

In Confidence  
Office of the Minister for Biosecurity  
Office of the Minister for Food Safety

Chair  
Cabinet Economic Development Committee

## **Release of consultation documents: investing in border biosecurity and improving animal products and wine cost recovery**

### **Proposal**

1. To release three consultation documents that propose changes to biosecurity, wine and animal product cost recovery arrangements.

### **Executive Summary**

2. Cost recovery plays a significant role in ensuring there is sufficient funding of services critical to protecting New Zealand's biodiversity, food safety, and over \$46 billion in primary industry exports. In 2019/20, MPI will receive around \$220 million via cost recovery (approximately 30 percent of its total departmental funding). Given the significance of cost recovery, settings are reviewed annually to ensure they remain fair and effective.
3. The most significant proposals are in the biosecurity system. In recent years the Government has responded to a range of high profile biosecurity incursions that require significant effort to contain, manage, and eradicate. In addition, we have increased investment in maintaining and future-proofing the biosecurity system. Overall, cost recovered expenditure has increased from \$90.6 million in 2016/17 to \$109.9 million forecast for 2019/20 (excludes biosecurity response spending).
4. The biosecurity consultation document includes three proposals. Two proposals are to increase the levies for services clearing passengers and goods entering the country. These two also propose options for resetting the maximum amount the levies can be raised in future by the Director-General, providing flexibility to adjust rates up or down. The third proposal is to increase the rate of a number of existing fees.
5. If implemented, the biosecurity system changes will generate an estimated \$22.4 million of additional revenue per year from 1 July 2020. Increasing the levy caps will enable the Director-General to update the levies in future if required, to recover up to \$25 million further revenue.

6. The two other consultation documents propose changes to cost recovery for existing services for animal products and wine. Both proposals were part of the November 2018 consultation for changes from 1 July 2019, but required further change or analysis [CAB-19-Min-0109 refers].
7. One proposal is to reset a number of fixed fees for approvals, to allow charging for the actual time it takes for complex applications. The other proposal sets out new rate options for 'unit charges' to recover the costs for overseas market access for livestock germplasm and avoid cross-subsidisation.
8. The proposed changes to approvals will result in up to \$0.1 million of additional revenue per year. Proposed unit charge rate changes will result in approximately \$0.2 million of additional revenue per year, but could result in sharp increases for some businesses. Options designed to help smooth this are therefore included.
9. If agreed, consultation will take place for six weeks between 6 November and 16 December 2019. I will report back to Cabinet by April 2020 with final proposals to amend the regulations to bring the proposed changes into force from 1 July 2020.

## **Background**

10. Cost recovery funds the services that protect New Zealand from biological risks, ensure our food is safe to consume and export, and that our natural resources are sustainable. These outcomes allow our primary sector to grow the value of its exports, which currently generate over \$46 billion per annum.
11. In 2019/20, MPI will receive approximately \$220 million revenue via cost recovery (approximately 30 percent of its total departmental revenue), authorised under ten different Acts. Cost recovered services do not need to be funded from general taxation, releasing Crown revenue for other priorities.
12. Four principles (equity, efficiency, transparency, justifiability) underpin MPI's approach to cost recovery. The general guidance on cost recovery for public entities published by the Treasury and the Controller and Auditor-General is also applied.
13. MPI regularly reviews cost recovery across each of the systems it administers to ensure that settings remain appropriate. Regular updating also allows for changes to be well signalled and avoids sharp, unexpected changes.

## **Proposals to update cost recovery for New Zealand's biosecurity system**

14. Biosecurity protects our human health and environment (including our taonga species), provides the platform for us to grow our economy through primary production, tourism and trade, and maintain and enhance our way of life. Cost recovery plays an important role in making sure that Biosecurity New Zealand has sufficient funding to maintain a robust biosecurity system.

15. In recent years the level of investment in the biosecurity system has increased. This has led to ongoing improvements, but as evidenced by a number of high profile incursions in recent years (such as Mycoplasma Bovis, Bonamia Ostreae, Myrtle Rust and Queensland Fruit Fly), more needs to be done to respond to the rapidly increasing range and complexity of biosecurity risks.
16. The biosecurity proposals will ensure that current services and planned investment in people and technology is adequately funded. They will also eliminate the deficit that will continue to accumulate at current levy and fee rates (forecast to be approximately \$22 million by 30 June 2020).
17. There are two levies that fund a significant amount of biosecurity investment in New Zealand, the Biosecurity (Border Processing Levy) Order 2015 (estimated to generate \$51.9 million revenue in 2018/19) and the Biosecurity (Border System Entry Levy) Order 2010 (\$42.4 million in 2018/19).

#### *The Biosecurity (Border Processing Levy) Order 2015*

18. The Biosecurity Border Processing Levy, better known as the Border Clearance Levy (BCL), recovers MPI's costs of providing services that manage biosecurity risks presented by international travellers entering the country. The BCL is paid as part of air or cruise-ship ticket prices.
19. BCL rates are set by the Director-General of MPI (the Director-General) under delegated authority using a formula set out in regulations (see Appendix Two for a description). The ability of the Director-General to increase BCL rates is constrained by a regulated maximum (cap), with rate increases above it requiring Cabinet agreement. BCL rates are currently close to this cap for the air-traveller rate (Table 1).

**Table 1: Current BCL rates and cap**

	Rate	Cap
Non-cruise	\$8.50	\$8.80
Cruise	\$3.81	\$17.90

#### *The Biosecurity (Border System Entry Levy) Order 2010*

20. The Biosecurity System Entry Levy (BSEL) recovers the costs associated with the clearance of imported goods at the border. In 2018/19, MPI received around \$42.4 million through the BSEL, which is collected on imported goods.
21. Similar to the BCL, BSEL rates are set by the Director-General under delegated authority (see Appendix Two). The current rate of the BSEL is at its regulated cap.

**Table 2: Current BSEL rates and the cap**

	Rate	Cap
BSEL	\$23.00	\$23.00

*Proposed changes to the BSEL and BCL rates and caps*

22. This consultation document proposes to increase the rate and caps for the BCL and BSEL.
23. In recent years there has been increasing investment in maintaining and improving border services, particularly through continued investment in technology and staff capability and retention. While this has allowed robust and efficient clearance of passengers and goods, further investment is required to future-proof this key part of the biosecurity system.
24. A recent independent review of New Zealand's biosecurity system for passenger and mail pathways has highlighted the need for ongoing investment to ensure physical and digital infrastructure keeps pace with the changing nature of travel and trade, and of biosecurity threats.
25. The consultation document proposes increasing the caps on both levies and, within those, increasing the rates of each levy from 1 July 2020. The proposed increases in levy rates for 2020/21 and changes to the caps are set out below.

**Table 3: Proposed 2020/21 BCL rates and new caps**

	Current Rate	Proposed 2020/21 Rate	Rate Change	Current Cap	Proposed New Cap	Change to Cap
BCL - Cruise ship	\$3.81	\$5.15	\$1.34	\$17.90	\$6.50	-\$11.40
BCL - Non-cruise ship	\$8.50	\$10.16	\$1.66	\$8.80	\$12.00	\$3.20
BSEL	\$23.00	\$27.00	\$4.00	\$23.00	\$35	\$12.00

26. The proposed 2020/21 BCL rate changes are expected to have a negligible effect on individual travel decisions, amounting to an additional \$1.66 per air passenger and \$1.34 for cruise ship passengers. The proposed BSEL rate will increase the cost of consignments from \$23 to \$27 for consignments valued at more than \$1000. This is unlikely to have a material impact on importers, most of whom import large consignments across which I anticipate these charges can be absorbed.
27. If implemented, it is estimated the new levy rates would generate an additional \$18.4 million for MPI to invest in border biosecurity in each of the next three years (\$12.4 million through the BCL and \$6 million through the BSEL).

28. The BCL and BSEL caps exist to allow the Director-General to operate within the authority of Cabinet while having flexibility to make rate adjustments, which can vary depending on passenger and goods volumes. Any rate change within the caps is consulted on with key stakeholders.
29. The proposed new caps (approximately 20-30% above the proposed 2020/21 rates) would provide up to \$25 million of additional annual investment. MPI considers this would be sufficient to cover investment requirements in the medium term (3-5 years). This is in line with the main recommendations of a recent independent review.<sup>1</sup> If this investment is not required, rates will remain below the cap.
30. Reducing the cap for the cruise pathway reflects ongoing cost savings as a result of Biosecurity New Zealand implementing significant improvements to processing cruise travellers. As a result, costs are significantly lower and the current level of the cap is excessive and unnecessary.

#### *Updates to fees for border biosecurity services*

31. The consultation document also proposes changes to fees for a range of services provided by Biosecurity New Zealand. These include services such as testing, treating and disposing of goods, inspection of offshore craft and shipping containers, and inspection of imported biosecurity risk goods.
32. In 2018/19, Biosecurity New Zealand recovered \$13.3 million through these fees, which are either fixed or variable and are based on an hourly rate for biosecurity advisors of \$102.27 and for veterinary inspectors of \$186.30 per hour.
33. These rates were set in 2015. In addition to normal wage and price growth, the operating environment has changed significantly, and is now more complex and subject to greater biosecurity risk. This has required increased investment to maintain the integrity of the system, including greater investment in staff training and recruitment and retention.
34. To meet these cost increases without compromising border biosecurity, increased rates for these services are required. The consultation document recommends increases in the rates of these charges based on new hourly rates for biosecurity advisors of \$138 (an increase of 35%). No change is proposed to the veterinary inspector rate, as they generally operate as verifiers in the food rather than biosecurity system, which has different cost structures. Current rates continue to accurately reflect costs.
35. If implemented, these changes will generate an additional \$4 million in cost recovered revenue for MPI to invest in border biosecurity in 2020/21.

<sup>1</sup> <https://www.biosecurity.govt.nz/dmsdocument/34083-independent-assurance-review-of-new-zealands-biosecurity-international-border-defences-for-passenger-and-mail-pathways>

## **Recognising variability in Charging for Animal Products and Wine Approvals**

36. Changes to food system cost recovery on 1 July 2019 replaced 51 time-based charges with fixed rates for services primarily relating to the approval and renewal of food business registrations. Fixed rates were introduced because for most fees there is very little variability in how long it takes MPI to perform the associated services. MPI has subsequently identified that for a small number of these fees there are occasionally<sup>2</sup> instances where a particularly large or complex application is made. In these instances, MPI must spend longer processing these applications, and charging the fixed rate will not fully recover MPI's costs. If this is not addressed, other fee-payers will effectively subsidise businesses with more complex approval applications, which would be inequitable. For the services in question, the businesses making complex applications are typically large and will know that their applications will require more assessment from MPI.
37. For these reasons the consultation document proposes changing the rate of fourteen fixed fees (both increases and decreases) to more closely match the average processing time, and allowing more to be charged for particularly large or complex applications. These changes will ensure that businesses with large or complex approvals pay the right amount, while maintaining incentives for MPI to process applications efficiently.
38. If implemented, it is estimated that this proposed change will generate up to \$0.1 million in additional cost recovery per year from 1 July 2020, but this will be offset by lower future rates as cross-subsidisation between fee-payers is eliminated. Virtually all large or complex applications are made by large animal product or wine businesses.

## **Proposed unit charge rates on livestock germplasm exports**

39. This proposal addresses issues raised in submissions MPI received when consulting on proposed changes to food system cost recovery between November 2018 and January 2019. Those submissions were on a proposal to update unit charges payable on the export of live animals and animal germplasm, which funds work to secure overseas market access for these commodities. Consistent with previous practice, unit charge rates for all livestock germplasm (semen, embryos and ova of cattle, sheep, goats, and deer) were jointly calculated and resulted in an increased charge per unit from six to seventeen cents.
40. Some submitters expressed a view that bovine semen exporters were paying too much and were effectively subsidising other ruminant germplasm types. Other proposed unit charge rates were implemented on 1 July 2019, but ruminant germplasm rates were left unchanged while MPI investigated the issues raised in submissions.

<sup>2</sup> MPI receives around six instances per annum where processing time is significantly higher than normal, of around 2,000 applications for these services per year.



41. On further investigation, MPI has concluded that charging the same rate for all livestock germplasm types will result in cross-subsidisation of other categories by bovine semen. Non-bovine germplasm types currently pay less than 10% of livestock germplasm unit charges, but are the source of around 55% of the cost to MPI of negotiating market access. Individually calculated rates would, however, lead to sharp and significant rate increases for exporters of those categories.
42. The consultation paper proposes a range of options to address these issues. If implemented, it is estimated that these would each result in approximately \$0.2 million of additional cost recovered revenue per year, but with varying impacts on individual fee payers. Feedback is sought from affected businesses on these impacts, and on which option they support.

### **Next steps**

43. Under most legislation that MPI cost recovers through, changes must be made following public consultation and take effect from 1 July. Following consultation, I will report back to Cabinet by 31 March 2020 with final proposals, with the aim of introducing and amending regulations to enable new and amended fees and levies to come into force from 1 July 2020.

### **Consultation**

#### *Border sector agencies*

44. MPI works closely with other border agencies that make up the Border Sector. An important part of this is ensuring that the cumulative impacts of each agency's operations (including cumulative costs to travellers and traders from cost recovery charges) are clearly understood.
45. In addition to the changes to border charges signalled in this consultation document, MPI has been made aware of the following work in development:
- The New Zealand Customs Service (Customs) recently consulted on 'Recovering the costs of Customs goods-clearance activities'. The Minister of Customs intends to report to Cabinet in November 2019 seeking agreement to fee changes for goods clearance, set to come into force on 1 April 2020.

#### *Other agencies*

46. The following departments were consulted, with feedback taken into consideration in the development of this paper and the attached consultation document: New Zealand Treasury, the Department of the Prime Minister and Cabinet (Policy Advisory Group), Ministry of Business, Innovation and Employment, the New Zealand Customs Service, the Ministry of Transport, and Te Puni Kōkiri.

## **Financial Implications**

47. If fully implemented, MPI estimates that the proposals will result in an additional \$22.7 million in third party revenue in 2020/21 (\$22.4 million in the biosecurity system and \$0.3 million in the food system).
48. The estimated amount of additional cost recovery that would occur if the proposals in these discussion documents are implemented is set out in Appendix One.

## **Legislative Implications**

49. There are no proposals to amend primary legislation in this consultation document. However, amendments to the following regulations would be required to implement the changes proposed in the discussion documents:
  - Animal Products (Fees, Charges, and Levies) Regulations 2007
  - Animal Products (Dairy Industry Fees, Charges, and Levies) Regulations 2015
  - Biosecurity (Border Processing Levy) Order 2015
  - Biosecurity (System Entry Levy) Order 2010
  - Biosecurity (Costs) Regulations 2010.
  - Wine Regulations 2006.

## **Regulatory Impact Analysis**

50. Three discussion documents are attached which substitute for a Regulatory Impact Assessment. The Ministry for Primary Industries Quality Assurance Panel has reviewed the discussion documents and confirms that they are likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to support subsequent decisions.

## **Human Rights, Gender Implications and Disability Perspective**

51. There are no human rights, gender or disability implications from the release of this discussion document.

## **Publicity**

52. If Cabinet approves the release of the consultation documents, I propose that public consultation will be for six weeks, commencing on approximately 6 November and remaining open until 16 December 2019, with automatic extensions until mid-January 2020 on request. MPI will seek feedback via written and email submissions.
53. All relevant fee payers will be informed by email, similar to the process used in previous cost recovery consultations. I do not expect significant public interest in these proposals.



54. Public meetings are not planned. MPI will, however, engage in targeted consultation with industry bodies and other stakeholders as appropriate, to identify issues and gather feedback.

### **Proactive Release**

55. I propose that MPI proactively release this paper and corresponding Cabinet minute in full within 30 days, in line with Cabinet's policy to proactively release Cabinet material and the State Services Commission's guidance on proactive releases of official information.

Proactively Released

## Recommendations

The Minister for Biosecurity and Food Safety recommends that the Committee:

1. **Note** that in recent years investment in maintaining and future-proofing the biosecurity system has increased;
2. **Note** that ongoing investment in the biosecurity system is required to ensure that it remains fit for purpose and minimises incursions;
3. **Note** that proposed changes to the Ministry for Primary Industries' (MPI) cost recovery arrangements in the biosecurity system are needed to fully recover (but not over-recover) the costs of providing services and to give flexibility to recover future costs in an appropriate way;
4. **Note** that proposed changes to cost recovery settings in the food system are required to fully recover the costs of providing services and ensure that fees are recovered in an appropriate way;
5. **Agree** to release for public consultation the three attached discussion documents—
  - *Investing in Protecting the Border: Proposals to Update Cost Recovery for New Zealand's Biosecurity System;*
  - *Recognising Variability in Charging for Animal Products and Wine Approvals;*
  - *Proposed Unit Charge Rates for Livestock Germplasm Exports;*
6. **Agree** to invite the Minister for Biosecurity and Food Safety to report back to Cabinet by 31 March 2020 with the outcomes of consultation and proposed changes to cost recovery arrangements;
7. **Authorise** the Minister for Biosecurity and the Minister for Food Safety to make any minor or technical changes to the consultation documents necessary prior to their release.

Authorised for lodgement

Hon Damien O'Connor  
Minister for Biosecurity  
Minister for Food Safety