



## Office of Hon Nicky Wagner

MP for Christchurch Central

Minister of Customs

Minister for Disability Issues

Associate Minister for Canterbury Earthquake Recovery

Associate Minister of Conservation

21 JUL 2015

Mr Alex Harris

Email: [fyi-request-2757-5870c6e6@requests.fyi.org.nz](mailto:fyi-request-2757-5870c6e6@requests.fyi.org.nz)

Dear Mr Harris

Thank you for your email dated 23 May 2015 in which you asked for all advice (including Cabinet papers, briefings, aides memoire, notes etc) on the Border Clearance Levy, its expected level and impact.

We have reviewed your Official Information Act 1982 (OIA) request and have found a number of documents that fit within its scope. These are listed in Appendix One. Several of these documents are already publicly available, and the web addresses for them have been noted in Appendix One. The other documents are attached to this letter.

Also attached as Appendix Two is a document containing both extracts from Customs' Weekly Reports to me and action points from my weekly meeting with Customs officials, insofar as each relates to the Border Clearance Levy. Extracts from the minutes of my weekly meetings are being withheld under section 9(2)(g)(i) of the OIA.

You will note that some of the information in the documents provided has been redacted. These redactions are clearly marked and were made pursuant to the OIA. I have enclosed a table with this letter (Appendix Three) that explains each of the relevant grounds referred to in this response.

Please be advised that you have a right, by way of complaint to the Office of the Ombudsman under section 28(3) of the OIA, to seek an investigation and review of the decision conveyed in this letter.

The Office of the Ombudsman can be contacted at the following address:

The Office of the Ombudsman  
PO Box 10152  
Wellington 6143

Please contact Mike Bridge at [Mike.Bridge@parliament.govt.nz](mailto:Mike.Bridge@parliament.govt.nz) if you would like to discuss any aspect of my letter.

Thank you for taking the time to write.

Yours sincerely

A handwritten signature in blue ink that reads "N. J. Wagner".

Hon Nicky Wagner  
**Minister of Customs**

Encl.

- Appendix One: List of documents
- Appendix Two: Advice from weekly briefings and meetings
- Appendix Three: Sections of the Official Information Act 1982
- Document 1: Memo: Broadening the approach for Passenger Cost Recovery
- Document 2: Sub 14-062: Introducing a Biosecurity and Customs Border Clearance Levy
- Document 3: Talking points for Cabinet paper – Introducing a Biosecurity and Customs Border Clearance Levy on passengers and crew
- Document 6: RPT 15/058: Confirming the Legislative Vehicle for the Border Clearance Levy
- Document 7: Sub 14-066: Cabinet Paper: Border Processing (Arrivals and Departures) Levy Bill – Approval for Introduction
- Document 9: B14-576: Border Clearance Levy Bill – support material for budget day
- Document 10: RPT 15/072: Aide Memoire: Border Processing (Arrivals and Departures) Levy bill – Approval for Introduction
- Document 11: Sub 14-074: Final EGI paper: Border Clearance Levy – Approval to release consultation document
- Document 15: Press release: Border clearance levy to be introduced
- Document 18: RPT 15/084: Aide Memoire: EGI paper: Border Clearance Levy – Approval to release consultation document
- Document 19: Backpocket information for release of BCL consultation documents

**Appendix One:  
Advice received by Minister of Customs about the Border Clearance Levy**

Number	Date	Reference	Title	Notes
1	27/03/15	Memo	Broadening the approach for Passenger Cost Recovery	Attached. This was written for Budget ministers, who had previously been given advice by MPI (see footnote 1). A copy was sent to me for my information
2	10/04/15	Sub 14-062	Introducing a Biosecurity and Customs Border Clearance Levy	Attached
3	13/04/15	N/A	Talking points for Cabinet paper – Introducing a Biosecurity and Customs Border Clearance Levy on passengers and crew	Attached
4	13/04/15	CBC (15) 8	Introducing a Biosecurity and Customs Border Clearance Levy on passengers and crew	Available at <a href="http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/">http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/</a>
5		CBC Min (15) 1/2		Available at <a href="http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/">http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/</a>
6	17/04/15	RPT 15/058	Confirming the Legislative Vehicle for the Border Clearance Levy	Attached
7	22/04/15	Sub 14-066	Cabinet Paper: Border Processing (Arrivals and Departures) Levy Bill – Approval for Introduction	Attached
8	22/04/15		Departmental Disclosure Statement – Border Processing (Arrivals and Departures) Levy Bill	The draft version I was given is substantially the same as the final version, available at <a href="http://www.disclosure.legislation.govt.nz/bill/government/2015/19">www.disclosure.legislation.govt.nz/bill/government/2015/19</a>
9	13/05/15	B14-576	Border Clearance Levy Bill – support material for budget day	Attached
10	20/05/15	RPT 15/072	Aide Memoire: Border Processing (Arrivals and Departures) Levy bill – Approval for Introduction	Attached
11	20/05/15	Sub 14-074	Final EGI paper: Border Clearance Levy – Approval to release consultation document	Attached
12			Border Clearance Levy – Approval to release consultation document	Available at <a href="http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/">http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/</a>

13	Consultation Document – Implementing the Border Clearance Levy	The draft version I was given is substantially the same as the final version, available at <a href="http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/">http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/</a>		
14	Consultation Regulatory Impact Statement	The draft version I was given is substantially the same as the final version, available at <a href="http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/">http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/</a>		
15	21/05/15	Press release: Border clearance levy to be introduced	Attached	
15	22/05/15	EGI (15) 113	Border Clearance Levy: Release of Consultation Document	Available at <a href="http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/">http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/</a>
16	27/05/15	EGI Min (15) 11/4		Available at <a href="http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/">http://mpi.govt.nz/news-and-resources/consultations/border-clearance-levy/</a>
17	26/05/15	RPT 15/084	Aide Memoire: EGI paper: Border Clearance Levy – Approval to release consultation document	Attached
18			Backpocket information for release of BCL consultation documents	Attached

**Appendix Two:  
Advice from weekly briefings and meetings**

Weekly Reports

Date | Advice

Section: Policy Updates

2 April 2015 Budget Minsters have agreed to seek approval to implement cost recovery for passenger processing by MPI and Customs from 1 January 2016. Customs and MPI have prepared a paper seeking Cabinet approval for the necessary legislative amendments, which will need to be made on budget Night.

A draft of this paper was provided to you on 2 April.

17 April 2015 Border clearance levy for Customs and MPI:

The proposal to introduce a border clearance levy for arriving and departing passengers and crew was agreed by the Cabinet Business Committee (CBC) on 13 April.

On 17 April we reported to you, the Attorney-General and the Minister for Primary Industries on the appropriate vehicle for this legislation. Drafting instructions for Budget night legislation will be issued to Parliamentary Counsel Office once Cabinet has approved CBC's decisions.

We are now working with the Ministry for Primary Industries to develop the details for implementation and a proactive communications strategy to manage the expected public interest in this decision.

Section: Customs Papers

2 April 2015 Subject: Introducing a biosecurity and customs passenger levy

Comment: This paper will seek in principle agreement to introduce a passenger levy to fund biosecurity and customs costs of passenger processing. This paper is being drafted jointly with MPI.

**10 April 2015 update:**

Comment: This paper seeks approval for cost recovery of Customs and MPI's costs for processing passengers and crew and to:

- amend the Customs and Excise Act to enable Customs to implement cost recovery
- return estimates savings as part of the Budget 2015 package.

This paper is being drafted jointly with MPI.

24 April 2015 Subject: Border Processing (Arrivals and Departures) Levy Bill: Approval for Introduction

Comment: Omnibus bill amending the Customs and Excise Act and the Biosecurity Act to be passed under Budget night urgency to give effect to government's decision to impose a border clearance levy. This has been prepared jointly with the Ministry for Primary Industries.

**1 May 2015:** no change

24 April 2015 Subject: Border Clearance Levy: Proposed Discussion Paper.

Comment: This paper will seek Cabinet's agreement to release a discussion paper on the details of implementing the border clearance levy. This paper will be prepared jointly with the Ministry for Primary Industries.



**1 May 2015:** no change

**8 May 2015 update:**

Additional Comment: The draft papers will be submitted to both Ministers on 13 May 2015.

**15 May 2015:** no change

**22 May 2015:** no change

Section: Customs Legislation

17 April 2015 Title: Border clearance levy provisions under the Customs and Excise Act 1996  
Current Stage: CBC has agreed to impose a border clearance levy under urgency on Budget Day.

Stages to Go: LEG approval; Introduction on Budget Day, 21 May

Media Releases: To be prepared

Comments: Advice on legislative vehicle will be provided separately.

**24 April 2015 update:**

Current Stage: Cabinet has agreed to impose a border clearance levy under urgency on Budget Day.

Stages to go: LEG approval for introduction required on 29 April. Introduction on budget Day, 21 May.

Media releases: A draft press release has been provided as part of the Budget package. Further material will be provided.

**1 May 2015 update:**

Title: Border Processing (Arrivals and Departures) Levy Bill

Stages to Go: LEG approval for introduction required on 6 May. Introduction of Budget Day, 21 May

**8 May 2015 update:**

Current Stage: LEG approval for introduction given on 6 May. This decision must be confirmed by Cabinet on 11 May.

Media releases: Further support material will be provided on 13 May.

**15 May 2015:** no change

Section: Briefings and Reports

17 April 2015 Due in Minister's Office April 2015

Topic: Confirming Legislative Vehicle For Border Clearance Levy.

Agendas for Weekly Meeting with the Minister

Date	Advice
20 April 2015	Significant Updates: Passenger Levy Legislation: CBC has agreed to impose a border clearance levy under urgency on Budget Day
28 April 2015	Significant Updates:

Border Processing Levy

Impending Customs' Cabinet and Cabinet Committee Papers:

Border Processing (Arrivals and Departures) Levy Bill: Approval for Introduction (LEG). Minister's Office date 23 April; Submission date 23 April; Meeting date 29 April

Legislation:

CBC has agreed to impose a border clearance levy under urgency on Budget Day

5 May 2015

Significant Updates:

Cost Recovery

Impending Customs' Cabinet and Cabinet Committee Papers:

Border Processing (Arrivals and Departures) Levy Bill: Approval for Introduction (LEG). Submitted 30 April; Meeting date 6 May.

Legislation:

CBC has agreed to impose a border clearance levy under urgency on Budget Day

19 May 2015

Impending Customs' Cabinet and Cabinet Committee Papers:

Border Clearance Levy: Proposed Discussion Paper (EGI). Minister's Office date 13 May; Submission Date 14 May; Meeting Date 20 May

Legislation:

CBC has agreed to impose a border clearance levy under urgency on Budget Day

Action Points from Weekly Meeting with the Minister

Date	Notes
20 April 2015	Customs will provide a LEG paper on the Biosecurity and Customs Passenger Levy – Done Draft media releases about Customs budget bids will be provided - Done
28 April 2015	Customs will provide a LEG paper on the Biosecurity and Customs Passenger Levy – Done Draft media releases about Customs budget bids will be provided - Done

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

### Appendix Three: Sections of the Official Information Act 1982

Section of the OIA	Explanation of the ground
s 6(a)	The withholding of the information is necessary because the making available of the information would be likely to prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand.
s 9(2)(a)	The withholding of the information is necessary to protect the privacy of natural persons.
s 9(2)(f)(iv)	The withholding of the information is necessary to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.
s 9(2)(g)(i)	The withholding of the information is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organization or officers and employees of any department or organization in the course of their duty.
s 9(2)(h)	The withholding of the information is necessary to maintain legal professional privilege.



# Broadening the approach for Passenger Cost Recovery

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## Purpose

This note responds to the Minister of Finance's request for further advice on the possible savings from implementing passenger cost recovery across all border agencies. This has been prepared by border agencies at the request of the Treasury.

## Background

Budget Ministers have asked the Ministry for Primary Industries (MPI) to proceed with developing a paper for consideration at Cabinet Business Committee on 13 April seeking in principle policy approval to begin work on the design options for a passenger biosecurity levy. This is likely to propose a simple levy that is:

- paid on each arriving passenger and crew member
- collected by carriers (airlines and cruise ship operators) and added to the price of tickets
- based on the average costs of clearance.

s 9(2)(f)(iv)

## Rationale for broadening passenger cost recovery

s 9(2)(f)(iv) and  
s 9(2)(g)(i)

The rationale for a biosecurity charge is primarily based on a risk-exacerbator model (ie due to all passengers and crew potentially carrying biosecurity risks). In expanding to a broader sector approach, it is necessary to consider the beneficiary approach as well as there are significant private benefits to efficient and high quality passenger processing.

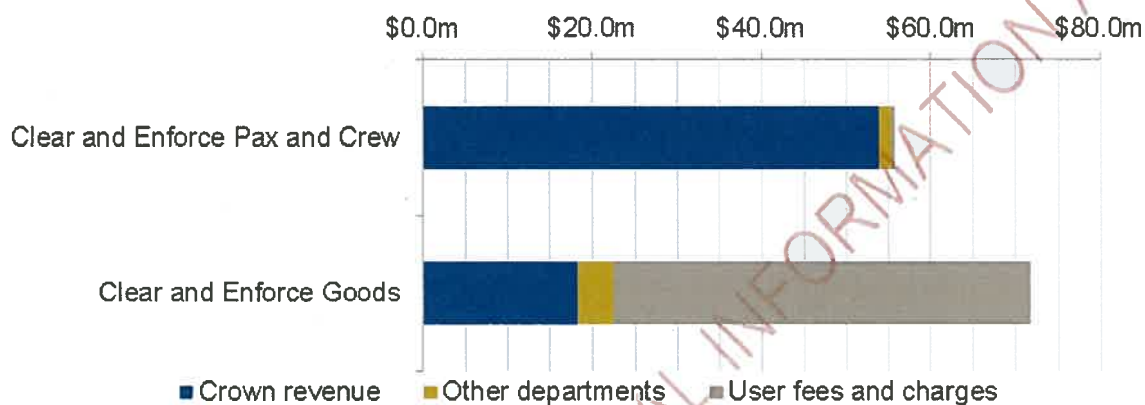
Most of the services and activities delivered at the border offer a mix of public and private benefits. In the past, the primary beneficiaries of Customs and Immigration activities at the border have been considered to be the New Zealand public. There are clear public benefits through preventing harmful people or goods entering New Zealand, and supporting the growth of tourism and the economy more broadly.

However, passengers, airports and airlines are also all direct beneficiaries of the services provided at the border: people travel to and from New Zealand for private gain – for tourism, visiting friends and family and for private business.

The private benefits associated with improvements in travel facilitation are consistent with the rationale used for the recovering the costs of goods clearance. Like passenger processing, most traders are not risk exacerbators – but all share the costs of managing the system. This is because of the benefits from crossing the border – which includes an assessment of risk and greater intervention where necessary – accrue to business.

As illustrated in Figure 2, current funding arrangements do not reflect the similarities in benefits offered to traders and travellers.

**Figure 1: Sources of Customs' operating funding 2014/15**



Introduction of passenger cost recovery provides an opportunity to put the funding of our border services on a more sustainable footing as revenue will flex with demand as volumes increase. It also provides an opportunity to reinvest crown savings in the border initiatives to ensure our border services remain fit for purpose in the face of increasing risk while improving the customer experience.



s 9(2)(f)(iv)

## Funding implications

Table 1 below provides an overall estimate of the maximum level of Crown funding that could be released if full cost recovery were to be sought. If charges are implemented on 1 January 2016, a portion of funding will be recovered in 2015/16 – however the full fiscal impact depends on whether the charges are applied at time of sale or time of travel.

**Table 1 Estimated Crown funding released**

\$ million GST excl.	Direct costs	Indirect	Total
Ministry for Primary Industries	39.6	8.3	47.9
New Zealand Customs Service	42.5	12.9	55.4
Immigration New Zealand	8.2	2	10.2
<b>Total</b>	<b>90.3</b>	<b>23.2</b>	<b>113.5</b>

These estimates are based on existing appropriations. If Ministers wish to proceed with passenger charging options, we will need to undertake further design work and to refine modelling to ensure that all relevant costs are included.

If this funding was to be recovered from travellers it would mean that an air passenger would be required to pay approximately \$18.15 on arrival and \$19.38 on departure.

**Table 2: Possible government charge paid by an individual passenger**

<b>\$ GST incl.</b>	<b>Arriving</b>	<b>Departing</b>
<b>Currently in place</b>		
CAA Safety Levy	-	\$1.50
Aviation Security Service Passenger Security Charge	-	\$11.98
<b>Potential</b>		
MPI Biosecurity Levy <sup>1</sup>	\$10.35	
Customs border charge	\$5.90	\$5.90
Immigration	\$1.90	
<b>Total charge faced by travellers</b>	<b>\$18.15</b>	<b>\$19.38</b>

## Legislative implications

MPI is able to use its existing levy-making powers under the Biosecurity Act 1993. Regulations in the form of a new levy order would be required to implement the proposed charge.

There are limitations on the ability of Customs and Immigration New Zealand to collect new fees or levies to meet the costs of passenger processing services at the border:

- Legislative change will be needed to ensure that Customs could recover the full range of direct and indirect costs it incurs carrying out functions under both the Customs and Excise Act 1996 and the Immigration Act 2009.
- Once passed, the Immigration Amendment Bill (No 2) will give MBIE some additional scope for recovering costs not directly related to services received by third party fee payers, through the new Immigration Levy. However, the levy will only be charged to people who pay visa application fees. This means it will not be charged to New Zealanders, Australians, or visa-free visitors. More broadly, the scope of the Immigration Act would raise questions of legality if Levy funding were to be applied to services received by New Zealanders. This would likely not be the case should those costs be recovered through a broader border levy.

Given the complexities associated with implementing an immigration charge, we do not recommend proceeding with this in the short term. However, the potential for including immigration costs in a broader border charge could be considered over the longer term.

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<sup>1</sup> Note that the \$7.40 previously reported by MPI only applied to direct costs and was GST exclusive.

## Options

There are four main options that Ministers may wish to consider – ranging from proceeding only with a MPI fee, to taking more time to develop a common border sector charge. We have also considered the potential option of introducing a common border charge in the short term. However, this would be too complex to deliver in the time available.

Option	Funding implications	To take effect:	Benefits	Disadvantages
<b>1. Proceed with a MPI biosecurity levy only</b>	<ul style="list-style-type: none"> <li>Frees up Crown funding of around <b>\$49 million</b></li> <li>≈<b>\$10.35</b> for arriving passengers</li> <li>No change to charges for departing passengers (\$13.48)</li> </ul>	1 January 2016	<ul style="list-style-type: none"> <li>Sustainable funding for MPI border services, as it allows revenue to flex with demand as passenger volumes increase</li> <li>Ensures travel and tourism operators factor cost of service delivery into their business decisions</li> <li>Crown funding is available within 2015/16 for reinvestment in high priority initiatives within Vote Primary Industries or elsewhere.</li> </ul>	<ul style="list-style-type: none"> <li>Appearance of a lack of a joined up approach at the border</li> <li>Other funding issues not addressed</li> </ul>
<b>2. Introduce separate charges for MPI and Customs</b>	<ul style="list-style-type: none"> <li>Frees up Crown funding of around <b>\$103 million</b></li> <li>≈<b>\$16.25</b> for arriving passengers</li> <li>≈<b>\$19.38</b> for departing passengers (incl. current charges)</li> </ul>	1 January 2016	<ul style="list-style-type: none"> <li>Fiscal impact within 2015/16 – funding available for reinvestment.</li> <li>Sustainable funding of MPI and Customs border services (as revenue rises with demand and costs)</li> <li>Potential to develop a more integrated border sector approach over time, including immigration in at a later date.</li> </ul>	<ul style="list-style-type: none"> <li>Budget night legislation required to give Customs the power to charge passengers</li> </ul>
<b>3. Introduce MPI charge now and take more time to implement a common border sector approach that involves Customs and Immigration</b>	<ul style="list-style-type: none"> <li>Frees up Crown funding of around \$49 million in short term, growing to \$113 million+ when other agencies come on line</li> <li>≈<b>\$18.15</b> for arriving passengers</li> <li>≈<b>\$19.38</b> for departing passengers (incl. current charges)</li> </ul>	1 January 2016 and in 2017 or later	<ul style="list-style-type: none"> <li>MPI is more straight forward to implement.</li> <li>Opportunity to undertake further policy work on developing a common border sector approach, based on MPI's experience.</li> </ul>	<ul style="list-style-type: none"> <li>Reduced fiscal impact (compared with option 2).</li> </ul>
<b>4. Defer decisions: further work to develop a common border sector charge for passengers</b>	<ul style="list-style-type: none"> <li>No Crown funding released in 2016/17</li> </ul>	In 2017 or later	<ul style="list-style-type: none"> <li>May offer a more cohesive approach to addressing border sector funding issues.</li> <li>Potential for achieving greater buy-in from stakeholders.</li> <li>Could be considered within the context of Budget 2016 - all agencies are reviewing approaches to cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>May be too long to implement.</li> <li>Reduced fiscal impact (compared with options 1 and 2).</li> </ul>



## What is the likely impact of passenger cost recovery?

A key concern expressed about passenger charging in the past has been the possible impact on New Zealand's tourism objectives. In practice, if border charges were to increase by anything other than extreme amounts, the impact on long-haul travel to New Zealand is likely to be minimal.

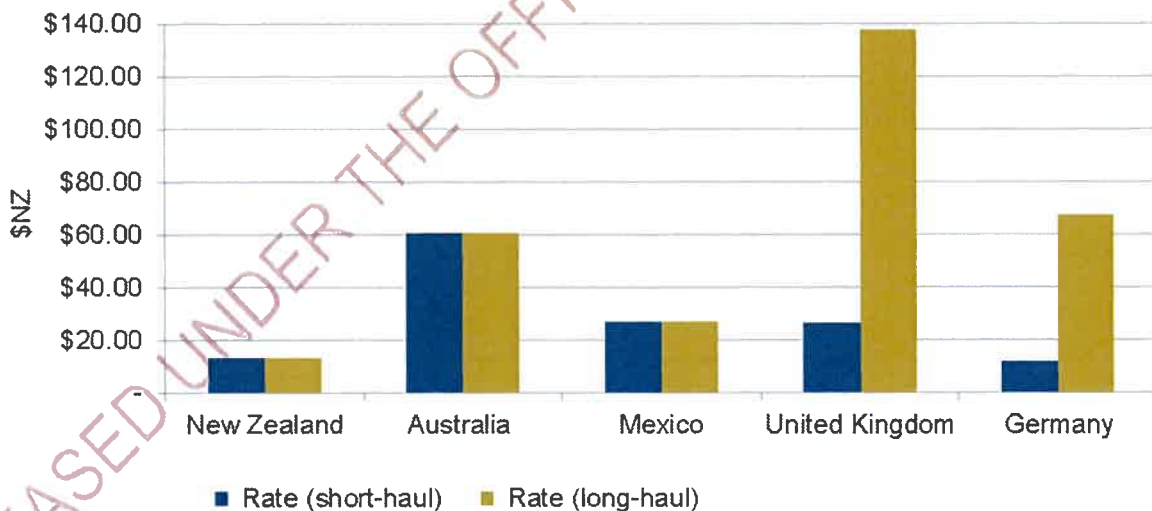
Recent research suggests that tourists from traditional markets (UK, US and Australia) do not appear to be sensitive to prices although the Asian markets were more price sensitive. However, when considered alongside other factors, such as exchange rates and domestic economic conditions, price increases at the level required to meet border agency costs are unlikely to have a substantial impact on travellers' choices to travel to New Zealand.

With that said, any shift to greater charging may have a negative impact on travellers' choices due to adverse publicity, rather than the actual amount charged. To minimise this impact, it is important that border charges be applied in a consistent fashion (eg billing airlines at the same time), alongside the current arrangements for CAA and AvSec

## International comparisons

Most ICAO-contracting countries levy charges for a variety of services delivered to passengers, including airport security. In general, charges are paid in relation to departures. Figure 2 below provides a comparison of the level of departure charges in different jurisdictions.

Figure 2: Comparison of border charges on departures (and arrivals in the case of the United States)



## Australian Passenger Movement Charge

The Australian Passenger Movement Charge (PMC) is currently being reviewed as part of the Joint Review of Border Fees, Charges and Taxes. No final decisions have been announced, but draft position papers released by the Australian Customs and Border Protection Service suggest that any changes to the PMC is likely to involve reductions to fee levels for short haul destinations (particularly New Zealand), with consequent increases for longer haul destinations to maintain the overall level of revenue collected.

## The United States charges on arrivals and departures

It is not common international practice to recover the direct costs of customs, immigration or agricultural quarantine services. The United States is the main exception to this. The Department of Homeland Security has a number of charges in place, which are generally applied to people travelling into the United States, as shown in Figure 3 **Error! Reference source not found.**

Figure 3: DHS charges paid by passengers arriving into the United States

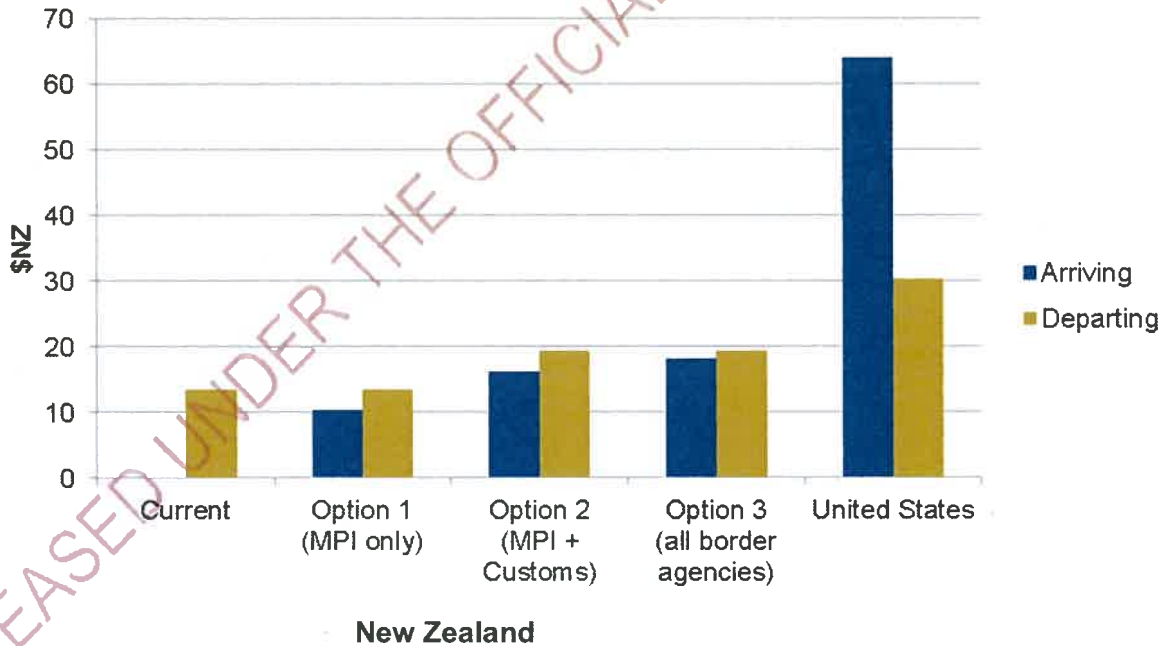


In addition:

- An international arrivals/departures tax of US\$17.50 is also applied.
- A security fee of US\$5.60 is also charged for passengers on flights that originate within the United States.

Figure 3 provides a comparison of New Zealand's current and potential border charges, compared with the United States.

Figure 4: Current and potential charges in New Zealand compared with the United States





Priority – High

Security Level – Budget: Sensitive

Distribution
Minister
Minister's Advisor
Minister's Office

Ministry for Primary Industries  
Manatū Ahu Matua



10 April 2015

Document Number: Sub 14-062

## Introducing a biosecurity and customs border clearance levy

### Purpose:

This briefing provides you with a final copy of the Cabinet paper "Introducing a biosecurity and customs border clearance levy" for your review and approval. This paper must be submitted to Cabinet Office today, for discussion at the Cabinet Business Committee on Monday 13 April.

The briefing summarises the recent changes to the paper, and the key issues raised by other agencies. Talking points for the CBC meeting will be provided later today.

Minister	Action Required:	Minister's Deadline
<b>Minister for Primary Industries</b>	<b>Note</b> the contents of the briefing and the attached Cabinet paper <b>Sign</b> the attached Cabinet paper	To be submitted to Cabinet Office today for the CBC Meeting on Monday 13 April
<b>Minister of Customs</b>	<b>Note</b> the contents of the briefing and the attached Cabinet paper <b>Sign</b> the attached Cabinet paper	To be submitted to Cabinet Office today for the CBC Meeting on Monday 13 April
<b>CC Associate Minister for Primary Industries</b>		

### Comments:

Electronic signatures can be used for the paper, once your approval is given.

### Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager (MPI)	Julie Collins	Director, Biosecurity and Animal Welfare	04 894 0522	029 894 0522
Responsible Manager (Customs)	Michael Papesch	Group Manager Policy	04 901 4658	029 771 3324

## Key Messages

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### Implementing a Border Clearance Levy for Biosecurity and Customs

1. On 31 March, Budget Ministers agreed that MPI and Customs could proceed with further work on developing a border clearance levy.
2. A final paper has been prepared and is attached to this briefing. The paper has been prepared jointly by MPI and Customs and incorporates the feedback that you have provided on earlier drafts this week.
3. The key decisions sought by the paper are Cabinet's agreement to:
  - a. implement a border clearance levy for MPI and Customs
  - b. have Ministers issue drafting instructions to Parliamentary Counsel Office (PCO) for legislation that would impose the levy, with the legislation to be passed as part of the Budget-night package
  - c. proceed with more detailed work on the levy design to support public consultation
  - d. make changes to MPI and Customs appropriations to reflect Cabinet's decisions
  - e. reinvest ██████████ per annum of the resulting Crown Revenue savings in strengthening the biosecurity system.

### Change in title

s 9(2)(f)(iv)

4. The name of the levy has changed from "passenger levy" to a "border clearance levy". We consider that this is a better reflection of what the levy will cover, and it also minimises confusion if both passengers and crew are subject to the charge.

### Legislative changes

5. The paper reflects your decision for Budget-night legislation to be used to directly impose the levy. This will enable the Government to announce the decision on a border clearance levy as a new policy, with consultation later in 2015 covering only the quantum of costs to be recovered, and other associated design matters.
6. Officials have been working closely with PCO on the exact legislative changes that would be needed. The paper proposes that the Attorney-General and the Ministers for Primary Industries and Customs be given delegated authority to determine the final legislative changes, with officials reporting to joint Ministers by Friday 17 April.

### Financial implications and reinvestment proposals

7. The paper includes financial recommendations that show the changes to appropriations resulting from the move to cost recovery. This will ensure that the expected savings are included in the Treasury's revenue forecasts. Further work will be required to ensure that these costings are accurate, and we will report back to Cabinet on any changes resulting from consultation or delays in implementation.
8. The Treasury does not support the proposal to reinvest savings in the biosecurity system and recommend all savings be returned to the centre. They have asked that split recommendations and a comment be inserted into the paper. Customs has no view on this.

## Other agency feedback

### *Ministry of Transport*

9. The Ministry of Transport has raised as an issue the need to ensure that any levy is compliant with New Zealand's obligations as a member of the International Civil Aviation Organisation.
10. We are satisfied that the levy will be applied in a way that is consistent with New Zealand's international obligations, and will work closely with the Ministry of Transport and the Ministry of Foreign Affairs and Trade to ensure this. We also note that most countries that are a party to the International Civil Aviation Organisation apply a passenger charge in some form.

### *Ministry of Foreign Affairs and Trade*



### *Ministry of Business, Innovation and Employment (Tourism)*

s 6(a)

13. The Ministry of Business, Innovation and Employment had previously expressed concern about the potential impacts on tourism from the levy. We have modified the paper to address the issues that they raised and they have informed us that they are now comfortable with the paper.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

**Recommendations**

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15. MPI and Customs recommend that you **sign** the attached Cabinet paper and CAB 100 and submit to Cabinet Office on 10 April 2015.

**Agreed / Not Agreed**

Deborah Roche  
Deputy Director-General  
Policy and Trade  
for Director-General

Hon Nathan Guy  
Minister for Primary Industries

/ / 2015

Michael Papesch  
Group Manager, Policy  
for Comptroller of Customs

Hon Nicky Wagner  
Minister of Customs

/ / 2015

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

## Cabinet Paper - Introducing a biosecurity and customs border clearance levy on passengers and crew

### Talking points for discussion at Cabinet Business Committee on 13 April 2015

Provided below are talking points on the purpose of the paper, a high level summary of the rationale for a border clearance levy, and key points/issues to highlight, including the proposed reinvestments in the biosecurity system.

#### Purpose of the paper

- The paper seeks agreement to:
  - Introduce from 1 January 2016 a border clearance levy, to be announced as a new policy on Budget day
  - Budget night legislation to allow MPI and Customs to directly impose the levy, with consultation to follow on levy design and level
  - Reinvest as part of Budget 2015 [REDACTED] per annum of the funds returned to the Crown after cost recovery to further strengthen the biosecurity system.

s 9(2)(f)(iv)

#### Why should we impose a border clearance levy?

- We recommend a levy because all travellers derive private benefits from travel. From a biosecurity perspective, travellers are also 'risk exacerbators' (ie. they create risks) as they may inadvertently carry 'hitchhiker' pests.
- There is also a growing gap between the increasing demand for border clearance services, risks and service expectations and available resources
- New Zealand's success in growing trade and travel is creating increased demand for MPI and Customs border clearance services.
  - Volumes are increasing – arriving and departing passenger volumes are forecast to increase from 10.1 million in 2014 to around 11.5 million by 2018. This growth is expected to continue at around 3.5 percent per annum
  - The risk profile of passengers is also increasing, as our trade and travel links with Asia increase and as we enter into more free trade agreements with emerging countries. Higher risk passengers require higher levels of intervention and cost more to process at the border
  - Service expectations are rising eg. for cruise ship arrivals at new ports.
- Border agencies have worked together to manage these pressures, but are reaching the limits of their capacity
- The levy will also ensure that revenue increases in line with increasing demand, reducing the Crown's exposure to increasing costs
- The cost of failures at the border is very high – eg. the current Queensland Fruit Fly response will cost an estimated [REDACTED]; MPI estimates the cost to the NZ economy of a FMD outbreak would be up to \$16 billion; and drug harm currently avoided by Customs has been quantified using the New Zealand Drug Harm Index at a little over \$107.4 million in 2013/14.

s 9(2)(f)(iv)

- A levy also provides the opportunity to reinvest some of the revenue returned to the Crown from cost recovery in further strengthening the biosecurity system and wider border

### Proposed levy design

- The proposed design is a levy:
  - On arriving and departing air and sea passengers and crew
  - Collected by carriers (airlines and cruise ship operators)
  - Calculated based on the average per passenger costs of clearance
  - Added to the cost of tickets
  - Charged at ticket purchase.
- Detailed design issues will be tested during consultation, such as the collection mechanism, any exemptions that might apply (eg. NZ Defence Force personnel), and differential charging (eg. for passengers arriving at smaller airports, who cost more on a per passenger basis, or for Trans-Tasman flights)
- The levy would be designed so as to minimise compliance costs to passengers, industry, and government.

### The levy rate

- The levy would be set at around \$16.25 (incl. GST) per arriving passenger, and \$5.90 (incl. GST) per departing passenger. This is subject to more detailed modelling and consultation. This compares favourably to charges in other jurisdictions.
- At this level, we don't expect the levy will have anything more than a very minor impact on the number of visitors to New Zealand. Any impact would be more pronounced for the Trans-Tasman market. Officials are undertaking further work to quantify the precise impacts and this will inform the final design and level of the levy.

### Financial implications

- The paper seeks agreement to changes to appropriations resulting from the move to cost recovery (replacing revenue Crown with revenue Other). The proposed levy will replace approximately \$103.3 million in annual Crown funding when fully implemented.
- We are proposing the levy be charged at point of purchase for all tickets purchased from 1 January 2016, not when the travel actually occurs. Because most tickets are purchased some weeks or months in advance of travel, not all trips from 1 January 2016 will be subject to the levy. The revenue Crown will be reduced accordingly. If cost recovery is implemented on 1 January 2016, officials estimate that:
  - approximately 25 percent of baseline funding in 2015/16 (\$25.9 million) will be replaced by levy revenue, and



- approximately 75 percent in 2016/17 (\$78.1 million). Levy revenue will also be lower in 2016/17 because we expect 25% of tickets for travel in 2016/17 will be purchased more than 6 months in advance (ie. before 1 January 2016)
- Further work will be required to ensure that costings and levy revenue figures are accurate, and we will report back to Cabinet on any changes.
- We propose to manage the levies within memorandum accounts.

### Legislative changes

- The paper proposes that the levy will be imposed directly by primary legislation. This means that it will not be necessary to consult on whether or not to impose the levy - that question will be resolved by the Budget-night legislation.
- Imposing the levy directly by primary legislation can be achieved by adding a small number of new sections into the Biosecurity Act 1993 and the Customs and Excise Act 1996.
- The new sections would set out certain key matters relating to the levy:
  - The purpose of the levy – to recover the costs of MPI biosecurity services and border processing functions performed by Customs;
  - Who must pay the levy – arriving and departing passengers and crew;
  - Who the levy is paid to – the Director-General of MPI and the Comptroller of Customs;
  - That surpluses and deficits can be carried forward into the following financial year;
  - Powers to carry out audits of compliance with the levy.
- The new sections would also authorise the making of regulations that would set out more detailed elements of the levy, such as:
  - The maximum rate of levy and how the actual rate will be set from year to year;
  - How the levy is to be collected and paid to MPI and Customs;
  - Any exemptions from the obligation to pay the levy.
- The paper leaves open the question of the best legislative vehicle, and asks officials to report back to joint Ministers on this by Friday 17 April.



s 9(2)(h)

- MPI and Customs do not consider there is any reason in principle why the Customs and Excise Act could not provide for the recovery of costs of functions performed at the border on behalf of other agencies. The Biosecurity Act and the Customs and Excise Act already include provisions which recognise that MPI and Customs perform functions at the border on behalf of other agencies. MPI and

Customs will continue to work with PCO on this issue and report back to joint Ministers later in the week.

- We have considered whether the levy should rather be *enabled* by primary legislation, rather than *directly imposed*. Directly imposing the levy would enable the Government to announce on Budget day that the levy *will* be imposed, and that consultation would only occur on the implementation details ie. levy design, collection mechanism, and rate. This would also align Customs' and MPI's consultation and implementation processes.

#### Consistency with international obligations

- The Ministry of Transport has raised the need to ensure that any levy is compliant with New Zealand's obligations as a member of the International Civil Aviation Organisation.
- MPI and Customs officials are satisfied that the levy will be applied in a way that is consistent with our international obligations, and will work closely with the Ministry of Transport and the Ministry of Foreign Affairs and Trade to ensure this.
- Most countries that are a party to the International Civil Aviation Organisation apply a passenger charge in some form.

#### Reinvestment proposals

- I am seeking agreement to [REDACTED] per annum in operational funding, plus and a one off capital injection of \$2 million in 2015/16, from the funds returned to the Crown from cost recovery being used to reinvest in the biosecurity system, and as announced as part of Budget 2015. I am also requesting \$2 million of operational funding in 2015/16 to do the work necessary to get the levy and other initiatives in place.
- The reinvestments are focused on enhancing MPI's ability to keep biosecurity risks offshore, stop risks at the border, and respond to risks post-border. Further information and talking points is contained in **Annex A**.
- This proposed additional funding of [REDACTED] per annum represents an [REDACTED] increase on current 2014/15 operating spending for biosecurity of \$172 million (this does not include TB Plan funding) [REDACTED]

#### Communications material

- We propose that the Minister of Finance announce the levy on Budget day
- We expect significant stakeholder interest in the proposals.
- Officials will prepare communications materials for Budget Day, including both proactive messages for the announcement and defensive messages for the points expected to be raised by key stakeholders. Officials will also begin targeted engagement with key stakeholders once announcements are made.

**BUDGET: SENSITIVE**

PROTECTING NEW ZEALAND'S BORDER

Ministry for Primary Industries  
Manatū Ahu Matua



17 April 2015

RPT 15/058  
B14-528

**Attorney-General**  
**Minister for Primary Industries**  
**Minister of Customs**

## **CONFIRMING THE LEGISLATIVE VEHICLE FOR THE BORDER CLEARANCE LEVY**

### **Purpose**

- 1 This report provides further advice on the proposed legislative vehicle for giving effect to the proposed border clearance levy and the next steps in the legislative process.

### **Key points**

- 2 On 13 April 2015, Cabinet Business Committee agreed to introduce a border clearance levy from 1 January 2016 [CBC Min (15) 1/2]. This decision is still subject to Cabinet's approval on Monday 20 April.
- 3 As part of the paper, officials identified two potential options:
  - 3.1 a standalone act which would cover the imposition of the levy for both agencies
  - 3.2 amending the Biosecurity Act 1993 and the Customs and Excise Act 1996 to provide for the imposition of separate levies under each act.
- 4 The Committee agreed that officials would report back to the Attorney-General, the Minister for Primary Industries and the Minister of Customs by 17 April with a clear recommendation on the best legislative vehicle.
- 5 Officials have now discussed the proposed options with Parliamentary Counsel Office (PCO). We have agreed that the most appropriate approach is to make similar amendments to the Biosecurity and Customs and Excise Acts to impose separate levies that would in practice be joined up administratively at the payment and collection points. This will ensure that a consistent approach is applied to the making and implementation of the levy, while ensuring the provisions fit with existing frameworks under each Act and allowing for the levies to take account of the different functions of each agency. Amendments to the two principal Acts are considered more appropriate and expedient.
- 6 The amendments will provide for the obligation to pay the levy and set out the purpose for which the levy is imposed. They will also include empowering provisions that allow Orders in Council to be made to provide for all other matters necessary for the levy's administration, including when the levy must be paid, the basis for calculating the levy, the maximum rate of the levy, who must collect the levy, waivers, and penalties for late or non-payment.

**BUDGET: SENSITIVE**

## BUDGET: SENSITIVE

- 7 Officials have identified a potential risk with making an amendment to the Customs and Excise Act only rather than standalone legislation because Customs also performs functions and exercises powers delegated under other statutory frameworks (eg. the Immigration Act). In practice, Customs exercises these additional functions, where applicable, concurrently with its responsibilities under the Customs and Excise Act in respect of people and goods. This is in line with the provisions of the Airports (Cost Recovery for Processing of International Travellers) Act 2014. We will work with PCO to ensure that any risks are addressed in drafting.

### Next steps

<b>20 April</b>	<ul style="list-style-type: none"><li>• Cabinet confirmation of CBC decisions</li><li>• Drafting instructions issued to PCO</li></ul>
<b>29 April</b>	<ul style="list-style-type: none"><li>• Approval for introduction sought from Cabinet Legislation Committee (LEG). This paper must be lodged on <b>23 April</b> (but the draft Bill will not be available until Monday 27 April)</li></ul>
<b>14 May</b>	<ul style="list-style-type: none"><li>• Disclosure Statement completed</li></ul>
<b>21 May: Budget Day</b>	<ul style="list-style-type: none"><li>• Policy announced and amendments made under urgency.</li></ul>

### Recommendations

- 8 We recommend that you:

- 1 **note** that Cabinet Business Committee agreed that officials would report back to the Attorney-General, and the Ministers of Primary Industries and Customs by 17 April 2015 with a clear recommendation as to the best legislative vehicle for a border clearance levy
- 2 **agree** that the border processing levy will be imposed through separate, but aligned, amendments to the Biosecurity Act 1993 and the Customs and Excise Act 1996.

*Agreed/Not Agreed*

*Agreed/Not Agreed*

*Agreed/Not Agreed*

*Attorney-General  
Date*

*Minister for Primary Industries  
Date*

*Minister of Customs  
Date*

  
Dave Haigh  
Acting Group Manager Policy  
New Zealand Customs Service  
For Comptroller of Customs

  
Deborah Roche  
Deputy Director-General Policy and Trade  
Ministry for Primary Industries  
For Director-General

Policy contact:	Anna Cook Manager, Trade and Travel Facilitation	Ph: 04 901 7576 Mob: 021 998 156
	Julie Collins Director, Biosecurity and Animal Welfare Policy	Ph: 04 894 0522 Mob: 029 894 0522

ENDS

BUDGET: SENSITIVE



Priority – High

Security Level – Budget: Sensitive

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Minister's Office

Ministry for Primary Industries  
Manatū Ahu Matua



22 April 2015

Document Number: Sub14-066

## Cabinet Paper: Border Processing (Arrivals and Departures) Levy Bill - Approval for Introduction

### Purpose:

This briefing provides you with a copy of the Cabinet paper "Border Processing (Arrivals and Departures) Levy Bill - Approval for Introduction" for your review and approval. This paper must be submitted to Cabinet Office by 10am Thursday 23 April, for consideration by the Cabinet Legislation Committee on Wednesday 29 April.

Minister	Action Required:	Minister's Deadline
Minister for Primary Industries	<b>Note</b> the contents of the briefing and the attached Cabinet paper <b>Sign</b> the attached Cabinet paper	To be submitted to Cabinet Office <b>by 10am Thursday 23 April</b> for the LEG Meeting on Wednesday 29 April
Minister of Customs	<b>Note</b> the contents of the briefing and the attached Cabinet paper <b>Sign</b> the attached Cabinet paper	To be submitted to Cabinet Office <b>by 10am Thursday 23 April</b> for the LEG Meeting on Wednesday 29 April
CC Associate Minister for Primary Industries		

### Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager (MPI)	Julie Collins	Director, Biosecurity and Animal Welfare Policy	04 894 0522	029 894 0522
Responsible Manager (Customs)	Michael Papesch	Group Manager, Policy	04 901 4658	029 771 3324
Principal Author (MPI)	<div style="background-color: black; width: 100px; height: 30px; margin-bottom: 5px;"></div> <div style="border: 1px solid red; padding: 2px;">s 9(2)(a)</div>	Senior Policy Analyst, Biosecurity and Animal Welfare Policy	<div style="background-color: black; width: 100px; height: 30px; margin-bottom: 5px;"></div> <div style="border: 1px solid red; padding: 2px;">s 9(2)(a)</div>	

## Key Messages

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1. On 20 April 2015, Cabinet agreed to introduce from 1 January 2016 a border clearance levy on arriving and departing international air and sea passengers and crew to fund the costs of border processing incurred by the Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) [CBC Min (15) 1/2 refers].
2. The attached Cabinet paper seeks agreement to introduction of legislation to give effect to this policy decision. The Border Processing (Arrivals and Departures) Levy Bill amends the Biosecurity Act 1993 and the Customs and Excise Act 1996 to impose separate levies that would in practice be joined up administratively at the payment and collection points.
3. The amendments provide for the obligation to pay the levy and set out the purpose for which the levy is imposed. They also include empowering provisions that allow Orders in Council to be made to provide for other matters necessary for the levy's administration, including:
  - a) the amount or rate of the levy;
  - b) when the levy must be paid;
  - c) the activities within the scope of the levy;
  - d) the costs to be recovered and the basis for calculating the levy;
  - e) the maximum rate of the levy;
  - f) who must collect the levy;
  - g) waivers, and;
  - h) penalties for late or non-payment.
4. Also attached is a draft Disclosure Statement for the Bill. This Statement will be finalised when drafting of the introduction version of the Bill has been completed by the Parliamentary Council Office (PCO). This is expected by Friday 25 April. The final Disclosure Statement will be provided to the Cabinet Office ahead of consideration by the Cabinet Legislation Committee on Wednesday 29 April. The final Disclosure Statement will also be provided to PCO for publication prior to the Bill's introduction.
5. Cabinet has agreed that the Bill be introduced under urgency on Budget Day. It is proposed that the Bill be passed through all stages under urgency on Budget Day. This is necessary to allow time for detailed levy design and public consultation prior to promulgation of the levy orders necessary to give effect to the levy on 1 January 2016.
6. Officials will work with your respective offices to provide material to support the Bill's passage through the House.



**Recommendations**

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7. MPI and Customs recommend that you sign the attached Cabinet paper and CAB 100 and submit them to the Cabinet Office by 10am Thursday 23 April 2015.

**Agreed / Not Agreed**

Deborah Roche  
Deputy Director-General  
Policy and Trade  
for Director-General

Hon Nathan Guy  
Minister for Primary Industries

/ / 2015



Michael Papesch  
Group Manager, Policy  
for Comptroller of Customs

Hon Nicky Wagner  
Minister of Customs

/ / 2015

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Cabinet Legislation Committee

**Border Processing (Arrivals and Departures) Levy Bill: Approval for Introduction**

**Proposal**

1. This paper seeks agreement to introduction of the Border Processing (Arrivals and Departures) Levy Bill (the Bill).

**Policy**

2. On 20 April 2015, Cabinet agreed to introduce from 1 January 2016 a border clearance levy on arriving and departing international air and sea passengers and crew to fund the costs of border processing incurred by the Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) [CBC Min (15) 1/2 refers].
3. The levy will implement cost recovery for MPI and Customs border clearance functions in relation to passengers and crew. This will ensure the costs associated with these activities are borne by those that benefit from them, or who give rise to the risks that require delivery of the functions.
4. The omnibus Bill amends the Biosecurity Act 1993 and the Customs and Excise Act 1996 to impose the levy, with consultation to follow on the design and level of the levy, and other implementation matters. The amendments provide for an obligation to pay the levy and set out the purpose for which the levy is imposed. The Bill also includes empowering provisions that allow Orders in Council to be made to provide for other matters necessary for the levy's administration.
5. A bill is required to give effect to the policy decision in paragraph 2 above because:
  - a) The Customs and Excise Act 1996 does not include a suitable provision to authorise the imposition of a levy to fund the costs of Customs clearance of passengers;
  - b) The Biosecurity Act 1993 does not provide for the direct imposition of a levy, only a general levy making provision that would require prior consultation on the intention to introduce a levy. Cabinet has agreed that the levy be imposed. Amendment to the Biosecurity Act 1993 will also ensure a consistent approach to consultation and levy implementation by MPI and Customs. This will make it simpler and easier for regulated parties, and minimise costs.

## Regulatory impact analysis

6. The Regulatory Impact Analysis (RIA) requirements apply to this proposal since it recommends the making of primary legislation. Since a Regulatory Impact Statement (RIS) is required but has not been provided, the RIA requirements have not been met. However, the regulatory impact of imposing a levy and alternative options was set out at a high level in the Cabinet paper proposing its introduction. Subsequent analysis shows that this proposal will have a significant impact and should have been quality assured by the Regulatory Impact Analysis Team (RIAT) in the Treasury.
7. A consultation RIS will be prepared and submitted for consideration by Cabinet when approval is sought in late May 2015 to release a public consultation document on levy design options to be specified by Order in Council. The substantive RIA elements will also be incorporated into the consultation document.
8. A final RIS will be prepared and submitted for consideration when Cabinet decisions are sought on the final levy design in October 2015. RIAT will review the consultation document and quality assure the final RIS.

## Compliance

9. The Bill complies with:
  - a) The principles of the Treaty of Waitangi;
  - b) The rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - c) The principles and guidelines set out in the Privacy Act 1993;
  - d) Relevant international standards and obligations; and
  - e) The *LAC Guidelines on the Process and Content of Legislation*.
10. A Disclosure Statement has been prepared in accordance with Cabinet Office Circular (13) 3 and is attached to this paper. The Disclosure Statement notes that a RIS was not prepared for the policy decision to impose the levy.

## Consultation

11. The following departments have been consulted and their views incorporated in this paper: Ministry of Transport, Ministry of Business, Innovation, and Employment (immigration and tourism policy), the Treasury, the Ministry of Foreign Affairs and Trade, and the Parliamentary Counsel Office. The Department of the Prime Minister and Cabinet has been informed.
12. We intend to seek Cabinet agreement in late May 2015 to the release of a public consultation document on levy design options in June 2015. This document will be made available on the MPI and Customs websites and the public will be given the opportunity to submit on the levy. Consultation will

also involve targeted meetings with key stakeholders impacted by the levy and other key stakeholders.

### **Binding on the Crown**

13. The Bill will make amendments to the Biosecurity Act 1993 and the Customs and Excise Act 1996, both of which are binding on the Crown.

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

14. Not applicable.

### **Allocation of decision making powers**

15. Not applicable.

### **Associated regulations**

16. The Bill imposes the levy, and sets out the purpose of the levy, but provides for Orders in Council to be made to provide for all other matters necessary for the levy's administration, including the amount or rate of the levy, when the levy must be paid, the activities within the scope of the levy, the costs to be recovered and the basis for calculating the levy, the maximum rate of the levy, who must collect the levy, waivers, and penalties for late or non-payment.
17. We intend to seek Cabinet agreement to the final levy design in October 2015 (following consultation on levy design options and the level of the levy) and agreement to the Orders in Council in November 2015.
18. Subject to Cabinet agreement, the proposed Orders in Council will come into effect on 1 January 2016. Drafting of the Orders in Council is expected to be relatively straightforward.

### **Other instruments**

19. Not applicable.

### **Definition of Minister/department**

20. Not applicable.

### **Commencement of legislation**

21. The Bill will come into force on the day after the date of Royal assent. The levy will be imposed on and from 1 January 2016.

### **Parliamentary stages**

22. Cabinet has agreed that the Bill be introduced under urgency on Budget Day [CBC Min (15) 1/2 refers]. We propose the Bill be passed through all stages under urgency on Budget Day. This is necessary to allow time for

detailed levy design and public consultation prior to promulgation of the levy orders necessary to give effect to the levy on 1 January 2016.

## Recommendations

23. The Minister for Primary Industries and the Minister of Customs recommend that the Committee:

- a) **note** that Cabinet has agreed to introduce from 1 January 2016 a border clearance levy on arriving and departing international air and sea passengers and crew to fund the costs of border processing incurred by the Ministry for Primary Industries and the New Zealand Customs Service [CBC Min (15) 1/2 refers];
- b) **note** that the Border Processing (Arrivals and Departures) Levy Bill gives effect to the Cabinet policy decision in recommendation 1;
- c) **note** that Cabinet has agreed that the Border Processing (Arrivals and Departures) Levy Bill be introduced under urgency on Budget Day;
- d) **approve** for introduction the Border Processing (Arrivals and Departures) Levy Bill, subject to the final approval of the government caucus; and
- e) **agree** that the Border Processing (Arrivals and Departures) Levy Bill be introduced on Budget night with the intention of it passing through all stages under urgency.

Hon Nathan Guy  
Minister for Primary Industries

/ / 2015

Hon Nicky Wagner  
Minister of Customs

/ / 2015

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## Consultation on Cabinet and Cabinet Committee Submissions

### Certification by Department:

Guidance on consultation requirements for Cabinet/Cabinet committee papers is provided in the CabGuide (see Procedures: Consultation): <http://www.cabguide.cabinetoffice.govt.nz/procedures/consultation>

**Departments/agencies consulted:** The attached submission has implications for the following departments/agencies whose views have been sought and are accurately reflected in the submission:  
Ministry of Transport, Ministry of Business, Innovation, and Employment (immigration and tourism policy), the Treasury, the Ministry of Foreign Affairs and Trade, and the Parliamentary Counsel Office.

**Departments/agencies informed:** In addition to those listed above, the following departments/agencies have an interest in the submission and have been informed:  
The Department of the Prime Minister and Cabinet.

**Others consulted:** Other interested groups have been consulted as follows:

Deborah Roche, Deputy Director-General, Policy and Trade, Ministry for Primary Industries

Date:

/ /

Signature

### Certification by Minister:

Ministers should be prepared to update and amplify the advice below when the submission is discussed at Cabinet/Cabinet committee.

#### The attached proposal:

*Consultation at Ministerial level*

- has been** consulted with the Minister of Finance  
*[required for all submissions seeking new funding]*
- has been** consulted with the following portfolio Ministers:
- did not need** consultation with other Ministers

*Discussion with National caucus*

- has been** or  **will be** discussed with the government caucus
- does not need** discussion with the government caucus

*Discussion with other parties*

- has been** discussed with the following other parties represented in Parliament:  
 Act Party  Maori Party  United Future Party  
 Other [specify]
- will be** discussed with the following other parties represented in Parliament:  
 Act Party  Maori Party  United Future Party  
 Other [specify]
- does not need** discussion with other parties represented in Parliament

Portfolio

Date

/ /

Signature

completed and attached at the back of the Cabinet committee submission



Priority – High

Security Level – Budget: Sensitive

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Minister's Office

Ministry for Primary Industries  
Manatū Ahu Matua



15 May 2015

Document Number: B14-576

## Border Clearance Levy Bill - support material for Budget Day

### Purpose:

This briefing provides you with:

- Information to support passage of the Bill through the House - information on the Bill (including a clause by clause analysis) and talking points.
- Information on the approach to communications for Budget Day and beyond.

Minister	Action Required:	Minister's Deadline
Minister for Primary Industries	Note the contents of this briefing Provide officials with feedback on the communications package by Monday 18 May.	Monday 18 May
Minister of Customs	Note the contents of this briefing Provide officials with feedback on the communications package by Monday 18 May.	Monday 18 May
CC Associate Minister for Primary Industries		

### Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager (MPI)	Julie Collins	Director, Biosecurity and Animal Welfare Policy	04 894 0522	029 894 0522
Responsible Manager (Customs)	Anna Cook	Manager, Trade and Travel Facilitation	04 901 7576	021 998 156
Principal Author (MPI)	[REDACTED] s 9(2)(a)	Senior Policy Analyst, Biosecurity and Animal Welfare Policy	[REDACTED] s 9(2)(a)	

## Key Messages

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1. Cabinet agreed that the levy would be directly imposed in primary legislation enacted under urgency on Budget night, with detailed levy design and implementation issues to be consulted on and set out in delegated legislation.
2. PCO provided an updated version of the Bill with minor and technical amendments. These amendments have been incorporated into the clause by clause analysis in Appendix A.
3. PCO have also prepared an SOP to split the Bill at the Committee of the Whole House stage into separate Biosecurity Act and Customs and Excise Act amendments. This is standard practice. You will be asked to approve the release of this SOP shortly.
4. Key messages and talking points to support you in the House are provided in Appendix B.
5. We understand that your offices will be preparing speech notes for the various stages in the House.

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**Recommendations**

6. MPI and Customs recommend that you:

a) **Note** the contents of this briefing

Noted

b) **Provide** your press secretaries with this report so that they can provide officials with feedback on the communications package by Monday 18 May and seek any additional information that might be required.

Agreed / Not Agreed

Deborah Roche  
Deputy Director-General Policy  
Ministry for Primary Industries  
/ / 2015

Hon Nathan Guy Hon  
Minister for Primary Industries  
/ / 2015



Michael Papesch  
Group Manager, Policy  
New Zealand Customs Service  
/ / 2015



Hon Nicky Wagner  
Minister of Customs  
19/5/2015

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## Background

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7. On 20 April 2015, Cabinet agreed to introduce from 1 January 2016 a border clearance levy on arriving and departing international air and sea passengers and crew to fund the costs of border processing incurred by the Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) [CBC Min (15) 1/2 refers].
8. Cabinet agreed that the levy would be directly imposed in primary legislation enacted under urgency on Budget night, with detailed levy design and implementation issues to be consulted on and set out in delegated legislation [CBC Min (15) 1/2 refers]. Officials were directed to prepare a discussion document for release in June 2015. We will provide you with a draft Cabinet paper seeking approval to release the discussion document early next week [SUB14-074 refers].

### The Border Clearance Levy Bill

9. The Border Processing (Arrivals and Departures) Levy Bill (the Bill) is an omnibus Bill that amends the Biosecurity Act 1993 and the Customs and Excise Act 1996. The Bill provides for two separate biosecurity and customs levies that would in practice be joined up administratively as one combined MPI and Customs 'border clearance levy' for the purposes of payment and collection.
10. The Bill is required to give effect to the levy, because:
  - a. The Customs and Excise Act 1996 does not include a suitable provision to authorise the imposition of a levy to fund the costs of Customs clearance of passengers.
  - b. The Biosecurity Act 1993 does not provide for the direct imposition of a levy, only a general levy making provision in section 137 that would require prior consultation on the intention to introduce a levy. Cabinet has agreed that the levy be imposed. The amendment to the Biosecurity Act 1993 also ensures a consistent approach to consultation and implementation of the levy by MPI and Customs. This will make it simpler and easier for regulated parties, and minimise costs.
11. The overall effect of the Bill is to impose the obligation to pay the levy, and to provide that the detailed levy design be set out in levy orders made after consultation. Specifically, the Bill:
  - a. Imposes an obligation from 1 January 2016 on travellers (any person who arrives in New Zealand from a place outside of New Zealand or departs from New Zealand) to pay the levy to the Director-General of MPI and the Comptroller respectively, for the purposes of funding the costs to MPI and Customs of the functions and activities it undertakes relating to passengers and crew, and

- b. Provides for empowering provisions that allow levy orders to be made that set out the detailed levy design, implementation, level, and other matters necessary for the levy's administration, including:
- the rate of levy or the basis on which the rate is to be calculated
  - how the actual rate of the levy is to be set (if the rate is not set in the levy order itself)
  - when and how the levy is to be paid
  - how the rate of levy, and any variation of the rate, is to be notified
  - exemptions from the requirement to pay
  - who is to be responsible for collecting the levy
  - requiring that returns be made to the Director-General of MPI and Comptroller of Customs to enable amounts of levy payable to be calculated and verified
  - provision for circumstances in which a levy paid may be refunded.

12. The Bill has been drafted to ensure consistency (where appropriate) between the Biosecurity Act 1993 and the Customs and Excise Act 1996.

**Key points to note**

13. Key points to note:

- a. The Bill inserts new sections into the Biosecurity Act 1993. These sections work alongside existing provisions relating to levy orders made under section 137 which provide for matters relating to: trust accounts, the effect of levy orders, requiring statements, accounts and records to be kept, providing for compliance audits, and offences and penalties. The Bill also inserts new sections relating to these matters in the Customs and Excise Act 1996 as that Act does not currently provide for them.
- b. The Bill provides that the levy must be paid by every traveller who arrives in New Zealand or departs from New Zealand on or after 1 January 2016, but only while there is a levy order in force. This means that any delay can be accommodated.
- c. The Bill provides that the responsible Minister(s) must consult prior to the making of a levy order setting out the levy design.
- d. Amendments to the Customs and Excise Act 1996 enable auditors to inspect the statements, accounts and records of persons responsible for collecting the levy (i.e. airlines, cruise ships etc). Similarly, amendments to the Biosecurity Act will enable audits to be carried out on those persons responsible for collecting the levy. However, the Biosecurity Act 1993 will also enable audits on those responsible for paying the levy. This is because the Biosecurity Act amendments will sit alongside existing compliance audit provisions, which also apply to levy orders. However, there is no intention to audit passengers paying the levy.



e. The audit regime is backed up by offences and penalties (applying existing offences and penalties in the Biosecurity Act 1993 or inserting new provisions into the Customs and Excise Act 1996) including in relation to:

- Failing to keep or maintain statements, accounts or records
- Failing to make returns or declarations as required.

Some of these offences are strict liability offences. The Bill provides for different levels of penalties between the Biosecurity Act 1993 and the Customs and Excise Act 1996. Offences, for Customs purposes, have been set at a level so that these are consistent with similar offences in the Customs and Excise Act 1996. However, the Customs offences will be reviewed as part the Customs and Excise Act 1996 Review. Offences, for MPI purposes, apply the existing penalty provisions in the Biosecurity Act 1993, which cover a wider range of situations than those associated with the border clearance levy.

14. Appended to this report are:

- a. A clause by clause analysis of the Bill at **Appendix A**
- b. Talking points on the Bill are provided in **Appendix B**
- c. Information on our approach to communications for Budget Day and beyond (see **Appendix C**), and
- d. A list of frequently asked and answered questions are contained in **Appendix D**.

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**Appendix A: Border Processing (Arrivals and Departures) Levy Bill - Clause by clause analysis of the Bill**

<b>Clause</b>	<b>Change proposed</b>
cl.1 Title	This Act is the Border Processing (Arrivals and Departures) Act 2015.
cl.2 Commencement	Provides that the Bill will come into force on the day after the date on which it receives the Royal assent.
<b>Amendments to Biosecurity Act 1993</b>	
cl.3 Principal Act	Provides that Part 1 of the Border Processing (Arrivals and Departures) Levy Act 2015 amends the Biosecurity Act 1993 (the principal Act).
cl. 4	Provides powers of the responsible Minister include: <ul style="list-style-type: none"> <li>• Recommending that the Governor-General make levy orders under new section 140AA; and</li> <li>• Performing other functions in relation to the respective levies.</li> </ul>
cl.5 Inserts new sections 140AA and 140AB to be inserted	<p>Section 140AA provides:</p> <ul style="list-style-type: none"> <li>• That every traveller who arrives in New Zealand on or after 1 January 2016 is liable to pay a levy for border clearance costs incurred by the Ministry for Primary Industries in carrying out its functions under the Biosecurity Act 1993</li> <li>• For the Governor-General to make a levy order, on the recommendation of the Minister, on the prescribed rate of the levy (or the way in which the rate of levy is to be calculated) and when and how the levy is to be paid and notified.</li> </ul> <p>Section 140AB prescribes the contents of border processing levy orders made under section 140AA.</p>
cl.6 to 9 Amends sections 140A to 141B	<p>Amends Sections 140A to 141D so that the cost recovery provisions in the principle Act apply to levy orders under the new Section 140AA.</p> <p>Section 140A prescribes requirements for trust accounts where a levy order requires levy funds payable to be held in separate trust account.</p> <p>Section 141 describes the effect of a levy order, which is that every person responsible for paying levy funds to the Director-General must do so and that the Director-General may recover any levy funds payable as a debt in any court of competent jurisdiction.</p> <p>Section 141A provides that levy orders may, for the purposes of determining whether the orders are being complied with, require that the Director-General, persons responsible for paying the levy, and persons responsible for collecting the levy, keep specified statements, accounts and records.</p> <p>Sections 141B to 141D provide for audits in relation to levy orders.</p>
cl.10 Amends section 154N	Amends Section 154N to prescribe offences for failing to keep or maintain statements, accounts, or records that are required to be kept by a levy order made under new section 140AA.

**Amendments to Customs and Excise Act 1996**

cl.11 Principal Act	Provides that Part 2 of the Border Processing (Arrivals and Departures) Act 2015 amends the Customs and Excise Act 1996 (the Principal Act).
cl.12 Inserts new sections 288B to 288I	<p>Section 288B provides:</p> <ul style="list-style-type: none"> <li>• That every traveller who arrives or departs from New Zealand on or after 1 January 2016 is liable to pay a levy for border clearance costs incurred by the New Zealand Customs Service in carrying out its functions under the Customs and Excise Act 1996 or any other Act</li> <li>• For the Governor-General to make a levy order, on the recommendation of the Minister, that prescribes the rate of levy (or the way in which the rate of levy is to be calculated) and when and how the levy is to be paid.</li> </ul> <p>Section 288C prescribes further matters that may or must be contained in every levy order under <i>new section 288B</i>.</p> <p>Section 288D prescribes requirements for trust accounts where a levy order requires levy funds payable to be held in separate trust accounts.</p> <p>Section 288E describes the effect of a levy order, which is that every person responsible for paying or collecting the levy must do so and that the Comptroller of Customs may recover any levy funds payable as a debt in any court of competent jurisdiction.</p> <p>Section 288F provides for audits, in relation to levy orders.</p> <p>Section 288G makes provision for auditors and allows auditors to require any specified person to produce for inspection and copying statements, accounts, and records that are required to be kept.</p> <p>Section 288H prescribes offences in relation to levy orders <i>under new section 288B</i>, including offences for failing to keep or maintain specified statements, accounts or record, failing to make returns or declarations as required, or making a return or declaration knowing that any material detail is false or misleading.</p> <p>Section 288I provides for certain offences in <i>new section 288H</i> to be <i>strict liability offences</i>.</p>

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## **Appendix B: Talking points on the Border Processing (Arrivals and Departures) Levy Bill**

### **Border services are important to our economy**

1. Our success as a trading nation depends on making sure risks at our borders are controlled and managed so that engine room of our economy – in particular our Primary Industries – can continue to grow and prosper without threat.

### **Rationale for the Bill's introduction**

2. We need to future-proof border services and put them on a more sustainable platform. The Border Clearance Levy will support this and enables border agencies to provide better, more effective services at airports and ports.
3. International passenger numbers have been climbing at 3.5% per annum and continue to grow, increasing the risks to New Zealanders and our economy.
4. The levy allows border funding to increase as passenger numbers increase, which is a more sustainable approach to managing border risk.
5. It is fairer that the traveller and crew pay the levy as they create the risk.

### **Implementation**

6. The levy will be introduced by 1 January 2016.
7. The levy will be around \$16.00 per arriving passenger and crew and around \$6.00 for departing passengers and crew.
8. Consultation on the design, implementation and level of the levy begins in June and ends in July 2015. Cabinet will decide what the levy looks like and how much it will be in October 2015.
9. Key stakeholders and the general public are invited to get involved via consultation in the design of the levy to ensure it is 'fit for purpose'.
10. Officials will visit key stakeholders to discuss the principles around the levy, its design and share all relevant data to ensure they are fully informed and can provide solid feedback.

### **Charges in other jurisdictions and effects on travel decisions**

11. Many other countries have a passenger levy, and this puts New Zealand on an equal footing.

12. People will not be put off travelling to New Zealand, as the levy for a return journey will be around \$20 which is approximately less than 1% of a long-haul fare.
13. New Zealand's charges at the border will be lower in comparison with other jurisdictions such as Australia, the United States, and China.
14. New Zealand's charges when compared to the United Kingdom's charges will be about NZ\$102 lower.

#### **General points about the Bill**

15. The Bill makes changes to the Biosecurity Act 1993 and the Customs and Excise Act 1996 to introduce a new border clearance levy for all travellers departing from or arriving in New Zealand.
16. The levy will help New Zealand manage risks from imported pests, diseases, illegal drugs and contraband at the border by ensuring that:
  - a. travellers who generate the costs of border clearance services make a fairer financial contribution to these services
  - b. funding of border services is flexible enough to respond to varying volumes of work generated by travellers
  - c. a robust border clearance service is provided on a sustainable basis, with minimal inconvenience to travellers.
17. To balance the need to respond to the increasing demand for border services and the time to carry out detailed design work and consultation on implementation the Bill needs to be passed through all stages under urgency as part of Budget 2015.

#### **Equity with other charges New Zealand border charges**

18. The levy brings passenger clearance in line with cargo imports, which are already cost-recovered through levies and fees.



**Appendix C: Information on our approach to communications for Budget Day and beyond**

# **Border clearance cost recovery – high level communications approach**

## **1. BACKGROUND**

Plans for a new border clearance levy for arriving and departing passengers and crew will be introduced on Budget day 2015.

The levy, expected to take effect from 1 January 2016, will be around \$16 for arriving passengers and around \$6.00 for departing passengers, although the exact amount has yet to be confirmed.

Legislation will be passed with urgency on Budget night, providing for the establishment of the levy, but later there will be public consultation on the design of the levy, how the levy will be introduced, and the level of the levy.

s 9(2)(g)(i)



There may be some support from the cargo industry who already pay levies and fees as they will consider the new levy as a levelling of the playing field. Primary Industries, such as kiwi fruit producers, may also provide support as they have been lobbying for a levy for some time. There is also a positive story in the fact that as passenger numbers increase, so too will the levy total collected, allowing the border sector to better meet the expectations for service delivery and respond more flexibly to increased demand.

This plan outlines the high-level communications approach by officials for the announcement and follow-up consultation.

## **2. COMMUNICATIONS OBJECTIVES**

The communications objectives of the approach are to:

- Ensure ministers and officials are positioned to answer any border cost recovery questions both prior and after the Budget announcement.
- Inform major stakeholders as soon as possible after the Budget announcement to preserve the existing positive working relationships between border agencies and industry.

- Ensure there is as much clarity as possible among stakeholders and other audiences as to why the levy will be introduced, how it will be designed and how it will work.



- Enable border agencies to engage with stakeholders on the implementation of the levy.

s 9(2)(f)(iv)

### 3. INTENDED APPROACH

#### Prior to announcement

- Back pocket messages to be developed for staff who are currently engaging with stakeholders about border funding (eg. MPI is consulting stakeholders on a first principle review of cost recovery systems. It is also consulting a wide range of stakeholders as part of its Biosecurity 2025 project).
- Messages to be developed for use in the event of a "leak" prior to the Budget announcement.
- Background information, including messages and contacts to MFAT in case of leaks.
- Target audiences to be confirmed, including those likely to be supportive and those unlikely to be so.
- Spokesperson responsibilities to be confirmed.
- Timings for stakeholder engagement to be confirmed.
- Identification of messages and how they are received by the various audiences.

#### Budget day announcement

##### Stakeholders

- Civil Aviation Authority and Maritime New Zealand Chief Executives to be given heads up the night before.
- Some key stakeholders (eg. Air New Zealand, Aviation Security Service (Av Sec), Auckland International Airport Limited (AIAL), the Board of Airline Representatives New Zealand Inc (BARNZ), Cruise New Zealand, the Tourism Industry Association of New Zealand (TIA) to be advised by border agency Chief Executives by phone immediately prior to the announcement. An offer to meet with Ministers will be made.

- Remaining key stakeholders to be advised by phone (eg. airports, ports, Government Industry Agreement stakeholders, Unions) by Customs Group Manager Border Operations, MPI Director Border Clearance and MPI Head of Intelligence and Operations immediately prior to the announcement. Discussion will include an outline of the upcoming consultation process.
- Second tier stakeholders to be alerted via email at the time of announcement. An offer will be made to meet and outline the consultation process. ✓

- 

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s 9(2)(f)(iv)

#### Staff

- Ministry of Foreign Affairs and Trade and New Zealand Trade and Enterprise overseas posts to be notified the day before the announcement. ✓
- Customs counsellors and managers to be given heads up ahead of the announcement. ✓
- Customs and frontline MPI managers to be alerted via email immediately prior to the announcement. ✓
- Internal announcements (email and intranet) to Customs and MPI staff at the time of announcement. ✓

#### Other

- Talking points to be developed to support ministers and managers on the day. ✓
- Q&A documents to be published on the MPI and Customs website. ✓
- The press release on the ministers' websites will be linked from Customs and MPI websites. ✓

#### **Post announcement**

- Ministers to field media enquiries in first 24 hours. Operational/technical questions to be referred to Customs and MPI. ✓
- Consultation document to be released within two weeks of the announcement.
- Initial stakeholder meetings to explain how the Bill will affect them.
- A second round of meetings will be conducted once stakeholder contacts have had the chance to review the discussion document and consult with their boards. ✓

#### 4. SPOKESPEOPLE

- First 24 hours - Ministers Guy and Wagner.
  - Support on operational aspects from subject matter experts.
- Next 48 hours - Second tier managers in both organisations.
  - Support on operational aspects from subject matter experts.
- Ongoing – Directors supported by subject matter experts.

#### 5. INITIAL KEY MESSAGES

- International passenger numbers have been climbing 3.5% pa increasing the risks for New Zealand at the border.
- The levy allows border funding to increase as passenger numbers increase, which is a more sustainable approach to managing border risk.
- It is fairer that the traveller and crew pay the levy as they create the risk.
- Many other countries have a passenger levy, and this puts New Zealand on an equal footing.
- People will not be put off travelling to New Zealand, as the levy is less than 1% of an international fare.

#### Secondary messages

- In 2014, 54% of air and 72% of cruise ship travellers were not New Zealanders but taxpayers are carrying the cost – it is fairer that travellers pay.
- The levy will be introduced 1 January 2016. We will be consulting with stakeholders and the public on the design from June 2015.

## **Appendix D: Questions and answers – Border clearance levy.**

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### **Why is the government imposing a border clearance levy?**

The levy is being introduced because the demand for border clearance services is steadily increasing due to the number of airline and cruise ship passengers arriving in and departing from New Zealand. This is expected to grow by 3.5 percent annually for the foreseeable future.

Additionally, passengers now expect a different level of service, and it is fairer that the passengers and crew who 'bring the risk' into New Zealand (biosecurity or security risks) should pay for the costs of managing this risk since they benefit from the service.

### **When will the levy come into effect?**

It is proposed that the levy will come into effect on 1 January 2016.

### **Who will have to pay the levy?**

All passengers and crew entering New Zealand by air or sea.

### **How much is the levy?**

It is proposed that the levy will be around \$16.00 for arriving passengers and crew and around \$6.00 for departing passengers and crew.

### **What is the current cost for passengers departing New Zealand?**

The current cost for departing passengers is: \$12.48 inclusive of GST for Aviation Security Service and Civil Aviation Authority fees.

### **What will the total cost be for passengers arriving and departing New Zealand?**

The total cost would be around \$34.00 inclusive of GST.

**Do other countries recover costs from incoming and departing passengers?**

Yes, a number of countries do including: Australia, United States, United Kingdom, China, Canada and many European countries.

**How much do other countries charge and how does New Zealand's levy compare?**

Our levy will be at the lower end of the scale. The levy, when combined with existing charges, will be about NZ \$20, lower than Australia's A \$55 (NZ \$58) passenger charge and about NZ\$102 lower than the United Kingdom's £71 long-haul passenger charge.

**How will the levy be collected and who will collect it?**

Collection will leverage off existing payment system. Airlines and cruise ship operators will collect the levy.

The Civil Aviation Authority currently collects the international passenger security charge on behalf of the Aviation Security Service from airlines. It is proposed that airlines would make a monthly lump sum payment to the Civil Aviation Authority and cruise ship operators would pay Customs. The funds would then be passed on to MPI and Customs.

For other travellers, such as people on private yachts, private aircraft, and military personnel, we propose collecting the levy from them directly when they enter and depart New Zealand.

**How can the Government justify imposing a levy without prior consultation with industry and the public?**

We will be consulting on the design and implementation of the levy legislation with stakeholders and the general public from June 2015.



**A similar levy was proposed in 2006 which was subsequently dropped. It was stated at the time that this sort of thing would not happen again without prior consultation – this levy flies in the face of this.**

The risks to our border have changed substantially since 2006. Passenger numbers have increased year on year, and with them biosecurity, security risk and terrorism threats. Passenger numbers are estimated to continue increasing around 3.5 percent per annum, and this levy is a mechanism to future proof border services by charging those who use the service and benefit from it. This is also fairer than having all taxpayers continue to pay for it.

**What is the timeline for consultation, decisions and implementation of the levy?**

Consultation starts in June 2015 and Cabinet decisions on the design and implementation of the levy will be made in October 2015. The levy will come into force on 1 January 2016.

**How does the Government currently fund passenger border services?**

The Government currently funds border services for both MPI and Customs.

**Does the introduction of a levy mean the Crown funding disappears for MPI and Customs?**

Crown funding will eventually be replaced by funding from the levy but this will take some time. The levy will be imposed on all tickets purchased from 1 January 2016, and since most tickets are purchased weeks or months in advance, not all the border clearance costs of travellers arriving or departing from 1 January 2016 will be cost recovered.

**Will there be any increases in the levy over time?**

The level of the levy will be reviewed regularly.

Over time, it may need to be increased to pay for enhancements to border services. But only if this makes sense from a risk management, service quality, and value for money perspective.

If we are collecting more money than we need to run passenger clearance services we will look to reduce the levy.

**Isn't it just another way for the Government to apply a tax?**

No. The levy is not a tax because it is applied to recover the cost of the services provided by Customs and MPI.

**Is any other border service paid for in this way?**

Yes. Goods coming into New Zealand bring with them biosecurity and security risks. MPI and Customs' cargo clearance services have been 'cost recovered' since 1993.

**How will this impact tourism which brings in valuable dollars to our economy?**

The levy is low compared to other countries and it is likely to have a very minimal impact on the number of travellers visiting New Zealand. It would become a small part of the overall travel costs for visitors.

**Why have the risks changed and why does this mean extra work for Customs and MPI?**

As we increase trade and travel links with more countries, we have more people and goods coming into New Zealand from different places, which brings more risk. Higher risk passengers require higher levels of intervention (e.g. x-ray screening, detector dog screening, physical inspections), which increases passenger clearance costs.

**How will the money collected from the levy be used and will it benefit the public?**

The levy will be used to maintain current services and service quality, and allow the current level of risk management to be maintained as passenger numbers rise, and it will help keep New Zealand free from biosecurity and security risks.



## AIDE MEMOIRE

4 May 2015

RPT 15/072

## AIDE MEMOIRE: BORDER PROCESSING (ARRIVALS AND DEPARTURES) LEVY BILL – APPROVAL FOR INTRODUCTION

Cabinet Legislation Committee Meeting - 6 May 2015

Contact: Anna Cook, Policy Manager, Trade and Travel Facilitation Policy Phone: 04 901 7576  
021 998 156

### Purpose

1. This aide memoire provides you with information on the Border Processing (Arrivals and Departures) Levy Bill (the Bill), which will be considered by the Cabinet Legislation Committee (LEG) on 6 May 2015.

### Key points

2. On 20 April 2015, Cabinet agreed to introduce, from 1 January 2016, a border clearance levy on arriving and departing international air and sea passengers and crew to fund the costs of border processing incurred by the Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) [CBC Min (15) 1/2 refers].
3. The Bill amends the Biosecurity Act 1993 and the Customs and Excise Act 1996 to provide for the obligation to pay the levy and set out its purpose. The Bill also includes empowering provisions that allow Orders in Council to be made to provide for the levy design and level, and other matters necessary for the levy's administration.
4. The Bill will be introduced on Budget Day, with the intention of it being passed through all stages under urgency on Budget Day. We understand that a total of six bills will be introduced under Budget urgency. The order has not yet been confirmed. Therefore, the Bill may not be passed on Budget Day itself.
5. The Minister for Primary Industries is the responsible Minister for the Bill, and will also be attending LEG.
6. The following officials from Customs and MPI will attend the LEG meeting:

#### Customs:

- o Anna Cook - Policy Manager, Trade and Travel Facilitation Policy
- o [REDACTED] - Senior Policy Analyst, Trade and Travel Facilitation Policy
- o [REDACTED] - Senior Legal Counsel, Corporate

s 9(2)(a)

s 9(2)(a)

*MPI:*

- Julie Collins - Director, Biosecurity and Animal Welfare Policy
- s 9(2)(a) ○ [REDACTED] - Senior Policy Analyst, Biosecurity and Animal Welfare Policy
- s 9(2)(a) ○ [REDACTED] - Senior Solicitor, Legal Services.

### **What the Bill does**

7. The Bill amends the Biosecurity Act 1993 and the Customs and Excise Act 1996 to:
  - provide for the obligation to pay the levy
  - set out the purpose for which the levy is imposed
  - provide empowering provisions that allow Orders in Council to be made to provide for the levy design and level, and other matters necessary for the levy's administration, including:
    - the rate of the levy or the basis for calculating the levy
    - when and how the levy is to be paid
    - the activities and cost within the scope of the levy
    - the maximum rate of the levy
    - who must collect the levy
    - providing for the ability to exempt certain classes of person
    - providing for circumstances in which a levy paid may be refunded, and;
    - penalties for late or non-payment.
8. A clause by clause analysis of the Bill is contained in the explanatory note to the Bill.

### **Next steps**

9. Cabinet has agreed that the Bill be introduced and passed through all stages under urgency on Budget Day. This is necessary to allow time for detailed levy design and public consultation prior to promulgation of the levy orders necessary to give effect to the levy on 1 January 2016.
10. Officials will work with your office to provide material to support the Bill's passage through the House.

**ENDS**

Priority – High

Security Level – Budget: Sensitive

Distribution
Minister
Minister's Advisor
Minister's Office

**Ministry for Primary Industries**  
Manatū Ahu Matua



20 May 2015

Document Number: Sub14-074

## Final EGI Paper: Border Clearance Levy - Approval to release consultation document

### Purpose:

This briefing provides you with the final Cabinet paper "Border Clearance Levy - Approval to release consultation document" for your signature. Also attached are the final consultation document and consultation Regulatory Impact Statement (RIS).

The paper must be submitted to Cabinet Office by 10am Thursday 21 May, for consideration by the Cabinet Economic Growth and Infrastructure Committee (EGI) on Wednesday 27 May 2015.

Minister	Action Required:	Minister's Deadline
Minister for Primary Industries	<b>Sign</b> the attached Cabinet paper, and submit to Cabinet Office by 10am Thursday 21 May.	10am Thursday 21 May.
Minister of Customs	<b>Sign</b> the attached Cabinet paper, and submit to Cabinet Office by 10am Thursday 21 May.	10am Thursday 21 May.
CC Associate Minister for Primary Industries		

### Contact for telephone consultation (if required)

	Name	Position	Work	After Hours
Responsible Manager (MPI)	Julie Collins	Director, Biosecurity and Animal Welfare Policy	04 894 0522	029 894 0522
Responsible Manager (Customs)	Anna Cook	Manager, Trade and Travel Facilitation Policy	04 901 7576	021 998 156
Principal Author (MPI)	[REDACTED] s 9(2)(a)	Senior Policy Analyst, Biosecurity and Animal Welfare Policy	[REDACTED] s 9(2)(a)	

## Recommendations

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1. MPI and Customs recommend that you:
  - a) **Sign** the attached Cabinet paper "Border Clearance Levy - Approval to release consultation document" and forward it to the Cabinet Office by 10am Thursday 2015, for consideration by the Cabinet Economic Growth and Infrastructure Committee (EGI) on Wednesday 27 May 2015.

Agreed / Not Agreed



Deborah Roche  
Deputy Director-General  
Policy and Trade  
for Director-General

Hon Nathan Guy  
Minister for Primary Industries

/ / 2015



Michael Papesch  
Group Manager, Policy  
for Comptroller of Customs

Hon Nicky Wagner  
Minister of Customs

/ / 2015

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Hon Nathan Guy

Minister for Primary Industries

Hon Nicky Wagner

Minister of Customs

21 May 2015

## Border clearance levy to be introduced

A new border clearance levy will help the Government to protect New Zealand from imported pests, diseases, illegal drugs and contraband and bring us in line with border approaches by other countries, Primary Industries Minister Nathan Guy and Customs Minister Nicky Wagner say.

The levy is expected to take effect from 1 January 2016, and will be around \$16 for arriving passengers and up to \$5.90 for departing passengers – although the exact amounts will be subject to public consultation.

The Ministry for Primary Industries and the New Zealand Customs Service together spend around \$100 million a year on border clearance for passengers and crew.

“In the past, these costs have been met by taxpayers. The Government considers it is fairer for the costs to fall on passengers travelling internationally,” Mr Guy says.

The levy helps ensure that border services can match increased future demand. It is expected to raise \$312 million over the next four years and will fully meet the costs of passenger border clearance by 2017/18.

“Our borders are dealing with increasing volumes,” Mr Guy says. “Arriving air passenger volumes have grown by more than 18 per cent from 4.4 million in 2009 to 5.2 million in 2014, and are expected to continue growing at around 3.5 per cent each year.

“The levy will help ensure our border processes stay fit for purpose into the future.”

Ms Wagner says the levy brings passenger clearance in line with clearing cargo imports, which is already funded by levies and fees.

“The move also brings New Zealand in line with many other countries that recover costs from passengers, including Australia, the United States, the United Kingdom and China,” Ms Wagner says.

“It will ensure that as passenger volumes increase, and with them border processing costs, border agencies are able to respond to new and emerging risks.”

The border clearance levy will be significantly lower than passenger charges levied by many of New Zealand’s major trading partners.

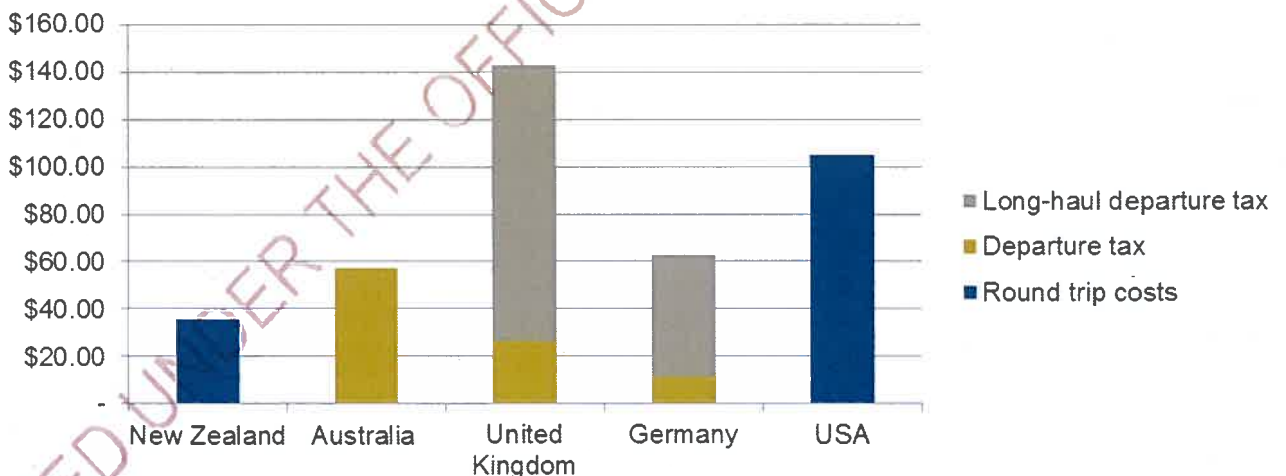
The levy, when combined with existing charges, will be around \$36 for a return journey - lower than Australia’s A\$55 (NZ\$58) passenger charge and the United Kingdom’s £71 (NZ \$142) long-haul passenger charge.

Beginning in early June, the public and industry will get the chance to provide feedback on the design, introduction and level of the levy.

This announcement is part of a range of measures in Budget 2015 to improve security and services at the border, involving immigration, customs and biosecurity.

**Media contacts:** **Phil Rennie 021405 443 (Mr Guy)**  
**Mike Bridge 021 807 635 (Ms Wagner)**

### Comparing NZ’s combined new border levy with other countries



Comparisons are in \$NZ and based on recent exchange rates.

## Security Level – In Confidence



Ministry for Primary Industries  
Manatū Ahu Matua



AM14-582 (MPI)  
RPT 15/084 (Customs)

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**Aide-memoire:**

**From:** Deborah Roche - Deputy Director-General, Policy and Trade Branch  
for Director-General  
Ministry for Primary Industries

Michael Papesch - Group Manager, Policy  
New Zealand Customs Service  
For Comptroller of Customs

**Contact:** MPI: Julie Collins - Director, Biosecurity and Animal Welfare Policy, 04 894 0522, 029 894 0522

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**To:** Hon. Nathan Guy - Minister for Primary Industries  
Hon. Nicky Wagner - Minister of Customs

**Cc:** Associate Minister for Primary Industries

**Date:** 26 May 2015

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**EGI Paper: Border Clearance Levy - Approval to release consultation document**


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**Purpose**

1. This aide memoire provides you with information in support of EGI consideration of the paper on Wednesday 27 May.

**Decisions required of Cabinet**

2. EGI is asked to agree, subject to consultation, key Levy design details, and the release of a consultation document on the proposed Levy design and implementation arrangements.
3. The Levy is designed to transfer the cost of border clearance services from taxpayers to those who generate risks (i.e. travellers) and who also benefit from the services, and allow border control agencies to respond to predicted growth in international travel.

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**Levy design details**

4. Set out below are key levy design parameters.

Application: The intention of the Levy is to recover costs from all those who generate border clearance activity, with exemptions for air travellers in transit areas, young children (i.e. under 2 years), and passengers on aircraft used specifically for military, diplomatic or ceremonial purposes of any Government (on advice from the Ministry of Foreign Affairs and Trade).

Collection mechanisms: Most travellers arrive on commercial passenger airlines (about 95%) and cruise ships (about 4%). It is proposed that the Levy be collected on all tickets purchased on or after 1 January 2016. Further work is required to fully develop the details of how to implement arrangements in each of the modes. We are working to leverage off existing processes and sources of information already collected by the Civil Aviation Authority (CAA) and Customs. Officials are considering:

**Commercial aircraft:** we have proposed using the CAA's existing processes, although this currently only applies to departing passengers.



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**Cruise ship operators:** we are looking to align with the proposed CAA approach. Customs will need to extend its finance systems to manage invoicing and auditing. We do not anticipate large costs with this, given most cruises to New Zealand are operated by two lines.

**Other commercial vessels and private vessels and aircraft:** officials need to develop detailed options but we are considering:

- a. requiring payment upon submission of advance notices of arrival, which are required 72 hours before arrival
- b. working with Maritime New Zealand to align collection of the Levy with the Oil Pollution Levy and Marine Safety Charges in place for commercial vessels
- c. direct collection from yachts and private planes when they are cleared.
- d. Customs has made allowance for additional costs of \$200,000 to administer the collection of the Levy.

Levy rates: the consultation document proposes a levy payable on arrival (with an option for differentiated cruise ship and air arrival rates) and another payable on departure. It also proposes that numbers of passengers and crew be used to calculate leviable volumes of travellers, as both generate border clearance costs.

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The rates in the discussion document differ from those outlined in the earlier April Cabinet paper seeking agreement to the Levy (ie. the \$16.25 and \$5.90 figures). This is because those figures were based on high level appropriations and calculated on the basis of passenger clearance costs only (ie. they did not include crew), and assumed a 50/50 split in Customs costs between arriving and departing travellers. Since then, both agencies have undertaken more detailed modelling of their border clearance costs. This includes Customs refining its assessment of the costs relating to arriving passengers versus departing passengers. Further information on the proposed levy rates is contained in **Annex 1**.



### Consultation process

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9. If Cabinet agrees to the release of the consultation document, consultation would commence in early to mid-June and conclude by the end of July 2015. We understand you are comfortable with a departmental release of the consultation document, but are considering delaying release until you are both back in the country after your forthcoming travel.

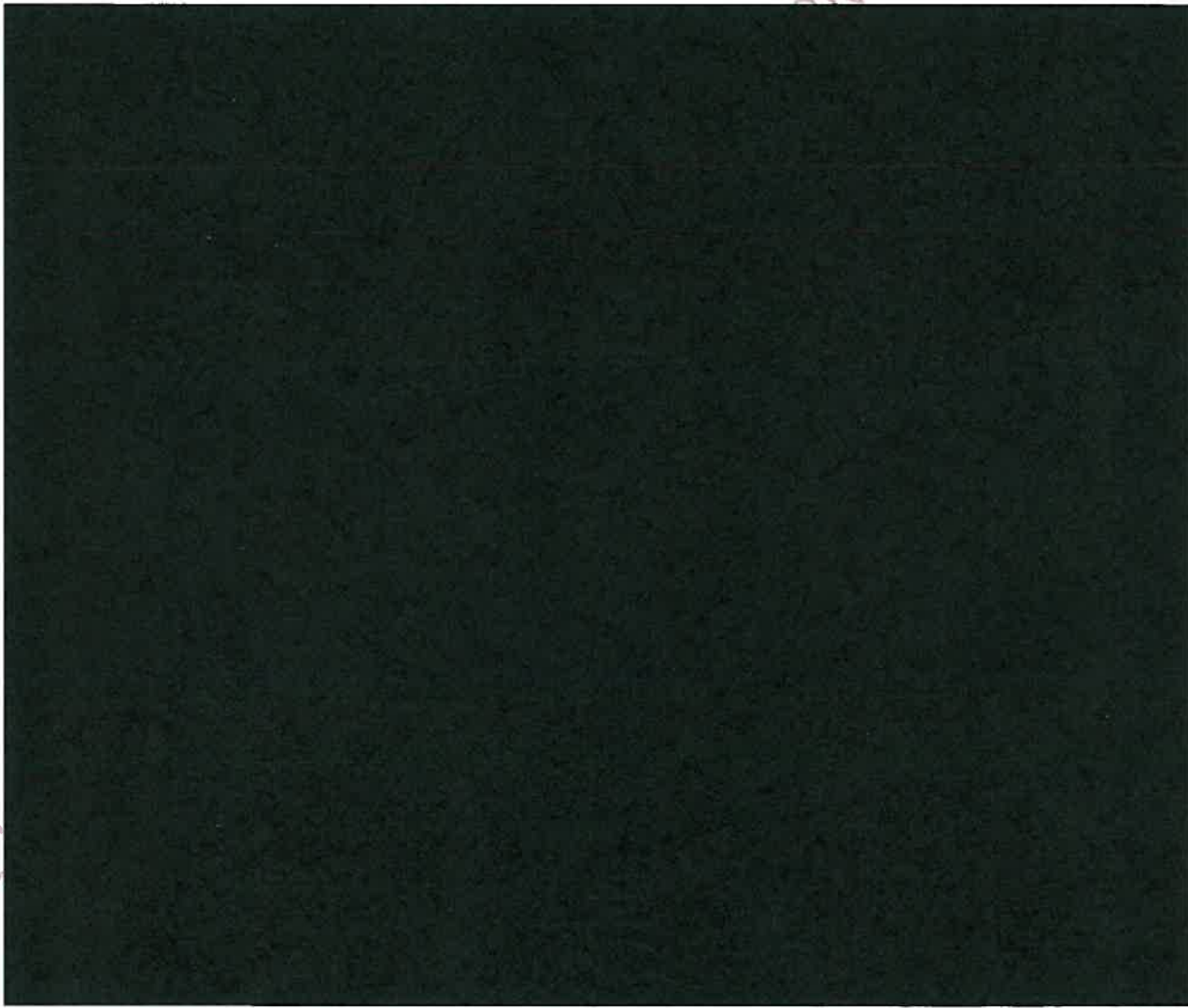
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<sup>1</sup> Compared with \$2.60 to \$3.10 and \$15.30 to \$16.00 if applied to all air travellers (ie. passengers and crew).



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10. The consultation document will be made available on MPI and Customs' websites. The consultation process will be announced via public notice columns in major newspapers, with website links sent to key stakeholders at the commencement of the consultation period.
11. Officials also intend to elicit feedback via face-to-face meetings with a number of stakeholders. The stakeholders will include:
  - a. Board of Airline Representatives (BARNZ)
  - b. Cruise New Zealand
  - c. Representatives from the major airlines (Air New Zealand, Emirates, Qantas)
  - d. Tourism Industry Association
  - e. The NZ Shipping Council.



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**Next steps**

21. Subject to Cabinet decisions, we will release the consultation document subject to your direction as to timing.
22. We expect to return to the Committee with final recommendations on the design and rates of the Levy in October, with a view to seeking approval by Order in Council and gazettal in November 2015.
23. The Levy would be payable from 1 January 2016.

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**Annex 1: Levy rates**

**Table 1: Comparison of rates in April Cabinet paper versus current rates**

	April Cabinet paper	May Cabinet paper
<u>Estimated costs</u>		
Customs (arrivals and departures)	\$55.4 m	\$59.8 m - \$64.0 m <sup>2</sup>
MPI (arrivals only)	\$47.9 m	\$50.3 m
<u>Levy rates (excl. GST)</u>		
Customs		
Arrivals	\$5.10 (\$5.90 incl. GST)	\$6.80 - \$7.50
Departures	\$5.10 (\$5.90 incl. GST)	\$2.60 - \$3.10
MPI (arrivals only)	\$9.00 (\$10.35 incl. GST)	All: \$8.70 Cruise: \$12.60
	Combined (incl. GST): \$16.25 arriving, \$5.90 departing	

**Table 2: Calculation of proposed levy rates**

Charge component	Estimated volumes of travellers	Planned revenue		Methodology	Rate (GST excl.) Revenue/volume	
		Low	High <sup>3</sup>		Low	High
<b>Biosecurity</b>						
All	5,776 m		\$50.3 m	2014/15 only		\$8.70
Cruise	233,500		\$2.9 m	2014/15 only		\$12.60
Air and other	5,542 m		\$47.4 m	2014/15 only		\$8.50
<b>Customs</b>						
Arrivals	6,335m	\$43.1 m	\$46.1 m	Averaged over 3.5 years	\$6.80	\$7.50
Departures	6,299m	\$16.7 m	\$17.9 m	Averaged over 3.5 years	\$2.60	\$3.10

**Points to note**

Cost estimates and rates in the April Cabinet paper were based on high level appropriations for border clearance, were calculated on the basis of passengers only (ie. crew numbers were excluded from this calculation), and were based on a 50/50 split in Customs costs between arriving and departing travellers. Since then, both agencies have undertaken more detailed modelling of their border clearance costs. This has included Customs refining its assessment of the costs relating to arriving passengers



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versus departing passengers. Approximately 72% of Customs costs relate to arriving passengers.

The reason for the difference in the methodology used to calculate proposed rates between MPI and Customs (Table 2) is that MPI can transfer surpluses or deficits for one year only, and this is reflected in its method for calculating its part of the levy. Customs will manage variations between revenue and expenditure over a longer period.

**Minister / Minister's Office**

Seen / Referred

/ /2015

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UK tourism drop-off after Foot and Mouth Disease:

- Studies have found that total UK tourism revenue in 2001 fell by £7.7 billion, 21% of which is attributed to falls in domestic (overnight) tourism, 49% is attributed to reductions in day visit trips and 30% is attributed to 11 reductions in international tourism receipts. Over the affected period, this corresponds to a total of £179 million per week, which constitutes 13% of normal weekly tourism expenditures.

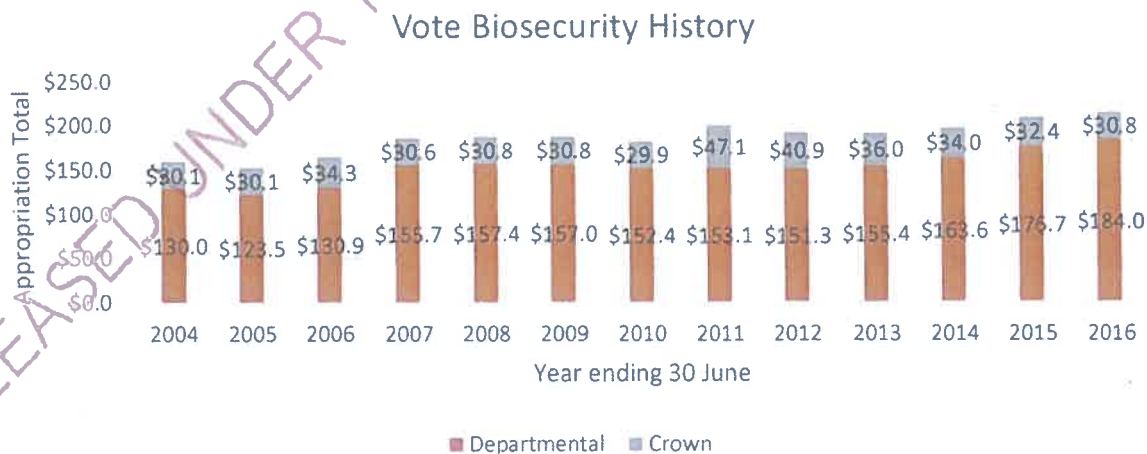
**Table 2: Tourism expenditure reductions for the UK economy, 2001**

	Type of Tourist			
	Total	Domestic tourism	Day visits	Foreign tourism
Annual loss of tourism revenue (£ million)	7,730	2,359	2,771	2,600
- per week (£ million)	179	55	64	60
- proportion of normal weekly expenditures	13%	11%	12%	19%
- proportion of Total	100%	30%	36%	34%

Cost implications of previous biosecurity incursions in New Zealand

- Didymo response costs \$10 million from 2004-2007. Long-term management around \$1 million per year.
- Kauri dieback - has cost \$3.734 million in first 5-year response period. \$1.2 million approved for a 10-year programme.
- The costs of PSA-V incursion responses resulted in a drop of \$115 million Kiwifruit export values in two years between 2012 (\$1045.7 million) and 2014 is (\$930.7 million).

FIGURE 1: VOTE BIOSECURITY AND PROJECTIONS



Exchange rates fluctuations may have a larger impact on prices than the Levy

- In the last four weeks, the exchange rate with Australia has dropped from 99.4c to 92.9c.
- The average Australian tourist spent \$NZ1881 in 2014 (this excludes airfares).

- Four weeks ago, an Australian would have spent the equivalent of \$AU1868; this week it's \$AU1747 – a difference of \$121.

## Australian Federal Budget 2015

### Tourism impacts

- Tourism stakeholders, such as the Transport and Travel Forum, have responded negatively to budget announcements, which are regarded as detrimental for Australia's tourism industry.
- All visitors applying for a visa offshore will face increased fees. Fees for visitors from China alone will increase from \$130 to \$135.
- Working holiday makers will also pay a higher application fee. In addition, the Australian government has announced the removal of the tax-free thresholds for these visas – meaning working holiday maker will pay tax from the first dollar they earn.

### Passenger movement charge

- In June 2013 the International Air Transport Association (IATA) released an economic briefing showing the damage the PMC does to the Australian economy. IATA are international airline industry body representing 250 airlines. They lobby on policy issues affecting their industry. Their analysis showed that by abolishing the A\$55 charge, it would equate to a 3.5% drop in average ticket price on airfares to Australia, which would result in an increase of 2.5% in international passenger traffic to Australia (based on an elasticity of demand of 0.7). The additional benefit the additional visitors would contribute to the Australian economy is estimated at A\$ 1.7 billion. This would result in net benefit to the Australian Treasury even accounting for revenue loss. This is, in part why MPI has commissioned independent modelling on price elasticities.
- However, no changes have been announced for the \$AU55 Passenger Movement Charge, although it is forecast to return \$AU1 billion in 2015/16 (compared with around \$109m under the NZ proposal. The Passenger Movement Charge is currently under review, with proposals for revenue neutral adjustments to lower the cost for more price sensitive markets (eg New Zealand). No decisions have been announced on the review.

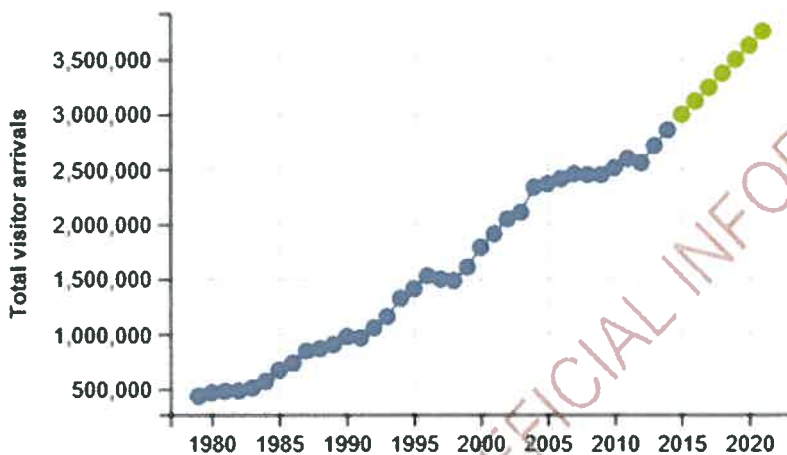
### New Zealand Tourism Forecasts 2015-2021 [issued on 17 May 2015]

- MBIE's latest NZ tourism forecasts provide a positive view of likely growth in tourism, which any impact of the Border Clearance Levy should be considered against.
- Visitor arrivals to New Zealand are expected to grow 4 per cent a year, reaching 3.8 million visitors in 2021 from 2.9 million in 2014. The number of international holidaymakers has been flat in recent years but is expected to improve rapidly over the forecast period.
- Total international spend is expected to reach \$11.1 billion in 2021, up nearly 48.5 per cent on 2014 total spend. Spending in 2015 is expected to surpass the pre-GFC high of \$7.6 billion in 2007. Volume is playing a role but increasingly value is contributing to the bottom-line. Although spend per day has been flat or falling for several years now and forecast to decline slightly, trends are showing visitors are staying longer and spending more per trip, lifting value overall.
- Australia is New Zealand's largest visitor market, providing over 1.2 million visitors in 2014. This market will continue to be healthy and looks set to grow by 3 per cent a year to 2021.
- We expect strong visitor growth from China and a maturing of this market towards longer stays. There could be shocks to the Chinese economy along the way, and one of the

scenarios in this report, explores the possibility of how such a shock could play out. As an example, a shock to the Chinese economy that reduces its economic growth to half that of what it is now, is estimated to reduce the forecast of Chinese visitors to New Zealand from 571,000 visitor arrivals that are currently predicted in 2021, to 435,000 instead. This scenario, however, still equates to a 7.3 per cent annual growth for China (compared with the central scenario growth rate of 11.6 per cent per year). This growth still far exceeds the growth rate forecast in other key markets.

- The impact of a strong New Zealand dollar looks much weaker than expected. New Zealand has just experienced two consecutive years of strong growth in both visitor arrivals and spending during a time when we expected the strong New Zealand dollar to weigh heavily on the outlook. Exceptionally strong growth from emerging markets, particularly China, and a boost from US visitors as the US economy strengthens are two explanatory factors.

FIGURE 2: TOTAL VISITOR ARRIVALS, 1979 - 2021



Source: MBIE, New Zealand Tourism Forecasts

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