

In Confidence

Office of the Minister of Forestry
Chair, Cabinet Legislation Committee

Commodity levy order on harvested wood material under the Commodity Levies Act 1990

Proposal

1. This paper recommends that the Cabinet Legislation Committee (the Committee) authorise the Commodity Levies (Harvested Wood Material) Order 2019, to the Executive Council. This order will replace the existing order that is due to expire, with only a few material changes.
2. The Committee can authorise the making of this proposed levy order under the Commodity Levies Act 1990 (the Act), without receiving prior Cabinet policy approval. This is because the Act specifies all of the policy criteria that need to be met for the making of an order.

Background

Industry Background

3. Forestry is New Zealand's third largest export industry, generating approximately \$6.38 billion in 2018. Of the total harvest, just over 60 percent of this was exported as logs.
4. The industry includes approximately 20 large-scale forest owners, who collectively own and manage nearly 1.1 million hectares of plantation forest. The rest of the industry is made up of small-scale forest owners. Their forests are typically of a single age-class and of less than 1,000 hectares in size.

The Commodity Levies Act 1990

5. The Act enables primary industries to collectively fund non-commercial, 'industry-good' activities such as research and development through their national representative bodies. The Act provides for the responsible Minister to impose a mandatory levy on a commodity at the request of an industry organisation, provided that there is sufficient support from potential levy payers in that industry. Commercial growers are primarily responsible for paying the levy.
6. Commodity levy orders, the instruments responsible for imposing a levy, are initiated and developed by industry organisations and last a maximum of six years. Levy orders set the maximum levy rates payable and specify the purposes for which levy funds may be spent. Industry organisations determine how the levies are spent and at what rate they are collected through annual consultation with levy payers.

7. The Act sets out a number of requirements that I, as responsible Minister, must be satisfied have been met before recommending the making of an order. These include:
 - a. that a support referendum for the proposed levy was held, in which over half of those who participated in the referendum supported the proposed levy;
 - b. that the referendum was adequately publicised, including meaningful consultation with potential levy payers to ensure they were aware of the referendum's implications and were able to participate;
 - c. that the referendum was competently devised; and
 - d. that the uses of the levy funds relate closely to the interests of potential levy payers.
8. The Ministry for Primary Industries (MPI) currently administers 32 commodity levy orders that together collect around \$130 million per year. Industries included span the agriculture, viticulture, horticulture, fisheries and forestry sectors.

Policy

The proposed levy order

9. On 10 May 2019, I received the application for a new commodity levy order on harvested wood material under the Act, from the Forest Growers Levy Trust Incorporated (the Trust).
10. The proposed levy order will replace the Commodity Levies (Harvested Wood Material) Order 2013, which is due to expire on 17 November 2019.
11. The proposed levy order is similar to the existing order, with some minor changes:
 - a. increasing the maximum rate of the levy from 30 cents to 33 cents per tonne; and
 - b. aligning their proposed levy spending in accordance with the principles of "The Plantation Forestry Roadmap – 2020-2050".
12. The proposed levy will be imposed on all harvested wood material derived from trees harvested from plantation forests in New Zealand. It does not include Christmas trees, tree bark sold directly from the forest, or firewood sold for household consumption. The levy is payable to the Trust, who will spend levy funds on behalf of levy payers.
13. The levy will be paid at a single rate, on the basis of the reported weight in tonnes at the mill door or wharf gate threshold. One cubic metre of log is deemed to equal one tonne, irrespective of the cubic metre calculation formula and methodology.

14. The current levy rate for the order will remain unchanged at 27 cents per tonne for the first year, with this rate having remained unchanged over the life of the current levy order. The Trust is estimating a total income from the levy of \$9 million for the year ended 31 December 2020.
15. For every year subsequent to the initial levy year, the levy rate will be set at the Trust's Annual General Meeting, to be held prior to the commencement of the levy year (year ended 31 December).

Use of levy funds

16. Levy monies collected under the proposed order will be used for a number of non-commercial, industry-good purposes relating to the forestry industry. These include:
 - a. research and development;
 - b. forest biosecurity;
 - c. promotion of training and careers in forestry;
 - d. workforce health and safety; and
 - e. administration of the Trust.
17. Levy payers will be consulted prior to each levy year on the Trust's proposed levy expenditure for the upcoming year.

Compliance with the requirements of the Act

18. The Trust held a support referendum for the proposed levy over March – April 2019, through online and postal voting. Voting opened on 12 March 2019 and closed on 20 April 2019, allowing roughly six weeks for growers to vote.
19. Eligibility to vote in the referendum was based on the minimum requirements where by an area of land must be planted contiguously, of at least four hectares, and predominantly comprising trees of 10 or more years of age.
20. A key requirement of the Act is that the proposed levy order has the majority support from potential levy payers, in terms of both number of voters and on a weighted basis. Table 1 below shows that in the referendum held over March – April 2019, the majority of growers who voted supported the proposed levy.

Table 1: Harvested wood material levy referendum results

Vote	Growers		Size of Production	
	Number of growers	Percentage	Hectares	Percentage
Yes	456	89%	875,604	99%
No	56	11%	5,699	1%
Total	512	100%	881,303	100%

- 21.** The participation rate for the forestry sector is extremely difficult to assess, as only a fraction of forest growers will have forests eligible for harvest over the six years that the levy runs for, and only a proportion of them will actually harvest and pay the levy. The Act does not specify a minimum participation rate, but requires adequate publicity of the referendum so that potential levy payers have a reasonable opportunity to be informed of the referendum.
- 22.** MPI has examined the structure of the ballot material and results from the independent returning officer, and has advised me that the support referendum was competently devised and that all potential levy payers had been given a reasonable opportunity to vote. The strong vote in support of the levy indicates that the uses of the levy funds relate closely to the interests of potential levy payers.
- 23.** The Trust consulted with potential levy payers prior to carrying out the referendum through a comprehensive consultation and information process that commenced in October 2018, running through until the close of the referendum in April 2019. They held a series of regional meetings, distributed information packs, and ran a media campaign and 10-week televised 'Forest Call' series to ensure the referendum was sufficiently publicised and distributed
- 24.** I am satisfied that the application meets all of the requirements of the Act. I therefore recommend that the Committee authorise the submission of this order to the Executive Council.

Costs and benefits of the levy

- 25.** The proposed levy will allow the Trust to continue to deliver its industry-good activities, which notably include:
 - a. the development of a strategic plan which clarifies the drivers and priorities for key industry stakeholders (forest growing sector);
 - b. funding activities of the Forest Industry Safety Council and Forest Biosecurity Surveillance Scheme;
 - c. dissemination and sharing of research and industry-good projects throughout the wider plantation forest sector; and
 - d. a suite of research programmes including: forest health; extreme fire; license to operate; harvesting and logistics; and specialty species.
- 26.** I consider that the proposed order will provide benefits that significantly outweigh the costs imposed by the levy. This sentiment is endorsed by strong support from those who voted in the levy referendum, which indicates that the majority of those who voted believe there will be a net benefit from the continuation of a compulsory levy.
- 27.** The activities undertaken by the Trust are industry-good in nature. It is therefore difficult to restrict the benefits of these activities strictly to those paying the levy. There is a clear free-rider problem if these activities were to be funded by a voluntary levy. I consider that the activities undertaken by the

Trust would not be possible or would be underprovided for if the levy were to be collected on a voluntary basis.

Timing and 28-day rule

28. The order is to come into force on 18 November 2019, following 28 days of Gazette notification.

Compliance

29. The proposed levy order complies with the following:
- the principles of the Treaty of Waitangi;
 - the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993; and
 - the principles and guidelines set out in the Privacy Act 1993.

Regulations Review Committee

30. I consider that there are no grounds under Standing Order 319 for the proposed orders to be brought to the special attention of the House of Representatives.

Certification by Parliamentary Counsel

31. The commodity levy order detailed in this paper has been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

32. The Regulatory Quality Team at the Treasury has determined the regulatory decisions sought in this paper to be exempt from the requirement to provide a Regulatory Impact Assessment, due to the minor impact of the proposed levy on individuals, businesses and not-for-profit entities.

Publicity

33. MPI will notify the Trust when the order is made, who will then publicise the making of this order to their levy payers.

Proactive Release

34. Following Cabinet consideration, I intend to consider the release of this paper in full.

Consultation

35. The Ministry of Business, Innovation and Employment, the Treasury, Te Puni Kōkiri, and the Ministry of Foreign Affairs and Trade were consulted on this paper and their feedback has been incorporated. The Department of the Prime Minister and Cabinet was also informed. The Trust was also consulted during the drafting of the levy order.

Recommendations

The Minister of Forestry recommends that the Committee:

1. **Note** that the Forest Growers Levy Trust Incorporated has applied for a new levy order on harvested wood material under the Commodity Levies Act 1990, to replace the Commodity Levies (Harvested Wood Material) Order 2013, which expires on 17 November 2019;
2. **Note** that I have determined that the application complies with the requirements of the Commodity Levies Act 1990;
3. **Note** that this order will come into force on 18 November 2019; and
4. **Authorise** the submission of the Commodity Levies (Harvested Wood Material) Order 2019 to the Executive Council.

Authorised for lodgement

Hon Shane Jones
Minister of Forestry