 22 July. If Bill is introduced under urgency, the standard steps for considering a Bill can be undertaken more rapidly.	Late-July
Select Committee	Officials recommend a shortened Select Committee process (eg, one to four weeks).	August
Second and third readings and passing of the Bill	With the agreement of the House, the second and third readings can also proceed under urgency if required.	August

### Budgetary implications of timing delays

29. If any unforeseen circumstances generate significant delays to the timeline above there may be some consequential impacts. The main impacts relate to when the overall savings can take effect and, potentially, managing the Ministry's internal resource allocation process over an extended period before the Bill is passed.
30. We understand that the outcome of Budget savings will result in reductions to the relevant parts of the Ministry's baseline (*Improving New Zealand's Environment*) from FY2024/25 onwards, in anticipation of being funded by levy revenue. Operational costs (such as FTEs) from that point to when the Bill takes effect would need to be met by internal re-prioritisation within the Ministry's baseline. The more quickly the amendment can take effect, the less impact this will have.

## Te Tiriti analysis

31. While at least 14 Post Settlement Governance Entities (PSGEs) outline general good faith engagement obligations, no existing Treaty Settlements establish specific obligations for the Crown in relation to waste minimisation. A review of co-management documents and supporting documentation has identified waste management and minimisation as a topic of

interest for Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-rua, and Raukawa and Te Arawa under their respective Waikato River accords.

32. Consultation on the waste strategy and legislative amendment proposals in 2021 clarified that Māori have interests in effective waste management. There was particular emphasis in the feedback on the interconnectedness of systems and that ineffective management of waste can have impacts on Māori interests in climate, biodiversity and other environmental outcomes including land, freshwater and coastal marine environments. Submitters valued Māori participation in the waste system.
33. 

9(2)(h)
34. Given the budget-sensitive nature of this proposed amendment, no consultation has taken place with Māori to date. There would be an opportunity for PSGEs and Māori to engage on the Bill as part of any Select Committee process. As noted above, you will need to consider the risks and benefits between meeting the deadline for the legislation and achieving savings in the 2045/25 financial year, and the implications of undertaking engagement or not.
35. If it would be helpful, officials can discuss with you options for Māori consultation and engagement, including the process, parties involved, and its impact on the timeline for the Bill.

## Other considerations

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### Consultation and engagement

36. In 2021, the Ministry conducted public consultation on the waste strategy and proposals for waste legislation reform. Officials recently reviewed a selection of submissions (108) from key sector stakeholders on topics relevant to this amendment Bill.
37. The consultation covered a range of topics, including six questions (out of 43) that related to the waste levy. Responses to a question about what levy revenue should be able to be spent on were varied. Funding for waste infrastructure was raised by nearly half of the submitters who answered the question, followed by compliance monitoring and enforcement, and behaviour change activities (both mentioned by nearly one-third of submitters). Approximately 25 per cent of the submitters responded that the waste levy revenue should be able to be spent in line with the waste hierarchy or at the top end of the waste hierarchy (such as measures to prevent waste and greater use of reuse systems).
38. There were no specific comments in relation to spending levy funds on managing waste from an emergency response, or other costs central government should spend its portion of the levy on. These topics were not addressed in the consultation document.
39. Although not prompted by a question in the discussion document, 45 submitters referred to the remediation of contaminated sites and/or landfills vulnerable to the impacts of climate change. Of these, 14 local government and four waste industry submitters supported the



waste levy being used to fund the remediation and/or management of closed landfills and/or legacy waste.

40. A further 18 submitters (including 13 local government submitters) recognised that the remediation of contaminated sites, including closed landfills and/or vulnerable landfills, required funding but did not specify in their response where that funding should come from. Conversely, 13 submitters, mostly from business, specifically stated that although remediating vulnerable closed landfills and legacy waste needs addressing, this should be done separately to addressing future waste.

## Risks and mitigations

41. Discussion of the main risks are contained within this briefing and summarised below along with proposed mitigations.

- limitations to levy-related amendments – extent to which Ministry’s resource efficiency work programme (and potentially full scope of CSRF) aligns with WMA. Mitigation – there will need to be internal re-prioritisation of Ministry’s budgets to enable funding for components of the waste work programme that cannot be funded by the levy even after legislative amendment (eg, hazardous substances and new organisms, international chemicals work).
- timeline and delivery – process steps and timeline include components that are subject to external inputs (such as PCO drafting) and significant delays to these will impact when savings can take effect. Mitigation – maintain focussed scope of Bill; keep to schedule for drafting process; impact on Ministry’s baseline prioritisation can be managed in the short term.
- stakeholder engagement and relationship management – current timeline does not include stakeholder engagement to inform policy development, which may not be well received by some in the sector. Mitigation – based on your direction, send written communication to selected stakeholders to advise of current amendment process once budget decisions have been made public; a shortened Select Committee process would also provide an opportunity for stakeholder views to be heard.
- quality risk – limited timeframes for policy work may lead to unintended consequences from legislative design or underestimation of the complexity of proposed amendments. Mitigation – officials’ early engagement with the Ministry Legal team, PCO and other agencies to understand what is possible and feasible within the scope of this amendment; the subsequent wider legislative reform process for the WMA (which was submitted as a separate and independent legislative bid) provides an opportunity to address further matters or unintended consequences in the medium term [BRF-4147 refers].
- Treaty / Te Tiriti obligations – the current timeline does not include consulting with Māori on these proposals. Mitigation – notifying Treaty partners (either just those post-settlement governance entities whose settlements include specific early engagement provisions, or else a wider range of Māori stakeholders) could help to mitigate this, although ideally there would be an opportunity for feedback (should questions arise about the proposals) not just notification of proposals. There is a risk that an attempt to inform Treaty partners could result in inquiries about the detail of the proposed reform which we would not be able to share.

9(2)(h)

42. 9(2)(h)

## Financial, regulatory and legislative implications

43. The proposals discussed in this briefing, if progressed, will result in financial and legislative implications. Enabling central government to spend levy revenue on additional waste-related matters will enable overall Crown savings, which will have financial implications for the CSRF, emergency waste management activities, and the Ministry's waste-related work programme as these functions will be able to levy funded (ie, not a Crown expense).
44. The Bill will contain targeted amendments to sections of the WMA that relate to waste levy funds (the central government portion of the levy only). The Ministry will prepare a regulatory impact statement to accompany the Cabinet paper seeking agreement to the policy proposals of the Bill.

## Next steps

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45. Your input on this paper will guide continued policy development and timeframes for the progress of the Bill. Based on the timeline outlined in this paper, there will be opportunities to discuss matters with officials in further detail as required.
46. The proposed timeline for this work is outlined in table 1 above. You will be able to take a paper seeking agreement on policy proposals for this Bill to Cabinet in May 2024. The paper will also: seek Cabinet agreement on your investment priorities for waste levy funds over the next three years; outline the final phase of the increase and expansion of the waste levy; and provide an overview of further improvements to waste data that will come into effect from July 2024.

## Appendix 1 – Overview of policy and legal matters requiring further analysis

The table below provides an overview of policy and legal matters for each area where amendments are proposed to enable additional use of waste levy funds and, consequently, overall savings to the Crown.

This includes a description of the status quo scenario, the intended outcome, the anticipated legislative mechanism(s) for achieving this, any supplementary (non-legislative mechanisms, and the policy and/or legal matters requiring further analysis.

<b><i>Contributing to the costs of addressing environmental harm from contaminated sites, including vulnerable closed landfills</i></b>	
Status quo	<p>Regional councils and unitary authorities can apply for funding for the remediation of contaminated sites that pose a risk to human health and the environment through the Contaminated Sites Remediation Fund (CSRF). It supports local government fulfil their obligations for contaminated land management under the Resource Management Act 1991 (RMA).</p> <p>Applications must be made for activities undertaken before the RMA was enacted or after it was enacted if local government could not undertake any enforcement action. Funding can be for site investigation, planning or site remediation. To date, the CSRF has been resourced through a \$2.63 million annual appropriation and has awarded funding of nearly \$48 million to 114 projects.</p>
Outcome sought	Expand the range of activities able to be funded by the waste levy to include addressing environmental harm associated with closed landfills (through appropriate remediation) and the scope of activities currently covered by the CSRF; fund the CSRF (or its eventual equivalent) via waste levy revenue on an on-going basis.
Mechanism	<p>Targeted amendments of WMA that permit the type of projects the Minister can approve levy funding for (section 38) and the purpose of the waste levy (section 25).</p> <p>May also require amendment to definitions where applicable.</p>
Supplementary mechanisms	<p>Gazetted criteria for funding contaminated sites and vulnerable landfill remediation.</p> <p>Publishing a waste investment plan or investment signals for the levy [BRF-4090 refers].</p>
Matters for further analysis	<p>Extent to which the current scope of CSRF-funded activities can be met through waste levy provisions of the WMA.</p> <p>Types of contaminated sites and closed landfills that could receive levy funding (including considering available data on location, quantity, and remediation costs).</p> <p>Considering the balance between waste management/reduction of environmental harm versus waste minimisation objectives.</p>
<b><i>Contributing to the costs of managing waste associated with declared emergency events through use of levy funds</i></b>	
Status quo	<p>Levy funds (via the Waste Minimisation Fund) have been previously used to support projects that have a clear waste minimisation purpose / outcome in the period following a declared emergency event (for example, funding for recycling infrastructure that has been damaged during severe weather events in early 2023). This has been on an <i>ad hoc</i> basis and there is not currently any provision for ongoing use of levy revenue to contribute to the costs of managing wastes that may arise from emergency events (such as flooding or earthquakes).</p>

	Total Crown contributions to localised emergency events can vary. As an indicative example, emergency funds in the aftermath of Cyclone Gabrielle included a \$15 million solid waste management fund and a \$102 million fund for sediment and debris management.
Outcome sought	Enable establishment of 9(2)(f)(iv)
Mechanism	Targeted amendment of WMA (section 30) that permits the types of activities and functions on which the Secretary for the Environment can spend levy money.
Supplementary mechanisms	Supporting administrative provisions that will enable a contingency fund for use as required in emergencies, settings for a funding cap or threshold, and management of unused funds.
Matters for further analysis	<p>Consideration will be given to which emergencies should be eligible for funding; the types of activity that may be funded (for example collection, transportation, and management of waste), and the types of materials that might be included (for example, whether silt and forestry slash would be considered 'waste' in-scope for funding).</p> <p>Consideration of a threshold or cap on total value or percentage of levy funds that can be directed to this use and the appropriate mechanism for establishing this.</p> <p>Ensuring the funding supports existing principles for how and when central government will help local government financially in emergency response and recovery situations.<sup>5</sup></p>
<b>Funding the Ministry's waste-related work programme through use of levy funds</b>	
Status quo	<p>WMA permits the waste levy (central government portion only) to be spent on:</p> <ul style="list-style-type: none"> <li>collecting and administering the levy</li> <li>funding projects (ie, external waste minimisation projects)</li> <li>administration costs related to funding projects (eg, the costs of approving or declining funding or of auditing the projects).</li> </ul> <p>The description does not include functions (such as policy development; data and evidence; education) that are funded by the Crown through departmental expenditure.</p>
Outcome sought	Expand the range of activities able to be funded by waste levy funds to include the waste-related components of the Ministry's work programme.
Mechanism	Targeted amendment of WMA (section 30) that permits the types of activities and functions that central government can spend levy funds on.
Supplementary mechanisms	Ministry prioritisation and allocation of levy funds to departmental budget to deliver waste-related outcomes.
Matters for further analysis	<p>Addressing parts of the waste work programme that are not aligned to waste minimisation objectives (as described in the overarching purpose of WMA), such as the hazardous substances and international chemicals policy work currently included within the non-levy Resource Efficiency work programme the Minister is responsible for).</p> <p>Limited precedent for permitting core departmental expenditure to be funded from a levy revenue.</p> <p>Impact of any significant delays to amendment Bill process (in relation to Ministry's ability to fund work programme within existing baseline before the Bill is passed and takes effect).</p> <p>Consideration of any future functions that should be allowed for.</p>

<sup>5</sup> General principles are outlined in *The Guide to the National Civil Defence Emergency Management Plan 2015*.



Additional component that may be included within scope:

<b>Enabling the effective and efficient use of levy waiver and/or exemptions</b>	
Status quo	<p>The WMA currently enables discretion to grant waivers and exemptions if the decision maker is satisfied that “<i>exceptional circumstances</i>” apply.</p> <p>Section 29 of the WMA provides that the Secretary for the Environment has discretion to waive a levy payment if satisfied that exceptional circumstances justify the waiver.</p> <p>Section 41 of the WMA enables the Minister to recommend regulations specifying the type, volume or weight of any waste that is exempt from the levy; the Minister must be satisfied that exceptional circumstances apply.</p> <p>While there have not yet been exemption regulations created under section 41, there have been 45 levy waiver applications under section 29 of the WMA. Of these, 36 were approved, five declined, four withdrawn and five are currently under assessment (as of 28 February 2024). In general, waivers have applied retrospectively, having been sought and approved once the levy has been paid. Of those applications assessed and approved, all except one were in relation to an emergency event such as a cyclone, earthquake, or severe flooding. An application for levy waiver for waste being landfilled from the remediation of a contaminated site, including a vulnerable closed landfill, is unlikely to meet the grounds for waiver unless it is associated with an emergency event.</p>
Outcome sought	Enable the efficient and effective use of levy waiver and/or exemptions to support the remediation of contaminated sites, including vulnerable closed landfills
Mechanism	Amendment of the levy waiver and/or exemption provisions in WMA (sections 29 and 41 respectively) and any associated definitions. Possible alternative non-regulatory approaches to achieve the outcomes.
Supplementary mechanism	<p>Possible use of regulations to specify any levy exemption(s) (section 41 requires exemptions to be specified via regulation), including conditions.</p> <p>Possible use of guidance criteria for levy waivers</p>
Matters for further analysis	<p>Achieving a balance between reducing levy cost burden and incentivising waste minimisation and reduction of harm from waste.</p> <p>Types of waste that could be exempt from incurring the levy. Timeframe within which levy waivers can be requested. Scale of amendments required to achieve the outcomes.</p> <p>Analysis to determine if existing provisions are fit for purpose for waste from emergency management activities.</p> <p>Consideration of the consequences of non-payment of the levy on landfill capacity and levy projections over time (using limited data availability).</p> <p>Consideration of the operational and compliance and enforcement impacts of amendments.</p>



## Aide memoire: Advice on waste levy

Date submitted: 28 March 2024

Tracking number: BRF-4548

Security level: Policy and Privacy

Actions sought from ministers	
Name and position	Action sought
To Hon Chris BISHOP <b>Associate Minister of Finance</b> Copy Hon Penny Simmonds <b>Minister for the Environment</b>	For noting only

Appendices and attachments
a. N/A

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Jonathan Ryan	9(2)(a)	
Deputy Secretary	Sam Buckle	9(2)(a)	✓

# Advice on waste levy

## Purpose

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1. Following discussion with MfE officials on 27 March 2024, this aide memoire provides you with:
  - i. detail on options for increasing the rate at which the waste levy is charged
  - ii. options for expanding the scope for what the levy can be spent on
  - iii. advice around process options and considerations.

## Background

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2. The waste disposal has been progressively increased over a four-year period. The levy rate for landfills that take household waste (class 1 landfills) has been increased from \$10 per tonne – set in 2009 – to \$60 per tonne as of 1 July 2024. The levy has also been being expanded to cover additional landfill types (classes 2,3,4), including construction and demolition fills. The last planned increment in the levy is set for 1 July 2024 (see Appendix A).
3. Once the final 1 July 2024 increment is completed, It is forecast that approximately \$250-260 million in revenue will be generated annually. As set out in the Waste Minimisation Act 2008 (WMA), this revenue is split 50:50 between territorial authorities and the Ministry for the Environment – and required to be spent on waste minimisation activity. The Ministry has invested its share through the Waste Minimisation Fund (WMF) in a range of project types but with significant investment in recycling infrastructure. A portion is retained by the Ministry for administering and monitoring these activities (including compliance associated with payment of the levy and funds investment).
4. Based on previous Ministerial direction in March 2024, an amendment to the WMA is currently intended. This would enable the waste levy to be used for an expanded set of waste-related purposes and in doing so allow for some existing Crown costs to be offset – approximately \$100m over 4 years (including the remediation of contaminated sites and vulnerable landfills, waste clean-up costs associated with severe weather and wider Ministry related waste-related minimisation work).
5. You have subsequently asked for additional advice on options for both a) increasing the rate of the levy and b) further expanding the potential use of the levy, with a view to considering these options in relation to Budget '24 decisions.

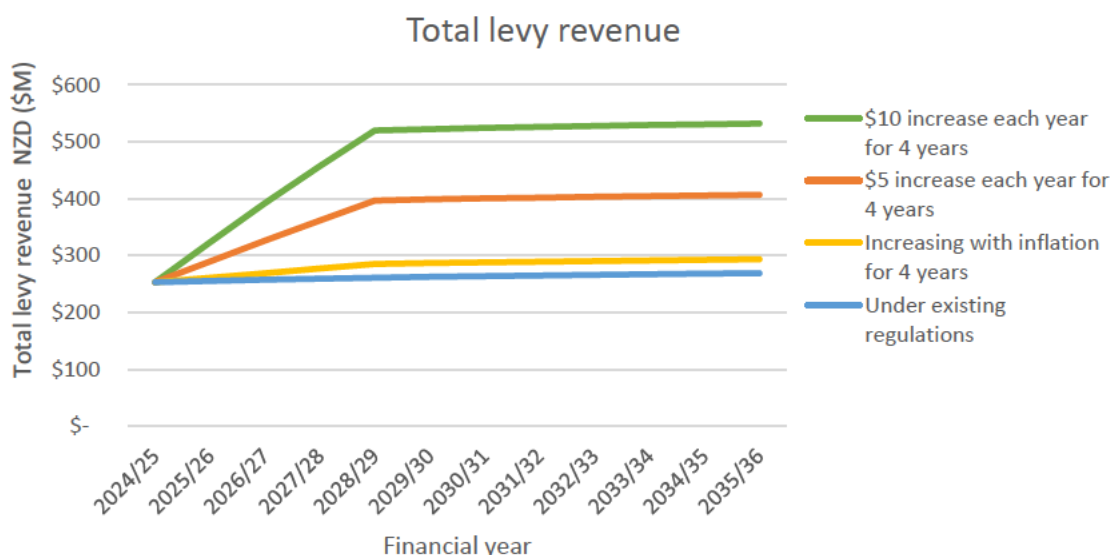
## Options for increasing the rate of the levy

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6. There are a wide range of options for increasing the rate of the levy, with potential variations in the extent of the increase and the distribution of the increase across different landfill class types.

7. The potential revenue generated by an increase in the rate of the levy is set out below based on three scenarios:
- Increasing the levy over 4 years at a rate linked to inflation
  - An annual increase of \$5 per tonne of waste to all landfills for the next 4 years
  - An annual increase of \$10 per tonne of waste to all landfills for the next 4 years
8. Note that all scenarios assume the following: additional increases beginning from 1 July 2025/26, a four-year period from 2025/26-2029/30<sup>1</sup>; retention of the existing differential in levy rate across landfill class types; territorial authorities retain 50% of revenue.

Scenario	Period	Local govt (\$M)	Central govt (\$M)	Total revenue (\$M)	Additional revenue (\$M)
Under existing regulations	2025/26 to 2028/29	\$516	\$516	\$1,033	-
Under existing regulations	2029/30 onwards	\$131 p/a	\$131 p/a	\$262 p/a	-
<b>Increasing with inflation for 4 years</b>	<b>2025/26 to 2028/29</b>	<b>\$546</b>	<b>\$546</b>	<b>\$1,091</b>	<b>\$59</b>
Increasing with inflation for 4 years	2029/30 onwards	\$144 p/a	\$144 p/a	\$287 p/a	\$25
<b>\$5 increase each year for 4 years</b>	<b>2025/26 to 2028/29</b>	<b>\$687</b>	<b>\$687</b>	<b>\$1,374</b>	<b>\$342</b>
\$5 increase each year for 4 years	2029/30 onwards	\$200 p/a	\$200 p/a	\$399 p/a	\$136
<b>\$10 increase each year for 4 years</b>	<b>2025/26 to 2028/29</b>	<b>\$846</b>	<b>\$846</b>	<b>\$1,693</b>	<b>\$660</b>
\$10 increase each year for 4 years	2029/30 onwards	\$261 p/a	\$261 p/a	\$522 p/a	\$260



<sup>1</sup> Note the four year period in this paper does not align with the budget period with only three of the four years falling within the budget period. Accordingly all budget period revenue assumptions are lower than those referred to in this paper.



9. Under the first scenario - indexing the levy rate to inflation (assumed inflation of 2.5% p/a) – an additional \$59m in revenue would be generated over four years (2025/26 – 2028/29). After four years it is projected that there would be an additional \$24m ongoing in annual revenue available.
10. Under scenario two – an annual increase of \$5 per tonne – an additional \$342m in revenue would be generated over four years (across central and local government). After four years it is projected that there would be an additional \$136m ongoing in annual revenue available across central and local government.
11. Under scenario three – an annual increase of \$10 per tonne – an additional \$660m in revenue would be generated over four years (across central and local government). After four years it is projected that there would be an additional \$260m ongoing in annual revenue available across central and local government.
12. Note that if it was preferred not to increase the levy across all landfill classes (e.g. classes three and four), this would reduce revenue for central government to potentially \$100 to \$120 million.

### ***Increased Levy Rate – Key Considerations***

13. There are a number of key considerations / impacts / risks to have in mind in considering options for increasing the levy rate.

#### Cost of Living

14. Increasing the levy rate would increase costs to households as levy costs are passed through to households either through direct charges at landfills or applied on rubbish bags/bin costs. The estimated costs to households of a levy rate increase under the three scenarios range from \$3.38 per annum under existing regulations to \$16.90 per annum with a \$10 annual increase.

	Under existing regulations	Increasing with inflation for 4 years	\$5 increase each year for 4 years	\$10 increase each year for 4 years
Baseline cost (52 rubbish bags)	\$182.00	\$182.00	\$182.00	\$182.00
Extra cost annually associated with levy increase	\$3.38	\$5.49	\$10.14	\$16.90
Increase in bag cost (%)	2%	3%	6%	9%

15. There would also be cost implications to businesses as well, including some additional building construction costs. These could be modelled / estimated with more time.

#### Levy Incentives

16. The levy can generate both positive and negative incentives. On the one hand, a higher levy creates a stronger incentive to divert materials from landfill and to explore opportunities for recovery and recycling of materials. This would of course have some downward impact on revenues generated.

17. On the other hand, levy rate increases would generate some additional risk of levy avoidance behaviour. This could take the form of dumping or it could involve waste being improperly diverted to landfills with lower levy rates. These are risks that already exist. The extent of additional risk will be influenced by the level of any increase, how consistently it is applied across landfill types and level of compliance and monitoring activity undertaken by the Ministry and territorial authorities.

#### Levy Increase Implementation

18. Any additional changes to the waste levy will require implementation by the Ministry and landfill operators. There would be significant challenges attempting to make changes that would take effect in the short to medium term. The final increase to the levy rate as currently intended is set for 1 July 2024 and the work to prepare for this increase has largely been completed. Implementing any future increases would require adjustments to the Online Waste Levy System (OWLS), and engagement with the waste sector. [REDACTED]

9(2)(b)(ii)

[REDACTED] Given a scheduled increase of \$10 per tonne on 1 July 2024 and the work to implement the changes, the Ministry considers that implementation of future rates increases should occur no sooner than 1 July 2025.

### **Options for expanding scope of levy investment / spend**

19. Presently, the WMA sets out that the waste levy revenues must be invested in activities that support waste minimisation. The central Government share of the levy is primarily invested via the WMF, a contestable fund, focused on projects and initiatives that prevent or reduce waste (the accompanying briefing paper sets out a list of projects funded in recent years). [REDACTED]

9(2)(h)

20. There is a spectrum of potential options for expanding the scope of activities for which the waste disposal levy can fund. All would require legislative change. The status quo ("waste minimisation") sits at the narrow end of the spectrum. Full de-hypothecation of the levy revenue (i.e. effectively treating the levy as a tax) sits at the broadest end of the spectrum. Ministers have previously indicated they do not favour this option. This briefing focuses on two options that would extend the scope of potential levy investment and broaden the range of Crown costs that could be offset by levy revenue – but which would remain within the boundaries of a waste or environmental levy.

#### Option 1 – Waste-Related Activities

21. This is the option that was previously identified as the preferred option of Ministers. It would involve amending the WMA to enable investment in a broader range of waste related activities. In addition to existing "waste minimisation" activities currently funded via the levy, it could allow for the government to fund activities including: the remediation of vulnerable landfills and contaminated sites; set aside revenue to provide for the funding of waste-related severe weather recovery (such as the clean up of debris and waste created by Cyclone Gabrielle – Crown expenditure on sediment and debris clean up across Hawkes Bay and Gisborne totalled \$232 million with additional \$15 million in

solid waste funds); waste-water related projects; more of the Ministry's waste-related work programme (e.g. policy and data).

22. The Ministry has previously submitted this option to Ministers involving approximately \$100m in savings (cost offsets) over the next four years.
23. Depending on detailed legislative design, this broader set of funding / investment activity could also be made available to territorial authorities through their share of the levy.
24. Note that further analysis of the detailed option would be required, but these changes could potentially be enabled without a change to the purpose of the WMA.

#### Option 2 – Environmental Activities

25. An alternative option that would further broaden the potential scope of levy investment and Crown cost offsets would be to enable the levy to be spent on a range of environmental activities. Australia is illustrative of the range of potential approaches. In some states waste disposal levy investment is focused primarily on waste reduction, recycling and resource recovery (Western Australia, Queensland). In other states, the government spends the levy on a broader environmental activities and projects (Victoria).

26. The Ministry has only undertaken provisional analysis of this option, and there are quite a range of choices that sit within it. Beyond the immediate boundaries of waste-related activities, those choices extend to activities focused on contamination and hazardous substances, climate, biodiversity or freshwater. 9(2)(f)(iv)

27. While this option does have the potential to offset greater Crown costs, there are some important considerations to have in mind.
28. First, enabling the waste levy to fund broader environmental activities or offset a wider range of environmental related Crown costs would require a change to the purpose of the WMA and potentially quite complex legislative redesign. Second, the more indirect the relationship between waste and the funded activity, the more likely the levy will be regarded as a form of tax. Third, quite a lot of intensive work would be required in order to be clear on the specific savings that could be assumed for the purpose of near-term budget decisions.

## **Legislative and Regulatory Change Considerations**

29. Broadening the scope of potential levy spending requires legislative change, whether Option 1 or Option 2. The more contained change set out in Option 1 (as per earlier Ministerial direction) is less complex and at this stage we do not consider it would require a change to the purpose of the act. Option 2 is a more comprehensive legislative reform, would involve more complex legislative design, including a material change to the purpose of the Act. Minister Simmonds has already signalled an intention to undertake wider reform of the WMA so if more comprehensive change to the levy provisions is pursued this could be done in concert with wider WMA reforms.

Additionally, given the more significant shift involved in Option 2 we consider it would likely invite more public interest and benefit more from a fuller consultation and select committee process.

30. One option would be to progress the narrower change in scope as a short-term, post budget priority, and to then consider wider change to the scope of the levy through a subsequent WMA reform bill in 2025. ***At this point, this would be the Ministry's recommended approach.***
31. The WMA includes provisions to change levy coverage/rates through a regulatory amendment process (involving statutory considerations of considering costs/benefits of the proposals, consultation, advice from the Waste Advisory Board).
32. 9(2)(h) [REDACTED]

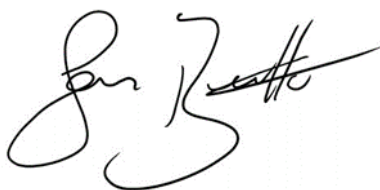
## Next steps

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33. Minister Simmonds is currently intending to submit a Cabinet paper (for consideration at CBC on 15 April) that seeks decisions on the expansion of the use of the levy as per the earlier direction from Ministers (ie Option 1) in order that decisions can be accounted for in Budget 24.
34. We suggest that delivering Option one is a sensible step to take at this point and will enable savings to be delivered via Budget 24, as well as support Minister Simmonds priorities.
35. Option two has merit in the medium to long term, particularly alongside an increase in levy rates. Ministers have the option of progressing work on a possible levy increase and broadening the scope of the levy (i.e. option two) over the next twelve months as part of Minister Simmonds proposed review of the WMA. This is also in alignment with the Blueprint for the Environment intent to adjust levy settings to better direct funds towards projects that promote waste minimisation and resource recovery and ensuring optimal use of levy revenue, and drive sustainable growth in line with international best practice.

## Signatures

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Sam Buckle  
Deputy Secretary Climate Change Mitigation  
and Resource Efficiency  
**28 March 2024**

Hon Chris BISHOP  
**Associate Minister of Finance**  
**Date**

# Briefing: Draft Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*

**Date submitted:** 3 April 2024

**Tracking number:** BRF-4559

**Security level:** Policy and Privacy - Budget Sensitive

**MfE priority:** Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Penny SIMMONDS <b>Minister for the Environment</b>	Provide feedback on the attached draft Cabinet paper. Circulate the attached draft Cabinet paper (with your amendments) for Ministerial and Coalition Partner consultation.	Ministerial/coalition consultation to commence 4 April 2024

Actions for Minister's office staff
<b>Return</b> the signed briefing to the Ministry for the Environment ( <a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a> ). <b>Finalise</b> the attached draft letter to the Waste Advisory Board for the Minister's signature

Appendices and attachments
<ol style="list-style-type: none"> <li>1. Draft Cabinet paper: <i>Investment of the waste disposal levy to achieve Government priorities</i>.</li> <li>2. Talking points for Cabinet Business Committee meeting.</li> <li>3. Further detail on contaminated sites.</li> <li>4. The draft report <i>Review of the effectiveness of the waste disposal levy</i></li> <li>5. Draft cover letter for the Waste Advisory Board</li> </ol>

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Helen Bolton	-	-
Responsible Manager	Monique Esplin	9(2)(a)	-
General Manager	Glenn Wigley	9(2)(a)	✓

Minister's comments

# Draft Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*

## Key messages

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1. This briefing provides you with background information for your Cabinet paper, *Investment of the waste disposal levy to achieve Government priorities* (appendix 1), ahead of Ministerial consultation that is expected to commence on 4 April. We wish to draw your attention to the risks associated with legislative amendments to the Waste Minimisation Act 2008 (WMA) and how these may be mitigated.
2. As Budget-related decisions need to be confirmed by 29 April, this Cabinet paper will be subject to a shortened ministerial and agency consultation period (4-10 April) with the intention of lodging the paper on 11 April, for consideration by the Cabinet Business Committee (CBC) on 15 April. We have provided talking points to support your discussion at CBC (appendix 2).
3. The Cabinet paper seeks agreement on legislative amendments and your investment priorities. It also provides an updated on scheduled changes to waste disposal levy (levy) and reporting regulations.
4. Amendments that broaden the use of levy funds and therefore the purpose of the levy (as described in section 25) must be in keeping with the overall purpose of the WMA.<sup>1</sup>
5. Our analysis indicates that a small portion of sites previously funded by the Contaminated Sites Remediation Fund (CSRF) have not resulted in waste disposal or waste minimisation and therefore would not be consistent with the overall purpose of the Act (e.g. one site was securely encapsulated to remove connection to the environment). To be eligible for funding from the expanded use of the waste levy these sites will need to have a reduction in waste disposal or waste minimisation component to the project. However, the proposals in the Cabinet paper will result in the ability to invest in the remediation of a significantly larger number of contaminated sites, achieving a significant reduction in harm to the environment.
6. We are aware that Minister Bishop is interested in the possibility of further amendments to waste levy settings, in terms of levy rates and the use of levy funds. This Cabinet paper notes your intention to progress targeted amendments as rapidly as possible (to enable the changes from early in FY2024/25) and to pursue wider reform of waste legislation as a separate piece of legislative reform (with policy development to continue in or beyond 2024). The wider waste legislation reform process will be an opportunity to consider additional purposes for the use of levy funds to support the government's environmental priorities and to fully assess broadening the purpose of the WMA to provide for the funding of the full suite of possible contaminated site projects.

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<sup>1</sup> Purpose of the WMA as stated in section 3 is “to encourage waste minimisation and a decrease in waste disposal in order to: (a) protect the environment from harm; and (b) provide environmental, social, economic, and cultural benefits.”

## Recommendations

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We recommend that you:

- a. **provide** feedback on the attached draft Cabinet paper to enable a revised draft to be prepared for consultation with your Ministerial and Coalition Party colleagues to commence on 4 April 2024
- b. **note** that we intend to run agency consultation in parallel with the Ministerial and Coalition Partner consultation from Wednesday 3 April 2024 to Wednesday 10 April 2024.
- c. **note** that we have provided talking points to support you when you introduce the Cabinet paper to the Cabinet Business Committee on 15 April 2024.
- d. **note** that due to the timeframes, no regulatory impact assessment has been completed for the Cabinet paper. Instead, we will provide you with a Supplementary Analysis Report for when the Bill is presented to the Cabinet Legislation Committee.
- e. **note** that the Minister for the Environment is required to review the effectiveness of the waste disposal levy periodically (see appendix 4) and this Cabinet paper would be an opportunity to inform your colleagues of this review.
- f. **agree** to seek and consider the input on the Waste Advisory Board on the draft *Review of the Effectiveness of the Waste Disposal Levy*, with the letter attached at appendix 5, to enable the review to be finalised and published.

Yes | No

## Signatures

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Glenn Wigley

**General Manager – Waste & HSNO Policy**

**3 April 2024**



Hon Penny SIMMONDS

**Minister for the Environment**

# Draft Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*

## Purpose

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7. The purpose of this briefing is to provide further information to accompany your Cabinet paper *Investment of the waste disposal levy to achieve Government priorities*, ahead of Ministerial and Coalition Partner consultation. This briefing highlights the risks associated with the proposed legislative amendments to the waste disposal levy (levy) provisions in the Waste Minimisation Act (WMA) and includes talking points to support you at the Cabinet Business Committee meeting on 15 April 2024.
8. This briefing also presents the draft report *Review of the effectiveness of the waste levy* and recommends that you seek and consider the advice from the Waste Advisory Board on this report, as is required under the WMA.

## Background

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### Legislative amendments are proposed to better achieve Government priorities for waste

9. You have agreed to progress amendments of the WMA to widen the scope of central government levy investment (BRF-4313 refers). The next step is to seek Cabinet agreement to these proposals.
10. We have enclosed a draft Cabinet paper (appendix 1) which outlines:
  - i. proposed amendments to the WMA to:
    - enable the levy to be spent on remediation of contaminated sites (including vulnerable landfills), emergency waste, and the Ministry's waste work programme
    - allow for levy waivers for the disposal of materials from contaminated sites (including vulnerable landfills) where appropriate
  - ii. changes to the funding criteria for the Contaminated Sites Remediation Fund (CSRF), and to rename it the Contaminated Sites and Vulnerable Landfills Fund
  - iii. proposed priorities for investing the central government portion of the levy
  - iv. upcoming changes to levy and reporting obligations set in regulation (for noting)
  - v. opportunities for further legislative reform to the WMA in the future, including the potential for further increases to the levy and the ability to invest the levy in additional environmental priorities
  - vi. the proposed approach to communicating your investment priorities and waste work programme to the sector, including through your speech at the WasteMINZ

conference on 28 May 2024, and release of a report on the effectiveness of the waste disposal levy (outlined in more detail below).

## Analysis and advice

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### Contaminated site remediation projects will be required to minimise waste

#### Contaminated sites are remediated in a number of different ways

11. The Resource Management Act 1991 (RMA) defines contaminated land as land with hazardous substances in or on it that has significant adverse effects on the environment or is reasonably likely to have significant adverse effects on the environment (including human health). Contaminants can be from waste disposed of to land, from industrial processes and agricultural activities, or through leaks from facilities that were meant to keep the materials secure. Contamination can happen in a single event or build up over time, for instance as metals leach out of mining tailings. Sometimes contaminants are by-products of other processes (see appendix 3).
12. The remediation of a contaminated site, including vulnerable landfills, may involve the disposal of waste. Some remediation techniques, such as encapsulation or treatment of the soil in-situ, do not result in any waste disposal. Minimising waste from the remediation of a contaminated site can be difficult due to the hazardous nature of the contaminants. The waste minimisation potential will vary from site to site depending on a variety of factors such as type of contamination, location, time of deposition and site conditions.
13. The draft Cabinet paper (appendix 1) proposes amending the purpose of the levy in section 25 to broaden the scope of what the waste levy could fund (rather than amending the overall purpose of the WMA in section 3). The aim is to allow the waste levy to be used for the remediation of contaminated sites whilst complying with the overall purpose of the WMA which is to encourage waste minimisation and a decrease in waste disposal in order to —
  - a. protect the environment from harm; and
  - b. provide environmental, social, economic, and cultural benefits.
14. The policy focus is on protecting the environment from harm from waste by remediating contaminated sites, and where possible, using the fund criteria and assessment process to encourage the remediation techniques to minimise the amount of waste disposed to landfill.
15. The proposals in the paper propose replacement of the current allocation of \$2.628 million per annum in the Contaminated Sites Remediation Fund, to utilising the waste levy with a proposed envelope of 15 to 25 per cent equating to approximately \$18 million to \$30 million per year. This will allow a greater ability to invest in the remediation of a significantly greater number of sites and achieve positive environmental outcomes.
16. A proportion of contaminated site projects that do not result in any reduction of waste disposal or waste minimisation, may not be able to be funded using the waste levy. This is because it would not meet the purpose of the WMA as stated in section 3.

17. [REDACTED] 9(2)(h) [REDACTED]  
[REDACTED]  
[REDACTED]
18. Despite the limited data, officials consider the number of likely affected sites to be low and the benefits from the remediation of contaminated sites, in terms of overall reduction in harm to the environment, to be high. Most contaminated site remediation projects will be able to incorporate waste minimisation outcomes. Alternative funding could be considered for any out-of-scope projects and applicants can be encouraged to seek waste minimisation outcomes in their remediation techniques. This mitigates any potential negative response to broadening the purpose of the levy.
19. To fund the remediation of the whole potential breadth of contaminated sites the overall purpose of the WMA in section 3 would need to be broadened. This approach was discussed in advice to yourself and Minister Bishop about the options for the waste levy including to expand the scope and amount of the waste levy [BRF-4548]. Our recommended approach is to progress the narrower amendment in the short-term and to then consider wider change to the scope of the levy through a subsequent WMA reform Bill in 2025.
20. Given the limited timeframes of this amendment process, officials do not recommend progressing a change to the overall purpose of the WMA. This is because we advise this needs to be considered for all the provisions throughout the Act (as opposed to just the waste levy provisions) to avoid unintended consequences.
21. We propose to examine this option in detail as part of the wider waste legislation form work programme which has already been submitted to the Legislative Programme as a 9(2)(f)(iv) [REDACTED].
22. If there are any remediation projects that fall outside of the revised funding scope, alternative funding options include:
- i. funding any shortfall remediation projects and ineligible emergency waste activities through a specific Budget appropriation
  - ii. funding any shortfall remediation projects and ineligible emergency waste activities through the Ministry for the Environment departmental budget, noting the funding would need to be reallocated from other Ministry for the Environment work programmes
  - iii. not funding the shortfall remediation projects and ineligible emergency waste activities until the wider waste legislative reforms have been completed.

## Using the levy waiver provision has limitations

23. Remediation of contaminated sites frequently involves disposal of some contaminated materials to landfill. At present, such disposal is subject to the levy and this cost may become a barrier to remediation in some cases. A levy waiver could save some projects between 1 and 24 per cent of total waste disposal costs. Without this proposed waiver, funding the remediation of contaminated sites using the levy may also result in levy funds being used to pay the levy upon disposal of waste materials. This is an unintended outcome and an inefficient circular flow of levy funds to and from similar projects through central

government. This could cause confusion amongst the waste sector about the government's incentives to minimise waste disposed to landfill.

24. Therefore, we have proposed amending the waiver provisions in the WMA to enable the Secretary for the Environment to waive the levy for waste disposal in specific circumstances and to impose conditions as appropriate. While a range of other mechanisms were considered<sup>2</sup> we propose this approach achieves the right balance of timeliness and flexibility to meet the desired policy intent.
25. We note that this option could present an administrative burden, depending on how many sites seek a waiver, particularly following an emergency event. Cyclone Gabrielle resulted in 22 applications for a levy waiver (17 approved, five in assessment).
26. As an alternative approach, there are several benefits from using a regulation-making power to exempt the payment of the levy in specified situations. One benefit is that the regulations would be subject to Cabinet scrutiny and regulatory impact analysis requirements, and the safeguards of publication, presentation, and disallowance. Levy regulations will also involve consultation with affected parties. Using the regulation powers would ensure a consistent and tailored approach across all eligible scenarios across the country which would ensure transparency and consistency in decision making.
27. The regulation could also specify if the change was for the waste going to all types of landfills, or it could specify a certain class or classes of landfill (for example, making the levy exempt for Class 1 landfills only). The regulation could also have a review period or expiry date applied so that as more data about contaminated sites, particularly vulnerable landfills, becomes available, the regulation could be reviewed and changed if required.
28. The most significant disadvantage to using the regulation-making option is the time needed to develop and implement the regulation. As this reform process is being progressed at pace, to realise the fiscal savings as soon as possible, we have recommended amending the waiver provisions instead.
29. Officials recommend that the use of the regulation-making powers is assessed in more detail as part of the wider waste legislation reforms to ensure the most efficient and effective means of providing for levy waivers and exemptions is provided in the long-term. This will also enable the specific regulation-making power to be considered in the context of broader changes including the possibility of other regulation-making powers for the purpose of the broader waste legislative reform.

## **Funding more of the Ministry's waste-related work programme**

30. The Cabinet paper seeks agreement to amend the WMA to allow more components of the waste-related work programme to be funded using levy funds. The WMA currently allows for some functions to be levy-funded, which broadly covers levy administration (for example, levy collection activities and compliance of the levy regime) and administration for levy-funded projects (for example, activities associated with considering and approving projects for funding).

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<sup>2</sup> Exemptions using existing regulation-making provisions including refunds or exemption for waste type; amending existing regulation-making provisions or a non-regulatory approach.

31. Following your feedback [BRF-4313 refers] we have referenced the Ministry functions and activities that will be supported by the broadened use of levy funds. This includes:
- i. product stewardship (supporting co-design of schemes for declared priority products, developing regulations for proposed schemes, implementation activities)
  - ii. policy development and implementation (including for legislative amendment proposals)
  - iii. data and evidence (collecting, maintaining and publishing waste data).
32. The proposal to allow the waste levy to be used to support more of the waste-related work programme is likely to draw particular interest and potentially some criticism. While there has been previous consultation to explore the use of levy funds, this has steered away from proposing a connection to more of the Ministry's functions.
33. Additionally, there is also the issue of how investment priorities will be managed when there are additional demands on the central government portion of levy funds. For example, based on the current suite of proposals, the central government portion of levy funds would comprise the following components:
- i. investment funds (ie, Waste Minimisation Fund, Plastics Innovation Fund, Contaminated Sites and Vulnerable Landfills Fund)
  - ii. 9(2)(f)(iv) for emergency waste management
  - iii. the Ministry's waste-related work programme (including levy collection and administration, funds administration, policy, implementation, data).
34. This matter is discussed further in the 'risks and mitigations' section of this briefing.

## Emergency waste management activities

35. Natural disasters such as flooding and earthquakes can generate large quantities of waste materials. Often the materials need managing within a short timeframe, to prevent risks to human health and the environment, and to enable communities and businesses to restore regular activities. There are frequently opportunities for resource recovery from emergency waste materials, although in some situations this may be difficult for practical reasons.
36. In the context of climate change, natural disasters that generate emergency waste are expected to become more frequent and have more severe impacts. Responding to these situations is currently *ad hoc* and would benefit from a more structured and planned approach.
37. As the scale and frequency of emergencies increases, the fiscal impact on local and central government is likely to be substantial. 9(2)(f)(iv) and clear parameters for its use will enable a more rapid response to emergencies and provide clarity to local government about what support is likely to be available. It would also improve public transparency about funding priorities.
38. 9(2)(f)(iv)

9(2)(f)(iv)

39. 9(2)(f)(iv)

9(2)(f)(iv)

Topic	Considerations
Scope	<p>9(2)(f)(iv)</p> <p>Recent experience has been that even in the aftermath of an emergency there are frequently opportunities for resource recovery (such as processing of organic wastes in composting or anaerobic digestion facilities, salvage of damaged fence posts, and reuse of sediments and silts). There is already provision to waive the levy for disposal of wastes generated by an emergency, but covering all the disposal costs could provide an incentive to dispose of wastes rather than seeking opportunities to divert materials to beneficial uses. Further, the generally accepted framework for central government support to local government in emergency situations is that central government fund 60 per cent of costs, and local government funds 40 per cent. Therefore, disposal costs (where necessary) could be met by the local government share.</p>
Types of waste	<p>Recent natural disasters such as Cyclone Gabrielle generated widespread deposition of silt, sediment, and forestry slash. In some circumstances, these materials may not meet the definition of 'waste' in the WMA, but this is context-dependant (for example, such materials may be combined with other mixed debris such as household waste and in practical terms it may not be possible to distinguish between the materials). In some cases, there are existing pathways to fund management and removal of these materials. For example, work is underway to ensure forestry companies contribute appropriately to management of forestry slash. EQC Toka Tū Ake may also cover some costs of clearing mixed silt and debris.</p> <p>To accommodate this complexity, it is proposed to enable the Secretary for the Environment to specify by notice in the <i>Gazette</i> additional detail on which specific wastes associated with a specific emergency event would be eligible for funding, along with consequential changes to reflect this in the interpretation section of the Act.</p>
Eligibility	<p>9(2)(f)(iv)</p>

	<p>9(2)(f)(iv)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>
How 'emergency' should be defined	<p>As outlined in the draft Cabinet paper, it is proposed to use a wide definition of 'emergency' in line with the definition in the Civil Defence Emergency Management Act 2002.</p>

## Presenting your investment priorities

40. The draft Cabinet paper also seeks agreement on your proposed priorities for investing the levy, as outlined in BRF-4090. Officials have incorporated your feedback on BRF-4090 into the draft Cabinet paper. You have indicated you wish to seek Cabinet's agreement on the investment categories and priority waste streams.
41. Rather than seeking Cabinet's agreement on the portion of levy revenue to be invested in each category, officials suggest that Cabinet note the indicative portions you propose to allocate to each investment category.
42. This approach is proposed so that you can clearly communicate your intentions to your colleagues and the waste sector, without being overly constrained by specific levy shares for each category. This flexibility is necessary to accommodate specific circumstances that may arise (for example, a project that demonstrates significant value for money compared to other applications but would otherwise exceed the 'envelope' for a particular investment category).
43. Once the amendment Bill takes effect, new criteria can be set by notice in the *Gazette* to reflect your priorities, including to:
  - Outline eligibility criteria for the new Contaminated Sites and Vulnerable Landfills Fund that is proposed to replace the current Contaminated Sites Remediation Fund (these criteria were previously set by Cabinet in 2006, but the Cabinet paper proposes to rescind that decision and instead set new criteria by notice in the *Gazette*, in the same way that criteria are currently set for the Waste Minimisation Fund and Plastics Innovation Fund)
  - Update any other criteria as required to give effect to your decisions.



44. The process for updating the funding criteria is to seek and consider feedback from the Waste Advisory Board and then publish the criteria in the *Gazette*.

## **Review of the effectiveness of the levy**

45. You are required to review the effectiveness of the levy every three years. An interim review was undertaken in 2019/2020 and led to proposals to improve the levy's effectiveness by expanding its coverage and increasing levy rates.
46. In reviewing the levy, the Minister must consider whether the amount of waste disposed of in New Zealand has decreased and whether the amount of waste reused, recycled, or recovered in New Zealand has increased since the last review.
47. A draft review has been carried out for the period of the 2019/20 financial year to the 2021/22 financial year (ie, 1 July 2019 to 30 June 2022) (see appendix 4). The review sets out the key metrics (waste volumes to landfill and diversion rates) and details the initiatives undertaken to support waste minimisation outcomes. These initiatives include levy collection and compliance activities, enhanced investment processes to ensure accountability for levy spend, and setting a common strategic direction through the national waste strategy.
48. Officials suggest you use your Cabinet paper to inform your colleagues of your intention to finalise and publish this review and have included some information in the *Communications* section of the draft Cabinet paper for this purpose.
49. The next step for finalising the review is to seek and consider advice from the Waste Advisory Board. A draft letter for this purpose is included at appendix 5. Once this advice has been incorporated, the report can be finalised and published on the Ministry's website.

## **Changes to upcoming levy and reporting requirements**

50. As requested, the Cabinet paper also outlines upcoming changes to the levy and reporting requirements. As covered in BRF-4396, the usual process for making any further changes would be through a regulatory change process and would involve statutory considerations for the decision-maker (considering the advice of a Waste Advisory Board established under the Act; adequate consultation with affected parties; and consideration of the costs and benefits of the proposals).
51. However, if required this legislative amendment process could also be used to make further changes (eg, to change the rate of the levy). Officials do not recommend this approach as there would be limited time to analyse the costs and benefits of any such change.
52. Officials have also identified a need for further minor legislative amendment to remedy a discrepancy in reporting requirements in the Waste Minimisation (Information Requirements) Amendment Regulations 2023 (see BRF-4451). Clause 5A of the regulations creates an obligation for disposal facility operators to report to the Ministry on a monthly basis. However, clause 5A was intended to refer to regulation 6 of the Waste Minimisation (Information Requirements) Regulations 2021 which requires quarterly reporting.
53. The Parliamentary Counsel Office (PCO) is liaising with the Cabinet Office about whether this can be remedied by your approval for amendment regulations which would then enable officials to instruct PCO to make this minor change to the regulations without a Cabinet process. If the Cabinet Office do not approve this option, we recommend adding an

additional recommendation in the Cabinet paper to fix the error through amendment regulations which would be separate to the proposed waste levy Bill.

## Te Tiriti analysis

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54. Te Tiriti analysis was outlined in BRF-4313.

## Other considerations

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### Consultation and engagement

55. Consultation and engagement information was outlined in BRF-4313.

56. We note that BRF-4313 also provided an indicative timeline for the progress of the Bill and that this included a truncated Select Committee process. This limits the opportunity for engagement on the proposed amendments.

### Risks and mitigations

57. As discussed in the Analysis and Advice section, it is unlikely that the full scope of historical CSRF activities will fall within the purpose of the levy and, critically, the overall purpose of the WMA. To reduce the potential reputational risk with the waste sector, landowners of contaminated sites and others, clear communications to manage their expectations and explain the rationale and benefits from the decisions will be required. Consistent, cohesive communications should cover the broader use of the levy and the ongoing management of priorities for use of levy funds. Officials will work with your office to develop the key messages.

58. Additionally, with the use of levy funds incorporating an expanded range of functions and activities there will be a need to appropriately manage and communicate priorities. Part of the mitigation approach is being clear to stakeholder about intentions 9(2)(f)(iv)

59. Management of emergency waste can be a significant draw on local and central government resources. As an indication of the potential demands on Crown funding, emergency funds required in the aftermath of Cyclone Gabrielle included a \$15 million solid waste management fund, and a \$102 million local authority fund for sediment and debris management. 9(2)(f)(iv)

60. Because the legislative amendments will not create a hierarchy of funding needs, you will need to carefully prioritise funding decisions to balance the need to achieve your waste minimisation goals, as well as the additional funding areas the amendments to the WMA will enable.

## Legal issues

61. 9(2)(h)
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

## Financial, regulatory and legislative implications

62. As outlined in BRF-4313, the proposals in the Cabinet paper, if progressed, will result in financial and legislative implications. Enabling central government to spend levy revenue on additional waste-related matters will enable overall Crown savings, which will have financial implications for the CSRF, emergency waste management activities, and the Ministry's waste-related work programme as these functions will be able to levy funded (ie, not a Crown expense).
63. The Ministry will prepare a Supplementary Analysis Report to accompany the Cabinet paper seeking agreement of the draft Bill before its introduction to the House of Representatives (expected June/July).

## Next steps

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64. We will update the draft Cabinet paper to incorporate your feedback and feedback from consultation with other agencies, Ministers, and the Coalition Partners. A second draft will be provided to you for your approval prior to lodgement for the Cabinet Business Committee, which will be held on 15 April 2024.
65. Due to the timeframes for the progression of the reform, no regulatory impact assessment has been completed to accompany the Cabinet paper. We will provide you with a Supplementary Analysis Report for when the Bill is presented to the Cabinet Legislation Committee.

## **Appendix 1 – Draft Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities***

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Provided separately

## Appendix 2 – Talking points for Cabinet Business Committee

### *Proposed amendments to the Waste Minimisation Act 2008*

1. I am proposing amendments to the Waste Minimisation Act to help better achieve Government priorities for waste, including improved management of emergency waste, contaminated sites and landfills vulnerable to the effects of climate change, and continuing to implement my waste work programme, within the overall context of a need for fiscal restraint.
2. I am proposing targeted amendments and additional re-prioritisation to align with government priorities, which will enable overall savings to the Crown from the 2024/25 financial year of around \$104 million over four years.<sup>3</sup> 9(2)(f)(iv)
3. These amendments target waste levy provisions in the WMA to:
  - contribute to the costs of remediating contaminated sites, including vulnerable landfills by broadening the types of activities able to be funded by the levy.
  - contribute to the costs of waste management activities following civil emergencies by creating a contingency fund through use of levy funds. I propose that \$10 million be set aside per year as a contingency for emergency waste management.
  - fund more of the Ministry for the Environment's waste-related work programme with use of levy funds (including establishing product stewardship schemes for declared priority products; policy development; data and evidence) in addition to the functions currently funded (levy collection and compliance; levy administration; investment administration).
  - allow the levy to be waived for disposal of materials from contaminated site remediation, to ensure the levy is not a barrier to remediation.

### *Potential for wider waste legislative reform*

4. The Contaminated Sites Remediation Fund has been funded through its own appropriation. Therefore, it operated under guiding principles and eligibility criteria set by Cabinet in 2006. The waste levy may not be able to fund a small number of contaminated site remediation activities as the current CSRF and I intend to investigate alternative funding options if this occurs.
5. However, the total amount of funding available to support the remediation of contaminated sites will increase significantly resulting in a reduction in harm to the environment.
6. I have also put forward a bid on the Legislative Programme 2024 for wider waste legislative reform. This will be the appropriate vehicle to consider matters beyond the scope of this current amendment process for reasons of complexity, limited policy development, stakeholder engagement, etc (such as amendments to levy rates and/or use of levy funds to support other environmental priorities).

### *Investment priorities*

7. I am seeking Cabinet's endorsement of my waste investment priorities over the next three years, including:
  - remediation of contaminated sites, including vulnerable landfills
  - waste and resource recovery infrastructure
  - addressing specific waste streams and materials, such as: construction and demolition materials; organic waste (with potential for emission reduction benefits); plastics;

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<sup>3</sup> These amendments do not affect the portion of levy funds distributed to territorial authorities or their use of levy funds.

kerbside recyclables; priority products (to support product stewardship schemes for e-waste, agrichemicals and farm plastics, plastic packaging, and refrigerant gases).

***Other levy-related matters***

8. The levy rates for municipal (class 1) and construction and demolition (class 2) landfills are scheduled to increase by \$10 per tonne from \$50 per tonne to \$60 per tonne from 1 July 2024. Additional record-keeping and reporting requirements will also take effect then, which will substantially increase the available information on the types and quantities of waste being managed and disposed of.

## Appendix 3: Further detail on contaminated sites

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Local authority records show these types of hazardous activities and substances are frequently encountered:

- a. persistent pesticides such as the agrichemicals DDT and lead arsenate, from historic use in market gardens and orchards
- b. pesticides used for animal treatment, for example, sheep dipping to kill parasites, including DDT, dieldrin, and arsenic (old sheep dips can be located on farms as well as stockyards and railway sidings)
- c. timber treatment chemicals, including pentachlorophenol, copper, chromium, arsenic, and boron
- d. from mining, metals leaching from old tailings dams, mine shafts, and extraction plants
- e. by-products of the historic gasification process in gasworks in most towns and cities, which include coal tars and heavy metals like arsenic
- f. petroleum contaminants from fuel storage facilities including urban service stations
- g. emergent contaminants in 2017 include Per and Poly Fluoro-Alkyl Substances (commonly referred to as PFAS) and the compounds perfluorooctane sulfonate (PFOS), perfluorooctanoic acid (PFOA), and perfluorohexane sulfonate (PFHxS). PFAS have many uses including waterproofing and printing and historically were compounds in specialised foams for fighting flammable liquid fires at airfields and fuel storage facilities.
- h. the inappropriate disposal or dumping of waste or landfilling of waste in sites that pre-date the introduction of the RMA so may have inadequate leachate barriers and management (unlined sites).

## Appendix 4: The report *Review of the effectiveness of the waste disposal levy*

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9(2)(f)(iv)

## Appendix 5: Draft cover letter for the Waste Advisory Board

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9(2)(f)(iv)

# Briefing: Revised Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*

Date submitted: 11 April 2024

Tracking number: BRF-4591

Security level: Policy and Privacy - Budget Sensitive

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
<b>To:</b> Hon Penny SIMMONDS <b>Minister for the Environment</b>  <b>Cc:</b> Hon Chris BISHOP <b>Associate Minister of Finance</b>	Provide feedback on the attached revised Cabinet paper.  Circulate the attached revised Cabinet paper (with your amendments) for Ministerial and Coalition Partner consultation.	12 April 2024

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment ( <a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a> ).

Attachment
1. Cabinet paper: <i>Investment of the waste disposal levy to achieve Government priorities</i> .

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Matt Ide	-	-
Responsible Manager	Monique Esplin	9(2)(a)	-
General Manager	Glenn Wigley	9(2)(a)	✓

Minister's comments



# Revised Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*

## Key messages

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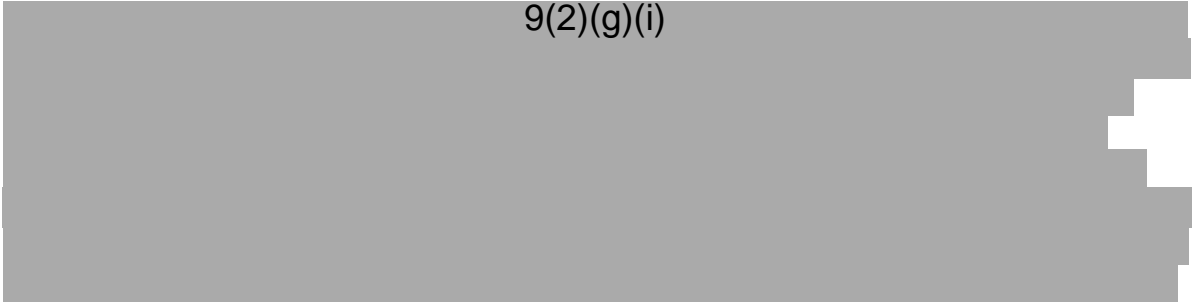



1. This briefing provides you with background information for your Cabinet paper, *Investment of the waste disposal levy to achieve Government priorities* (attached), which has been revised to reflect feedback from yourself and Minister Bishop. The key changes reflect updates to proposed levy rate increases, the resulting revenue, and the identified savings that will be generated through the expanded use of the levy.
2. In addition, we have had a comment inserted in the Cabinet paper by the Treasury, which is discussed below.
3. The revised Cabinet paper seeks agreement to make incremental increases to levy rates for class 1-4 landfills from FY2025/26 to FY2027/28 inclusive (\$15 per tonne over the three years for Class 1 and 2 landfills; \$10 per tonne over the three years for Class 3 and 4 landfills).
4. These adjusted levy rate increases results in total additional revenue of \$171m over the forecast period.<sup>1</sup> Increasing the levy rate would increase costs to households as levy costs are passed through to households either through direct charges at landfills or applied on rubbish bags/bin costs. Based on limited analysis, we expect the impact on households and businesses to be relatively minor. The Cabinet paper contains revisions to the cost implications of the levy increases.
5. Based on these legislative amendments, we have looked to secure around \$220m in savings over a four-year period primarily through using levy funds to fund environmental programmes. This includes the Kaipara Moana Remediation Project and Freshwater Improvement Funds (in addition to the previously identified savings: Contaminated Sites Remediation Fund; the Ministry's waste-related work programme). There are opportunities to identify further savings across government in outyears.
6. The underlying approach taken has been to deliver significant savings, whilst:
  - i. still retaining a credible level of ongoing investment in waste minimisation and waste-related activities 9(2)(f)(iv); along with
  - ii. providing funding support for a broader range of environmental programmes and initiatives administered by the Ministry for the Environment.
7. We consider this provides the ongoing basis for a levy being continued to be raised with a link to environmental outcomes. It also provides the platform to support and generate further

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<sup>1</sup> As noted in previous advice [BRF-4313 refers], while the amendment to the purpose of the Waste Minimisation Act (WMA) enables further changes to the use of levy funds in other sections of the WMA, this is not proposed to extend to the local government portion of levy funds. This would retain the requirement for territorial authorities to spend their share of the levy to promote or achieve waste minimisation, in a manner consistent with their waste management and minimisation plans (a requirement under the WMA).

savings in relation to a wider range of environmental activities and programmes administered by other agencies, and we consider work should be prioritised ahead of Budget 25 to identify those opportunities.

*Ministry views on Treasury comments*

8. 9(2)(g)(i)  

9. 9(2)(g)(i)  

10. The incorporation of additional savings over the budget period (\$60m over the four years), as compared to earlier versions, is achieved through the following adjustments:
  - i. adding additional freshwater funds administered by the Ministry to those proposed to be paid for by the levy
  - ii. some reorganising of waste investment projects earmarked for 2024/25.
11. In addition, 9(2)(f)(iv)  

12. There are a range of trade-offs in the overall proposal. Additional revenue enables a greater ability to fund a wider range of environmental outcomes and a greater ability to generate savings by offsetting Crown costs. This needs to be weighed up against additional costs for waste generators, the additional risk of greater levy avoidance behaviour, and a less direct relationship between those paying the levy and those receiving the benefits.
13. There are risks associated with the proposed legislative amendments to the Waste Minimisation Act 2008 (WMA). Broadening the scope of levy funds is enabled by amending the overall purpose of the WMA to also include improving and protecting the environment from harm (drafting process to determine exact wording). Note that broadening beyond waste-related activities diminishes the link between who pays the levy (applied at disposal of waste to landfill) and the use of resulting revenue (funded outcomes). The broader the scope, the more arguable the description of the charge as a 'levy' is. It may be that the expanded levy scope associated with funding some of the items would be better described as a tax.
14. 9(2)(h)  


9(2)(h)

15. As Budget-related decisions need to be confirmed by 29 April, this Cabinet paper will be subject to a reduced timeframe for ministerial and Coalition Partner consultation. Based on current timeframes, we expect to lodge the paper in week of 15 April, for consideration by the Cabinet Business Committee in week of 22 April. To meet these deadlines, the Cabinet paper will need to be circulated for Ministerial consultation today. Concurrently, we will also conduct agency consultation on the revised paper, noting that some agencies were sent an earlier draft before substantive changes were made. We will provide your office with updated talking points to support your presentation of this Cabinet paper.

#### *Future opportunities*

16. The Cabinet paper also considers the longer term, strategic opportunity to explore how the levy can support other environmental funds across Government and generate further savings in outyears, noting the expected limit to funds necessary to support continued resource recovery initiatives over the longer term and the expected revenue available in outyears.
17. We met with Treasury officials this morning. We both support further work across agencies – led by the Ministry and the Treasury – to identify these opportunities ahead of Budget 2025. In the first instance, we recommend initial discussions with the Department of Conservation and (if required) the Ministry for Primary Industries to explore opportunities for further savings.
18. At present, the proposed approach involves the use of the levy to offset costs associated with the Government's environmental funds, activities and projects and is a strategically more coherent approach than having it fund agency baselines. As noted above, we propose work ahead of Budget 2025 to develop a longer term, strategic funding package looking across the range Government agency environmental funds, projects, and responsibilities.

## Recommendations

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We recommend that you:

- a. **provide** any further feedback on the revised Cabinet paper ahead of Ministerial and Coalition Partner consultation
- b. **note** that we will conduct brief agency consultation on the revised Cabinet paper, noting that relevant agencies were sent an earlier draft Cabinet paper for feedback but there have been substantial changes since then
- c. **note** that we will provide updated talking points to support you when you introduce the Cabinet paper to the Cabinet Business Committee on 22 April 2024

- d. **note** that due to the timeframes, no regulatory impact assessment has been completed for the Cabinet paper. Instead, we will provide you with a Supplementary Analysis Report for when the Bill is presented to the Cabinet Legislation Committee.

## Signatures

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A handwritten signature in black ink, appearing to read 'G. Wigley'.

Glenn Wigley

**General Manager – Waste & HSNO Policy**

**11 April 2024**

Hon Penny SIMMONDS

**Minister for the Environment**

# Aide memoire: Talking points for the Budget Sensitive Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*

Date submitted: 24 April 2024

Tracking number: BRF-4614

Security level: Policy and Privacy – Budget Sensitive

## Actions sought from ministers

<i>Name and position</i>	<i>Action sought</i>
To Hon Penny SIMMONDS Minister for the Environment	For noting only

## Appendices and attachments

1. Talking points for the Budget Sensitive Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*
2. Additional information and Questions and Answers
3. Further information on waste investments

## Key contacts at Ministry for the Environment

<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Helen Bolton		
Responsible Manager	Monique Esplin	9(2)(a)	
General Manager	Glenn Wigley	9(2)(a)	✓

## Purpose

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1. This aide memoire provides talking points (see appendix 1) to support your discussion at the Cabinet meeting on Monday 29 April 2024. Appendices 2 and 3 provide additional information to respond to questions that may arise.

## Next steps

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2. Once Cabinet agrees to the policy decisions you are seeking in your Cabinet paper, officials can start drafting an amendment Bill and amendment regulations.
3. A draft Cabinet paper accompanying the Waste Minimisation (Waste Disposal Levy) Amendment Bill (the Bill) will be provided to you by Wednesday 8 May 2024 for Ministerial and Coalition Party consultation. This timing is scheduled to allow you to present the draft Bill to the Cabinet Legislation Committee (LEG) on Thursday 23 May 2024. A table of key dates is provided below:

Process step	Approximate date
Cabinet paper to Minister's office	8 May
Ministerial and Coalition Party consultation (5 working days)	9 – 15 May
Lodge	16 May
LEG Committee and approval to Introduce to the House	23 May
Cabinet	27 May
Introduce into the House and complete all Parliamentary processes under Urgency	30 May

## Signatures

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Glenn Wigley  
 General Manager – Waste & HSNO Policy  
**Climate Change Mitigation and Resource Efficiency**  
**24 April 2024**

Hon Penny SIMMONDS  
**Minister for the Environment**

## Appendices

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Provided separately.

## Appendix One: Talking points for the Budget-sensitive Cabinet paper: *Investment of the waste disposal levy to achieve Government priorities*

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### Proposed amendments to the waste levy provisions in the Waste Minimisation Act 2008

1. I am proposing amendments to the waste disposal levy provisions in the Waste Minimisation Act (WMA) to help better achieve Government priorities on a broader range of environmental outcomes whilst continuing and improving the support for waste. These include the following components within the context of a need for fiscal restraint:
  - broaden the purpose of the WMA to enable the levy to fund a wider range of the Crown's environmental funds and responsibilities. This, together with re-prioritisation, will enable overall savings to the Crown from the 2024/25 financial year of around \$220 million over four years (with further opportunities to identify savings across Government in outyears).
  - allow levy funds to be used for activities that reduce waste, reduce harm from waste and support other environmental outcomes.
  - contribute to the costs of remediating contaminated sites, including landfills vulnerable to the impacts of severe weather events.
  - contribute to the costs of waste management activities following emergencies.
  - fund more of the Ministry for the Environment's waste-related and hazardous substances work programme with use of levy funds.
2. I do not propose to make changes to the percentage of the waste levy that local government receive (50 per cent) or how they can spend their share of the levy as part of the current amendments.
3. I am also proposing further step increases to the waste disposal levy over three years to provide additional revenue for both central and local government in the following ways:
  - Municipal landfills (class 1) – an additional \$5 per tonne per annum going from \$65 on 1 July 2025 to \$75 on 1 July 2027
  - Construction & demolition fills (class 2) – an additional \$5 per tonne per annum going from \$35 on 1 July 2025 to \$45 on 1 July 2027
  - Managed/controlled fills (classes 3 & 4) – increasing to \$15 on 1 July 2025 then to \$20 on 1 July 2027.
4. These changes have been modelled to raise an additional \$171 million in revenue over three years with 50 per cent of this allocated to territorial authorities, as currently, to implement their Waste Management and Minimisation Plans.
5. During ministerial consultation my office held several meetings Under Secretary Simon Court. Under Secretary Court expressed concern that the proposed levy revenue impacts for Class 3 and 4 landfills will result in additional costs for the sectors disposing of waste to these landfills (predominantly brownfield developments, civil construction



waste). If this becomes a barrier to the Cabinet paper being approved officials would support there only being the one \$5 levy increase to Class 3 and Class 4 landfills in 1 July 2025 (and not including the proposed \$5 levy increase in 1 July 2027). This would result in approximately \$9 million less revenue for local government and \$9 million less revenue for central government but would not impact the initial \$220 million of Crown savings over a four-year period. This would need to be tested with the Treasury and the Minister of Finance whether changes to revenue could be adjusted at this late stage.

6. Initial savings are based on offsetting costs associated with funds and responsibilities administered by the Ministry for the Environment. There are further opportunities to identify additional savings in relation to other environmental funds and initiatives administered by other agencies in particular in FYR 26/27 and 27/28. Therefore, I seek approval for the Ministry for the Environment and the Treasury to work with other agencies to identify additional savings opportunities from Budget 25 whilst retaining the strategic link between the levy and the broader environmental outcomes.
7. Further legislative reform can be explored through additional changes to the WMA and possibly the Litter Act 1979. I have also put forward a bid on the Legislative Programme 2024 for wider waste legislative reform as a 9(2)(f)(iv)  . This will be the vehicle to consider matters beyond the scope of this current amendment process.

## Investment priorities

8. I am seeking Cabinet's approval for officials to identify an appropriate envelope for waste-related investments and identify a wider range of environmental activities to generate further savings opportunities from Budget 25.
9. There are limits to how much levy revenue can be strategically invested into waste minimisation without the risk of crowding-out private investment or creating ongoing subsidies for onshore processing. I therefore consider it would be appropriate to set an envelope for the levy revenue allocated to waste-related investments (including contaminated sites and vulnerable landfill remediation).
10. I also seek endorsement of my waste investment priorities over the next three years, including:
  - remediation of contaminated sites, including vulnerable landfills
  - waste and resource recovery infrastructure
  - addressing specific waste streams and materials, such as: construction and demolition materials; organic waste (with potential for emission reduction benefits); plastics; kerbside recyclables; priority products (to support product stewardship schemes for e-waste, agrichemicals and farm plastics, plastic packaging, and refrigerant gases).

## Scrutiny of investments

11. The Ministry undertakes detailed assessments including third-party due diligence to support waste investment decision-making. Core considerations include the financial viability of the project, an applicant's ability to deliver, and the value for money in terms

of environmental outcomes. The Ministry also places particular emphasis on ensuring central government funding is not crowding out private sector capital.

12. The assessment process includes technical and commercial input from a pool of subject-matter experts (SMEs), both internal and external to the Ministry. Relevant agencies are also consulted. For complex applications or where an applicant is requesting funding over \$1 million, the Ministry refers all decisions to an independent Waste Investment Panel (WIP) of professional directors to give advice and recommendations.
13. The WIP has more knowledgeable and experienced members than the SME-pool and the following three members are involved in other agencies John Rae, Crown Regional Holdings (MBIE), Lucy Griffiths, (MPI), June McCabe (Treasury Audit and Risk Committee).
14. I have delegated approval of applications seeking funding of under \$1 million to the Secretary for the Environment. All other funding rests with me as the Minister for the Environment. For decisions over \$10 million I will consult with my colleagues - the Minister of Finance, the Minister for Regional Development and the Minister for Infrastructure and other Ministers if relevant to the project.
15. The focus of investment through the waste-related funds has been on expanding our resource recovery and recycling network. Since 2022 the Waste Minimisation Fund has been focussed on reducing organic and construction and demolition waste to landfill. In the future I anticipate increasing investment in infrastructure such as transfer stations and resource recovery parks for improved separation and resource recovery, particularly in the regions.

### **Currently agreed levy rate increases and reporting requirements**

16. Under existing regulations, the levy rates for municipal (class 1) and construction and demolition (class 2) landfills are scheduled to increase by \$10 per tonne from \$50 per tonne to \$60 per tonne from 1 July 2024. Additional record-keeping and reporting requirements will also take effect then, which will substantially increase the available information on the types and quantities of waste being managed and disposed of.
17. A minor legislative amendment is required to correct a discrepancy in reporting requirements for disposal facility operators to report quarterly not monthly. I am proposing an amendment to one clause in the Waste Minimisation (Information Requirements) Amendment Regulations 2023 to remedy this.

## Appendix Two: Further information and questions and answers

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### **Does broadening the levy diminish the link between those who pay it and the outcomes being funded? (Paragraphs 8 and 31, recommendation 7).**

1. There is already an indirect link between who pays the levy (those disposing of waste via the Disposal Facility Operators) and the outcomes funded. The broadening of the use of the levy could be seen as further diminishing the link.
2. According to the Treasury *Guidelines for Setting Charges in the Public Sector* in practice, fees and levies might not fit into discrete categories and could be considered as being on a spectrum. A fee is a defined payment from a specified party to another in return for the provision of a good or service. The guidelines state that a levy will also be charged to a particular party or group, for a specified purpose, but not necessarily for a specific good or service. In this way, a levy might be more akin to a tax.
3. The Legislative Design Advisory Committee (LDAC) guidelines support this, stating a levy is more akin to a tax in that it is usually compulsory to pay it and is usually charged to a specific group. Also, a levy charged to a certain group or industry is usually used for a particular purpose rather than relating to specific services provided to an individual.
4. LDAC advises that levies may be charged to a group of people (often defined by the fact that they are undertaking a certain activity) to fund certain costs that may arise in connection with that activity. It is not necessary that the person paying obtain a direct benefit from paying the levy. For the waste disposal levy, it is collected via Disposal Facility Operators on the waste disposed to landfill. Now that the levy has been extended to most landfill types, most generators of waste will be paying the levy. This is an efficient point in the resource system to collect funds to address the environmental costs of resource use.
5. Based on the current system, a business waste generator paying the levy could have applied for levy funding for an initiative to help them reduce the quantity of waste they were creating. By broadening the spend of the levy, the business will still be able to apply for levy funding to help reduce their waste, but their likelihood of success will be slightly less as there will be more competing priorities, albeit for a larger levy fund.
6. I am not proposing to change the share of the levy that territorial authorities receive currently so there will continue to be a direct link between the levy and waste minimisation activities. However, I propose to consider potential changes to this setting as part of the wider waste legislation reforms. It may be appropriate that local government can spend their portion of the waste disposal levy on other environmental remediation too.

### **How much waste disposal levy has been invested to date/since the rates increased? And what has it achieved? (Paragraphs 12 and 65, recommendations 26 and 29)**

7. Over the past six years (including the 2018 funding round), \$83.8 million of levy funds have been awarded through the Waste Minimisation Fund and Plastics Innovation Fund across 177 projects. In addition, there are 30 projects worth \$76 million in the pipeline.

8. Of the \$83.8 million figure, \$32 million has been awarded since the levy began increasing in 2021. As it ramped up, the levy was supplemented by \$62 million of funding awarded from the Climate Emergency Response Fund (CERF), which has been prioritised for funding most WMF investments since 2022. The levy will be used to fund these projects if the CERF funding for 24/25 and 25/26 are returned through the savings exercise.
9. Active projects and projects awarded and in contracting are expected to divert upwards of 300,000 tonnes of waste per year to beneficial use based on forecasted results targets. Each project is now individually tracked during and post-project.

**What other Central Government environmental funding streams could provide savings opportunities for Budget 25? (Paragraphs 13 and 23, 66 and recommendation 28)**

10. 

9(2)(f)(iv)
11. These examples are indicative only as other agencies have not yet been approached to identify suitable funding schemes and to determine what funding commitment remains that could be offset.

**What does “after paying any required refunds to operators” mean in terms of the levy? (Paragraph 17)**

12. Under the Waste Minimisation Act 2008 (WMA), registered Disposal Facility Operators (DFOs) must pay the levy on waste received at their disposal facility, less any diverted tonnage or waste diverted for reuse and recycling. If a request for a waiver has been granted on waste already disposed, the DFO can apply for a refund of the levy money paid.

**What and where are the infrastructure deficits as referred to in the Grant Thornton study? (Paragraph 25)**

13. The Grant Thornton report (2020) states New Zealand has very limited resource recovery infrastructure which limits the effectiveness of other levers, such as education, because people have few options to change their behaviour even if they wanted to. Therefore, the initial focus for investment will be on establishing the infrastructure required to prevent waste going to landfills.
14. The report considered waste disposal and recovery volumes at the time and proposed an approach for potential future investment for priority waste streams (including, waste volumes, environmental harm, value). This resulted in identifying the waste infrastructure deficit in terms of facility types (for example: comprises materials recovery facilities; reprocessing facilities for organics, plastics, paper, and cardboard, concrete and rubble), and quantified this based on information available on indicative costs. The report also estimated ongoing collection service requirements.

15. The report did not specify locations of waste infrastructure facilities, noting that there are choices and trade-offs in terms of things such as location, availability of feedstock, reprocessing technologies, end-markets.
16. Another national waste infrastructure stocktake<sup>1</sup> commissioned by the Ministry for the Environment (the Ministry) in 2020/21 showed there is a relatively scarce provision of facilities that enable the sorting and recovery of C&D waste. Auckland and Christchurch have the highest concentration of C&D landfills (classes 3 and 4) and Auckland and north Waikato have several C&D recovery facilities. There are only a few C&D recovery facilities elsewhere, again, in urban areas such as Wellington, Christchurch and Dunedin.
17. The Ministry's analysis has shown there are several aging and inadequate local transfer stations that require upgrade, particularly in the regions and remoter areas where the commercial sector is not present. Compared to other countries, New Zealand's material recovery facilities don't use modern optical and mechanical sorting equipment (although we have very recently invested in some of this technology for our largest facilities); our transfer stations are old and designed to push all the waste material into a single bit without allowing equipment or space for recovery and storage to recover materials like bulk concrete to crush and reuse, wood to recover etc.
18. New Zealand requires more organics processing, particularly for agricultural waste and biosolids and support for demolition and civil engineering companies wanting to separate at source and reuse to reduce construction and demolition waste. There are many opportunities for infrastructure to further support the recycling and remanufacture of plastics wastes onshore.
19. We are a net importer of packaging, and brands and markets are demanding more recycled content but we lack adequate food grade facilities that can provide recycled content.

**How does this proposal contribute to the plan, *Blueprint for a Better Environment*? (Paragraph 28)**

20. This proposal is one of the steps towards ensuring we have fit-for-purpose legislation, as set out in *Blueprint for a Better Environment*. It will partly redefine waste levy distribution to better direct funds to drive sustainable growth. My proposal will increase the funding available to manage and mitigate environmental risks including from historical landfills.
21. As indicated, further reform of the waste legislation is required to complete adjustments to the waste levy allocation system and address other known limitations of the current Act.

**Do revenue projections include assumptions about how waste volumes will change over time as the levy increases? (Paragraphs 10, 55, 64).**

22. The Ministry estimates the tonnages of waste disposed at class 1 landfills out to 2050 for emissions projections. This model finds a relationship between historic waste volumes and Gross Domestic Product (GDP), then estimates future waste placement

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using GDP projections, not population growth. Once this projection has taken place, the impact of the waste levy is estimated.

23. This results in a decreasing trend of waste to class 1 landfills in the short term, with 2024 volumes down from 2023, and we expect this trend may continue out to 2028, where the levy on class 1 landfills is at its highest. Class 1 volumes are then expected to start to climb again before remaining relatively stable out to 2050. This projection does not include the impact of any potential policies or investments not yet agreed. It is a trend based on the relationship between GDP and waste disposal.
24. Note that forecasting waste volumes (and, consequently, levy revenue) is complex and uncertain due to multiple factors such as market dynamics, policy impact, and data quality. The model assumes:
  - A two per cent decrease for every \$10 increase in levy, for all classes of landfill
  - That this response is linear (i.e. there will be the same level of waste volume decrease when the levy is changed from \$0 to \$10 as there will be when the levy is changed from \$65 to \$75)
  - The model doesn't make assumptions about thresholds, ie, the price points where the gate fees are more expensive than sorting and composting so landfilling becomes the most cost-effective option.

The figures are estimates only and will likely shift over time.

**If a council is remediating a contaminated site, do they have to pay the levy at the moment? Examples? (Paragraphs 38 and 39)**

25. Yes, any landowner remediating a contaminated site must pay the levy on any waste disposed to a registered landfill. The amount of waste disposed of will depend on the size and type of site, the type of contaminant, which class of landfill the waste can be accepted and the preferred remediation approach. For example, Friend Street, an urban, closed informal landfill contaminated with heavy metals resulted in 566 tonnes of waste to a Class 1 landfill. Whereas the remediation of the Awaroa Godley Heads military emplacements did not result in any waste disposed to landfill as the contaminated soil was capped and encapsulated on site.
26. The Contaminated Sites Remediation Fund has been funded through its own appropriation and is operated under guiding principles and eligibility criteria set by Cabinet in 2006. This Cabinet paper proposes these criteria are to be revoked and replaced with new Gazetted criteria, thereby allowing the ongoing funding of remediation activities using levy funds.

**Will the levy increase negatively impact the construction sector? (Paragraph 74)**

27. Based on estimates of how much waste is produced during construction of a new-build house, levy costs for waste disposal could increase by around \$46 per house, while levy costs for disposal of materials from a typical house demolition could increase by around \$206. MBIE is supportive of the proposal to gradually increase the waste levy, by a small amount over 4 years, because it will enable increased investment in construction and demolition (C&D) waste infrastructure and incentivise waste minimisation in the C&D sector.
28. Research indicates that in some circumstances, close to 90 per cent of construction and demolition materials currently going to landfill could instead be recovered for beneficial

uses. This would be an option for the sector to avoid higher disposal charges (while resource recovery options would also have a cost, there would be a higher net benefit because it would be generating a useful resource). Low landfill fees for construction and demolition sites are a key limiting factor at present for recovery of construction and demolition materials.

29. Different levy rates are set for different landfill classes to reflect the level of environmental harm of different waste streams; the availability of waste minimisation opportunities for the different waste types; and the likely cost of alternatives to landfill disposal. In 2020, the Government proposed changes to the levy rates. Many submitters supported differential rates for different landfill classes for the reason above and to reflect the higher cost to construct and maintain some landfill types. Post closure, classes 3 and 4 landfills have more repurposing potential than classes 1 and 2 landfills. At that time, several submitters thought that a rate higher than \$20 would be needed to create an incentive to reduce construction and demolition waste.
30. With the recent introduction of additional data reporting requirements, the next scheduled review of the effectiveness of the levy (2026) will be a timely opportunity to relook at the levy rates for different landfill classes.

**What is the effect of the minor amendment to the Waste Minimisation (Information Requirements) Amendment Regulations 2023? (Paragraph 44, recommendation 8)**

31. Clause 5A of the Waste Minimisation (Information Requirements) Amendment Regulations should refer to regulation 6 of the Waste Minimisation (Information Requirements) Regulations 2021 which requires quarterly reporting. Making this amendment would avoid regulatory burden for 399 sites who would otherwise be required to undertake their activity category reporting monthly. This is inconsistent with their current waste reporting requirement which is quarterly.
32. The overall intent of this legislative change is for the waste and activity source reporting to be at the same frequency as existing reporting. I am proposing to fix the error in clause 5A through the recommendation for amending the regulations.

**What is the review of the effectiveness of the levy? (Paragraph 102)**

33. The review of the effectiveness of the levy is a statutory requirement under the Waste Minimisation Act. The review is required every three years and must cover: whether the amount of waste disposed of in New Zealand has decreased; whether the amount of waste reused, recycled, or recovered in New Zealand has increased since the last review. Officials have prepared a draft report that I will be considering in coming weeks.
34. Some of the key findings from the review are:
  - There have been small reductions in both total net tonnage and per capita waste disposal to class 1 facilities since the last review period.
  - Looking over a longer period, there has been substantial growth in waste disposal to municipal landfills between 2009 and 2018, and a levelling off with no strong trend since then (although a slight reduction since the last review period).
  - Within this review period (covering the 2020 and 2021 Waste Minimisation Fund funding rounds) -

- 51 projects were funded by the Waste Minimisation Fund, with a total of \$20,253,931 million in funding approved for 46 organisations.
- An additional \$16,542,808 million of third-party funding was unlocked with this investment.
- For the Plastics Innovation Fund, seven projects were funded, with a total of \$7,611,189 million in funding approved for seven organisations (since the fund opened in November 2021).

## **Responses to Under Secretary Simon Court's feedback**

### **Evidence that increasing the levy has an impact on reducing waste volumes**

35. Under Secretary Court claims there is no evidence that increasing the levy has any impact on reducing waste volumes. While there has been limited impact on reducing waste volumes so far, the 2023 levy increases and the proposals for further reform aim to ensure there is a more significant impact on waste reduction in the future. The Grant Thornton report (2020) provided insight as to why the waste disposal levy, since 2009, had not yet resulted in a notable reduction of waste to landfill:
36. Some of the main reasons for the lack of impact were:
- **Scale and spread:** The quantum of the funding available has been insufficient to accelerate adequate investment in the waste system or to address gaps in waste infrastructure. The Waste Minimisation Fund has been spread too far and too thinly. Its grants have been allocated across many initiatives, such as infrastructure, education, feasibility studies, community projects, and other themes. Recipients have been from a range of groups including industry, small to medium enterprises, iwi, research organisations, training institutions, industry bodies, community groups, industry and local government.
  - **Dispersion and dilution of the Territorial Authority (TA) hypothecated funds:** The Waste Levy is currently distributed to TAs through a population-based formula, which equates to approximately \$4.00 per individual. While this has allowed some of the larger TAs, such as Auckland Council, to create contestable waste minimisation funds and invest in more impactful projects, some TAs need to accumulate the waste Levy funds over several years to allow for meaningful investment in waste minimisation. Some smaller TAs receive minimal funding from the waste Levy.
  - **A lack of data, and hence measurement against real targets:** It is only through the recent expansion of the levy to other types of landfills and new data and reporting requirements that a clearer and fuller picture of waste disposal in New Zealand will start to come to light. To date, waste to Class 1 landfills only, has only ever provided a small part of the overall picture.
37. For most of the time it was in place (2009 to 2021), the levy was also at a much lower rate (\$10 per tonne) and covered only a small sub-set of landfill sites. When the levy was set at \$10 per tonne it was recognised that the rate was too low to create an economic incentive to seek out alternatives to landfill. The changes introduced in 2021 were intended to help provide a more direct incentive (as well as raise additional revenue for investment into waste minimisation). Having a higher levy rate means alternatives like composting, recycling, and resorting for re-use are better able to compete as alternatives to disposal.



38. Changes that are coming online now and further changes I propose to consider as part of the wider waste legislation reform aim to achieve the desired reduction of waste to landfill. Even with the levy rate increases I have proposed, New Zealand's levy rate is still comparatively lower than States in Australia and the UK. Please refer to appendix one in the Cabinet paper.
39. To achieve waste minimisation, people need to have alternatives available to them. Addressing the resource recovery deficit will help provide those options. One example is that I am working with councils to provide improved access to kerbside recycling services across much of New Zealand, which will help households reduce how much waste they create each week.

**The case supporting the levy being used to offset Departmental operational expenditure.**

40. Simon Court is opposed to the levy being used to offset Departmental operational expenditure. The case for using levy funding for departmental operational costs (ie, for the Ministry waste work programme) is in part driven by fiscal constraint. It is a pragmatic solution to the fiscal situation to ensure the Ministry's important work programme and environmental funding initiatives can continue. My proposal will also increase funding in other areas of high environmental harm, such as the remediation of contaminated sites. This benefits all New Zealanders.
41. Note that the Waste Minimisation Act already provides for components of the Ministry's waste work programme to be supported by levy funds including levy collection and compliance, administration, costs associated with approving and declining projects for funding. Other waste-related and hazardous substances work that will be funded include establishing product stewardship schemes for declared priority products; policy development; data and evidence) in addition to the functions currently funded (levy collection and compliance; levy administration; investment administration).
42. This approach is common overseas. For example, New South Wales, South Australia, and Ireland.

**What is being done to support the construction, demolition and developer sector to reduce waste to landfill**

43. Simon Court is concerned the proposed levy increases will be detrimental to the developer community and lead to more illegal disposal/dumping of waste. Class 3 and 4 landfills are managed and controlled fills. Virgin excavated natural materials (uncontaminated soil) disposed to a cleanfill (class 5 landfill) does not incur the levy. They should only be taking non-hazardous soils and other inert waste material from construction and demolition (C&D) activities and from earthworks or site remediation. These sites became subject to the levy, at \$10 per tonne on 1 July 2023.
44. We estimate a truckload of soil could be in the 10-15 tonnes range. This would lead to estimated levy charges for a truckload in the range of \$100-150 (at the current levy rate) to \$150-225 (at a \$15 levy rate) to \$200-300 (at a \$20 levy rate).
45. I am aware of the issue the levy on class 3 and 4 landfills causes infrastructure projects and developers and the recent report from the Parliamentary Commissioner for the Environment (PCE) *Urban ground truths - valuing urban soil and subsoil in urban*

*development.* This report identifies how some residential land development practices are undermining the health and extent of soil in new subdivisions and infill developments, such as soil stripping, compaction and leaving insufficient green space. Its recommendations focus on approaches to encourage Councils and developers to conserve and protect soil.

46. The disposal of soils and sub soils results in the loss of a valued resource, but options for the storage and reuse of these soils have been considered too difficult due to resource management and waste regulations. Research indicates that in some circumstances, close to 90 per cent of construction and demolition materials currently going to landfill could instead be recovered for beneficial uses. This would be an option for the sector to avoid higher disposal charges (while resource recovery options would also have a cost, there would be a higher net benefit because it would be generating a useful resource). Low landfill fees for construction and demolition sites are a key limiting factor at present for recovery of construction and demolition materials.
47. The settings in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 and how they are being interpreted are one of the potential regulatory instruments that could be adjusted. Other solutions could include improved guidance and facilitation with operators or other regulatory changes.
48. Barriers to soil reuse will cut across several Ministerial portfolios: mine, as Minister for the Environment, the Minister for RMA Reform and Infrastructure, the Minister for Building and Construction and the Minister of Science, Innovation and Technology. Therefore, it requires a multi-agency approach to develop options to support developers to reuse soils and other inert material from construction and demolition projects.
49. Based on estimates of how much waste is produced during construction of a new-build house, levy costs for waste disposal could increase by around \$46 per house, while levy costs for disposal of materials from a typical house demolition could increase by around \$206. MBIE's Building team is supportive of the proposal to gradually increase the waste levy, by a small amount over 4 years because it will enable increased investment in C&D waste infrastructure and incentivise waste minimisation in the C&D sector.
50. I am also proposing further reform to the waste legislation to strengthen and modernise the compliance monitoring and enforcement regime. This will deter levy avoidance activities and provide better tools to enforce the illegal dumping of waste provisions in the Waste Minimisation Act.
51. See information in paragraphs 16 and 27-28 of this appendix on the lack of C&D recovery infrastructure and impact on the construction sector response.
52. Alternative levy rates have been explored for classes 3 and 4 landfills but lowering the levy rates will result in less overall funding available for additional savings in future outyears. Changing the levy rate weighting between the different classes of landfills, particularly if class 1 and 2 landfills are disproportionately higher, is likely to result in more levy avoidance activity. This could result in environmental harm as wastes may be inappropriately disposed in a landfill class with lower environmental protections.

53. Additional initiatives that could mitigate the risk of a potential disproportionate impact of levy rate increases on classes 3 and 4 landfills are:

- Working with the sector on a soil reuse strategy that would help ensure soils can be beneficially reused rather than disposed of (this would also help with cleanfill capacity, which we understand can be a limiting factor in some regions)
- Wider legislation work to consider how landfill types are defined in legislation/regulations, to ensure it is fit-for-purpose (eg, no capture of unintended sites)
- Supporting work to help ensure each landfill class is managed appropriately and is accepting materials it is consented for (eg, working with regional councils on guidance or potentially some form of national direction under the RMA).

**How much of levy will pay for Ministry staff compared with what is proposed in the Cabinet paper?**

54. Currently, the levy spend for Ministry functions and activities in FY2023/24 is approximately \$11M (actuals are lower than original FY24 forecasts). This was for the Waste Minimisation Act permitted use of levy funds to support levy collection, administration, compliance, costs associated with approving, declining applications and managing / monitoring projects funded. Departmental budget was higher in the last year in proportion to total levy revenue while gearing up new systems/process to administer the growing levy. This amount into the outyears represents approximately 4 percent of total levy revenue that is forecast to be collected.
55. The proposal in the Cabinet paper is for levy funds to support the waste-related and hazardous substances work programme, which is expected to be an additional \$15.115m in FY2024/25 (and \$7.6m in outyears – see excerpt from table 5 in the Cabinet paper – summarised below). This would be in addition to the money for collecting and administering the levy summarised in the paragraph 51. The driver is to achieve waste-related savings. Treasury have assumed that the proposals will occur and have reduced the Ministry's baseline accordingly.
56. Combining the two categories (levy collection/administration and wider waste work programme), the spend on "back office" would be (approx. figures only for levy collection/admin):

In millions	24/25	25/26	27/28	Outyears/ongoing
Levy collection/admin	\$11	\$11	\$11	\$11
Waste work programme	\$15.115	\$16.48	\$7.6	\$7.6
Combined	\$26.115M	\$27.48M	\$18.6M	\$18.6M



## Appendix Three: Further information on waste investments

### Information on the efficiency of the Ministry's processing of waste investments

1. The Ministry is conscious of the need to process applications as quickly as possible whilst ensuring there are robust controls over the use of public monies. Standards for such control are necessarily high as per the Public Finance Act and the Office of the Auditor General's requirements.
2. Reflecting this balance, applications for less than \$1 million have a simpler process than those above \$1 million. For example, they do not go to the Waste Investment Panel and do not require a business case.
3. To better support industry, the Waste Minimisation Fund (WMF) moved from short annual funding rounds to an "always-open" model, which has been in effect since the WMF reopened in 2022. In addition, the Ministry introduced funding packages to support councils to consider or implement kerbside organic waste collection services. Applications for these packages are fast-tracked.
4. In late 2022 the Ministry introduced a pre-screening step to determine if a potential applicant's proposal fits the funds and is likely to be competitive for funding. This fast-fail step has saved one-third of potential applicants from the time and effort of submitting a written proposal.
5. Efforts to speed up application processing are reflected in significant gains in the contracting stage. In 2023, 89 per cent of projects were contracted within 6 months of confirming their intent to proceed, compared to three per cent in 2021. A summary of changes to investment processes made as part of the expansion/increase in the levy is as follows:

Change from:	To:	Benefits
Ad hoc projects	Strategic programmes	Stronger focus on high impact and scale and stronger alignment to key outcomes Ability to strategically fund an integrated portfolio across projects funded by the levy and the Climate Emergency Response Fund
High ratio of small-scale projects	Greater focus on larger, high-impact projects	Resources are focused on the biggest 'bang for buck' Improved efficiency Lower risk of under-delivery and mismanagement of funds
Reactive application process	Proactive pipeline building	Greater ability to partner Greater ability to influence the mix of applications
Low participation of some sectors	Wider pool of investors, including Māori	Greater ability to leverage private sector capital, including Māori businesses Higher participation of high-impact investors Wider community reach
Minimal interaction with applicants	Strong focus on pre-application support	Improved stakeholder experience Higher quality applications
Generic processes	Tailored models	Improved stakeholder experience

		Greater ability to use mechanisms that are most likely to result in the best outcome
Annual funding round	On-demand model	Improved stakeholder experience Flexibility to adjust signals over the year Eliminates bottlenecks

### Quality of spend for levy funds – through the WMF

6. We place very strong emphasis at all stages of our assessment process on ensuring central government funding is not crowding out private sector capital. We do this by drawing on infrastructure stocktakes, considering facility feedstock and outtakes, and sector reports as well as our extensive network of relationships across the private sector, local government and other agencies. Where we are not convinced that our funding is necessary, we decline that application.
7. We focus levy investment on projects where private capital is not available or is high-risk, and where there is high public benefit which might not otherwise be realised without intervention. For example, WMF made a grant to Thames-Coromandel District Council to support the Whitianga Resource Recovery Park, noting the size and location make it of little interest to private industry to invest in.
8. The size of the infrastructure deficit (estimated in 2020 to be between \$2.1 and \$2.6 billion) is also a good indication that private investment alone will not be sufficient to ensure New Zealand has a fit-for-purpose resource recovery network and resilience to deal with domestic and international challenges (eg, import restrictions by countries that accept exports of recycling from New Zealand can significantly disrupt our ability to meet public expectations for recycling).
9. Specific examples of where central government investment is needed include:
  - Material Recovery Facilities (MRFs) which are typically manual-intensive. There is an opportunity to expand their capacity and efficiency through investment in modern optical and mechanical sorting technology;
  - Many transfer stations are old and not designed for efficient separation and recovery of materials;
  - Plastics, where there are opportunities for greater scale to do more local manufacturing of packing material and reduce New Zealand's reliance on imports.

### Quality of spend for levy funds – by territorial authorities

10. Half the money collected through the levy is paid to territorial authorities quarterly each year. The amount of levy each territorial authority receives is determined by the number of people in each district.
11. Waste management and minimisation plans (WMMPs) prepared by each territorial authority set out how the levy will be used. Territorial authorities must spend the levy to promote or achieve waste minimisation and in accordance with their WMMPs. Territorial authorities invest levy funds in a wide variety of projects and activities. Common investments include services such as kerbside recycling, and education and communication.

12. Territorial authorities report to the Ministry annually on what they have spent their levy revenue on. This is currently on a voluntary basis through an online reporting system, which was launched on 22 April 2022. The new data regulations referred to in the Cabinet paper will require from 1 July 2024, territorial authorities to be subject to mandatory record-keeping and reporting requirements, with the first report (covering the 2024/25 financial year) due by 30 September 2025.
13. The Ministry's waste operations team also audits councils to ensure their levy spend is in line with their obligations. The scope of the audits includes:
- a compliance assessment of levy expenditure practices for the most recent reported financial year against the obligations in the Act and conformance with the Ministry's written guidance
  - a review of key documentation, such as the TAs waste assessment and WMMP, any applicable bylaw, and/or solid waste policy and reporting.
14. The table below are the 2021-2022 audit results<sup>1</sup>.

**Table 9: Audit results of territorial authority audit programme of levy spending**

Audit results	Relevant section of the WMA	2020/21 compliance (%) (48 councils)	2021/22 compliance (%) (24 councils)
Levy expenditure on matters to promote or achieve waste minimisation	Section 32(1)(a)	88.89	95.65
Levy expenditure in accordance with WMMP	Section 32(1)(b)	77.78	100
WMMP compliance	Sections 43, 50 & 51	89.50	94.79
Adherence to Ministry guidelines for levy spend	Good practice levy spend guidelines for TAs	92.09	85.72

15. We are aware of some concerns from waste operators that councils operate in competition with private service providers, using levy money to subsidise their operations. Councils don't want to be in competition with industry or crowding out investment in waste minimisation in New Zealand. They are interested in providing services that ratepayers need, as a public good.
16. In most cases, councils are not directly providing services themselves but contract with the private sector to provide services on their behalf. Councils may use levy money to contribute to the costs of providing ratepayers with waste minimisation services (such as kerbside or drop-off recycling and food scraps collections). These services are less likely to be in direct competition with private services as they are typically being provided as a public good (ie, where they are unlikely to be delivered solely through market delivery). They also typically contract with the private sector to provide waste collection and disposal services (which they cannot use levy revenue on).
17. Nonetheless, the issues relating to the most efficient and effective ways of delivering waste and recycling services and how the private sector and councils can best work together are

<sup>1</sup> [Waste Minimisation Act 2008 regulatory performance monitoring framework report 2021-2022 \(environment.govt.nz\)](https://environment.govt.nz/waste-minimisation-act-2008-regulatory-performance-monitoring-framework-report-2021-2022/)



complex – the wider waste legislation reform provides an opportunity to test whether we have the settings right or improvements are needed.

### Supporting compliance systems

18. The Ministry has adopted a range of policies and procedures for its role in collecting and administering the levy, including:

- a compliance, monitoring and enforcement strategy which sets out the Ministry's approach to compliance monitoring and enforcement under the WMA and explains how the Ministry achieves compliance and interacts with regulated communities.
- an enforcement decision-making policy, which sets out the scope and procedure for making enforcement decisions under the WMA and related regulations.
- a prosecutions policy, which sets a framework for making decisions about the use of prosecutions under the WMA.

19. These documents are supported by additional internal guidance, including a WMA Investigations Manual and a WMA Communications and Engagement Strategy 2020.

### Indicative breakdown of future investment:

20. The investment plan has considered:

- Where we can get biggest bang for buck, in terms of high diversion volume, potential for harm to health or human environment, high public concern, and considering achievability.
- The strategy focuses on five investment categories & priority waste streams.
- We have considered the existing pipeline of applications and expressions of interest.
- We have considered the waste & resource recovery infrastructure stocktake and regional infrastructure planning work.

Investment categories	Estimated 5-year expenditure (up to)
<b>Contaminated sites and vulnerable landfills:</b> Estimated at \$7-30m per year on average, starting at the lower end of this range when many sites are doing site investigations then increasing as works get underway. Rapidly winding down thereafter as priority sites are addressed. There is some uncertainty and total expenditure could be substantially higher than this estimate.	\$100m
<b>Infrastructure</b> <ul style="list-style-type: none"> <li>• Co-investment in new and upgraded transfer stations and resource recovery parks / community recycling centre for improved separation and resource recovery particularly C&amp;D <span style="background-color: #cccccc;">9(2)(b)(ii)</span></li> </ul>	\$60m
<ul style="list-style-type: none"> <li>• Commercial / domestic organics and including biosolids, encompassing various technologies. <span style="background-color: #cccccc;">9(2)(b)(ii)</span></li> </ul>	\$130m



9(2)(b)(ii)	
<ul style="list-style-type: none"> <li>Plastics: Further investment in optical &amp; mechanical sorting, washing and processing and manufacturing capacity eg, bottle to bottle PET manufacturing; HDPE construction and LDPE bale wrap reprocessing.</li> </ul>	\$40m
<ul style="list-style-type: none"> <li>Product stewardship enabling infrastructure eg, batteries and e-waste 'take back' enablement, pre-processing, and remanufacturing.</li> </ul>	\$20m
<ul style="list-style-type: none"> <li>Other consumer packaging materials eg, glass, fibre, textiles, soft plastics: development of more onshore packaging processing infrastructure, leveraging kerbside standardisation and investment in transfer stations but also changes to Materials Recovery Facilities to enable more materials separation. <i>(A container return scheme could lead to further investment in enabling infrastructure depending on scheme design).</i></li> </ul>	\$20m
<b>System Design:</b> Supporting the design and establishment phases of product stewardship or container return schemes.	\$10m
<b>Other project investment</b> <ul style="list-style-type: none"> <li>Education &amp; behaviour change programmes for C&amp;D, plastics, litter prevention, recycling.</li> <li>Scalable community or sector-wide initiatives eg, food rescue.</li> <li>Innovation: development of new solutions, or scaling up existing technologies, to provide more options to design out waste, encourage re-use and repair.</li> </ul>	\$20m
<b>Administration:</b> costs associated with collecting/administering the levy	\$55m
Overall estimated expenditure	Up to \$455m

### Funding since 2010

21. Since 2010 the Waste Minimisation Fund (WMF) has awarded \$190 million to co-fund 324 projects. In addition, \$76 million has been tentatively allocated or 'earmarked' to 30 projects in the pipeline.
22. Since the Plastics Innovation Fund (PIF) was launched in 2021, \$27 million has been awarded and a further \$13 million has been allocated.

### Annual breakdown of funding awarded over the last six years:

Round	Funding awarded	Investment focus
2018	\$17.3m (47 projects)	Transition towards a circular economy: <ul style="list-style-type: none"> <li>New products, services, and technologies</li> </ul>

		<ul style="list-style-type: none"> <li>Capital projects for local infrastructure to support domestic resource efficiency and recycling</li> </ul>
2019	\$9.2m (35 projects)	<ul style="list-style-type: none"> <li>Circular economy</li> <li>Product stewardship</li> <li>A more resilient resource recovery sector</li> <li>Sustainable plastics lifecycle</li> </ul>
2020	\$7.6m (21 projects)	<p>Covid recovery:</p> <ul style="list-style-type: none"> <li>Food recovery and distribution, supporting challenged organisations in the waste and materials recovery sector, and product stewardship schemes.</li> <li>Creation of new jobs</li> </ul>
2021	\$29.5m (52 projects) <ul style="list-style-type: none"> <li>WMF: \$16.6m / 35 projects</li> <li>PIF: \$13m / 17 projects</li> </ul>	<p>WMF investment signals:</p> <ul style="list-style-type: none"> <li>C&amp;D waste</li> <li>Avoiding food waste and diverting organic materials from landfill</li> </ul> <p>PIF: feasibility studies and research and development</p>
2022	\$80m incl CERF funds (56 projects) <ul style="list-style-type: none"> <li>WMF: \$66m / 46 projects</li> <li>PIF: \$14m / 10 projects</li> </ul>	<p>WMF: Infrastructure and enabling systems to reduce landfill emissions from organic waste</p> <p>PIF: reducing or recycling soft plastics</p>

### Examples of WMF and PIF projects

23. Below are several examples of projects funded by the WMF and PIF:

- i. \$988,300 to BioRich Limited, a composting plant in Napier, to help repair the destruction to the site because of Cyclone Gabrielle. The funding will improve site stormwater management and increase the region's ability to process 100,000 tonnes of organic waste each year into valuable products.
- ii. Grants of \$1.2 million and \$210,000 to support the tyres and large battery product stewardship schemes respectively.
- iii. \$900,000 to Buller District Council for development of a coordinated regional waste recovery network for construction and demolition waste across the West Coast.
- iv. \$440,200 funding to Grun Infrastructure to support the establishment of the first Construction and Demolition (C&D) recycling facility in the greater Wellington region. As a result of this project Grun has been able to recover and divert 70-80% of their demolition waste (>15 kt to date). Building on the success of this project Grun are currently expanding their operations to recycle waste from other companies in the region, diverting more material from landfill.

**Examples of PIF projects**

- i. A grant of \$1.47 million to Recycle South (Southland Disability Enterprises) to increase capacity to process farm plastics by 8,580 tonnes a year. Funding of \$450,000 was also provided for a shredder to handle multiple types of plastics in large quantities and transportation of 10,000 tonnes of flood-damaged fadges (wool sacks) from Hawke's Bay.
- ii. \$4.5 million to Marley New Zealand to minimise plastic waste going to landfill in the construction and demolition industry. The project, in partnership with Unitec and Waste Management, will increase sorting, washing, shredding capabilities for High Density Polyethylene (HDPE) and Polyvinyl Chloride (PVC) pipes at facilities in both North and South Island, allowing them to be recycled back into new pipes.
- iii. \$606,000 to Kaipaki Dairies for a reusable milk tap system that enables removal of more than 1,000,000 single use plastic milk bottles a year from 2025, up from 180,000. The funding increases Kaipaki's capacity to supply milk in reusable containers by ten times their current amount to the hospitality sector.

# Briefing: Cover briefing for CAB-437 *Waste Minimisation (Waste Disposal Levy) Amendment Bill: approval for introduction*

Date submitted: 7 May 2024

Tracking number: BRF-4684

Security level: Policy and Privacy – Budget Sensitive

MfE priority: Urgent

Actions sought from Ministers		
<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Penny SIMMONDS Minister for the Environment	<b>Provide</b> feedback on the attached Cabinet paper.	9 May 2024
	<b>Circulate</b> the attached Cabinet paper (with your amendments) and draft Bill for Ministerial and Coalition Partner consultation.	15 May 2024

Actions for Minister's office staff
<p><b>Forward</b> this briefing to: Associate Minister of Finance Hon Bishop</p> <p><b>Circulate</b> the attached Cabinet paper (with any amendments) and draft Bill for Ministerial and Coalition Partner consultation.</p> <p><b>Return</b> the signed briefing to the Ministry for the Environment (<a href="mailto:ministerials@mfe.govt.nz">ministerials@mfe.govt.nz</a>).</p>

Appendices and attachments
<ol style="list-style-type: none"> <li>Talking points for Cabinet Legislative Committee for CAB-437 <i>Waste Minimisation (Waste Disposal Levy) Amendment Bill: approval for introduction</i></li> <li>LEG Cabinet Paper and accompanying documents: the Disclosure Statement</li> </ol>

Key contacts at Ministry for the Environment			
<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Helen Bolton		
Responsible Manager	Monique Esplin	9(2)(a)	
General Manager	Glenn Wigley	9(2)(a)	✓

Minister's comments

# Cover briefing for CAB-437 *Waste Minimisation (Waste Disposal Levy) Amendment Bill: approval for introduction*

## Key messages

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1. Attached to this briefing is the Cabinet Legislation Committee (LEG) Cabinet paper and associated documents seeking Cabinet's approval to introduce the Waste Minimisation (Waste Disposal Levy) Amendment Bill (the Bill). The LEG meeting is on 23 May 2024. Talking points are provided in appendix 1 to support you for this meeting.
2. Note, the draft Waste Minimisation (Waste Disposal Levy) Amendment Bill is not attached. We will provide an early draft of the Bill tomorrow (8 May 2024) for consultation with your Ministerial colleagues and Coalition Partners and expect to provide you with a further amendment version of the draft Bill and the Supplementary Analysis Report<sup>1</sup> (SAR) by Friday 10 May or soon after. Coalition partners will therefore have the Cabinet paper for six working days, but a copy of the near final draft Bill and SAR for only four working days. Alternatively, we could provide the early draft of the Bill for Coalition partners from the start of Ministerial consultation, and then provide an updated version when available on Friday 10 May (or soon after).
3. Note the early draft version of the Bill you will receive tomorrow will not have been reviewed by the Parliamentary Counsel Office (PCO) and may require further amendment. A key part of the Bill that PCO are working to resolve is how to reference the Ministry's work programme. Based on PCO timelines, this is likely to be resolved after Ministerial consultation.
4. The LEG Cabinet paper:
  - i seeks approval to introduce the Bill to the House on 30 May 2024
  - ii signals your intent to progress the legislative amendment through Budget night legislation under urgency to enable the changes from the start of the 2024/25 financial year.
5. The Bill gives effect to Cabinet's decisions on 29 April 2024 to make changes to the Waste Minimisation Act 2008 (the Act) to:
  - i enable the central government allocation of the waste disposal levy (the levy) to be spent on a broader range of environmental outcomes
  - ii increase levy rates over three years (2025/26 to 2027/28)

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<sup>1</sup> As Cabinet has already confirmed policy decisions, the Supplementary Analysis Report is a substitute for a Regulatory Impact Statement that would typically provide impact analysis on possible options to support decisions. These documents are published on the Treasury's (and/or Ministry for Regulation's) website(s).

- iii make associated minor regulatory amendments.
6. The process for developing the proposals did not follow the Legislative Design Advisory Committee (LDAC) guidelines for public consultation and no engagement occurred with iwi/Māori. Consultation was not possible due to the tight timeline for development of proposals and delivery of the desired fiscal savings outcomes by 1 July 2024. The Ministry will provide you with communications material to assist with managing the anticipated stakeholder response to the amendments.
7. The timeline for the Bill is as follows:

<b>Table 1: Timeline for draft Bill</b>	
<b>Step</b>	<b>Date</b>
draft Cabinet paper to Minister's office	Tuesday 7 May
Early version of the draft Bill to Minister's Office	Wednesday 8 May
Ministerial and Coalition Partner consultation (5 working days) *	Thursday 9 – Wednesday 15 May
* next version of the Draft Bill and Supplementary Analysis Report to Minister's Office	by Friday 10 May or soon after
Lodge Cabinet Paper (with draft Bill)	Thursday 16 May
Briefing from Officials to provide draft Legislative Statement and draft First Reading Speech	By Tuesday 21 May
LEG Committee (get approval to Introduce to the House)	Thursday 23 May
Communications material	By Monday 27 May
Cabinet	Monday 27 May
Introduce into the House under urgency	Thursday 30 May
Date enacted	by 1 July 2024

8. Officials will provide the following by 21 May 2024 to support the Introduction to the House on 30 May 2024:
- i draft Legislative Statement
  - ii draft First Reading Speech

## Recommendations

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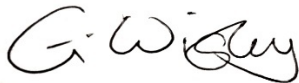
We recommend that you:

- a. **provide** any further feedback on the draft Cabinet paper ahead of Ministerial and Coalition Partner consultation
- b. **note** that we will provide you with an early version of the draft Bill Wednesday 8 May 2024 and that this may require further amendments

- c. **note** that we will provide you with the next version of the draft Bill and Supplementary Analysis Report by Friday 10 May 2024 or soon after, this is based on timings provided by the Parliamentary Counsel Office and the Ministry's Quality Assurance Panel
- d. **note** that we will conduct brief agency consultation on the Cabinet paper and draft Bill
- e. **note** that we will provide the following documents by 21 May 2024 to support you when you introduce the Cabinet paper and draft Bill to the Cabinet Legislative Committee on 23 May 2024, and to support the Introduction to the House on 30 May 2024:
  - i. draft Legislative Statement
  - ii. draft First Reading Speech
- f. **note** that we will provide you with communications material by Monday 27 May 2024

## Signatures

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Glenn Wigley  
General Manager – Waste & HSNO Policy  
**Climate Change Mitigation and Resource Efficiency**  
**7 May 2024**

Hon Penny SIMMONDS  
**Minister for the Environment**

**Date**

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## **Appendix 1: Talking points for Cabinet Legislative Committee for CAB-437 *Waste Minimisation (Waste Disposal Levy) Amendment Bill: approval for introduction***

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### **Background and introduction (Paragraphs 1-5)**

1. I am proposing to introduce the Waste Minimisation (Waste Disposal Levy) Amendment Bill (the Bill) into the House of Representatives.
2. I intend to progress the legislative amendment through Budget night legislation under urgency to enable the changes from the start of the 2024/25 financial year.
3. The Bill gives effect to Cabinet's decisions on 29 April 2024 to make changes to the Waste Minimisation Act 2008 (the Act) to:
  - i enable the central government allocation of the waste disposal levy (the levy) to be spent on a broader range of environmental outcomes
  - ii increase levy rates over three years (2025/26 to 2027/28)
  - iii make associated minor regulatory amendments.
4. The key outcome from the Bill is to enable the central government allocation of the waste disposal levy (the levy) to be spent on a broader range of environmental outcomes.
5. The Bill will enable levy funds to be used to support activities and responsibilities that address waste reduction, reduce harm from waste, and support other environmental outcomes. This will contribute towards meeting the Government's priorities, including improving and protecting the environment from harm, preventing the impact of, and supporting recovery from extreme weather events, investing in productivity-enhancing infrastructure, restoring degraded environments, and achieving fiscal savings.
6. The fiscal savings will be achieved by using the levy to offset costs associated with funds and responsibilities administered by the Ministry for the Environment (the Ministry), primarily related to waste minimisation, remediation, and freshwater.

### **What is the likely response to the Bill? (Paragraphs 11, 13-15)**

7. I foresee there may be criticism from some parts of the waste sector. There has not been an opportunity to consult or engage with them, and no select committee process, due to the rapid development of the Bill to enable savings from the start of the 2024/25 financial year.
8. The sector has a wide range of views on what the levy rate should be, what it should be spent on and how it should be distributed. For example, some in the waste and recycling business have advocated to me<sup>2</sup> for more or all the levy to be contestable, thereby reducing the local government share – currently set at 50 per cent.

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<sup>2</sup> Meeting with the Waste and Industry Recycling Forum (April 2024) and in their 2021 submissions.



9. However, I am not proposing to make any changes at this time to how local government can spend their share of the levy. This means that central government would have a wider scope of investment, while local government would continue to invest their share of the levy to promote or achieve waste minimisation, as per their waste management and minimisation plans.
10. Cabinet has directed officials to identify a suitable annual quantum for waste-related investment as well as a wider range of environmental activities across Government that will generate additional savings opportunities from Budget 2025. This may result in a decrease to the portion of the levy for contestable funds (such as the Waste Minimisation Fund and Plastics Innovation Fund) available for waste minimisation in outyears. Assigning funding envelopes will ensure the levy revenue can be strategically invested into waste minimisation without the risk of crowding-out private investment or creating ongoing subsidies for onshore processing.
11. I also foresee the broader waste sector, and others, may not all agree on widening the purposes for which the levy can be spent, particularly for Ministry-related costs. It may be regarded as further diminishing the link between those paying the levy and the outcomes being funded. In terms of legislative design, the proposed change will provide for a less direct relationship between those paying the levy and those creating the environmental costs that the funding seeks to address.
12. However, these potential concerns should be considered alongside the additional flexibility and range of environmental priorities that can be supported such as the remediation of legacy waste issues and historic landfills vulnerable to the effects of severe weather events. The Bill will enable a substantial increase in the funds available for contaminated site remediation, which will benefit many communities. In addition, territorial authorities will receive an increase in revenue from their levy allocation over the three-year period.

**Is it still considered a levy? (Paragraphs 12, 30-31)**

13. The levy will still be considered a levy. According to the Treasury *Guidelines for Setting Charges in the Public Sector* in practice, fees and levies might not fit into discrete categories and could be considered as being on a spectrum. The guidelines state that a levy will be charged to a particular party or group, for a specified purpose, but not necessarily for a specific good or service. In this way, a levy might be more akin to a tax.
14. The Legislative Design Advisory Committee (LDAC) guidelines support this, stating a levy is more akin to a tax in that it is usually compulsory to pay it and is usually charged to a specific group.
15. LDAC advises that levies may be charged to a group of people (often defined by the fact that they are undertaking a certain activity) to fund certain costs that may arise in connection with that activity. It is not necessary that the person paying the levy obtain a direct benefit from the levy.
16. For the waste disposal levy, it is collected via Disposal Facility Operators on the waste disposed to landfill. Now that the levy has been extended to most landfill types, most

generators of waste will be paying the levy. This is an efficient point in the resource system to collect funds to address the environmental costs of resource use which extend beyond the landfilling of the waste.

**How will any negative effects of the levy rate increases be managed? (Paragraph 6)**

17. Given that the amendments are proceeding rapidly, I have a 9(2)(f)(iv) on the 2024 Legislation Programme for wider reform of waste legislation. This could be an opportunity to remedy any unintended consequences if they do arise and to make additional improvements. This may include modernising the compliance monitoring, and enforcement tools within the Act to deter and manage any levy avoidance that may occur because of the levy rates increases.

**What does the Supplementary Analysis Report say? (Paragraph 19)**

18. Given the need to progress within limited timeframes to generate the fiscal savings for Budget 2024, the full regulatory impact analysis for the proposal could not be completed ahead of Cabinet decisions on 29 April. A regulatory impact analysis is typically prepared to consider and assess options (including impacts, risks, costs, and benefits) to support relevant Cabinet decisions on a proposal.
19. The Supplementary Analysis Report covers the impacts, benefits, risks, and trade-offs of the proposal agreed by Cabinet. The report has been assessed by an internal Ministry panel and their quality assurance statement is included in the Cabinet paper.

**Is the Bill compliant with *Te Tiriti o Waitangi*/Treaty of Waitangi? (Paragraphs 25-28)**

20. Consultation on the waste strategy and legislative amendment proposals that took place in 2021 clarified that Māori have interests in effective waste management. Although this consultation did not propose the same amendments. The poor management of waste can have impacts on Māori interests in climate, biodiversity and other environmental outcomes including land, freshwater and coastal marine environments. Therefore, broadly speaking, Māori have rights and interests in waste minimisation and management.
21. The Bill does not alter the relationship between Māori and the waste system and does not change the current involvement of Māori at both a statutory and operational level. For example, my requirement to consider the need for the Waste Advisory Board to have members with knowledge, skill, and experience relating to tikanga Māori.
22. There are no existing Treaty Settlements that establish specific obligations for the Crown in relation to waste minimisation. Some supporting co-management documents indicate an interest in waste management and minimisation.<sup>3</sup> At least 14 Post Settlement Governance Entities (PSGEs) outline general good faith engagement obligations.
23. Māori have interests in matters that may be affected by the Bill (such as specific waste minimisation or environmental projects or activities that could be funded by the levy).

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<sup>3</sup> Including Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-rua, and Raukawa and Te Arawa under their respective Waikato River accords.

However, the nature of any potential impact is broad rather than specific, because an ability to spend levy money is several stages removed from any specific project that Māori in a particular region may have an interest in. More generally it is considered likely that the widening of matters to other environmental priorities is in keeping with Māori perspectives on environmental systems (in which waste is connected to rather than separate from other matters such as the health of waterways and catchments).

24. To the extent that the Bill enables investment of the levy on a wider range of environmental initiatives such as catchment remediation (such as Kaipara Moana) and freshwater improvements (such as restoring the Wahapū o Waihi (Waihi estuary<sup>4</sup>)), it may better meet Māori rights and interests than the status quo, but this has not been confirmed through engagement with Treaty partners.

**Is the Bill compliant with the Legislation Design and Advisory Committee (LDAC) guidelines? (Paragraphs 29, 30-32)**

25. The Bill meets the LDAC guidelines except for the recommendation that public consultation should take place. This has not occurred in this instance due to the tight timeline for development of proposals and the budget sensitive nature of the proposals. There will also not be a select committee process that would enable engagement.
26. Of specific note, there has not been time to discuss specific proposals with Māori and therefore assumptions have been made about how their interests may be affected by the Bill. This has in part been informed by consultation that took place in 2021 on the waste strategy and proposals for a wider waste legislative reform. However, it is noted that the consultation did not relate to the specific proposals in this Bill.

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<sup>4</sup> Funding of just under \$3 million so the local community and Bay of Plenty Regional Council can work together to restore the estuary. The restoration approach draws upon Mātauranga Māori (Maori knowledge) as well as data-led science. A key project aim is to create healthy mahinga kai (food harvesting areas) for future mokopuna by implementing kaitiakitanga objectives through restoration, monitoring, training and management.