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Office of the Minister for the Environment

ENV – Cabinet Environment, Energy and Climate Committee

Agreement to implement a New Zealand Container Return Scheme

Proposal

- 1 This is one of two papers responding to public consultation on *Transforming Recycling* undertaken earlier this year. This paper is structured in two parts and seeks agreement:
 - 1.1 to implement a New Zealand Container Return Scheme (NZ CRS; Part I);
 - 1.2 on relevant policy decisions to inform drafting of primary legislation (Part II);
- 2 This paper forms part of the suite of Cabinet papers seeking to repeal and replace the existing Waste Minimisation Act (WMA) 2008.
- 3 Part I of this paper sets out the overall proposal to introduce a NZ CRS, along with a summary of consultation feedback. Part II sets out and seeks agreement to the more detailed policy decisions required to inform legislative drafting.
- 4 I am also presenting a separate paper with proposals for managing business food waste and improving household kerbside recycling. A NZ CRS is complementary to these proposals, as it targets away-from-home beverage consumption.

Relation to government priorities

- 5 A NZ CRS delivers on the 2020 Labour Party Election Manifesto commitments and the Cooperation Agreement with the Green Party.
- 6 A NZ CRS enables key objectives of the new waste strategy.
- 7 Implementing a NZ CRS is a recommendation of the Prime Minister's Chief Science Advisor's 2019 *Rethinking Plastics* report.

Executive Summary

- 8 A container return scheme (CRS) is a product stewardship recycling scheme that incentivises the return of empty beverage containers for a refundable deposit (see appendix 1 for a scheme overview). CRS are on the rise globally with 51 schemes now operating and 22 more proposed. All Australian states have, or have committed to, a scheme.
- 9 A CRS will target away-from-home consumption of beverages, address New Zealand's current low beverage container recovery rates (estimated at 45 per cent), and tackle the associated litter problem (beverage containers constitute 66 per cent of all recognisable branded litter in New Zealand).
- 10 In February 2022, Cabinet Environment, Energy and Climate Committee approved the release of the *Transforming Recycling* consultation document, including proposals for a NZ CRS. I was invited to report back on the development of options for a NZ CRS before the end of 2022 [ENV-22-MIN-0002].

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- 11 Public consultation from March to May 2022 sought feedback on a NZ CRS, in line with Cabinet direction [ENV-21-MIN-0049 and ENV-21-MIN-0048]. Feedback showed that 92 per cent¹ of submitters support the implementation of a NZ CRS. The scheme design and the 20 cent refundable deposit also received high levels of support.
- 12 Most industry feedback (large beverage producers and retailers) included a strong preference for a 10 cent deposit. Other key matters included the proposed exemption of fresh milk, scheme financials (costs and GST), take-back requirements for retailers, and the inclusion of glass. Some non-governmental organisations (NGOs) and local government submitters noted concerns about the scheme being industry-led.
- 13 Key changes following consultation include changes to cost assumptions and the inclusion of GST in the refundable deposit amount. The net outcome is that projected costs to consumers and industry have reduced by \$44 million in year one relative to the consultation base case.² The proposal has a benefit-cost ratio (BCR) of 1.48 (0.66 to 2.19).³
- 14 I am now seeking Cabinet agreement to proceed with a NZ CRS. In line with consultation, I propose a comprehensive not-for-profit scheme that will significantly lift beverage container recycling rates and shift the associated costs from ratepayers, councils and the environment to the responsible supply chain (producers, importers, retailers and consumers).
- 15 The NZ CRS will double recovery rates for recycling to more than 2 billion beverage containers (an increase of over 1 billion containers) and see a corresponding decrease in beverage container litter of at least 60 per cent.
- 16 The key design elements for the NZ CRS include: a broad scope of beverage containers (including glass); a mixed network model with take-back obligations for some retailers; the deposit financial model; a not-for-profit industry-led scheme; and return rate targets of 85 per cent from year 3 and 90 per cent from year 5 onwards.
- 17 If approved, the NZ CRS is likely to go live in 2026, with the refundable deposit level being set in regulation in 2025 following the new waste legislation coming into force. To ensure a cash refund is able to be made, I am seeking a decision to establish a 10 cent minimum (GST included) refundable deposit in primary legislation (aligned with the lowest cash amount available as legal tender).
- 18 The refundable deposit level is a key driver of recovery rates, as this incentivises consumers to return beverage containers for recycling and reduce litter. We consulted on a 20 cent refundable deposit, which received high levels of support more generally but resistance from large beverage producers and retailers. Cabinet has the option to signal its preference via an in principle agreement (subject to regulation as above) to: a 10 cent refundable deposit; a 20 cent refundable deposit; or to not indicate a preference.

¹ All submission percentages in this paper exclude a further 3,996 pro forma submissions. If these submissions are included, the level of support for implementing a NZ CRS is 98 per cent.

² Assumes the 20 cent deposit scenario. In year one, the full estimated pass-through cost is now 21 cents (excluding GST), the consultation base case was estimated as 23 cents (excluding GST).

³ Assumes a 30-year time horizon and 5 percent discount rate, 20 cent deposit. The BCR range, in part, reflects different studies that monetise litter and recycling benefits.

- 19 Part II of this paper sets out the key policy decisions required to enable drafting for a NZ CRS, as part of the new waste legislation. I will report back to Cabinet in the first quarter of 2023 with further details on NZ CRS compliance, monitoring and enforcement (CME), governance, structure, tax status of the Product Stewardship Organisation (PSO) and other matters.

Part I – A NZ CRS will address New Zealand’s low recovery and high litter rates for beverage containers

- 20 A CRS is a recycling scheme that incentivises the return of beverage containers for a refundable deposit (see Appendix 1 for an overview diagram). A CRS shifts the costs of recycling away from councils and ratepayers to the responsible supply chain.
- 21 CRS are increasingly being used globally to shift to circular economies, including in the UK, Europe, the USA, Canada, the Caribbean the Middle East, Asia, Australia and the Pacific Islands.
- 22 Less than half (45 per cent by weight) of the estimated 2.57 billion beverages sold in New Zealand in 2020/21 were recovered for recycling. As a result, an estimated 1.7 billion beverage containers were stockpiled, littered or landfilled. This results in environmental harm, burdens for councils, and lost opportunities for resource recovery, recycling and emission reductions.
- 23 A NZ CRS will address New Zealand’s low recovery and high litter rates for beverage containers by doubling beverage container return rates to 90 per cent and delivering a corresponding decrease in beverage container litter of at least 60 per cent.

Consultation Feedback and Analysis

- 24 The *Transforming Recycling* consultation sought feedback on key scheme design elements for a NZ CRS, in line with Cabinet direction [ENV-21-MIN-0049 and ENV-21-MIN-0048]. The consultation was held in early 2022 and received 6,399 submissions.
- 25 There is wide support (92 per cent) to implement a NZ CRS. Feedback agreed that it will reduce litter, reduce associated container emissions, change consumer and manufacturer behaviours, and help New Zealand transition to a low-waste, low-emissions, circular economy. Most submitters supported the scheme design elements including the deposit, deposit financial model, and scope of containers.
- 26 Key concerns raised in consultation are outlined in Appendix 2 and below. Notably:
- 26.1 many submitters (61 per cent) opposed the exemption of fresh milk;
 - 26.2 large alcohol/glass industry stakeholders opposed the inclusion of glass;
 - 26.3 larger beverage producers, retailers and some businesses/industry bodies raised concerns about the scheme costs (including the 20 cent deposit level⁴), take-back requirements for retailers and GST treatment;
 - 26.4 some NGOs and local government submitters, as well as the Kiwi Bottle Drive pro forma submissions, raised concerns about the industry-led governance structure.
- 27 The Summary of Submissions is attached at Appendix 3.

Alignment with kerbside recycling

- 28 The shift to a NZ CRS will be a significant change for councils and their recyclers. In Australia, CRS are recognised as highly complementary to kerbside collection by

⁴ Some beverage producers, typically New Zealand companies, supported the proposed the 20 cent deposit level.

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reducing litter issues associated with away-from-home consumption and by delivering benefits to Councils and their recyclers. This is in line with international best practice, local government advocacy⁵ for a NZ CRS and Council submission feedback.

NZ CRS financials, costs and benefits

- 29 The independent modelling for a NZ CRS (financial model⁶ and cost-benefit analysis⁷) has been updated, following industry feedback on costs, and considering the treatment of GST in the deposit amount.
- 30 Noting that the consultation scenario received broad support, based on the 20 cent deposit scenario, the net impact of post consultation updates has reduced the estimated scheme financial cost (turnover) in the consultation base case by \$44 million in year one (2026), from \$553 million to \$509 million and by \$32 million in year 5 (2030), from \$619 million to \$587 million.
- 31 Deposit refunds are estimated at \$299 million in year one to \$353 million in year 5. Scheme costs are largely passed through to consumers, and modelling assumes 100 percent pass through.
- 32 At 100 percent pass through, a beverage container price may increase by 24 cents (including GST) in 2026, 20 cents is refundable upon recycling through the scheme leaving a net cost of 4 cents (including GST) per container in year one.
- 33 The average household net cost for participating in the scheme is estimated at \$1.08 per week or \$56 (in 2026). However, households may choose to offset these additional costs by changing their consumption behaviour. For example, following establishment of the Queensland scheme, the Queensland Productivity Commission estimated households reduced consumption of non-alcoholic beverages by 6.5 percent (equivalent to 1.04 litres per month), resulting in an estimated net cost increase to households of a more modest AUD 21.5 cents per week or AUD \$11.16 per year, noting this was based on a AUD 10 cent deposit level (NZD 11 cents).
- 34 Financial benefits to local government are estimated at \$50 million in year one (or ~\$27 per household) through reduced kerbside collection, landfill and litter costs, and increased value beverage containers remaining in kerbside.
- 35 The scheme benefit-cost ratio is now estimated at 1.48 (0.66 to 2.19).⁸
- 36 Detail on the scheme financials and cost-benefit analysis can be found in the Financial Implications section of this paper and in the attached interim RIS.

Proposal for a NZ CRS

- 37 Following public consultation, submissions analysis, updated modelling, cost-benefit analysis and advice from officials, I am seeking agreement to implement a NZ CRS.
- 38 The objectives of the NZ CRS are to increase the circularity of beverage containers, reduce litter, improve recycling outcomes and reduce emissions. In doing so, a CRS will enable producer responsibility while also providing benefits to communities and charities through participation in the scheme. Full policy objectives are outlined in the updated interim RIS (Appendix 4).
- 39 The NZ CRS will have the following key design elements, backed by regulation and enabled through new waste legislation (as detailed in part II of this paper):

⁵ In 2018 Local Government New Zealand passed a policy remit to establish a CRS with 96 percent in favour.

⁶ Prepared by PricewaterhouseCoopers (PwC).

⁷ Prepared by Sapere Research Group Limited (Sapere).

⁸ Assumes a 30 year time horizon, a 5 percent discount rate and a 20 cent refundable deposit scenario. The BCR range, in part, reflects different studies that monetise litter and recycling benefits.

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- 39.1 a broad scope of eligible beverage containers including all single-use metal (e.g. aluminium, steel, tinplate and bi-metals), plastic (PET, HDPE, PP, and recyclable bio-based PET and HDPE), glass (all colours) and liquid paperboard (LPB)⁹;
- 39.2 all beverage containers that are in-scope of the scheme, but are not made of the accepted, recyclable materials or specifically exempted, would be excluded and prohibited from sale in New Zealand;
- 39.3 an exemption for fresh white milk¹⁰ in all packaging types, to be reviewed at the completion of the third year of the scheme being operational;
- 39.4 an exemption for beverage containers that are intended for refilling and have a verifiable producer-established return and refill system, to be reviewed at the completion of the third year of the scheme being operational;
- 39.5 the deposit financial model;
- 39.6 the scheme's product stewardship organisation (PSO)¹¹ will be not-for profit and industry-led;
- 39.7 a mixed-model return network with regulated take-back obligations for retailers that sell beverage containers in New Zealand, as well as a procurement-led 'voluntary' approach to establishing depots and over-the-counter return points;
- 39.8 return targets of 85 per cent from year 3 and 90 per cent from year 5 onwards, which, if not met, may trigger review powers and potentially, intervention options, as outlined in paragraphs 127 - 130.
- 40 The scheme fees will be eco-modulated¹² to reflect the variable costs of recycling different container types and potentially, other environmental considerations. This is intended to incentivise the use of more recyclable packaging material and support improvements to packaging design. Implementation/operational details to be provided for in regulations and subject to a return network study (currently underway).
- 41 Set out at Appendix 1 is an overview showing how the scheme is intended to work, with financial, material and information flows. It also sets out the roles of the key participants in a NZ CRS at a high level.
- 42 If approved, a NZ CRS is likely to go live in 2026, with the deposit level being set in regulation in 2025 following the new waste legislation coming into force. To ensure a cash refund is able to be made, I am seeking a decision to establish a 10 cent minimum (GST included) deposit level in primary legislation (aligned with the lowest cash amount available in legal tender).
- 43 We consulted on a 20 cent deposit, which received high levels of support more generally but resistance from large beverage producers and retailers. Cabinet has the option to signal its preference via an in-principle agreement (subject to regulation as above) to a 10 cent deposit, a 20 cent deposit, or to not indicate a preference.

⁹ LPB packaging typically includes multiple material types such as plastic, aluminium and fibre (cardboard).

¹⁰ As consulted on, 'fresh milk' includes white dairy milk that requires refrigeration. This definition includes cream but does not include beverages that are shelf-stable (long-life) or partially dairy/milk-based, such as kefir, flavoured milk, smoothies, drinkable yoghurt and plant-based milk alternatives (eg. oat, almond, and soy).

¹¹ Note, in previous papers the PSO has been referred to as the Managing Agency or 'MA'. PSO is provisional terminology and may be subject to new waste legislation.

¹² Eco-modulation: a variable fee pricing mechanism used to reflect the costs of recycling a given product. The fee typically increases when a product/material is hard-to-recycle, whereas easy-to-recycle products/materials have lower scheme fees, encouraging producers to use readily recyclable materials.

- 44 Australian schemes operating at a 10 cent AUD (11 cents NZD) deposit level currently achieve on average a 65 percent recovery rate, with the highest performing scheme, South Australia (established in 1977), achieving 76 per cent. PwC modelling has indicated that a 10 cent NZD refundable deposit may achieve a 78 per cent recovery rate and 20 cents NZD may achieve an 84 per cent recovery rate, based on a higher level of return point convenience than Australia. Noting that in any case, every 1 per cent of beverage containers not recovered for recycling, is estimated at 23.6 million containers to disposal or litter in New Zealand.
- 45 The proposed NZ CRS design¹³ draws from a range of high performing schemes internationally (over 85 per cent recovery) as well as giving consideration alignment with Australian schemes. This framework will ensure that the NZ CRS meets its objectives, while being run efficiently.
- 46 A mixed-model return network will provide high levels of convenience and accessibility via retail take-back obligations (which is a key driver in scheme effectiveness internationally) while depots enable effective servicing of commercial container volumes (from hospitality) and provide opportunities for businesses, hāpu/iwi and community organisations to participate in the network directly.
- 47 Reverse vending machines (RVMs)¹⁴ are a key feature of modern schemes and will provide donation options for registered charities in line with the scheme's objectives. The informal network will also see a return to 'container drives' run by schools, sports clubs, etc. as a new means of fundraising.
- 48 Ministry officials are undertaking further analysis on the network configuration options and eco-modulation of scheme fees to inform future decisions on regulatory settings.

Implementation

- 49 Implementing a NZ CRS will require system-level change [ENV-22-MIN-0002]. Key elements of implementation are set out in the interim RIS and include:
- 49.1 development of primary and secondary legislation (see Part II of this paper);
 - 49.2 the setup and launch of the scheme, including:
 - 49.2.1 the appointment and establishment of a scheme PSO;
 - 49.2.2 the PSO to set up the scheme infrastructure, including the return network and consolidation facilities;
 - 49.2.3 communications with affected stakeholders and the public;
 - 49.2.4 the Ministry for the Environment to establish a Registration Portal and ensure that the scheme's reporting and auditing regime is integrated with CME systems;
 - 49.2.5 the bedding in and ongoing operation of the scheme (including appropriate monitoring).

Part II – Relevant policy decisions to inform drafting

- 50 Part II of this paper seeks Cabinet agreement to relevant policy decisions to inform drafting of new primary legislation, due to the technical nature of the scheme.
- 51 Consultation feedback noted the importance of the NZ CRS being industry-led, consistent with international jurisdictions. However, the NZ CRS will impose costs on industry which industry will be strongly incentivised to minimise. Over-zealous cost-

¹³ Modelled on a 20 cent scenario

¹⁴ An RVM is an automated vending machine that accepts, verifies, counts, sorts and crushes empty beverage containers (~100 per minute), providing the consumer a payment or donation to charity option for the refunds.

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minimising behaviour risks preventing the scheme from achieving the desired policy outcomes, unless appropriate checks and balances are in place to ensure critical components of the scheme are maintained.

- 52 In other jurisdictions, a CRS is often supported by complementary tools such as environmental taxes that apply when industry fails to meet the scheme's targets, with taxes set at such a level as to make compliance more economic. I do not propose introducing such tools within the NZ CRS.
- 53 Instead, a regulatory framework will be put in place (described below) to provide the necessary checks and balances and ensure the scheme is managed appropriately.

Enabling the NZ CRS in primary legislation and secondary regulations

- 54 The NZ CRS will be enabled through a hierarchy of powers, obligations, roles and functions for the Government, PSO and scheme participants, enabled by new waste legislation and subsequent regulation.
- 55 Ministerial functions and powers will be set out in new waste legislation. Pending new legislation, the Minister for the Environment will then recommend regulations addressing substantial decisions relating to the scope of the NZ CRS (including, for example, the refundable deposit amount and the types of containers to be included, excluded or exempt).
- 56 Primary legislation will set out the functions and powers of the Government agency responsible for monitoring the NZ CRS (the Ministry for the Environment or an alternative authorised party), matters relating to compliance, monitoring and enforcement of the scheme, and governance of the PSO.
- 57 Primary legislation will also provide for certain technical and administrative matters relating to scheme operations and performance to be determined by the Secretary for the Environment. This includes the information to be provided to support compliance and performance monitoring, specification of CRS Design Standards¹⁵, and if necessary, the ability to specify the methodology the PSO will use for setting scheme fees.
- 58 Appendix 5 sets out the roles and powers of regulators and key participants in the scheme.

Scheme design: scope of containers

- 59 Primary legislation will specify the general definition of a 'beverage container', and the Minister for the Environment will be able to set specific categories in regulation for beverage containers, defined by material types, product types, and beverage volume. The categories will determine which containers are eligible, exempt or excluded.
- 60 Primary legislation will require that the Secretary for the Environment to assess applications from first responsible suppliers¹⁶ of beverage products through the Registration Portal (see Appendix 1) against these categories, to determine the appropriate treatment (eligible, exempt or excluded). The Ministry for Primary Industries (MPI) and New Zealand Food Safety will be consulted as this progresses.
- 61 Primary legislation will prohibit first responsible suppliers (such as beverage producers and importers) from selling any eligible beverage containers unless they have been registered and approved by the Secretary for the Environment. Details of registration

¹⁵ CRS Design Standards are proposed mechanism for the benefit of all scheme participants to ensure the scheme's policy objectives are met (see paragraphs 138 -142)

¹⁶ The first responsible supplier means the producer or importer of a beverage which first supplies the product to the New Zealand market.

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process will be set out in the Information Disclosure requirements [Paragraphs 134 - 137].

- 62 Sufficient lead in time will be provided as well as ongoing engagement to ensure industry is well-informed ahead of any new requirements and where appropriate, affected parties may be provided with a grace period to manage the transition to recyclable containers. Legislation is expected to pass in the first quarter of 2025 followed by an 18 month period before the scheme commences.
- 63 This aspect of the proposal is consistent with powers in current legislation that limit free-rider risk to product stewardship schemes by restricting product sales, unless in accordance with a scheme.

Out of scope containers

- 64 Containers that do not meet the definition of a beverage container set by regulations are considered 'out of scope'. Examples of containers that are intended to be out of scope include non-beverage products (such as ice cream tubs), and drinks sold in non-airtight or sealed vessels, such as coffee cups.¹⁷

Eligible beverage containers approved for sale within the NZ CRS

- 65 Beverage containers will be eligible to be approved for inclusion in the NZ CRS if the regulatory requirements for inclusion are met, such as packaging material, format, and size, along with any other relevant container scope matter, and an exemption does not apply. Precise details will be set out in regulation.
- 66 I propose eligible beverage containers described in regulation will include all single-use metal (e.g. aluminium, steel, tinplate and bi-metals), plastic (PET, HDPE, PP, and recyclable bio-based PET and HDPE), glass (all colours) and liquid paperboard (LPB) beverage containers between 100mls and 3L.

Beverage containers exempt from the NZ CRS

- 67 I propose that the primary legislation provide for exemption powers and that they be exercised through the making of regulations, so that the Minister for the Environment may recommend exemptions for some categories of beverage containers from key regulatory requirements of the NZ CRS.
- 68 Given excluded products will need to be reconsidered from time to time, I propose that any exemption made in regulation, will have the effect of exempting the first responsible supplier¹⁸ from the scheme requirements, except for those relating to product registration (in the portal) and product data provision.
- 69 I propose that in-line with the consultation proposals, the initial exemptions made in regulation are:
- 69.1 fresh white dairy milk in all packaging types;
 - 69.2 beverage containers intended for refilling and which have a verifiable producer return and refill system in place;
 - 69.3 beverage containers larger than 3 litres or less than 100 millilitres.

¹⁷ Pharmaceuticals are also not included within the definition, although subject to regulation, some drinks such as health tonics may be included within the scheme.

¹⁸ The first responsible supplier means the producer or importer of a beverage which first supplies the product to the New Zealand market.

Beverage containers excluded from the NZ CRS

- 70 Beverage container materials or packaging formats that are more difficult to recycle often end up as contamination in recycling streams, littered, or landfilled. This includes pouches, sachets, bladders, biodegradable plastic bottles, compostable packaging, and hard-to-recycle plastic types 3, 4, 6 and 7.
- 71 I propose that the primary legislation specify that beverage containers that are in-scope but do not meet the criteria to be eligible and are not subject to an exemption, will be excluded from the scheme and prohibited from sale in New Zealand.
- 72 Rather than the Government phasing out the category of excluded containers (as is the case with current phase-out powers), I propose that the onus should be on the first responsible supplier to register their products.

Temporary exemptions to exclusions

- 73 Where excluded containers are identified, transitional phase out arrangements or 'temporary exemptions to exclusions', in line with the scheme commencement date, may be made in regulation for those products, as recommended by the Minister for the Environment.
- 74 Temporary exemption powers to the proposed prohibition of sale power can be used to manage transitional arrangements where there may be significant costs or impacts on producers and/or importers of beverages that need working through
- 75 Primary legislation will also allow the Minister for the Environment to provide a temporary exemption for any in-scope excluded beverage product via gazette notice in emergency or unforeseen circumstances that fall outside normal scheme operations, upon recommendation of the Secretary, following consultation with the PSO.

Changes and new products

- 76 As the scheme matures and technology and materials develop, markets will shift and primary legislation will include the ability for the Minister for the Environment to add or remove product and packaging types via making recommendations for regulations. Regulations will set out the details of this process (including criteria) and information requirements for producers and importers will be set out in the Information Disclosure requirements
- 77 Subject to an assessment against the criteria (set in regulation) and following advice from the Secretary and consultation with affected parties, including the PSO, I propose that the Minister for the Environment can recommend the addition or removal of product and packaging types to the NZ CRS via regulation.

Beverage container lids

- 78 Lids are often not captured in current kerbside recycling systems, and end up littered or landfilled, because they are too small. I propose that the regulations will require the PSO to be responsible for collecting and recycling beverage container lids, and include beverage container lids in the definition of an in-scope container¹⁹.

¹⁹ Noting that the refund due to the consumer will not be affected by whether or not a lid has been returned with or alongside the beverage container

Scheme design: return rate targets

- 79 The primary objective of the NZ CRS is to improve the return rate and recycling of beverage containers from the present estimate of 45 per cent (by weight). Return rates are influenced by a range of factors including the deposit amount and the convenience of the network return points. Australian schemes currently average a 65 per cent return rate, the scheme design characteristics consulted on are intended to enable a higher performing scheme for New Zealand.
- 80 Target return rates of 85 per cent from year 3 and 90 per cent from year five onwards (by container count) are in alignment with higher performing schemes globally and were supported by most submitters.
- 81 Providing NZ CRS participants with clear container return rate targets will make the rationale for the Secretary for the Environment's determinations for CRS Design Standards and government promulgation of the deposit level.
- 82 I propose that the regulations set mandatory return targets of 85 per cent from year 3 and 90 per cent from the end of year 5. Return rate targets will include recovered kerbside beverage container material, which is consistent with most Australian schemes.
- 83 I propose that the Board of the PSO must report to the Ministry for the Environment on performance against the return rate targets (the frequency of reporting will be determined in the Information Disclosure requirements). If return rate targets are not met, this will trigger a statutory review of the NZ CRS by the Ministry for the Environment an alternative authorised party, including the deposit amount and return network.
- 84 I propose that the PSO also be obligated to ensure that all recovered material is recycled into new beverage or other food grade packaging wherever possible, and that the definition of 'recycling' be provided for in regulations, to be developed during drafting and agreed by the Minister.

Scheme design: return network

- 85 The convenience and accessibility of the return network influences the container return rate and how equitable the scheme is for consumers. The NZ CRS return network will enable the majority of New Zealand's population to participate as part of their current routines and purchasing behaviours.
- 86 Many successful schemes require retailers that sell beverages to take back empty containers. Retailer take-back obligations ensure that consumers are guaranteed convenient return points, such as at supermarkets, dairies, bottle shops and petrol stations. I propose that all retailers that sell beverages will be subject to the take back obligation in primary legislation, however exemptions will be used to achieve an optimal convenience level as not all retailers that sell beverage containers need to participate in order to achieve a high level of network convenience for most consumers.
- 87 The NZ CRS consultation was based on convenience level of one take back point per 5,000-7,500 people. Further geo-spatial analysis and modelling to inform the retail take back obligation exemption criteria will be completed in early 2023.
- 88 Subject to that further work, my expectation is that mandated retail take back will apply to larger retailers such as supermarkets, determined by shop floor area thresholds as is common overseas, which may differ for urban and rural communities. It is likely that smaller retail stores such as convenience stores and dairies will not be required to participate unless they wish to and are responding to a PSO-ed procurement process seeking return point operators in that geographic area. Conditions and/or exemptions for retailers (e.g. for health and safety, or food safety reasons; or where there is another

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container return point in close proximity; or to limit the number of containers a customer may return at a time in retail settings) may also be used to manage scheme efficiency.

- 89 The regulated retail network will be complemented by the PSO procurement of depots and other return points (such as over-the-counter sites at smaller retailers) in areas where there are service level gaps in the network.
- 90 While it may not be immediately apparent to retailers, return point operators would likely see benefits and advantages, on the basis that they will be paid a per container handling fee for the service they provide for reasonable costs incurred. It is also recognised that establishment of a return point may attract new customers and where quality services are provided, customer loyalty to that return point, noting that refunded deposits may be spent on the next purchase in a retail return point setting.
- 91 All PSO led procurement will be in accordance with the CRS Design Standards. These standards will likely include, for example, minimum service levels for depots to ensure that commercial volumes from the hospitality sector in more densely populated areas are able to be processed at appropriate facilities (i.e. away from retailers).
- 92 I propose the NZ CRS will have a 'mixed-model' network including both retail and depot return points, with take back obligations for all retailers that sell beverages in primary legislation and with retailer exemption criteria in regulation that determines the extent of the retail take back obligations and network.

Network fraud mitigation

- 93 The return network operations are a fraud risk for the NZ CRS. Attempted fraud may occur where ineligible and inappropriately marked containers are attempted to be returned for a refundable deposit, or where attempts to redeem an eligible container more than once are made.
- 94 Modern and widely available electronic per container counting and verification technology can leverage multiple per container variables, including the container physical characteristics (whole, intact, relatively undamaged, empty, material type) and any scheme labelling requirements to mitigate fraud risk.
- 95 I propose primary legislation require all containers be electronically, per container, counted and verified unless exempted by the Minister for the Environment in regulation.
- 96 The requirement to electronically count and verify every redeemed container does not mean this must happen at every return point (such as over the counter sites). It does mean that containers collected at return points where electronic counting and verification does not occur, must be shipped whole and uncompact so that they may be counted and verified elsewhere (at a depot for example). Verification includes scanning a product barcode that is registered to the scheme via the Registration Portal. New barcodes will be required as a part of new scheme labelling requirements to distinguish old ineligible stock from new eligible stock and help prevent fraud. A transition period will be established that allows for producers to adapt to new regulatory requirements.

Obligations on NZ CRS scheme participants

- 97 Primary legislation will need to set out the main obligations on scheme participants such as return point operators, including retailers and first responsible suppliers of beverage products.
- 98 Any CRS Design Standards and Information Disclosure requirements set out by the Secretary for the Environment will apply to all scheme participants.

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Obligations on all network return point operators including obligated retailers

- 99 All return point operators will enter into a services agreement with the PSO, covering the reasonable costs of providing a return point via a per container handling fee and for deposit refunds paid out on returned containers by the return point operator.
- 100 I propose the primary legislation will require all retailers that sell in scope beverage containers to provide for a container return point at their retail location unless subject to an exemption (in regulation).
- 101 To ensure an equitable and accessible scheme, I propose that primary legislation provides for powers to set a minimum standard for payment types in regulation that must be offered by return point operators when containers are redeemed for the refundable deposit. For example, cash refunds could be required at all return points and where this is not practical, vouchers that may be redeemed for cash at the same return point.
- 102 I propose reverse vending machines also be required to provide for charity donation options. Regulations will require any donations to only be payable to charities registered by Charities Services.²⁰ The Minister for the Environment will have the power to add to the list of approved charity types following consultation with affected stakeholders.
- 103 Regulations will require the PSO to make proposals to set out how charities will be supported in accordance with matters set out in CRS Design Standards²¹.
- 104 I propose the primary legislation will enable the Secretary for the Ministry for the Environment to issue CRS Design Standards and Information Disclosure Requirements to provide for how return points should operate, covering matters such as: signage and information, conditions of container acceptance, collection, treatment and storage of containers, accessibility, container counting and verification, data management and provision, and any matters relating to specific return point types.
- 105 The primary legislation will also enable the Secretary for the Environment to issue CRS Design Standards and Information Disclosure Requirements prescribing data collection and management requirements in order to ensure efficient and effective management of the scheme, manage fraud risk, and protect any commercially sensitive data generated by return points.

Kerbside collections and material recovery facilities (MRFs)

- 106 Consistent with Australian schemes, primary legislation will, subject to a satisfactory audit regime, enable deposit bearing containers to be collected via the kerbside system where households choose to forgo their deposit refunds, with Councils and/or their recyclers/materials recovery facility (MRF) operators able to claim refunds for eligible kerbside-collected containers.
- 107 This aspect of scheme design helps to offset the loss of revenue from beverage container materials in kerbside and will make up about half of the total financial benefits from a NZ CRS to local Government and/or recyclers estimated \$30m in year one, reducing to an estimated \$17 million in year five as the NZ CRS matures.

²⁰ Charities Services, (Ngā Ratonga Kaupapa Atawhai) is part of the Department of Internal Affairs (Te Tari Taiwhenua)

²¹ While consultation feedback indicated a preference for electronic payments, at this point, it is not proposed to make electronic payment options mandatory as it introduces the need for customer identification, logins and may add significant micro payment transaction costs. Further, evidence from Australia suggests that where app-based systems and payment options exist, uptake is increasing, but is more limited than may be expected.

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- 108 To enable effective management and alignment with arrangements in Australia, such as New South Wales, I propose:
- 108.1 before any party can claim refunds for containers collected at kerbside, Councils and/or their separate recyclers (where applicable) must come to a revenue sharing agreement, and the Council is to notify details to the PSO once an agreement is in place²²;
 - 108.2 the PSO and relevant recyclers/councils will be required to enter into agreements covering arrangements, including the PSO's auditing requirements, with respect to the refund payments and materials ownership for CRS eligible containers collected at kerbside that the PSO pays deposit refunds for;
 - 108.3 provided the agreements set out above are entered into, and the PSO's audit regime requirements are satisfactorily met, the PSO will:
 - 108.3.1 pay deposit refunds to Councils and/or recyclers in respect of eligible containers;
 - 108.3.2 not be required to pay for collection costs incurred by recyclers/Councils.
 - 108.4 through the agreements with Councils/recyclers, the PSO will have first right of refusal to the ownership, commodity sale and value for those containers for which a refund has been paid by the PSO, as is appropriate to offset NZ CRS scheme costs;
 - 108.5 that unless all contracted parties otherwise agree, if the PSO exercises the right of container commodity ownership, the PSO will also be liable for the transport, shipping and sales costs of the NZ CRS scheme materials from the materials recovery facilities.
- 109 Including containers collected at kerbside raises practical issues as existing processing and collection systems make electronic per container verification and counting impractical, significantly increasing the NZ CRS's vulnerability to fraud. To ensure these risks are managed, I propose that the Secretary may include provisions in the CRS Design Standards covering:
- 109.1 protocols for how refunds for containers collected at kerbside can be calculated;
 - 109.2 protocols for auditing and fraud mitigation practices.
- 110 I propose the Minister for the Environment may recommend regulations providing an exemption from the broader NZ CRS electronic per container counting and verification requirements (established in primary legislation) that are designed to protect the scheme from fraud. The application of an exemption will be subject to all relevant conditions, including necessary agreements and establishment of auditing protocols.
- Delegated authority to make technical changes or additions for participant obligations during the drafting process*
- 111 As implementation details for a scheme are worked through, additional obligations or adjustments to the obligations in this section on participant obligations may be required. I propose that Cabinet delegate to me the authority to make additions or

²² The requirement set out in Paragraph 108.1 does not apply to Councils that operate fully integrated collection and processing systems, where the Council is also the "recycler/MRF operator" and there is no third party.

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technical changes to the obligations listed above during the drafting process, provided that these obligations are consistent with the overall scheme design set out in Part I.

First responsible suppliers of eligible beverage containers

- 112 Primary legislation will prohibit the sale of beverage containers covered by the scheme unless the first responsible supplier has:
- 112.1 registered their beverage and container with the Ministry for the Environment;
 - 112.2 received approval from the Ministry for the Environment to sell the beverage in accordance with the CRS Design Standards;
 - 112.3 a written agreement in force between the first responsible supplier and the PSO;
 - 112.4 applied the labelling requirements (including refund mark and barcode) that complies with the requirement prescribed in the CRS Design Standards.
- 113 The Ministry for the Environment will be responsible for setting requirements for what information must be provided for product registration and approval, in labelling, and how agreements will operate to be set out in CRS Design Standards and Information Disclosure Requirements set out by the Secretary for the Environment. Labelling requirements will be developed after targeted consultation with stakeholders (including notification to the World Trade Organization Technical Barriers to Trade (WTO TBT Committee)).

Establishing a Product Stewardship Organisation (PSO) for the NZ CRS

- 114 The first step to establish a NZ CRS is to set criteria for evaluating proposals for the scheme's PSO²³, including targets and CRS Design Standards [127-131]. I propose these criteria will be set by the Secretary for the Environment following consultation with the Minister. The Minister will call for proposals.
- 115 Following the evaluation of proposals and advice from the Secretary for the Environment, the Minister will appoint an PSO, taking into consideration any additional matters the Minister considers relevant. Proposals will need to meet the evaluation criteria specified by the CE, such as how NZ CRS targets and network design requirements will be met.
- 116 Information to support the evaluation of proposals will include the applicant's implementation plan, operational plan, financial plan (including plans for setting scheme fees and eco-modulation), plans for the return network (including the process to establish depots, number and location of return points, plans for monitoring return point standards), plans for data security and IT platform, plans for achieving wider social benefits, and any other matter the Secretary for the Environment considers necessary to evaluate proposals and advice to the Minister to select the PSO.

Governance of the PSO

- 117 I am still giving consideration to what, if any, role government may play in the governance of the PSO, including how to ensure perspectives of Māori and consumers are reflected on the Board and how to ensure that the Board as a whole has the right mix of skills and experience to govern. I intend to provide further proposals on this in the first quarter of 2023.

²³ The scheme's PSO has previously been referred to as the Managing Agency or MA. PSO is provisional terminology and may be subject to new waste legislation.

Structure and tax status

- 118 The PSO will generate revenue to fund its operation, from scheme fees including deposits.²⁴
- 119 Modelling conducted to support the understanding of the fiscal impact of the scheme suggests taxable revenue in the range of \$0 - \$70.3 million. Potential tax revenue will, therefore, likely range between \$0 and \$19.7 million per annum.
- 120 Officials from the Ministry for the Environment, the Treasury, and the Public Service Commission are working to prepare advice on the appropriate corporate structure of the PSO, with officials from Inland Revenue assisting on matters relating to the tax status of the PSO. It is planned for this advice to be provided in the first quarter of 2023.

Functions of the PSO

- 121 To ensure the effective administration of the NZ CRS, the PSO will be required to perform a range of functions including:
- 121.1 set the fee to fund the administration of the NZ CRS (part of the scheme fees) in accordance with any scheme fee input methodologies set by the Secretary for the Environment;
 - 121.2 manage and coordinate the administration of the NZ CRS;
 - 121.3 enter into agreements with the participants in the scheme for the purposes of establishing and operating the network. Agreements will need to satisfy the matters set out in CRS Design Standards set by the Secretary for the Environment;
 - 121.4 collect information from return point operators and report to the Secretary for the Environment on the administration of the NZ CRS in accordance with Information Disclosure requirements;
 - 121.5 provide the Minister with an assessment of the scheme's performance, financials, and forward projections (the frequency of reporting will be determined in the Information Disclosure requirements);
 - 121.6 collect scheme fees and refundable deposits under written agreements to use towards the cost of management, administration and operation of the NZ CRS;
 - 121.7 pay handling fees to network return point operators;
 - 121.8 pay deposit refunds either directly where electronic transactions are enabled, or indirectly via refund point operators;
 - 121.9 pay refund amounts to material recovery facilities;
 - 121.10 arrange for the collection, verification, counting, consolidation, and recycling (or other approved processing) of all eligible containers, in accordance with the CRS Design Standards;
 - 121.11 in accordance with the processes and criteria set out in CRS Design Standards, provide for a network system that ensures all redeemed containers are electronically verified and counted on a per container basis, unless specifically exempted by the Minister (e.g. kerbside eligible materials subject to a bespoke auditing regime);

²⁴ Estimated total revenue will vary depending on the actual value of unclaimed refundable deposits.

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121.12 provide for and service a nation-wide return network that includes both regulated parties and contracted return point service providers in accordance with CRS Design Standards;

121.13 ensure that return point operators provide for a range of refund options, with a minimum of cash, or a voucher redeemable for cash at the RVM retail locations;

121.14 ensure that all retail take-back sites utilising RVM technology provide for charitable donation options via the RVM user interface.

122 I propose that Cabinet delegate the Minister for the Environment the authority to finalise the list of PSO functions during the drafting process.

PSO reporting

123 The PSO will need to be transparent and accountable for outcomes it is achieving and the way it is setting the fee and spending funds. I therefore propose the PSO will be required to report in line with the Information Disclosure requirements specified by the Secretary for the Environment [Paragraphs 134 – 137].

Powers of the Minister to intervene

124 Given the industry-led nature of the scheme and the potentially profound negative impact a poor performing PSO may have on attaining outcomes, it will be important that the Minister has powers to intervene to ensure the PSO is being governed and run in a manner that supports an effective, efficient NZ CRS.

125 I consider there are significant parallels between water services entities and the PSO. Both types of entities are monopoly providers established to achieve public good outcomes but will operate in a commercial manner, autonomously from the Crown. Much like the Three Waters landscape, the beverage container landscape is characterised by many diverse participants and is highly technical in nature.

126 It has been suggested that powers such as those contained in the National Animal Identification and Tracing Act, which allows the Minister to appoint a person to attend Board meetings may be more appropriate. However, given the scope and complexity of the NZ CRS, a power to intervene at a governance level is insufficient to ensure any deficiencies in the management/operationalisation of the NZ CRS are effectively addressed.

127 I propose the Minister's powers of intervention are based on Part 5, sub-part 2 of the Water Services Entities Bill (with details provided below) with any necessary modifications to ensure provisions are fit for purpose in the context of the NZ CRS.

128 Basing the Minister's powers of intervention on Part 5, sub-part 2 of the Water Services Bill will enable the Minister to appoint a Crown review team to identify and assess the extent of any problem(s) and make recommendations to the PSO and/or Minister for improvements. As is the case with the Water Services Entities Bill, the problem will need to be defined, I will seek further Cabinet approvals in the first quarter of 2023.

129 The Minister's powers will also enable the Minister to appoint a Crown manager to work with, or in place of, the PSO Governance Board should such a step be warranted.

130 As a last resort, if the PSO or its Board are unable or unwilling to perform in a manner that meets the Minister's expectations to attain the outcomes sought by the scheme, I propose the Minister may dissolve the PSO Board, taking on the assets and liabilities of the PSO. Consideration is being given to an appropriate entity within which assets and liabilities might be vested to ensure the administration of the NZ CRS can continue, for example, seeking an approval of a new PSO or establishment of a public entity.

Review of the Scheme

131 I propose that primary legislation include a requirement for the Minister for the Environment to review the operation of the NZ CRS at the completion of the third year of the scheme being operational. I propose that the review will include:

- 131.1 consideration of performance against targets;
- 131.2 container scope and exemptions;
- 131.3 setting the timeframe for the next review;
- 131.4 any other matters determined by the Minister for the Environment.

Powers of the Secretary for the Ministry for the Environment

132 I propose the Secretary for the Environment have three primary tools to ensure compliance and to monitor and report on the performance of the scheme. It is useful to note that these tools exist now in the WMA 2008, however, they are not entirely fit for purpose in the context of the NZ CRS.

133 The tools are the ability for the Secretary for the Environment to make determinations relating to:

- 133.1 Information Disclosure requirements;
- 133.2 CRS Design Standards;
- 133.3 as necessary, input methodologies for determining the scheme fees.

Information Disclosure requirements

134 Ensuring NZ CRS participants are complying with their obligations and the NZ CRS is achieving the outcomes sought will require the generation of scheme compliance and performance information and regular public reporting.

135 To enable the Ministry for the Environment to access the information required to understand scheme performance and compliance I propose Information Disclosure requirements will apply to NZ CRS participants, including suppliers, retailers, depots, territorial authorities, kerbside materials recovery facility operators and the PSO. I propose these requirements, and the process for setting them, are based on Part 2 sub-part 4 of the Water Services Economic Efficiency and Consumer Protection Bill.

136 The NZ CRS primary legislation will set out matters including:

- 136.1 the process for making requirements, including consultation;
- 136.2 the effect of being subject to Information Disclosure requirements;
- 136.3 require the Information Disclosure requirements to set out, among other matters:
 - 136.3.1 the information to be disclosed, the manner in which it must be disclosed, and when and for how long information must be disclosed;
 - 136.3.2 Any methodologies that must be applied in the preparation or compilation of the information.

137 I propose the Secretary for the Environment be able to appoint auditors for the purposes of gathering and assessing information. I will provide further advice on the functions and powers of auditors (including in relation to powers of entry) in the first quarter of 2023 as part of advice on compliance, monitoring and enforcement.

CRS Design Standards

- 138 The network design is critical to attain NZ CRS policy outcomes, including ensuring there are opportunities for Māori, non-government organisations and community groups' participation. Australian scheme performance varies, but overall demonstrates that a scheme made up of inconvenient and/or less accessible return points can significantly limit its return rate.
- 139 There is a significant tension between ensuring the NZ CRS network is of sufficient size and coverage to meet its policy outcomes against the costs incurred by industry. CRS Design Standards will likely be lobbied by industry with the view of driving NZ CRS network design towards a depot-centric model in order to limit convenience, and therefore, limit increased costs associated with higher return rates, as evidenced by some Australian states.
- 140 CRS Design Standards will need to provide for the interaction of the PSO and scheme participants (kerbside). CRS Design Standards will also set out the matters that industries' proposals for the PSO must address to ensure that the way the PSO provides for charities is fair, transparent and equitable and enables a broad range of charities to participate in the benefits of the scheme.
- 141 Given the technical and administrative nature of CRS Design Standards and how critical these are to the success of the NZ CRS, I propose that CRS Design Standards will be set by the Secretary of the Ministry for the Environment rather than Ministers.
- 142 I propose that the requirement for CRS Design Standards is set in primary legislation and that all scheme participants including the PSO, return point operators, and consumers must adhere to the standards in order to ensure the scheme's policy objectives are met.

Input methodologies and spending caps

- 143 The scheme fees required to fund the delivery of the NZ CRS will be determined by the PSO. Given the PSO will be industry-led, there is a risk that the fee may be set with a view to minimising cost at the expense of an adequately funded NZ CRS.
- 144 There is also a risk that the PSO may mis-spend fee revenue, for example, by procuring unnecessarily lavish office space.
- 145 To minimise the risk of the fee being set at an inappropriate level and the potential for inappropriate spending, I propose that the Secretary for the Environment be empowered to set input methodologies, at their option. This will enable the Secretary, if necessary, to prescribe how certain costs that underpin the fee level should be treated, akin to Part 2, sub-part 3 of the Water Services Economic Efficiency and Consumer Protection Bill. The Secretary will not need to specify the types of costs the PSO can incur but may specify how those costs are treated, for example:
- 145.1 the cost of capital;
 - 145.2 value assets;
 - 145.3 allocate common costs.
- 146 I also propose the Secretary for the Environment may choose to specify spending caps for specific cost inputs, such as how much the PSO may spend per square metre of lease space; as market rates change, caps will need to be reviewed and adjusted. Given the statutory monopoly held by the managing agency (PSO equivalent), there are limited incentives for the agency to control its discretionary spending.
- 147 I consider such determinations are of such a minor and technical nature that they do not warrant Ministerial or Cabinet attention.

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- 148 In the event that the Secretary for the Environment considers the fee inappropriate, I propose that the Minister have the power, to specify in writing to the PSO, the fee that must be imposed, following advice from the Secretary.

Registration Portal

- 149 In line with Australian schemes, and to ensure that commercially sensitive information is protected, I propose that the Ministry for the Environment or its authorised third party operate a Registration Portal where the first supplier to the New Zealand market of any beverage container (first responsible supplier) will be required to input product and container information (and unless so registered, the products are not able to be sold in New Zealand).
- 150 Details about the types of information required to be inputted will be set out in the Information Disclosure requirements by the Secretary for the Environment. Further details and cost implications for the Registration Portal are set out in the Financial Implications section of this paper.

Approval of beverage containers for sale in the NZ CRS

- 151 Following registration of all beverage containers, the Ministry for the Environment will assess which specific products are eligible to be sold under NZ CRS (eligible beverage containers), which are exempt, or are excluded from the scheme [Paragraphs 59-60]. Officials will undertake further work on the approvals process and will report back in the first quarter of 2023. Detailed requirements will likely be set out in the CRS Design Standards.

Scheme design: financials

Refundable deposit

- 152 The refundable deposit provides the incentive to recycle, reduce litter and is critical to the success of the scheme. The power to apply a deposit currently exists in the WMA 2008 (s 23(1)(e)).
- 153 In February 2022, Cabinet agreed to consult on a refundable deposit amount of 20 cents per container [ENV-22-MIN-0002]. The 20 cent refundable deposit amount received high levels of support through public consultation.
- 154 In any case, I propose primary legislation will include a minimum refundable deposit of 10 cents (GST included), as the minimum legal tender a cash payment in New Zealand allows.
- 155 Primary legislation will also include the powers to make regulations for setting the scheme's effective deposit amount. This will allow for a future decision on the deposit level, given consideration of emerging evidence and developments, including in relation to Australian schemes' performance, prior to scheme implementation.
- 156 Once the deposit level is established in regulation, I propose that the Minister for the Environment may recommend changes to the regulations to adjust the deposit level following advice from the Secretary for the Environment on the extent to which the existing deposit level is achieving the desired targets and following consultation with affected parties.
- 157 Primary legislation will also include powers to make regulations requiring:
- 157.1 the PSO and first responsible supplier of eligible beverage containers to collect and pay a refundable deposit upon first supply to the market and within a specific timeframe;
 - 157.2 that eligible redeemed container deposits be refunded in prescribed circumstances;

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157.3 that the PSO collect the full deposit value prescribed in regulation from first responsible supplier of eligible beverage containers in a timely fashion).

158 The refundable deposit will be applied to all eligible, registered and approved beverage containers and is also payable by first responsible suppliers to the PSO under the 'deposit financial model' arrangements.

Scheme fees

159 Scheme fees are separate to the refundable deposit. There are two main fee types, the scheme administration fee and the handling fee.

160 The scheme administration fee covers the operational and capital expenditure of the PSO. In addition to central administration and the IT network costs, this includes recycling costs (such as shipping, processing and consolidation) and marketing and communication costs.

161 The handling fee is the largest component of the scheme fees. This fee reimburses return point operators (for reasonable costs) for every eligible container received. The handling fee can be a source of contention between the PSO and return point operators.

162 I propose that all scheme fees are set annually by the PSO, following review/forecast. I propose that the Secretary for the Environment can, if required, set input methodologies for determining the scheme fees. I also propose that if direct intervention is required, the Minister may specify fees, based on advice from the Ministry for the Environment.

Eco-modulation

163 Eco-modulation of scheme fees is a critical mechanism within the NZ CRS. Eco-modulation ensures that all container materials are recycled irrespective of whether the recycling market outcome is a revenue or cost for the scheme. Whether it is a revenue or a cost affects the level of fee modulation for that material.

164 For example, highly recyclable aluminium cans may experience an eco-modulated scheme fee that reflects the revenue of the recycled commodity, whereas LPB may attract higher scheme fees, commensurate with the cost of a harder-to-recycle product. A more advanced application of eco-modulation will provide market signals towards emissions reductions and broader circular economy outcomes.

165 The intention is that all containers collected through the NZ CRS must be sent to a recycling market outcome (domestic and export markets), and wherever possible, this outcome should be a food grade 'container-to-container' recycling requirement. Recycled containers need to ensure the safety and suitability of the contents in order to meet food safety requirements.

166 Further detail on eco-modulation will be included in the next Cabinet paper, including the proposed criteria for eco-modulation.

Refund types

167 Return point operators must provide a deposit refund (20 cents) to the customer/consumer for every eligible container returned. Return point operators may provide for refund types including cash, vouchers, donations, and electronic funds transfer.

168 I propose that the PSO ensure that;

168.1 return point operators provide for a range of refund options, with a minimum of cash, or a voucher redeemable for cash at the RVM retail locations;

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168.2 all retail take-back sites utilising RVM technology provide for charitable donation options via the RVM user interface.

169 I propose that the PSO develop (and report monthly on) a fair and equitable system for receiving applications from national and regional charitable organisations, determining their eligibility, and allocating fairly, eligible charities to either national and/or regional RVM donation.

170 I propose that the Secretary for the Environment is required to carry out an annual review of the system operated by the PSO for enabling a broad range of charities to receive donations as a refund option for RVMs, and is authorised to intervene should it arise that the PSO is not providing for a transparent, fair and equitable allocation system.

Scheme launch date

171 If Cabinet agrees to implement a NZ CRS, the effective scheme launch date will be specified in primary legislation.

172 Subject to the assent of new enabling waste legislation in the first quarter of 2025, I propose a scheme launch date in July 2026, and provision in primary legislation for the launch date to be changed by the Minister for the Environment should unforeseen circumstances negatively impact preparations (e.g. COVID-19).

173 A transition period for the sale of products that are eligible and incorrectly marked is also needed. I propose the transition period for selling old stock is set in regulation and subject to further engagement with affected parties.

Compliance, Monitoring, and Enforcement

174 A Cabinet paper in the first quarter of 2023 will provide detail on compliance, monitoring, and enforcement of the scheme.

Financial Implications

Costs to Government for implementation of a NZ CRS

175 The establishment and monitoring of the NZ CRS will require resourcing for Government agencies, including the Ministry for the Environment, and potentially other agencies^{9(2)(f)(iv)}

176 Implementation of a NZ CRS will entail three phases over five financial years. Estimated Government operational costs²⁵ shown by financial year are set out in the table below.

Table 1: Estimated Government Costs for Implementing a NZ CRS

Financial year	2023/4	2024/25	2025/6	2026/7	2027/8 and outyears
Totals	\$1.76m	\$2.11m	\$2.22m	\$1.04m	\$0.68m

Additional costs for establishing and operating a Registration Portal

177 The estimates in Table 1 do not include the costs of establishing or maintaining a Registration Portal, which is necessary for the operation of the NZ CRS. This portal enables individual beverage producers and importers to register details of their products and container types. This information will be used by the Ministry for the

²⁵ Note that these costs do not include compliance and enforcement costs. These will be covered in a subsequent Cabinet paper.

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Environment or its authorised third party to assess whether or not the product should be approved for sale in accordance with the NZ CRS, and to monitor the scheme.

178 As detailed at Paragraphs 149 – 150, and in line with Australian schemes, I am proposing that the portal will be operated by the Ministry for the Environment or an alternative authorised party. Three options for implementing the Registration Portal are:

178.1 Option (1) – setting up a bespoke portal solely for the NZ CRS;

178.2 Option (2) – leveraging an existing portal operated by one or more Australian states (with a harmonisation project to combine existing portals within Australia currently underway);

178.3 Option (3) – sharing a portal with other schemes.

179 Estimated maximum costs²⁶ are:

s 9(2)(i) [Redacted]

Funding of Government costs

180 I expect that Government costs for implementing a NZ CRS are met as follows:

180.1 departmental costs estimated at \$6.41m over five years for policy resource will be met from existing Ministry for the Environment baseline funding;

180.2 external consultant and supplier costs (including IT expenses), estimated to total \$3.9m, incurred for appointing the PSO, establishing the Registration Portal and otherwise setting up the NZ CRS s 9(2)(f)(iv) [Redacted]

180.3 in line with section 20 of the WMA 2008, my intention is that the costs of monitoring the NZ CRS (including personnel costs and ongoing operational costs of the Registration Portal), estimated to s 9(2)(i) [Redacted], will be recovered from the PSO and subject to further analysis, beverage producers and importers. Further details on cost recovery will be provided in a subsequent paper in the first quarter of 2023, and attached as a Cost Recovery Impact Statement in the final RIS.

181 I will provide further advice about the costs of compliance, monitoring, and enforcement for the NZ CRS in a subsequent paper, in the first quarter of 2023.

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

s 9(2)(h) [Redacted]

²⁶s [Redacted]
⁶([Redacted]
²⁷b This figure does not include departmental costs for policy advice.

184 s 9(2)(h)

Potential for a Government Loan

185 I propose that a NZ CRS uses the deposit financial model. A Government loan is not necessary to support the scheme establishment for an industry-led scheme under the deposit financial model.

Updates to Financial Modelling and Cost-benefit Analysis

186 Having considered industry feedback on costs, including adjustments for inflation, and that the refundable deposit is now GST inclusive²⁸, the net effect on the PwC scheme financial modelling is a reduction of the estimated scheme financial cost. The updated total scheme financial costs are now \$44 million less in year one (\$509 million), and \$37 million less in year five (\$587 million), against the scenario presented for public consultation.²⁹

Costs to Industry

187 Establishment of a scheme will be facilitated through industry loans to the PSO. These loans are estimated at \$80 million³⁰, and are modelled to be recovered within three years of scheme operation.

188 The scheme financial costs, including loans, are recovered through scheme fees, which are in turn, expected to be largely passed through by beverage producers and retailers to consumers.³¹

189 The economic costs are considered by Sapere over a 30 year study timeframe and, in present value, include:

189.1 PSO operating and capex costs \$867 million (includes administration and recycling costs);

189.2 container return facility costs (the network) \$553 million, of which \$462 million is RVMs (assumes lease model costs).

190 In addition, there will be one-off transitional costs for beverage producers/importers, such as labelling costs estimated at \$10 million.

191 Beverage industry submission feedback on costs is further discussed in Appendices 1, 2 and 4.

Costs to Households

192 The average household's financial net cost to use the NZ CRS, under the 20 cent deposit scenario, is estimated at \$1.08 per week or \$56 per year in year one, and \$1.80

²⁸ Inland Revenue have noted that GST will apply to the increased price of scheme containers. Households that return their containers will not pay any extra GST under the scheme (all other things being equal) because the proposed refundable deposit amount (20 cents) is now GST inclusive. GST registered taxpayers will be able to claim a deduction of the additional GST cost in the normal way, provided the costs of the scheme containers are incurred in making taxable supplies. Advice from IR confirms that a beverage container returned within a scheme is considered a second-hand item under the Goods and Services Tax Act 1985.

²⁹ Costs assume a 20 cent deposit level, consistent with the consultation.

³⁰ Start-up costs comprised of \$33.3 million capex, \$33.6 million working capital requirement and \$13.1 million in fixed costs.

³¹ The PwC financial modelling assumes 100 per cent pass through of costs to consumers including servicing of scheme establishment loans for three years and these costs are included within the overall scheme fees.

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per week or \$93 per year in year 5 (year one modelled as 2025/2026, year five 2030/2031).³²

- 193 The main economic cost to households of a CRS is the time spent participating in the scheme. This includes, collection, transport and redemption, and is estimated by Sapere as \$704 million over a 30 year study period.

Monetised benefits of a NZ CRS

- 194 Households, councils, society, the environment and PSO all derive economic benefits from the NZ CRS. These benefits include:

194.1 households (\$2,698 million): increased recycling and reduced litter, reduced need for litter clean ups and avoided landfill costs;

194.2 councils/recycling contractors (\$149 million): reduced litter clean up, kerbside collection savings, reduced contamination;

194.3 environment (\$43 million): emission reductions and reduced use of virgin materials;

194.4 PSO (\$180 million): value of additional material recovered and recycled.

- 195 The cost-benefit analysis provides benefit values for kerbside collection and associated disposal costs that sum to NZ\$5.9 million per year. When including the estimated kerbside container deposit value (financial benefits available to Councils and their recyclers), the PwC financial model estimates \$50 million in year one, reducing to \$40 million in year five.

Overall cost-benefit analysis

- 196 The cost-benefit analysis assumptions have been updated to include feedback, including updated litter assumptions, which has increased the range. The NZ CRS benefit-cost ratio is now 1.48 (0.64 – 2.17).³³ An additional independent peer review process of the cost-benefit analysis has been delayed due to unforeseen illness (COVID-19), but will be concluded in advance of Cabinet consideration of the proposal. Any material changes as a result of independent review will be provided to the Ministry for the Environment ahead of Cabinet committee.

- 197 If implemented alongside the kerbside proposals, there will be an estimated \$50 million in financial cost savings for councils in year one. This will offset some costs from the kerbside proposals and improve the quality of materials recovered.

Scheme fees

- 198 Scheme fees are separate to the refundable deposit incentive and provide for the administration costs of the PSO (operational and capital expenditure). This includes recycling costs (shipping, processing and consolidation, etc), and marketing and communication costs, and are estimated to be 4.63 cents per container in year 1 and 3.92³⁴ cents in year 5.

- 199 Handling fees vary by return point type are modelled at 6.65 – 7.61 cents per container in year one, increasing to 7.19 -8.24 cents per container by year 5. Sensitivity testing on handling fees is further discussed in the interim RIS.

³² Lower than the consultation base case which assumed net cost to use the scheme at \$1.50 per week in year one and \$2 per week in year five

³³ The benefit-cost ratio range reflects the range of benefit values in the international literature for litter reduction and increased recycling.

³⁴ The scheme establishment loans are modelled to be paid off in three years, resulting in a one-off decrease in scheme fees in year four of scheme operation.

- 200 All scheme fees (administrative and handling fees combined) are offset by the PSO through scheme revenues. Scheme revenues include the sale of the recyclable commodities (aluminium, plastic and glass) to either onshore or offshore markets; any interest on revenue; and the proportion of refundable deposits paid into the scheme that remain unredeemed when containers are littered and landfilled.
- 201 Under the deposit financial model, the total net scheme fee costs (after offsets) are estimated at 3.8 cents in year one and 6.3 cents per container in year five. Assuming full pass through of scheme costs and under the 20 cent refundable deposit scenario (17.4 cents plus 2.6 cents GST) and assuming the above scheme fees and offsets, the consumer is likely to experience a 24 cent per container increase in year one, and a 28 cent increase per container in year five (including GST). The 20 cents (including GST) in this scenario, will be refundable.

Legislative Implications

- 202 New legislative provisions will be required to implement a NZ CRS. I propose that the details set out in this paper be progressed alongside proposals to repeal and replace the WMA 2008, with the proposals in this paper being set out in a separate part of the new Act.
- 203 The broad approach to regulation as set out in this paper will see substantial decisions (including the refundable deposit rate and the types of containers to be included, excluded or exempt) recommended by the Minister for the Environment.
- 204 Certain matters will be decided by the Secretary for the Environment. This includes, for example, the information to be provided to support compliance and performance monitoring, specification of CRS Design Standards, and specifying how the handling fee will be set. These matters are either highly technical or administrative in nature and consider Ministers are not best placed to determine these matters.

s 9(2)(h)

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9(2)
(h)

Impact analysis

Regulatory Impact Statement

- 209 Cabinet's impact analysis requirements apply to this paper. The interim RIS provided alongside CAB-66 has been updated with consultation feedback and further analysis. A further iteration of the RIS will be attached alongside a subsequent Cabinet paper in the first quarter of 2023.
- 210 The Ministry for the Environment's Regulatory Impact Analysis Review Panel has reviewed the attached interim Regulatory Impact Statement A beverage container return scheme for New Zealand, prepared by the Ministry for the Environment.
- 211 The Panel considers that the information and analysis summarised in the Impact Statement meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

Climate Implications of Policy Assessment

- 212 The Climate Implications of Policy Assessment (CIPA) team has been consulted and notes that while the impact of a container return scheme on domestic emissions is unlikely to be larger than the CIPA emissions threshold of 50,000 tonnes CO₂-e per year, there is a significant expected overall emissions benefit when considering the impact on total global emissions to atmosphere. The CIPA requirements have not been applied in full, however, emissions impacts have been modelled where possible and included in the cost benefit analysis.
- 213 This proposal is expected to significantly reduce total global emissions through avoiding a significant amount of emissions-intensive virgin material production. There is a high level of uncertainty of the precise level of this impact however, the impact of recovering aluminium alone has been conservatively modelled to result in around 85,000 avoided tonnes of CO₂-e per year by 2030.
- 214 A relatively small increase in emissions from transport is expected as additional household trips and additional transport of collected material would occur, and a smaller decrease in emissions is also expected through diverting some liquid paperboard from landfill. Infrastructure required for the CRS will also have associated embodied emissions.
- 215 Were the network configuration option assumptions to change, this could significantly impact the number of new trips made in order to participate in the scheme, thereby, affecting the associated consumer transport emissions component of the overall emissions analysis. The network study currently underway may inform sensitivity testing for emissions impact.
- 216 The CIPA team has reviewed the CBA modelling at a high level and considers it to be reasonable as an indicator of the potential emissions impact of the proposed CRS and notes the modelling approach is relatively high-level and conservative.

Tiriti o Waitangi Implications

- 217 No Tiriti o Waitangi / Treaty of Waitangi settlement implications have been identified. Te Tiriti o Waitangi interests are engaged, and preliminary analysis of these implications in terms of Treaty principles is included in the RIS.
- 218 The NZ CRS proposals align with a te ao Māori perspective, as it seeks to address waste and improve outcomes both for people and the environment, which are

inextricably linked through kaitiakitanga.³⁵ The greatest anticipated impact for Māori interests will be through improving litter outcomes on land, in waterways and marine environments, as well as reducing emissions.

- 219 Given the scheme will be nation-wide and not focused in any one region or rohe, no specific iwi or hapū are expected to be more affected by the scheme. However, unintended impacts may disproportionately be felt by Māori in the rural and lower-income demographics, who may face barriers in accessing return points due to remote location or limited access to transport. Proposed mitigation is set out at 221.
- 220 The Transforming Recycling consultation received two submissions from self-identified iwi groups: Ngāti Whātua Ōrākei and Te Rūnanga o Ngāti Whātua. Further submissions that spoke to how the scheme impacts Māori were received from Para Kore, Ngā Rangahautira Māori Law Students' Association, the Kiwi Bottle Drive and Greenpeace form submission and several councils. Submissions feedback included;
- 220.1 ensuring that the CRS is inclusive and accessible for those in rural and low-income communities;
- 220.2 ensuring opportunities for iwi/hāpu/whānau involvement in the return network;
- 220.3 iwi/hapū representation in the governing body of the scheme to ensure the CRS is implemented and developed in a way that embodies Te Tiriti and reflects te ao Māori.
- 221 To address the above, and to take submission feedback into account, I propose the following:
- 221.1 the PSO 'appointment criteria' will require applicants to demonstrate how the outcomes of the scheme will be equitable for Māori. Noting that a CRS is purposefully designed to put the cost, responsibility and delivery of a CRS on industry;
- 221.2 the CRS Design Standards will require the PSO to demonstrate, on the basis of advice from Māori, how it is supporting Māori participation in the return network and ensuring equitable access to the benefits of the scheme (including access to return points);
- 221.3 at regular intervals, the Ministry for the Environment will review whether the PSO is meeting its obligation to ensure equitable outcomes of the scheme are being met for Māori.
- 222 Proposals for scheme governance and further details regarding the return network and meeting Crown obligations for Māori will be provided in the subsequent paper in the first quarter of 2023.

Population Implications

223 Population implications are outlined below:

Population group	How the NZ CRS proposals may affect this group
Māori	In addition to what is outlined above, a 'mixed model' network could provide for participation for community groups (including hapū/iwi/Māori) formally, through retail take-back obligations or through operating depots and as a part of the informal network, alongside schools, charities, NGOs and community groups.
Rural communities	The CRS network convenience level will largely be determined by regulations. Current modelling suggests that if all supermarkets were required to take back

³⁵ This statement reflects submitter feedback, specifically from Ngāti Whātua Ōrākei. WAI262 report Ko Aotearoa Tēnei, Chapter 3 establishes the role of kaitiakitanga in practice, in regard to resource management with the intention to minimise waste.

	eligible containers, this will provide a highly convenient model for most New Zealanders, given only 5 per cent of New Zealand's population live more than a 20-minute drive from major supermarkets. ³⁶ In addition, as seen overseas, it is likely that voluntary return points such as dairies, depots, or community hubs will service other areas of the network.
Low-income individuals or families	The additional 20 cent deposit and scheme costs in the purchase price of eligible beverages may impact low-income individuals or families. However, if return points are highly convenient (i.e. at retail locations), eligible containers will typically be redeemed ahead of the next purchase, resulting in a near zero (1-5 cents per container) net cost for those who participate in the scheme. As seen overseas, it is likely that marae, charities and NGOs etc will establish 'informal networks' as fundraisers, and for individuals and families to collect and return littered containers.

Human Rights

- 224 The option of a NZ CRS as discussed in this paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 225 The Department of Conservation, Treasury, Inland Revenue Department, the Ministry of Foreign Affairs and Trade, Te Puni Kōkiri, Te Arawhiti, the Ministry for Primary Industries, the Department of Internal Affairs, the Ministry of Business, Innovation and Employment, the Ministry of Justice, the Ministry of Social Development, the Public Services Commission and the Green Party have been consulted. The Department of Prime Minister and Cabinet has been informed.
- 226 The Green Party noted that a Cabinet decision to implement a NZ CRS would be a major milestone in improving resource recovery and recycling in New Zealand. The Green Party support a 20 cent minimum deposit (as opposed to 10 cents).

Communications

- 227 I intend to announce the policy decisions following Cabinet agreement to implement a NZ CRS. Subject to Cabinet decisions (see Recommendation 139)130, I may also signal in principle agreement to either a 10 or 20 cent refundable deposit level. A final version of the Summary of Submissions attached in Appendix 3 will be released following policy announcements. I am seeking delegated authority to make final changes as the document is prepared for publication, including design and editorial changes.

Proactive Release

- 228 I propose to proactively release this paper, the finalised Summary of Submissions [Appendix 3], updated Interim RIS [Appendix 4], and peer-reviewed cost-benefit analysis following the policy announcements. These documents will be redacted as appropriate under the Official Information Act 1982.

Recommendations

The Minister for the Environment recommends that the Committee:

- 1 **note** that in February, Cabinet agreed to public consultation on proposals for a NZ CRS, and invited me to report back on the development of options for a NZ CRS before the end of 2022 [ENV-22- MIN-0002];

³⁶ Based on a national rural population estimate of 677,048.

IN CONFIDENCE

- 2 **note** that the proposal to implement a NZ CRS relates to 2020 Labour Party election manifesto commitments and the Cooperation Agreement with the Green Party.

The New Zealand Container Return Scheme (NZ CRS)

- 3 **note** that a NZ CRS is a form of product stewardship that is expected to double beverage container return rates, with a projected increase in beverage container recovery from 45 per cent to 90 per cent after five years of operation (20 cent deposit scenario);
- 4 **note** that consultation feedback demonstrated that most submitters (92 percent) support the implementation of a NZ CRS and the key design elements also largely received high levels of support;
- 5 **note** that industry submissions from large beverage producers and retailers raised concerns around costs and as appropriate, these have been taken into account in the modelling, alongside the updated treatment of GST for the refundable deposit;
- 6 **note** that following consultation, the net impact on the PwC scheme financial modelling has reduced the estimated scheme cost in the consultation base case by \$44 million in year one, from \$553 million to \$509 million (20 cent scenario);
- 7 **note** that the average household net cost for those participating and recycling through the scheme is estimated at \$1.08 per week or \$56 in year one (modelled as 2025/26; 20 cent scenario);
- 8 **note** that the benefit-cost ratio for a NZ CRS is 1.48 (0.66 to 2.19; 20 cent scenario);
- 9 **agree** to implement a NZ CRS with the following key design elements, as consulted:

Key design element (as consulted on)	Additional details
including all single-use metal, plastic (PET, HDPE, PP, and recyclable bio-based PET and HDPE), glass (all colours) and liquid paperboard (LPB) beverage containers	the Ministry for the Environment and PSO to develop a clear process for considering additional beverage packaging types
container size 3 litres and smaller	lower limit of 100mL. Containers outside this scope will be subject to data and reporting
beverage container lids	the PSO is responsible for collecting and recycling beverage container lids
a mixed model network with regulated take back obligations for retailers that sell beverages	the degree of take back obligations to be established via regulation
exempt fresh milk in all packaging types	review the treatment of fresh milk at the completion of the scheme's third year
exempt beverage containers that are intended for refilling and have a verifiable producer established return and refill system in place	review the treatment of refillables at the completion of the scheme's third year
eco-modulation of the scheme fees	further detail such as the criteria for eco-modulation to be provided in the next paper
deposit financial model	consistent with international best practice, precludes the need for a Government loan
not-for-profit and industry-led	consistent with international best practice. Does not preclude broader representation on the scheme's Governance Board, or the ability of the Government to appoint representation
mandatory return targets of 85 per cent from year 3 and 90 per cent from year 5 onwards	consistent with international best practice

Legislative Design

- 10 **note** that a bespoke legislative and regulatory framework is needed to implement the NZ CRS, due to the technical nature of the scheme;
- 11 **note** that industry will be incentivised to drive down costs, which is desirable, but could come at the expense of attaining the NZ CRS return rate targets and outcomes;
- 12 **note** that unlike other jurisdictions, I do not currently propose an environmental tax as a back-stop but instead propose a regulatory framework with checks and balances;

Scope of the NZ CRS

Scope of containers

- 13 **note** that to ensure the NZ CRS meets its objectives, it will be necessary for the primary legislation to include a framework that enables appropriate categorisation of products as being within scope of the NZ CRS regime, and if within scope, approved for sale within the CRS, exempt from the CRS or excluded from the CRS;
- 14 **agree** that the primary legislation will provide a general definition of beverage container, including that it applies to a liquid substance intended for human consumption that is contained in a vessel or casing that is sealed in an airtight and watertight state at the point-of-sale or supply;
- 15 **agree** that the definition provide for beverage container lids;
- 16 **agree** that following consultation and advice from the Secretary for the Environment (the Secretary), the Minister for the Environment will have the power in primary legislation to recommend regulations specifying the categories of containers that are included, excluded or exempt from the NZ CRS based on characteristics such as container material type, product content or beverage volume.

Out of scope containers

- 17 **note** that containers that do not meet the general definition of a beverage container, such as non-beverage products, will be out of scope of the NZ CRS;

Minister to specify categories of containers

- 18 **agree** the Minister for the Environment be empowered to recommend regulations to specify beverage containers as 'eligible', 'exempt' or 'excluded';
- 19 **agree** in-principle, subject to the passing of primary legislation, that in line with the scope of containers in Recommendation 9 the following categories of beverage container materials be included in the scheme and defined in regulation: metal, plastic, glass and liquid paperboard.

Secretary for the Environment to categorise individual containers

- 20 **agree** that the Secretary will be required to assess, categorise beverage containers as 'eligible', 'exempt' or 'excluded' in accordance with the regulations, after the first responsible supplier has met the necessary Information Disclosure requirements and registered their beverage containers through the Registration Portal;

IN CONFIDENCE

Initial exemptions for beverage containers

- 21 **agree** in-principle, subject to the passing of primary legislation, and in line with Recommendation 9, to specify initial exemptions for:
- 21.1 fresh white milk in all packaging types;
 - 21.2 beverage containers intended for refilling and have a verifiable producer established return and refill system in place;
 - 21.3 beverage containers larger than 3 litres and less than 100 millilitres.
- 22 **note** that any exempted products will need to be reconsidered in the future and that in order to consider the exemption, information from the first responsible suppliers of the exempted products is needed;
- 23 **agree** that any exemption powers in primary legislation, to be exercised through regulation, do not apply to information disclosure requirements or the requirement for first responsible suppliers to register their products in the Registration Portal.

Exclusions

- 24 **note** that excluded products are typically those that are difficult to recycle and can end up as contamination in recycling streams, littered, or landfilled;
- 25 **note** that some beverage container materials or packaging formats will be defined as excluded because they meet the definition of a beverage container, but are not assessed as eligible or exempt from the NZ CRS;
- 26 **agree** that the onus will be on the first responsible supplier to the New Zealand market to register their products in the Registration Portal for assessment and categorisation;
- 27 **agree** that excluded beverage containers cannot be sold or supplied on the New Zealand market, unless a temporary exemption to the exclusion is applied.

Temporary exemptions to exclusions

- 28 **agree** that the primary legislation will allow the Minister for the Environment to recommend a temporary exemption for excluded products via regulations and given consideration of the scheme commencement date, for any existing products to enable transitional arrangements;
- 29 **agree** that the primary legislation will allow the Minister for the Environment to provide a temporary exemption for any in-scope beverage product via gazette notice in emergency or unforeseen circumstances outside of normal scheme operations, upon recommendation of the Secretary, following consultation with the PSO.

Changes and new products

- 30 **note** that new technology, materials and markets may emerge that will require a process for the NZ CRS product scope to change in time;
- 31 **agree** that the primary legislation will enable the Minister for the Environment to recommend the addition or removal of product types in regulation, following consultation with affected parties.

Beverage container lids

- 32 **agree** that the regulations will require the PSO to be responsible for collecting and recycling beverage container lids, and include beverage container lids in the definition of an in-scope container (see Recommendation 9).

Scheme design: Return rate targets

- 33 **note** that consultation has demonstrated a high level of support for the return rate targets;
- 34 **note** that NZ CRS return rate targets will include eligible kerbside beverage container volume that is recovered and redeemed by the scheme, consistent with most Australian schemes;
- 35 **note** that attainment of the scheme return rates will be influenced by a range of factors, including the deposit amount and the convenience of the network return points;
- 36 **agree** in principle, subject to the passing of primary legislation, that the Minister for the Environment will recommend regulations to set mandatory return rate targets of 85 per cent from year three and 90 per cent from the end of year five, in line with Recommendation 9;
- 37 **agree** in primary legislation to require a review of the NZ CRS, should the scheme fail to meet its targets;

Recycling of containers

- 38 **note** that, wherever possible, recovered beverage containers are intended to be recycled back into new beverage or other food grade containers, in order to meet the scheme's circular economy objectives;
- 39 **agree** the definitions of recycling will be provided for in regulations and that these will be developed and recommended by the Minister for the Environment during the drafting process;
- 40 **agree** that the PSO will be obligated to ensure that all materials recovered are recycled in accordance with definitions in regulation and the criteria for scheme fee eco modulation.

Scheme design: Return network

- 41 **note** that the return network of any CRS strongly influences the scheme's return rate and how equitable the scheme is for people living in urban and rural New Zealand;
- 42 **agree** that the NZ CRS return network will have a 'mixed-return' model, which will include both regulated retailer take-back obligations (to establish a base network with a high level convenience) and a procurement-led approach to establish depots and other retail return points, such as over-the-counter return points;
- 43 **agree** that, unless an exemption applies, designated retailers must establish and operate a return point for empty eligible beverage containers;
- 44 **agree** in-principle, subject to the passing of primary legislation, that retail take back exemption criteria be established in regulation pending further geo-spatial analysis and modelling to be completed in early 2023;

IN CONFIDENCE

- 45 **agree** that primary legislation will require the PSO to procure and approve additional return points in line with CRS Design Standards;
- 46 **note** that the return network operations provide significant potential fraud risk and that modern schemes utilise electronic per container counting and verification technology to manage and minimise this risk;
- 47 **note** that electronic per container counting and verification technology may leverage multiple per container variables, including the container physical characteristics (whole, intact, relatively undamaged, empty, material type) and any scheme labelling requirements;
- 48 **agree** that primary legislation require all eligible returned containers be electronically, per container, counted and verified unless recommended for exemption by the Minister for the Environment in regulation.

Obligations on NZ CRS participants

- 49 **note** that to enable the NZ CRS to operate effectively, obligations on a range of participants are required;
- 50 **agree** that all participants within the NZ CRS must comply with conditions as detailed in CRS Design Standards and Information Disclosure requirements issued by the Secretary;

Return point operator obligations

- 51 **agree** primary legislation will obligate all return point operators to enter into a services agreement with the PSO, covering the reasonable costs of providing a return point via a per container handling fee, and for deposit refunds paid out on returned containers by the return point operator;
- 52 **agree** the primary legislation provides for powers to set the minimum type of payment in regulation e.g. cash or voucher redeemable for cash at the same site, that must be offered by return point operators when containers are redeemed for the refundable deposit;
- 53 **agree** the primary legislation will require return point operators operating reverse vending machines to provide for electronic charitable donation options on the reverse vending machine in accordance with the CRS Design Standards;
- 54 **agree** that donations can only be payable to charities registered by Charities Services and of types provided for in regulations recommended by the Minister for the Environment following consultation;
- 55 **note** that, as part of industry proposals to enable the appointment of the PSO, applicants will outline how the PSO will set up a fair, transparent and equitable process to ensure a broad range of charities will benefit from donation options on reverse vending machines;
- 56 **agree** the CRS Design Standards will set out the matters industry's proposal for the PSO must address to ensure equity in the way the PSO provides for charities;
- 57 **agree** CRS Design Standards and Information Disclosure requirements address matters including those listed in Paragraphs 136 and 137 of this Cabinet paper;

IN CONFIDENCE

Kerbside – council and materials recovery facility (MRF) obligations

- 58 **note** that the ability of Councils and their recyclers to obtain deposit refunds from kerbside collection systems is an important way for Councils to offset kerbside scheme costs and offset the revenue loss from materials;
- 59 **note** that this approach is consistent with the more modern Australian schemes and does require kerbside recyclers to be subject to an auditing regime;
- 60 **agree** that primary legislation provides that under the NZ CRS, beverage containers returned via kerbside collection and recovered by Councils and/or their recyclers will be included within the scheme and eligible for deposit refunds;
- 61 **agree** primary legislation require that, prior to seeking refund payments for empty beverage containers collected at kerbside, all Councils that appoint or otherwise utilise the services of separate recyclers to manage kerbside collections and/or processing, must enter into a revenue sharing agreement with the relevant service providers and the Council is to notify the PSO and the Ministry for the Environment of this agreement;
- 62 **agree** that the obligation in recommendation 61 does not apply for Councils that operate fully integrated kerbside collection and processing systems;
- 63 **agree** that primary legislation provides that subject to notification by a Council or Councils of a revenue sharing agreement, or where a Council operates a fully integrated kerbside collection and process system and does not require a revenue sharing agreement, the PSO is required to enter into an agreement that, subject to satisfactory auditing and compliance, requires the PSO to pay deposit refunds to Councils and/or recyclers in respect of kerbside-recovered NZ CRS eligible containers;
- 64 **agree** that PSO agreements with Councils/recyclers will include arrangements with respect to the inclusion of containers collected at kerbside in the NZ CRS, including auditing requirements;
- 65 **agree** that PSO agreements with Councils/recyclers will not be required to pay for any collection, processing or auditing costs incurred by Councils/recyclers in order for those parties to obtain the deposit refunds;
- 66 **agree** that primary legislation provides that the PSO will have first right of refusal to the ownership, commodity sale and value for those containers for which a deposit refund has been paid, as is appropriate to offset scheme costs;
- 67 **agree** that primary legislation will provide that unless the parties involved otherwise agree, if the PSO exercises the right to ownership of eligible kerbside materials that deposit refunds are being paid out on, all transport, shipping and sales costs associated with the eligible materials from the materials recovery facility onwards will be at the expense of the PSO/CRS;
- 68 **note** that because of the way containers collected at kerbside are processed, baled and stored, in the absence of an electronic per container counting and verification system, a weight-based calculation and payment system is likely to be used, and this significantly increases fraud risk for the CRS;
- 69 **agree** that to mitigate fraud risk, the Secretary for the Environment can provide for the following matters in the CRS Design Standards, on advice of the PSO:

IN CONFIDENCE

- 69.1 protocols for how refunds for containers collected at kerbside can be calculated using a weight-based system;
 - 69.2 protocols for auditing and any other fraud mitigation practices;
- 70 **agree** that subject to all relevant conditions being met, primary legislation will provide for an exemption from the broader CRS fraud mitigating electronic per container counting and verification requirements, and that this power may be exercised by the Minister for the Environment through the regulation making process;

First responsible supplier obligations

- 71 **note** that the first responsible supplier is the entity who first supplies a beverage product in New Zealand;
- 72 **note** that for the CRS to operate effectively it will be necessary for the scheme to focus, in the first instance, on the first responsible supplier for introducing beverage containers into New Zealand;
- 73 **agree** that under the scheme, first responsible suppliers be prohibited from selling beverage containers unless they have:
- 73.1 first registered their beverage and container in the Registration Portal operated by the Ministry for the Environment or its authorised third party;
 - 73.2 obtained approval from the Ministry for the Environment or its authorised third party to participate in the scheme;
 - 73.3 entered into a written agreement with the PSO;
 - 73.4 complied with labelling requirements as set out in the CRS Design Standards.
- 74 **agree** that specific requirements for the obligations outlined at Recommendation 73 will be set out in the CRS Design Standards issued by the Secretary for the Environment.
- 75 **delegate** the authority to the Minister for the Environment to make technical changes to the obligations of scheme participants during the drafting process, provided that these obligations are consistent with the overall design of the CRS.

Product Stewardship Organisation (PSO)

Appointment of the PSO

- 76 **note** that the PSO will be a not-for-profit, industry-led organisation responsible for operationalising the CRS;
- 77 **agree** the Minister for the Environment will appoint the PSO on advice from the Secretary for the Environment, taking into consideration any other matters the Minister for the Environment considers relevant;
- 78 **agree** the Secretary for the Environment will establish criteria to evaluate industry proposals to establish an PSO. Criteria will require an assessment against the:
- 78.1 CRS Design Standards developed by the Secretary for the Environment;
 - 78.2 return targets established by the Minister for the Environment;
 - 78.3 Proposals for the inclusion of Māori, non-government organisations and community groups;

IN CONFIDENCE

78.4 and any other matters determined by the Minister for the Environment during drafting.

Governance of the PSO

- 79 **note** that I will seek approval of proposals regarding governance of the PSO, including provision for equitable industry representation, the perspectives of Māori and consumers, in the first quarter of 2023;
- 80 **agree** further advice be developed in consultation with the Minister of Finance and the Minister for Public Services.

Tax status of the PSO

- 81 **note** exempting the PSO from paying tax will support the public good objectives of the PSO by enabling lower scheme fees;
- 82 **note** officials are working to prepare advice on the appropriate corporate structure and tax status of the PSO. It is planned for this advice to be provided in the first quarter of 2023.

Responsibilities and functions of the PSO

- 83 **note** the PSO will be responsible for operationalising the NZ CRS and will perform the functions set out in Paragraph 121 of this Cabinet paper;
- 84 **agree** to delegate authority to the Minister for the Environment to approve additional functions during drafting.

PSO reporting

- 85 **agree** the PSO will be required to report in line with the Information Disclosure requirements specified by the Secretary for the Environment.

Powers of the Secretary and Ministry for the Environment

- 86 **agree** that the Secretary for the Environment or its authorised third party will be the statutory officer responsible for monitoring the CRS, including monitoring the outcomes being achieved, operating a Registration Portal and assessing and approving beverage containers;
- 87 **agree** the Secretary for the Environment may delegate any function, power or duty to any Government agency;
- 88 **note** there are strong parallels between water services entities and the PSO in that both are established as statutory monopolies to attain public good outcomes while operating autonomously from government, in a commercial environment and as such the PSO faces the same kinds of behavioural incentives as water services entities;
- 89 **note** the tools proposed for the Secretary for the Environment have strong parallels to the tools being proposed for the Commerce Commission under the Water Services Economic Efficiency and Consumer Protection Bill;
- 90 **note** that, as a starting point, the framework for providing for the above determinations is based on Part 2 of the Water Services Economic Efficiency and Consumer Protection Bill with necessary amendments;

IN CONFIDENCE

- 91 **agree** the Secretary for the Environment be able to make determinations relating to:
- 91.1 *Information Disclosure requirements* – that apply to all NZ CRS participants, and those whose beverage containers are excluded from the NZ CRS, and ensures the Board of the PSO has all the information necessary to understand compliance and scheme performance;
 - 91.2 *CRS Design Standards* – that assure critical elements of the CRS are maintained that are necessary to ensure return targets are achieved, including enabling Māori participation in the return point network;
 - 91.3 *Input methodologies and spending caps* – as necessary to ensure the PSO is:
 - 91.3.1 treating inputs to the scheme fee appropriately;
 - 91.3.2 not undertaking unnecessary expenditure.
- 92 **agree** the Secretary for the Environment may appoint auditors for the purposes of gathering information to identify non-compliance and/or substantiate the performance of the NZ CRS;
- 93 **note** further advice to be provided in the first quarter of 2023 will seek agreement for additional functions, powers and duties for compliance, monitoring and enforcement, including setting out the scope of the power of entry.

Registration portal

- 94 **note** it is important that the Ministry for the Environment has visibility over who is participating in the scheme and in what capacity;
- 95 **agree** the Ministry for the Environment or its authorised third party will establish and operate a Registration Portal;
- 96 **agree** that all beverage producers and importers, whether their containers are in scope or not, that constitute first responsible suppliers be required to register;
- 97 **note** that information required of registrants will be set out in Information Disclosure requirements.

Powers of the Minister for the Environment

Minister's powers to intervene in the PSO

- 98 **note** that there is a risk with an industry-led model that the PSO may not perform manage the NZ CRS in a manner that ensures return targets are achieved, and as such it is appropriate that the Minister for the Environment has sufficient powers to intervene;
- 99 **note** I do not consider it sufficient for the Minister for the Environment to only be able to influence the governance of the PSO. Given the complexity of the NZ CRS, how the scheme is operationalised is critical and the proposed powers of intervention reflect that.
- 100 **note** I have proposed an 'escalation' approach to the Minister for the Environment's powers of intervention;
- 101 **agree** that the Minister for the Environment's powers to intervene are based, as a starting point, on Part 5, Sub-Part 2 and 3 of the Water Services Bill, with necessary modifications;

IN CONFIDENCE

- 102 **agree** that primary legislation define the circumstances under which the Minister for the Environment may intervene;
- 103 **agree** to delegate the authority to define the circumstances under which the Minister for the Environment may intervene to be developed during drafting;
- 104 **agree** that the Minister for the Environment has the power to appoint:
- 104.1 a review team to investigate and report on the nature and extent of any issue;
 - 104.2 a Crown Manager to act with, or in place of, the Board of the PSO to resolve any issue.
- 105 **agree** that, as a last resort, should the Minister for the Environment consider it warranted, the Minister may dissolve the PSO Board taking on the assets and liabilities of the PSO
- 106 **agree**, that on advice from the Secretary, the Minister for the Environment may require the PSO to replace any scheme fee with a fee specified by the Minister for the Environment;
- 107 **agree** to develop the circumstances under which the Minister for the Environment may require the PSO to implement a specific scheme fee as part of the drafting process;
- 108 **agree** that, for a revised scheme fee to take effect, the Minister must write to the PSO stating the reasons why the PSO's fee is being replaced and the fee that it must be replaced with.

Review of the operation of the NZ CRS

- 109 **agree** that primary legislation include a requirement for the Minister for the Environment to review the operation of the NZ CRS at the completion of the third year of the scheme being operational;
- 110 **agree** that the review should include:
- 110.1 consideration of performance against targets;
 - 110.2 container scope and exemptions;
 - 110.3 setting the timeframe for the next review;
 - 110.4 any other matters determined by the Minister for the Environment.

Scheme design: financials

Setting the refundable deposit

- 111 **note** that setting a refundable deposit amount that is sufficient to incentivise consumers to return beverage containers and reduce litter is fundamental to the success of the NZ CRS;
- 112 **note** a 20 cent deposit amount was consulted on and received high levels of support;
- 113 **note** that large beverage producers in particular oppose 20 cents in favour of 10 cents;
- 114 **note** that in any case, the deposit cannot be lower than 10 cents (including GST) in order to enable a cash refund payment in New Zealand;

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- 115 **agree** that legislation will establish a minimum 10 cent refundable deposit (GST inclusive);
- 116 **agree** that legislation will include enabling powers for the Minister for the Environment to make recommendations for the final deposit amount in regulation prior to scheme implementation;
- 117 **note** that emerging evidence and developments, including on Australian scheme performance should be given consideration when setting the deposit amount in regulation;
- 118 **agree** that once set in regulation, the Minister for the Environment will have the power to recommend changes to regulations to adjust the deposit level further, following advice from the Secretary for the Environment on the extent to which the existing deposit level is achieving scheme return targets and outcomes, following consultation with affected parties.
- 119 **agree** that primary legislation will include powers for the Minister for the Environment to recommend regulations requiring:
- 119.1 the PSO and first responsible supplier of eligible beverage containers to collect and pay a refundable deposit upon first supply to the market and within a specific timeframe;
 - 119.2 that eligible redeemed container deposits be refunded in prescribed circumstances;
 - 119.3 that the PSO collect the full deposit value prescribed in regulation from first responsible supplier of eligible beverage containers in a timely fashion).
- 120 **agree** that primary legislation will provide that the refundable deposit will be applied to all eligible, registered and approved beverage containers and is payable by first responsible suppliers to the PSO under the 'deposit financial model' arrangements.

Scheme fees

- 121 **agree** that the primary legislation provides that scheme fees will be set annually by the PSO;
- 122 **agree** that primary legislation provides for the Secretary to, if required, set input methodologies for determining the scheme fees.

Eco-modulation of the scheme fees

- 123 **note** that the intention is that all containers collected through the NZ CRS must be sent to a recycling market outcome (domestic and export markets), and wherever possible, this outcome should be a circular food grade 'container-to-container' recycling requirement;
- 124 **note** that further detail on eco-modulation will be included in the next Cabinet paper, including the proposed criteria for eco-modulation.

Additional considerations

Scheme launch date

- 125 **agree**, subject to the assent of new enabling waste legislation in the first quarter of 2025, to a scheme launch date in July 2026, and provision in primary legislation for

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the launch date to be changed by the Minister for the Environment should unforeseen circumstances negatively impact preparations e.g. COVID-19;

- 126 **agree** for the transition period for selling old stock to be set in regulation, subject to further engagement with affected parties.

Further decisions

- 127 **invite** the Minister for the Environment to report back to Cabinet in the first quarter of 2023 with further details on the return network, compliance, governance of the PSO, and any other matters.

s 9(2)(h)

[Redacted]

Financial recommendations

- 129 **note** that if Cabinet agrees to implement a NZ CRS, departmental costs to progress the required statutory instruments, establish and monitor the scheme, estimated at \$6.41m over five financial years from 2023/24, will be met from Ministry for the Environment baseline funding;

- 130 **note** that subject to Cabinet agreement to proposals s 9(2)(f)(iv)

- 131 **note** that in line with section 20 of the Waste Minimisation Act 2008, my expectation is that costs incurred by the Ministry for the Environment for monitoring the performance of the NZ CRS (including the costs of operating the Registration Portal, estimated s 9(2)(i) per annum will be recovered from the PSO

- 132 **note** that further advice about the expected costs and funding sources of compliance monitoring and enforcement activities in relation to the NZ CRS will be provided in a subsequent paper;

- 133 s 9(2)(f)(iv)

- 134 s 9(2)(h)

Treaty of Waitangi

- 135 **agree** that, as part of the reporting requirements set out in Information Disclosure standards, the Ministry for the Environment will gather information and assess the extent to which whether the PSO is meeting its obligation to ensure equitable outcomes of the scheme are being met for Māori;

- 136 **note** that proposals for scheme governance and further details regarding the return network and Crown obligations for Māori will be provided in a subsequent paper.

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Announcements

- 137 **note** that the Minister for the Environment intends to announce the policy decisions following Cabinet agreement to implement a NZ CRS;
- 138 **note** that with respect to the refundable deposit level to apply for a NZ CRS, Cabinet has the option to signal its preference via an in principle agreement (subject to regulation as per recommendations 116 and 117);
- 139 **agree** that Cabinet will:
- a) signal its preference via an in-principle agreement (subject to regulation as above);
 - (i) to a 10 cent refundable deposit;
 - OR
 - (ii) to a 20 cent refundable deposit;
 - OR
 - b) not indicate its preference.
- 140 **approve** the public release of the Summary of Submissions (attached to this paper in draft);
- 141 **authorise** the Minister for the Environment to make changes to the Summary of Submissions including final editing and design in preparation for publication.

Next steps

- 142 **invite** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office based on the decisions presented in this paper;
- 143 **authorise** the Minister for the Environment to further clarify policy decisions relating to the proposals in this paper, in a way consistent with Cabinet decisions.

Authorised for lodgement

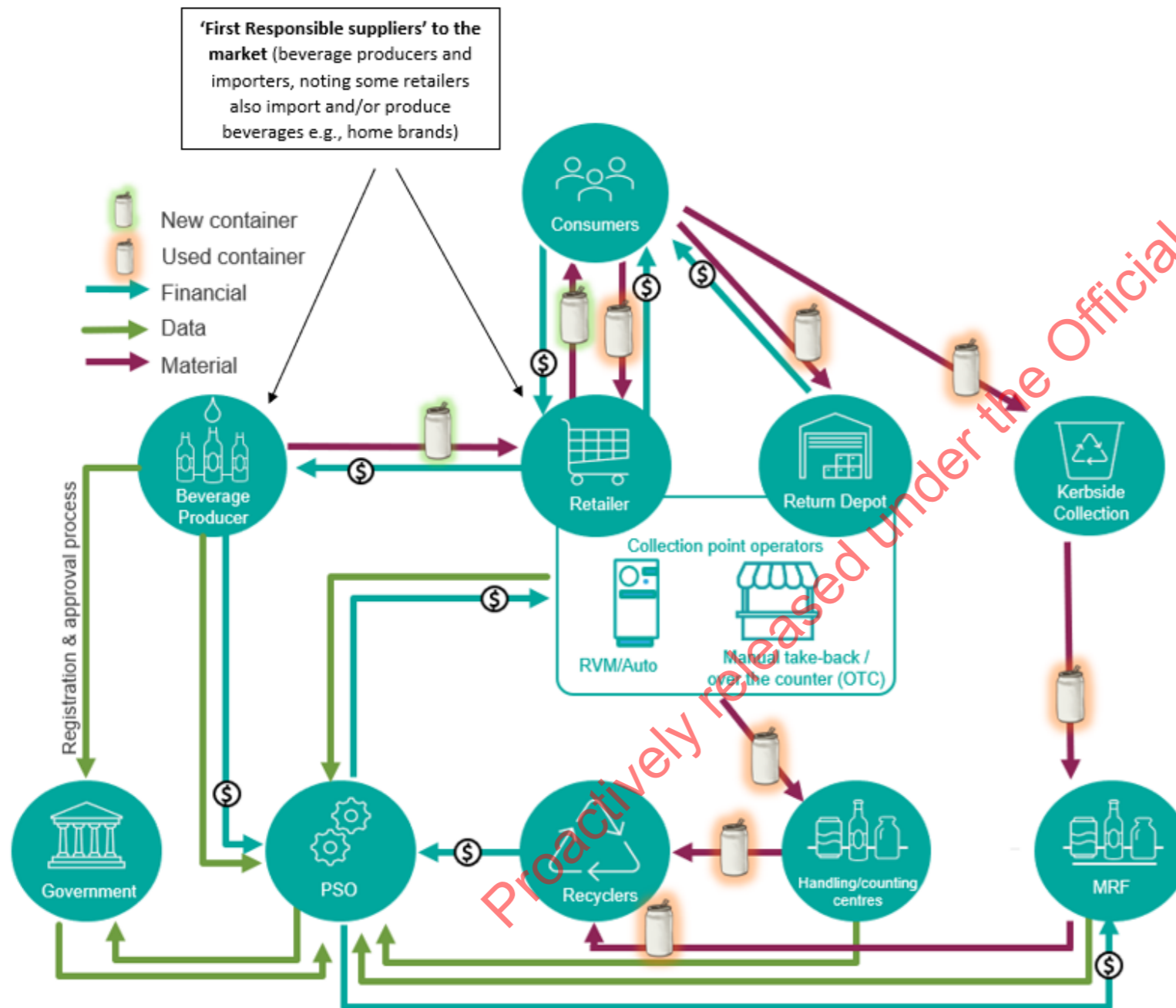
Hon David Parker

Minister for the Environment

Appendix 1: Overview of the Container Return Scheme

How it works (high level):

1. First responsible suppliers (beverage producers and importers) sell eligible containers to the market and report container sales to the Product Stewardship Organisation (PSO).
2. The PSO invoices first responsible suppliers for the refundable deposit and any scheme fees proportional to their container sales.
3. Consumers buy beverages. Retailers and beverage producers pass scheme costs onto consumers including the refundable deposit.
4. Consumers return empty eligible containers to a refund point and receive their deposit refunds back (sometimes known as 'redeeming').
5. The return point receives a per container handling fee payment and the deposit refunds it has paid out to consumers, from the PSO.
6. The PSO manages container collection logistics from return points, through its handling/counting centres as needed, onto recyclers and end markets.
7. The PSO receives revenues from recycled materials and unclaimed deposits (landfilled or littered containers) which it uses to offset scheme costs that the PSO recovers from suppliers, revert to step 1.



NZ CRS Participants	Role
Product Stewardship Organisation (PSO)	The not-for-profit and industry-led organisation that manages and coordinates the NZ CRS
Government, including scheme monitoring agency Ministry for the Environment	Monitoring the scheme, operating the Registration Portal, and categorising containers (approved, exempt, or excluded)
Beverage producers and importers ('First Responsible Suppliers' to the NZ market)	Registering products via government portal, apply refundable deposits, scheme fees and labelling, undertake reporting, and payment of deposit and scheme fees to PSO
Retailers	Designated retailers will be required to operate return points – receive handling fee payments from PSO
Other return point operators	Other return point operators (via PSO procurement) will take back approved containers and provide refunds – receive handling fee payments from PSO
Councils and MRFs (Material Recovery Facilities)	Collect and process beverage containers through the kerbside system, able to collect deposit refunds on eligible scheme containers
Recyclers	Processing empty beverage containers for new markets, revenues returned to the PSO
Consumers	Able to return empty beverage containers to any return point operator for a refund (or via kerbside collections without a refund)

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Appendix 2: Main issues raised through public consultation and recommended approach

Key NZ CRS proposal	Main issues raised through public consultation	High level response (further details in RIS)	Recommended approach
Exemption of fresh milk in all packaging formats	Many submitters (61 per cent) opposed the proposal to exempt fresh white milk, largely based on the need for simplicity and consistency of approach with other beverage types	The exemption of fresh milk products is unlikely to affect littering or have any impact on the achievement of the CRS' environmental objectives, because unlike many other beverage containers, milk bottles are not frequently consumed in the public domain and then littered. A refundable deposit could have unwarranted financial impacts on households, who are already recycling most (86 per cent) of their milk containers through kerbside recycling systems. Although milk alternatives (e.g. plant milk) are a staple for some families, current volumes are relatively small and they are typically in LPB packaging with limited alternative recycling options if not included in the NZ CRS.	I am seeking agreement to exempt fresh milk from the NZ CRS as consulted on, and that the treatment of fresh milk is to be reviewed at the completion of the scheme's third year
Inclusion of glass in the scheme	Many large alcohol beverage producers and their associations/industry bodies were against including glass and wished to see a separate scheme for glass operate alongside NZ CRS. This is detailed in the GPF's alternative proposal for a product stewardship scheme design for glass (received 7 September 2022)	Glass accounted for about 41 per cent of all beverage containers sold in New Zealand in 2020/21. Removing glass containers from a NZ CRS would negatively impact the NZ CRS reducing the costs benefit cost ratio from 1.48 to 1.16, and the absence of a refundable deposit on glass containers does not address litter, noting glass beverage containers make up a significant portion of the recognisable branded litter in New Zealand. Analysis and further detail of the 'no deposit' scheme option is included in the Ministry's interim Regulatory Impact Statement	I am seeking agreement to include glass in the NZ CRS
Exemption of beverage containers intended for refilling	Most submitters (82 per cent) support a requirement for the NZ CRS to support the refillables market. The pro forma submission <i>An Opportunity for a Reuse Scheme</i> , supported by 452 submitters, argued that the NZ CRS is an opportunity to implement a complementary reuse scheme	The Ministry is undertaking further work to develop and analyse options for domestic beverage reuse/refilling systems	I am seeking agreement to exempt beverage containers that are intended for refilling and have a verifiable producer-established return and refill system in place, as consulted on. The treatment of refillables will be reviewed at the completion of the scheme's third year
Container size	A few submitters noted that there should be a lower size limit, such as 100mL, as in all European schemes, given that automated return systems are unable to accurately manage most containers below 100ml	I have revised the lower size range from 0mL to 100ml, noting that only 1.1 per cent of beverage containers sold in New Zealand are 150 millilitres or less	I am seeking agreement that eligible beverage containers will be 100mL to ≤ 3 litres in size. Beverage containers outside of this scope will still be subject to data and reporting requirements
Lids	Most (88 per cent) submitters agreed there should be alternative ways to return lids which could not be put back or had been littered	Collecting and recycling lids will be the responsibility of the scheme's PSO.	I am seeking agreement that the PSO will be responsible for collecting and recycling beverage container lids
Return network	Large retailers and beverage producers raised concerns about the retail take back obligations. While in most cases conditionally supportive, these submitters noted that costs would be much higher than modelled based on a mandated retail take back model and would lead to increased costs for consumers	The international evidence of fees for operating schemes provides a different perspective. Retail take back via RVMs in particular is an extremely cost effective, efficient and low emission option for collecting containers when compared with depots s 6(b), s 9(2)(ba)(i) Detailed network analysis is being undertaken to inform degree of retail take back obligations within secondary legislation. The consultation feedback more broadly supported a "high level" of retail take back obligations that will ensure a convenient and accessible scheme	I am seeking agreement to proceed a 'mixed-return' model, which will leverage both regulated retailer take-back obligations (for retailers to establish a base level of higher convenience) and a procurement-led approach to establish depots and other retail return points, such as over-the-counter return points Legislation will require the majority of the scheme's return points to be at retail locations (e.g. supermarkets) based on the most optimal parameters to be determined in regulations pending further geo-spatial analysis and modelling to be completed in early 2023
Industry-led, not-for-profit governance structure	The proposal for an industry-led scheme attracted some concerns from environmental groups and some Local Government representatives (e.g. Auckland City Council and the TAO Forum) and was also reflected in the Kiwi Bottle Drive pro forma submission	In the context of the NZ CRS, regulated product stewardship involves the beverage and retail industry being held accountable for the recovery and recycling of the products they sell. Given a well-regulated scheme is proposed (retail take back obligations, sufficient deposit level of 20 cents), an industry led scheme is proposed. An industry-led scheme does not preclude broader representation on the scheme's Governance Board, nor the ability of the Government to appoint representation	I am seeking agreement to a NZ CRS that is not-for-profit and industry led, as consulted on, and as is common approach internationally. Legislative and regulatory arrangements will set out in detail how the PSO will be monitored and managed to ensure performance is met and to minimise concerns raised by submitters

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Key NZ CRS proposal	Main issues raised through public consultation	High level response (further details in RIS)	Recommended approach
Deposit financial model	A few submitters did not support the deposit financial model, and instead supported the alternative 'refund' financial model (like Australian schemes). These submitters noted that the refund model allows for payments to be made 'in arrears' and that to enable this model, the government should provide an up-front loan to the scheme	The deposit financial model is prevalent overseas and this more strongly enacts product stewardship principles. The deposit financial model also does not require a Crown loan to float the scheme. The alternative 'refund model' necessitates a Government loan and is largely an artefact of the Australian schemes which have been developed at the state level and with associated constraints	I am seeking agreement to a 'deposit financial model', as consulted on, that requires beverage producers to pay the deposit and scheme fees on all beverages sold to market (regardless of whether the beverage container is returned)
20 cent refundable deposit	While typically conditionally supportive of a scheme, many industry, beverage (Coca-Cola, Frucor-Suntory, Lion, DB, Asahi, etc) and retail submitters had a strong preference for a 10 cent deposit, and noted the cost impact of a 20 cent deposit (over 10 cents) and in particular, for consumers. A few submitters suggested the deposit level should be higher (e.g. 30, 40 or 50 cents)	The primary objective of the deposit level is to incentivise consumers to return their containers for recycling, which also reduces emissions and reduce litter, a decision on the deposit amount will be made via regulatory process in the future (2025) once enabling new waste legislation is in place s 6(b), s 9(2)(ba)(i) [REDACTED] [REDACTED] [REDACTED]	I am seeking Cabinet's agreement to set a minimum 10 cent (GST inclusive) refundable deposit in primary legislation , with enabling powers for the Minister for the Environment to set the final deposit level prior to scheme implementation I am seeking agreement that once set in regulation, the Minister for the Environment will have the power to make changes to regulations to adjust the deposit level further, following advice from the Secretary for the Environment on the extent to which the existing deposit level is achieving scheme return targets and outcomes, following consultation with affected parties
GST implications	While typically conditionally supportive of a scheme, many industry, beverage (Coca-Cola, Frucor-Suntory, Lion, DB, Asahi, etc) and retail submitters had strong views that the refundable deposit should also be GST inclusive (consistent with Australia)	Inland Revenue Department (IRD) has noted that GST will apply to the increased price of scheme containers. Households that return their containers will receive 20 cents when they return beverage containers and will not pay any extra GST under the scheme (all other things being equal), because the proposed refundable deposit amount (20 cents) is GST inclusive. GST registered taxpayers will be able to claim a deduction of the additional GST cost in the normal way, provided the costs of the scheme containers are incurred in making taxable supplies	I am seeking Cabinet agreement for a GST inclusive refundable deposit In the 20 cent refundable deposit scenario, 20 cents GST inclusive means a 17.4 cent refundable deposit plus 2.6 cents GST

Proactively released under the Official Information Act 1982

Appendix 3: Summary of Submissions [Attached]

Proactively released under the Official Information Act 1982

Appendix 4: Interim Regulatory Impact Statement

Proactively released under the Official Information Act 1982

Appendix 5: Table showing powers and functions

Minister for the Environment

Sets regulations

Makes regulations on:

- final deposit level (10 cent minimum specified in legislation – minimum legal tender for a cash payment) and powers to set effective deposit level in regulation
- parameters for retail take-back obligations and exemption criteria
- specific categories of containers - eligible, exempt or excluded from a CRS (including making additions to deal with new container types and temporary exemptions to excluded containers for transitional purposes)
- mandatory return rate targets
- definitions of recycling/processing requirements
- eco-modulation of scheme fees
- exemptions for digital requirements for counting containers
- sets transition arrangements (eg for old stock)

Establishment powers

- Will call for proposals and appoints the PSO on advice from the Secretary for the Environment

Monitoring and Intervention Powers

- May require reports/ information from PSO
- May require the PSO to replace an existing scheme fee with a fee specified by the Minister
- May add to the approved list of charity types
- May issue a Gazette notice allowing excluded containers to be sold where there is an emergency or unforeseen circumstances

Where scheme performance issues arise, may:

- appoint a Crown review team to make recommendations for improvements
- appoint a Crown Manager to work with or in place of the PSO Governance Board
- dissolve the PSO Board, taking on the assets and liabilities of the PSO

Review

- Review the operation of the CRS after 3 years

Secretary for the Environment (or authorised party)

Sets Detailed Requirements

Secretary issues determinations relating to:

- *Information Disclosure Requirements*
- *CRS Design Standards* (includes requirements for return points, voluntary network, refunds to charities, fraud mitigation/audit regime for kerbside collected containers, registration and approval details)
- *Input methodologies* – if necessary, the ability to specify the methodology the PSO will use for setting scheme fees and to specify spending caps for specific cost inputs.

Establishment responsibilities

- Sets criteria for PSO appointment (following consultation with the Minister) and provides advice to the Minister

Registration and approval of containers

- Establishes/operates Registration Portal and categorises containers as eligible, exempt or excluded in accordance with regulations.
- Approves containers for sale in the CRS

Monitoring of CRS performance and advice

- Will monitor scheme performance and provide advice to the Minister (including on how the PSO is providing for outcomes for Māori and re-allocation of refunds to charities)
- May appoint auditors to assess compliance and performance of the PSO
- May provide advice to the Minister about replace an existing scheme fee with a new fee
- May provide advice about container categories

Intervention

- May intervene if the PSO is not providing for a fair, transparent and equitable allocation system for charity refunds via RVMs

Product Stewardship Organisation

Establishment of the NZ CRS

- Secures funding, sets up corporate office, systems and procedures
- Enters into arrangements with producers/importers/return network operators/Councils
- Sets up the return network and transport logistics
- Procures counting and consolidation facilities and enters into arrangements for recycling of containers

Ongoing scheme operation

- Manages and co-ordinates the CRS in compliance with regulations and standards/requirements set by the Secretary for Environment
- Collects deposits and scheme fees from producers/importers
- Pays handling fees to return point operators
- Sets the scheme fee (and eco-modulates the fee in accordance with regulations)
- Makes arrangements for payment of refunds directly or indirectly via return point operators (including in relation to containers collected at kerbside and to charities)
- Manages the counting and consolidation sites
- Arranges for transport, recycling/processing of containers (including lids)
- Collects information from scheme participants

Reporting and advice

- Will provide regular reporting as set out in the Information Disclosure Requirements (including as against scheme targets)
- Will provide advice to the Secretary for the Environment on container categorisations
- Provides Minister with an assessment of scheme performance, financials and forward projections