

Supplementary Analysis Report: Waste Minimisation (Waste Disposal Levy) Amendment Bill 2024

Coversheet

Purpose of Document	
Decision taken:	<p>Cabinet has agreed policy decisions to expand the use of the central government portion of waste disposal levy revenue and increase levy rates, which will require amendments to the Waste Minimisation Act 2008. The amendments will align levy spend to government priorities and provide overall savings to the Crown.</p> <p>This Supplementary Analysis Report (SAR) is produced for the purpose of informing decision-makers and considers the impacts, and risks of the confirmed approach. The SAR also considers implementation and monitoring options.</p>
Advising agency:	Ministry for the Environment
Proposing Minister:	Minister for the Environment
Date finalised:	15 May 2024
Problem Definition	
<p>The waste disposal levy (levy) is established under the Waste Minimisation Act 2008 (WMA) and functions as an economic tool to disincentivise waste disposal, while also supporting waste minimisation activities through the investment of levy revenue.</p> <p>The Government has identified that provisions in the WMA and supporting regulations (relating to how levy funds can be used, as well as the amount of revenue available) limit its ability to fund a broader range of waste and environmental priorities, within the overall context of fiscal restraint.</p>	
Executive Summary	
<p>The government has identified the potential for a wider range of waste-related and broader environmental outcomes to be funded through levy revenue. Amendments to the legislation are required to enable funding of the broader range of environmental outcomes (eg, remediation activities, restoring degraded environments), in addition to waste minimisation, while also providing savings to the Crown.</p> <p>Cabinet has approved policy decisions to:</p> <ul style="list-style-type: none"> • amend the WMA to enable the central government portion of the levy to be spent on a broader range of environmental outcomes; • make further step increases to levy rates over three years (2025/26 to 2027/28) that will provide additional revenue for central and local government; • enable levy waivers for contaminated site remediation projects, to ensure the levy is not a barrier to remediation. <p>These changes will enable funding of:</p>	

- activities that reduce environmental harm and/or increase environmental benefits;
- remediation of contaminated sites, including landfills vulnerable to the impacts of severe weather events;
- waste management activities following declared civil emergencies.

Additionally, the changes will enable funding for more¹ of the Ministry for the Environment's (the Ministry) waste and hazardous substances work programme, which includes:

- policy development and implementation; data and evidence; education and behaviour change; compliance, monitoring and enforcement; levy collection and administration; investment functions.

The amendments do not change how local government can spend its share of the levy funds or how levy funds are allocated to local government². However, changes to levy rates will result in increased revenue allocated to territorial authorities.

The agreed approach represents a significant change from the status quo. It expands upon existing provisions and settings, effectively shifting the central government portion of levy funds from a 'narrow' waste minimisation focus to encompass activities that reduce environmental harm and/or increase environmental benefits.

The amendments will result in impacts to waste sector participants, those that dispose of waste (businesses, households and others) and also the wider public. A higher levy imposed on waste disposal creates a stronger disincentive to divert materials from landfill and explore increased recovery and recycling of materials. Conversely, higher levy rates may also increase incidence of levy avoidance behaviour (for example, illegal dumping or waste improperly disposed of at landfills with lower levy rates). While this risk exists presently, any additional risk will be influenced by the level of increase, how consistently it is applied across landfill types, and the level of compliance and monitoring activity undertaken by the Ministry and territorial authorities.

Broadening the purposes for which the levy can be spent may be regarded as further diminishing the link between those paying the levy and the outcomes being funded. In terms of legislative design, the proposed change will provide for a less direct relationship between those paying the levy and those receiving benefits from its investment.

However, this should be considered alongside the additional flexibility and range of environmental priorities that can be supported in the future. This is advantageous as environmental priorities change over time. Effective prioritising of the levy to the different activity streams will assist with addressing the inherent complexity that may emerge from having multiple funding priorities that need to be managed over time.

Limitations and Constraints on Analysis

The policy development process for this proposal began in February 2024 and initially involved consideration and analysis of a narrow range of options.³ However, given the need to progress within limited timeframes to generate the required fiscal savings for Budget 2024, a regulatory impact analysis for the proposal could not be completed or assessed ahead of

¹ Functions currently funded by the levy (section 30 of WMA): levy collection and compliance, levy administration, investment functions.

² Fifty per cent of levy revenue is distributed to local government. This is allocated to individual territorial authorities on a population-based calculation.

³ In relation to contaminated site remediation, levy waivers and exemptions, support for emergency waste management, and the Ministry for the Environment's waste-related work programme.

Cabinet decisions on 29 April 2024. Due to these constraints, and upon the advice of The Treasury, this Supplementary Analysis Report (SAR) has been prepared to focus on the impacts, benefits, risks, and trade-offs of the proposal agreed by Cabinet.

This overall proposal has been subject to limitations and constraints from its initial commissioning by Ministers, in terms of the scope and timeframes it had to developed and implemented within. This therefore impacted the range of options considered, timeframes for implementation, and the extent and complexity of any legislative amendments. The Minister for the Environment and Associate Minister of Finance were able to consider several options for components within the overall proposal, with their preferred approach put forward for Cabinet consideration and approval.

A summary of limitations and constraints of the analysis is provided below.

Timeframe – requirement for proposal to be progressed within very short timeframes has limited the overall scope, complexity of options able to be considered and the depth of analysis.

Scope limitation – directive from the Minister for the Environment and Associate Minister of Finance to not include changes to existing levy settings for the local government portion of the levy or to consider alternative hypothecation or levy allocation settings.

Context – the broader context for this proposal is of fiscal restraint, with government needing to identify savings across a range of functions and services in anticipation of Budget decisions. Additionally, cost-of-living implications provides an additional lens for policy development and consideration by decision-makers.

Data limitations – reliant on existing data sources with no additional data accessed or commissioned to support these proposals. Analysis and modelling was also done at pace. The Ministry's existing levy model was used to test levy rate changes for different classes of landfills and assess the resulting estimated waste disposal volumes and revenue projections.

Impacts – the analysis included limited assessment of the impacts of levy rate increases on certain population groups (for example: estimate of cost impacts on average household rubbish disposal costs; estimate of disposal costs incurred for an average new home build). However, due to timeframe limitations this analysis could not be extended to a broader range of population groups, waste streams, or economic activities to determine extent of the proposal's impact. Similarly, the potential risk of unintended consequences and perverse outcomes of the legislative amendments (for example, an increase in levy avoidance activity such as dumping or waste to the wrong landfill type) could not be examined.

Stakeholder consultation – this has not been part of the policy development process, due to the budget sensitive nature of the proposals. While previous public consultation in 2021 included some of the topics that relate to this proposal, these detailed proposals were not presented during consultation. The Bill is progressing under urgency and there will not be a Select Committee process to allow for stakeholder feedback on the Bill.

Identification of savings – this SAR is focused on the enabling potential of the broadened WMA purpose and the accompanying levy rate increases. It does not assess the specific existing costs (such as current initiatives that reduce environmental harm and/or increase environmental benefits) that will fall within the broadened purpose of the Act that could be offset against the levy (and thereby creating savings to the Crown).

Future amendment – the prospect of a wider reform of waste legislation (based a legislative bid submitted for the Legislative Programme 2024) is intended to comprise policy development in and beyond 2024. Discussions are yet to commence with the Minister about the scope and components of the wider waste legislative reform. For this reason there has not been analysis of these current proposals in the context of the wider reform. If progressed, the

wider waste reform will be the appropriate vehicle to consider matters beyond the scope of this current amendment process for reasons of complexity, limited policy development, stakeholder engagement, etc.

Responsible Manager(s)



15 May 2024

Glenn Wigley

General Manager – Waste and HSNO Policy

Climate Change Mitigation and Resource Efficiency

Ministry for the Environment | Manatū Mō Te Taiao

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry for the Environment
Panel Assessment & Comment:	<p>The Ministry for the Environment Regulatory Impact Assessment Panel (Panel) considers that the Supplementary Analysis Report: Waste Minimisation (Waste Disposal Levy) Amendment Bill 2024 partially meets the quality assurance criteria for regulatory impact analysis.</p> <p>The SAR is complete, convincing and well set out. The impact and cost/benefit analyses are generally robust and sufficient to provide final reassurance of Cabinet’s decisions.</p> <p>Having reached that assessment, the Panel notes that the SAR acknowledges that parts of the analysis are severely constrained by timeframes, earlier Ministerial direction, data limitations, and no stakeholder consultation.</p>

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

General context of levy settings

1. The framework for the waste disposal levy is established under the WMA, with further details specified in secondary legislation (for example, regulations on the differential levy rate applied to different classes of landfills).⁴ The levy is an economic tool to disincentivise waste being disposed of to landfill and to encourage alternative approaches to producing, using and managing products and materials at their end of life.
2. A levy has been in place at municipal landfills (those that accept waste from households) since 2009; it was initially set at \$10 per tonne for landfills that take municipal waste (class 1 landfills). In 2020, the government agreed to a series of changes to increase levy rates and expand the coverage to additional landfills classes, which would be phased over several years (see table 1). The last phase of these scheduled increases will take effect from 1 July 2024.

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

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

3. The WMA establishes controls on how levy funds are distributed between central and local government and how it is spent. After paying any required refunds to disposal facility operators, the Secretary for the Environment distributes 50 per cent to territorial authorities (which is allocated to individual territorial authorities based on a population calculation).
4. The levy is hypothecated, meaning both local and central government must spend levy funds to promote or achieve waste minimisation. This aligns with the current purpose of the WMA (section 3) which is to encourage waste minimisation and a decrease in waste disposal to:
 - protect the environment from harm; and
 - provide environmental, social, economic, and cultural benefits.

⁴ The Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009.

5. Levy funds distributed to territorial authorities (city and district councils) are spent on promoting or achieving the waste minimisation activities set out in their waste management and minimisation plans (WMMP). The WMA contains further provisions on requirements for WMMPs.
6. The remaining levy money (minus administration costs) is invested in projects to promote or achieve waste minimisation through centrally-managed investment funds (eg, Waste Minimisation Fund (WMF) and the Plastics Innovation Fund (PIF)).

Wider regulatory framework

7. Landfills and waste disposal are also subject to regulation as part of the Emissions Trading Scheme (in relation to greenhouse gases generated through the anaerobic breakdown of organic materials in landfills) and the Resource Management Act 1991 (which covers landfill operational matters such as requirements for managing discharges to land, air, and water).

Government decisions and priorities that are relevant to this proposal

8. The current context for this proposal is an objective to achieve fiscal restraint. The government's fiscal sustainability programme has prompted exploring broader use of the central government portion of levy funds to enable savings. Additionally, the direction from the Minister for the Environment and Associate Minister of Finance is to realise savings from early in FY2024/25 in order to enable the associated savings that are provided through these changes to be reflected in Budget 2024.
9. The government's waste-related priorities include a number of areas that require proactive action to prevent significant environmental harm and/or manage costs pressures:
 - addressing environmental harm associated with closed landfills, in addition to supporting the identification and remediation of all types of contaminated sites. The environmental harm associated with closed landfills and inappropriately disposed waste is becoming more prominent, particularly as the impacts of severe weather events due to climate change are becoming more prevalent. A related focus is to ensure that paying the levy does not financially impede the remediation of these sites.
 - supporting waste management costs associated with emergency events (such as storms, earthquakes), which generate significant volumes of waste that needs to be managed within short timeframes to prevent risks to human health and the environment
 - continuing to support the Ministry's waste-related work programme within the context of overall fiscal restraint.
10. The costs arising from these activities (particularly for investigating and remediating contaminated sites and addressing waste-related impacts from emergency events) are significant and expected to continue to place stress on existing parties that manage these issues (ie, local and central government, other owners of contaminated sites). In the case of local government, increased costs in general have to be considered in relation to potential rates increases.

How is the status quo expected to develop if no action is taken?

11. If no further action is taken, the status quo scenario will entail continued use of the levy within its current narrow parameters (ie, to promote and achieve waste minimisation) and established levy rates. Some activities may be constrained in the absence of a suitable funding source (for example, ongoing need for remediation of contaminated sites, including vulnerable landfills). These aspects are detailed further in the following sections.

Status quo – continuation of current purpose and scope of the levy

12. The WMA establishes the levy to raise revenue for waste minimisation and increase the cost of waste disposal to recognise that disposal imposes costs on the environment, society, and the economy. By increasing the cost of disposal, the levy provides a financial

incentive for those generating waste to reduce what they send to landfill. The use of levy funds (ie, revenue raised from levy applied at disposal) also supports alternatives like recycling and composting to be more commercially viable.

13. The status quo settings are likely to create an incremental improvement in waste-related outcomes over time. Waste volumes are expected to decrease as a result of ongoing investment of levy funds in waste minimisation activities by central and local government in conjunction with the implementation of policies that target waste.

Status quo – Use of levy funds to support government priorities

14. For central government, the focus of levy investment has been on expanding the resource recovery and recycling network through investment into the contestable WMF and PIF. Project outcomes have focused on reducing the generation of waste, improving recycling infrastructure and performance, and reducing emissions from waste. This investment has been beneficial to help reduce the current resource recovery infrastructure deficit, which was estimated to be between \$2.1 and \$2.6 billion in 2020.⁵ It also helped to achieve emissions reductions and unlock further capital investment.
15. However, while there is some work required to address historical under investment, over time there are likely to be limits to how much levy revenue can be strategically invested into waste minimisation without the risk of crowding out private investment or creating ongoing subsidies for onshore processing.
16. In the absence of further action, the levy rates outlined in table 1 would continue to apply. The Ministry has forecast levy revenue projections available to central government as outlined in table 2 below. Note that forecasting waste volumes and levy revenue is complex and uncertain due to multiple factors such as market dynamics, policy impact, and data quality; these figures are estimates and likely to shift over time.

Table 2: Projected revenue under existing regulations (2024/25 to 2027/28) (000s)					
	2024/25	2025/26	2026/27	2027/28	Total
Central govt portion of levy revenue	\$126,500	\$127,535	\$128,655	\$129,627	\$512,317

Status quo in relation to waste-related government priorities

Supporting the remediation of contaminated sites

17. The remediation of contaminated sites, including closed landfills vulnerable to the effects of severe weather events, is one of the Government’s waste-related priorities as stated in *Blueprint for a Better Environment*. The Ministry currently administers the Contaminated Sites Remediation Fund (CSRF), which supports the remediation of contaminated sites, including some historical landfills, waste dumps as well as other contaminated sites such as former mining and industrial sites.
18. The CSRF is a contestable fund that regional councils and unitary authorities can apply to for funding for the remediation of contaminated sites that pose a risk to human health and the environment. The CSRF supports local government to fulfil their obligations for contaminated land management under the Resource Management Act 1991 (RMA). Applications must be made for activities undertaken before the RMA was enacted or after it was enacted if local government could not undertake any enforcement action. Funding can be for site investigation, planning or site remediation. To date, the CSRF has been funded through a \$2.63 million annual appropriation and has awarded funding of nearly

⁵ Grant Thornton, *Report of waste disposal levy investment options* (2020). The report considered waste disposal and recovery volumes at the time and proposed an approach for potential future investment for priority waste streams (including, waste volumes, environmental harm, value). This resulted in identifying the waste infrastructure deficit in terms of facility types (for example: materials recovery facilities; reprocessing facilities for organics, plastics, paper, and cardboard, concrete and rubble), and quantified this based on information available on indicative costs. The report also estimated ongoing collection service requirements.

\$48 million to 114 projects. The CSRF in its current form is unlikely to meet future demand as the volume of remediation projects (particularly for vulnerable landfills) increases.

19. As a dedicated funding stream, the CSRF is subject to any prioritisation process of the government of the day. The CSRF is a separate appropriation that the Ministry administers and its continuation would require the appropriation to continue and/or to be supported through the Ministry's non-departmental funding (noting that this would likely entail trade-offs with other competing demands).
20. Note that the WMF is constrained in its existing legislative settings and does not cover the broad scope of activities of the CSRF. Based on current legislation, the WMF is generally able to support only the waste minimisation components of a remediation project, noting that this would be subject to a potential project's particular circumstances.

Waste from contaminated site remediation projects is generally subject to waste disposal levy

21. Some remediation activities may be impacted by the use of the WMA's existing levy waiver and exemption provisions (sections 29 and 41 described below). For example, if waste from a closed landfill needs to be relocated to a levied landfill site this will incur the levy and may be a financial barrier to remediation activities.
22. Section 29 of the WMA provides that the Secretary for the Environment has discretion to waive a levy payment for the disposal facility operator if satisfied that 'exceptional circumstances'⁶ justify the waiver. Waivers, granted by the Secretary are waste- and disposal-site specific and do not have conditions.
23. There is also a provision under section 41 of the WMA for the Minister to recommend regulations specifying any disposal facility or class of disposal facility that is exempt from the levy; however, this must also be in 'exceptional circumstances'.
24. Waste from planned remediation of a contaminated site disposed of at disposal facility will generally not meet the threshold for 'exceptional circumstances' for a waiver or an exemption, so would be subject to the levy. Contaminated sites, including closed landfills, that have become exposed (breached) by flooding, earthquake and cyclone may be waived from the levy as the result of an emergency event, which could meet the threshold of an 'exceptional circumstance'.

Supporting emergency waste management activities

25. It is expected that the frequency of declared emergency events will increase over time as the impacts of severe weather events due to climate change become more prevalent. New Zealand is also at risk of natural disasters such as earthquakes. Given this context, there will continue to be a need to address waste stemming from emergency events, which often exceeds the capacity of local systems.
26. There is an existing framework for how central government should support local government in its response and recovery from emergency events. However, there is no prescribed approach to setting aside funding to assist with emergency waste management requirements. The general framework established by the National Civil Defence Emergency Management Plan Order 2015 outlines that local risks are a local responsibility. Central government financial support to local authorities is based on the expectation that local authorities will be primarily responsible for the costs of the impact of an emergency event in their areas.
27. Central government can provide support by meeting some of the costs incurred in response to and recovery from an emergency event, with the minimum level of assistance required to restore an affected community to a state in which normal social and economic activity can be resumed. The framework includes provision for central government to cover

⁶ Three considerations are used by the Ministry in assessing applications to determine 'exceptional circumstances': foreseeability, controllability, and the impact of the levy.

60 per cent of eligible costs, and local government to cover 40 per cent (above certain thresholds).

28. As the scale and frequency of emergencies increases, the fiscal impact on local and central government is likely to be substantial. Relevant ad hoc funding that has been provided for recent extreme weather events includes:
- \$102 million for councils to process and dispose of debris from residential properties and address sediment on council-owned land, plus \$70 million for commercial entities;
 - \$15 million for collection, removal, and disposal of solid waste from residential properties; and
 - \$30 million for clean-up of sediment and debris and \$2 million for removal of woody debris on whenua Māori on Tairāwhiti and Hawke's Bay.
29. In the absence of any further action, the framework and approach described above will continue to be applied, placing a strain on financial resources for both central and local government.

Supporting the Ministry's waste-related work programme

30. The WMA permits some central government functions (undertaken by the Ministry) to be supported through use of levy funds. This is described in section 30 of the WMA, which specifies how the Secretary for the Environment must distribute and spend levy funds. After distributing levy funds to territorial authorities (and paying any refunds if relevant), the Secretary must spend levy funds on one or more the following:
- collecting and administering the levy;
 - funding projects that the Minister has approved for funding under section 38;
 - administration costs relating to projects that the Minister has considered or approved for funding (for example, the costs of approving or declining funding or of auditing the projects).
31. Under the status quo, a portion of levy funds would continue to support these activities. Other Ministry functions that comprise the waste-related work programme (such as such as policy development; data and evidence; education and behaviour change, relevant multilateral environmental agreements) are currently funded by the Crown through departmental expenditure (Improving New Zealand's Environment appropriation within Vote Environment). Within the broader central government context of fiscal restraint there is pressure on limited resources and in the absence of an alternative funding option, it is expected it would be difficult to continue to support waste minimisation outcomes at the current funding level.

What is the policy problem or opportunity?

Overall problem definition

32. The Government has identified that provisions in the WMA and supporting regulations limit its ability to fund a broader range of waste and environmental priorities, within the overall context of fiscal restraint. These limitations relate to the use of levy funds (as established by the purpose of the WMA) and the revenue raised by the levy (as determined by application of levy rates), which places significant strain on the government's ability to address identified environmental priorities, including:
- addressing environmental harm from contaminated sites, including closed landfills
 - supporting emergency waste management activities following declared emergency events
 - supporting more central government functions and activities that contribute to improved environmental outcomes.

Description of components within overall problem definition

33. The overall problem definition described above can be broken down into several components (sub-problems) that are described in further detail below.

Contributing to a broader range of environmental outcomes through use of levy funds

34. Use of levy funds is restricted according to provisions in the WMA. There is an opportunity to amend the overarching purpose of the WMA and the purpose of the levy (currently described in sections 3 and 25 respectively) to enable levy funds to support activities that reduce environmental harm and/or increase environmental benefits.
35. This approach recognises that waste contributes to a range of environmental harms. Using resources and materials generates many environmental impacts throughout their life cycle, from extraction and production, to use and disposal. Impacts can include greenhouse gas emissions, discharges, biodiversity and habitat loss, and impacts from inappropriate disposal and littering. Applying a levy at the point of disposal is an efficient point at which to collect a levy that can help remedy a range of environmental harms.

Supporting remediation of contaminated sites

36. The WMA in its current form does not allow for levy revenue to be used to support the costs of addressing environmental harm from contaminated sites. As the specific funding stream (appropriation) to assist the identification and remediation of contaminated sites (CSRF) is likely to face increasing demand as the volume of remediation projects increases, there is an opportunity to address the constraints of its current form (in terms of funding available and general scope), align with government priorities, while also improve efficiencies by aligning with other investment fund processes.
37. The environmental harm associated with closed landfills and the historic inappropriate dumping of waste is becoming more prominent, particularly as the impacts of severe weather events due to climate change are becoming more prevalent. The actual number of closed landfills at high-risk of causing environmental harm is unclear. Based on information available this it is estimated to be several hundred landfills. In terms of identification and remediation of contaminated sites, the CSRF in its current form has been resourced through a \$2.63 million annual appropriation.
38. Related to this problem is the issue of facilitating appropriate levy waivers and/or exemptions to support the broader environmental outcomes. While the WMA contains provisions to manage relief from levy liability (through waivers and exemptions, that each have respective processes) these need to be considered to the extent that they are efficient and effective for situations involving landfill remediation and broader contaminated land remediation (such as when waste is relocated from a closed landfill to a levied landfill). It is prudent to review the enabling provisions for waivers and/or exemptions to ensure they are not an unnecessary cost barrier to environmental remediation and appropriate for improved environmental outcomes.

Supporting emergency waste management activities

39. The WMA does not explicitly allow for levy revenue to be used to manage waste generated by emergency events. Natural disasters, such as flooding and earthquakes, can generate large quantities of waste materials. Often the materials need managing within a short timeframe, to prevent risks to human health and the environment, and to enable communities and businesses to restore regular activities. There are frequently opportunities for resource recovery of emergency waste materials, although in some situations this may be difficult for practical reasons.
40. The frequency and intensity of severe weather events is putting strain on existing financial resources to support these activities (and will continue to do so). The Canterbury and Kaikoura earthquakes, Cyclone Gabrielle and many other large-scale events have underscored the importance of resilient waste management and minimisation facilities and

services across the regions.⁷ To date, costs arising from managing waste caused by emergency events have been dealt with on an ad hoc basis. There are no funds available to rapidly respond to community and council needs in relation to emergency waste.

41. Appropriate mechanisms (either legislative or otherwise) would help manage waste and resource recovery activities following major emergency events and would help reduce the current and future financial burden of these events on central and local government. To reflect the sporadic nature of civil emergencies, and the need for a swift response in those scenarios, it is appropriate to enable the levy to be spent on emergency waste matters.

Supporting (more of) the Ministry's waste and hazardous substances work programme

42. Within the broader central government context of fiscal restraint there is pressure on limited resources and therefore the ability to continue to support waste minimisation outcomes. While the WMA permits some central government functions to be supported through use of levy funds (levy administration, compliance, fund administration for projects considered and approved for funding), other waste-related Ministry functions (such as policy development, data and evidence and education) are funded by the Crown through departmental expenditure. The ability to support the broader waste minimisation work programme may be limited in the context of fiscal restraint.

What objectives are sought in relation to the policy problem?

43. The overarching objectives sought in relation to the policy problem are to:
- **ensure a broad range of environmental outcomes can be addressed** (including waste minimisation and the environmental harm associated with the historical use of products, materials and activities): by ensuring legislative levy settings are optimised and not unduly constrained
 - **deliver positive environmental benefits for New Zealand communities:** by reducing or avoiding unnecessary costs that might otherwise fall to local communities, particularly where negative environmental impacts and harm is experienced disproportionately
 - **maintain the efficiency and effectiveness of the levy regime:** by ensuring parties meet their responsibilities and there is transparency and accountability for the application of the levy and the use of the resulting revenue.

⁷ For example, emergency funds required in the aftermath of Cyclone Gabrielle included a \$15 million solid waste management fund and a \$102 million local authority fund for sediment and debris management.

Section 2: Deciding upon an option to address the policy problem

What scope will options be considered within?

44. This proposal has been subject to limitations and constraints from its initial commissioning by the Minister, in terms of the scope and timeframes it had to developed and implemented within. This therefore impacted the range of options considered, timeframes for implementation, and the extent and complexity of any legislative amendments.
45. Officials considered options within those parameters and presented advice to Ministers. Options needed to align with government’s goals and objectives for waste and for the environment more generally. The Minister for the Environment and Associate Minister of Finance were able to consider several options for components within the overall proposal, with their preferred approach put forward for Cabinet consideration and approval.
46. No stakeholder consultation took place during the policy development phase. The Bill is being passed under urgency with no Select Committee process to allow for stakeholder feedback.
47. As outlined above, the proposal and supporting analysis was reliant on existing data sources with no additional data accessed or commissioned to support these proposals. The Ministry’s existing levy model was used to test levy rate changes and resulting waste disposal volumes and revenue projections.

What options were considered by Cabinet?

48. Cabinet was presented with a proposal that contained several components within it and could have chosen to proceed with some or all of them, or seek further changes (for example, changes to implementation timeframes, or levy rates from what had been proposed).
49. Cabinet considered a proposal that would change the purpose of the levy to allow a broader range of environmental outcomes to be met through the use of levy funds. This would continue to include the waste minimisation focus as currently set out in the WMA, while also broadening it to encompass activities that reduce environmental harm and/or increase environmental benefits.
50. Cabinet also considered applying an increase levy rates over three years (2025-2027 inclusive) for class 1-4 landfills, as outlined in table 3 below.

Table 3: Future rates for the waste disposal levy per tonne

Waste facility (waste types accepted)	Levy rate on and from:		
	1 July 2025	1 July 2026	1 July 2027
Municipal landfill (class 1) (Household and commercial waste)	\$65	\$70	\$75
Construction and demolition fill (class 2) (construction and demolition wastes)	\$35	\$40	\$45
Managed or controlled fill (class 3, 4) (inert but lightly contaminated soils and rubbles)	\$15	\$15	\$20

51. Additional details of the proposal related to considering specific amendments to enable wider waste and other environmental priorities to be funded by the levy, including:
 - the remediation of contaminated sites, including landfills vulnerable to the impacts of severe weather events;
 - waste-related emergency spending;
 - funding more of the Ministry’s waste-related and hazardous substances work programme.
52. As the proposal also enabled the potential for savings to the Crown, Cabinet considered the types of activities and responsibilities that could be supported through the use of levy

funds once legislative amendments have been enacted. As noted in the limitations section, it is not within scope of this supplementary analysis report to assess these Crown savings.

What was the Government's preferred option, and what impacts will it have?

53. As Cabinet has agreed policy decisions for the legislative amendments, this section describes the key features of the preferred option, including the impacts (direct and indirect), risks, mitigations, stakeholder support (if known), trade-offs, and any additional considerations.

Broadening the purpose of the levy to contribute to broader range of environmental outcomes

54. Government has agreed to enable the central government allocation of the levy to be spent on a broader range of environmental outcomes, which represents a significant change from the status quo. Enabling this policy direction will require amendments to the scope for use of levy funds, as set out in the overarching purpose of the WMA (section 3)⁸ and the purpose of the levy (section 25)⁹.
55. This broadens the scope from the relatively narrow waste minimisation focus. However, the legislative change will only impact the use of levy funds by central government and does not directly impact how local government is able to spend its share of the levy (see paragraph 5 above), although local government will receive more levy revenue as a result of the increase in levy rates.

Impacts, risks and trade-offs

56. There are risks associated with the proposed legislative amendments to the WMA. Broadening the scope of levy funds is enabled by amending the overall purpose of the WMA to also include improving and protecting the environment from harm (drafting process to determine exact wording). Broadening beyond waste-related activities may be seen as further diminishing the link between who pays the levy (applied at disposal of waste to landfill) and the use of resulting revenue (funded outcomes). The broader the scope the less likely it can be argued it remains a "levy" as opposed to a tax.
57. According to the Treasury's *Guidelines for Setting Charges in the Public Sector*¹⁰ in practice, fees and levies might not fit into discrete categories and could be considered as being on a spectrum. A fee is a defined payment from a specified party to another in return for the provision of a good or service. The guidelines state that a levy will also be charged to a particular party or group, for a specified purpose, but not necessarily for a specific good or service. In this way, a levy might be more akin to a tax.
58. The Legislative Design Advisory Committee (LDAC) guidelines state a levy is more akin to a tax in that it is usually compulsory to pay it and is usually charged to a specific group. Also, a levy charged to a certain group or industry is usually used for a particular purpose rather than relating to specific services provided to an individual. LDAC advises that levies may be charged to a group of people (often defined by the fact that they are undertaking a certain activity) to fund certain costs that may arise in connection with that activity. It is not necessary that the person paying obtain a direct benefit from paying the levy.
59. In the present system, levy revenue is available to fund costs that arise in connection with the levied activity (ie, initiatives to support waste minimisation). Additionally, those that pay

⁸ Section 3 description: "to encourage waste minimisation and a decrease in waste disposal in order to: (a) protect the environment from harm; and (b) provide environmental, social, economic, and cultural benefits".

⁹ Section 25 description: "a levy to be imposed on waste disposed of to: (a) raise revenue for promoting and achieving waste minimisation; and (b) increase the cost of waste disposal to recognise that disposal imposes costs on the environment, society, and the economy."

¹⁰ Accessed from: <https://www.treasury.govt.nz/sites/default/files/2017-04/settingcharges-apr17.pdf>

the levy are generally able to apply for the contestable portion of levy funds to support waste minimisation activities. The proposed approach fits the description of a levy, in that the revenue is earmarked for a particular purpose (unlike general taxation); however, the connection between the group paying the levy and those who benefit from it is relatively indirect. The intent of Parliament in authorising this approach will need to be made clear, so that the empowering Act provides adequate authority (regardless of whether it is called a levy or a tax).

60. There are a range of trade-offs in the overall proposal. Having a broader scope – in conjunction with additional revenue, as discussed below – enables an ability to fund a wider range of environmental outcomes and a greater ability to generate savings by offsetting Crown costs. This needs to be weighed up against additional costs for waste generators, the additional risk of greater levy avoidance behaviour, and a less direct relationship between those paying the levy and those receiving the benefits.
61. There are also potential trade-offs in how competing priorities will be managed over time with the use of levy funds incorporating an expanded range of functions and activities. There is a risk that some stakeholders will disagree with the broadened scope, particularly in relation to any impact on the contestable portion of the levy. Part of the mitigation approach will be to appropriately manage and communicate priorities to stakeholders.
62. This confirmed approach to fund a wider range of the Crown's environmental funds and responsibilities recognises that waste contributes to a range of environmental harms. For example, using resources and materials generates many environmental impacts throughout their life cycle, from extraction and production, to use and disposal. Impacts can include greenhouse gas emissions, discharges, biodiversity and habitat loss, and impacts from inappropriate disposal and littering. Following legislative amendment, levy funds will be able to support activities and responsibilities that address waste reduction, reduce harm from waste, and support environmental outcomes.

Stakeholder views

63. This proposal has not been subject to external engagement or consultation. However, in 2021 the Ministry consulted on several topics including the use of levy funds. When asked what the levy revenue should be spent on a majority of respondents indicated a preference for funding waste infrastructure, followed by compliance monitoring and enforcement, and behaviour change activities (both mentioned by nearly one-third of submitters). Approximately 25 per cent of the submitters responded that the levy revenue should be able to be spent in line with the waste hierarchy or at the top end of the waste hierarchy.
64. Of the 108 submissions reviewed, there were no comments in relation to spending levy funds on managing waste from an emergency response and no comments on what administration or other costs central government should spend its portion of the levy on (not including the WMF), though these were not proposals addressed in the consultation document.
65. Although not specifically prompted by a question in the discussion document, 45 submitters referred to the remediation of contaminated sites and/or landfills vulnerable to the impacts of climate change. Of these, 14 local government and four waste industry submitters supported the levy being used to fund the remediation and/or management of closed landfills and/or legacy waste. A further 18 submitters (including 13 local government submitters) recognised that the remediation of contaminated sites, including closed landfills and/or vulnerable landfills, required funding but did not specify in their response where that funding should come from. Conversely, 13 submitters, mostly from business, stated that although remediating vulnerable closed landfills and legacy waste needs addressing, this should be done separately to addressing future waste.
66. While this previous consultation covered related topics, the sector will likely have a range of views on amendments to levy settings. Parts of the sector have advocated for increasing the contestability of levy funds over time. Advocates note this could be achieved by reducing the share that local government receives (currently set at 50 per cent) and instead allocating more funds into the contestable WMF. Broadening the scope of levy funds is likely to be perceived as resulting in a reduction in funding available for waste

minimisation purposes. However, given the levy rate increases are also being implemented the actual outcome will depend in part on future decisions on funding priorities.

Increasing levy rates

- 67. In conjunction with broadening the purpose of the levy, Cabinet has agreed to increases to levy rates that will be implemented over three years, as outlined in table 3 above.
- 68. The agreed rates maintain a differential in levy rates for different landfill classes. The largest increases to levy rates will be for class 1 (municipal) and class 2 (construction and demolition) landfills, with an increase of \$15 per tonne over three years, while the rate for class 3 and 4 (managed or controlled) landfills increases by \$10 per tonne over the same period.
- 69. The WMA contains provisions for levy settings to be established in regulations. However, in this instance, existing regulations will be amended to reflect the further changes to levy rates. This will be achieved through legislative amendment in order to enable the associated savings that are generated through these changes to be reflected in Budget 2024.
- 70. As additional levy rate increases apply from 2025, this will also allow lead-in time for implementation (eg, communication, system changes).
- 71. The changes to the levy rate are projected to generate additional levy revenue,¹¹ as outlined in table 4 below.

Table 4: Levy revenue projections			
	Financial year		
	2025/26	2026/27	2027/28
Levy revenue (central govt)	144,854	154,143	172,144
Levy revenue (local govt)	144,854	154,143	172,144
Total projected levy revenue	289,708	308,286	344,288

Costs and benefits

The main expected beneficiaries of increases to levy rates include:

72. Society as a whole and the environment:

- costs of waste disposal will better reflect the true costs of current patterns of extracting and using resources and disposing of waste
- higher levy rates may incentivise more re-use of materials and less use of virgin materials, with associated impacts on natural resources and greenhouse gas emissions
- reduced greenhouse gas emissions from organic waste disposed of to landfills
- investment of levy revenue in the resource recovery sector will improve the range and quantity of materials that can be recycled onshore, providing greater resilience to global changes in markets for recyclables, and generating more local employment (the resource recovery sector typically generates around 5 jobs for every 1 job in waste disposal).

73. The resource recovery sector:

¹¹ Note that forecasting waste volumes and levy revenue is complex and uncertain due to multiple factors such as market dynamics, policy impact, and data quality; these figures estimates and likely to shift over time

- increased business opportunities for recycling/re-use due to increased viability of alternatives to landfill (as cost of disposal increases), and investment of increased levy revenue
- greater certainty for recycling businesses of feedstock flows and market demand
- opportunities to apply for levy revenue funding for investment.

74. **Central and local government:**

- more revenue for waste management and minimisation for local government
- more revenue for a wider range of waste and environmental priorities for central government
- potentially reduced future need for landfills along with less associated environmental nuisance, hazards, and loss of amenity.

Costs of increasing the levy rate fall on:

75. **Landfill site operators**, who would need to pay higher levy costs. However, this is expected to be a pass-through cost (ie, levy costs would be added on to other charges for those depositing waste at the site, as part of an overall gate fee). In some cases where there is substantial competition, some site operators may find it harder to pass all costs on.
76. **Producers/disposers of waste**, including households, businesses, and territorial authorities. Overall, the increases to levy rates are estimated to raise an additional \$171 million in revenue between 2025/26 and 2027/28 (compared to projections at the rate that will apply from 1 July 2024).
77. As noted above, while these costs are paid by landfill operators they are generally passed on to producers of waste. The impacts will vary from site to site and between waste disposers. In general, smaller-scale producers of waste will face lower costs. However, larger waste producers can generally negotiate a bulk rate via contract, so effective gate fees will also vary depending on arrangements in place.
78. **Impacts on households:** while households will likely face some cost increases, this will vary depending on how territorial authorities and landfill operators charge for rubbish collection. The impact on households is expected to be relatively low, given that the levy is a small component of the overall charges for collecting and disposing of waste, and most households produce substantially less than a tonne of waste per annum. Increased costs could be minimised over time by the increasing availability of opportunities to divert waste as a result of the investment of increased levy revenue in waste minimisation. For example, as some councils introduce kerbside food scraps collections for residents, they are looking at reducing rubbish collections to fortnightly (rather than weekly), which could result in savings for households.
79. A household that puts out one average sized bag of waste per week (around 6.5 kg), will dispose of around 340 kg per year. A change from \$60 per tonne (the levy rate that will be in effect from 1 July 2024) up to \$75 per tonne (from 1 July 2027) would equate to an increase in levy costs of around \$5.10 per annum per household (plus GST).
80. For a trailer-load of waste deposited in a municipal landfill, levy-related costs would increase by about \$1 for every \$5 increase in the levy rate (based on the average weight of a trailer-load of rubbish, 200 kg). This would be a \$3 plus GST increase across the period per trailer-load.
81. **Impacts on construction and demolition and development:** The net impact of the changes on construction and demolition is difficult to estimate. Construction and demolition activities can generate substantial quantities of waste. The cost is scheduled to increase for construction and demolition landfills (progressively to \$45 per tonne by 1 July 2027). This category of landfill is less common, with currently only 13 sites registered with the Ministry. Construction and demolition waste materials are also disposed of in other landfill types including municipal landfills and those that take largely inert materials (for which the levy will increase to \$20 per tonne by 1 July 2027), as well as cleanfills, which are not subject to a levy.

82. Construction and demolition wastes include: wood and timber products; plastics; plasterboard; and soils/rubble (including contaminated soils). There are different waste minimisation opportunities and challenges for different waste types and wastes are frequently mixed (ie not separated on site) which further limits resource recovery options.
83. However, research indicates that in some circumstances, close to 90 per cent of construction and demolition materials currently going to landfill could instead be recovered for beneficial uses. This would be an option for the sector to avoid higher disposal charges (while resource recovery options would also have a cost, there would be a higher net benefit because it would be generating a useful resource). Low landfill fees for construction and demolition sites are a key limiting factor at present for recovery of construction and demolition materials.
84. Based on estimates of how much waste is produced during construction of a new-build house, levy costs for waste disposal could increase by around \$46 per house, while levy costs for disposal of materials from a typical house demolition could increase by around \$206.
85. Construction and demolition activities such as 'brownfield' developments and earthworks can generate substantial quantities of material that are deposited at class 3 and 4 sites (eg, lightly contaminated soils and rubble). A truckload of such materials could weigh around 10-15 tonnes, meaning levy charges for a truckload in the range of \$100-150 (at the current levy rate) to \$150-225 (at a \$15 levy rate) to \$200-300 (at a \$20 levy rate). This will therefore add to the costs of developing such sites.
86. There will be different opportunities to minimise the disposal of these materials to landfill depending on alternative local infrastructure, and capacity and willingness to look at opportunities for on-site management or beneficial re-use.
87. **Impacts on other businesses:** as well as the waste generated by households and construction and demolition, the main sectors of the economy that generate waste include hospitality, manufacturing, wholesale and retail trade and the primary sector. The specific costs individual businesses face will depend on how much waste they generate, their waste disposal arrangements (eg any bulk rate agreement they may have), and any waste minimisation/resource recovery initiatives they may undertake. Depending on the type of business, they may already be facing consumer expectations that they minimise waste (for example in relation to the quantity and type of packaging they use).

Risks and unintended impacts

88. The increase in levy rates may result in levy avoidance behaviour. The differential levy rates proposed for different types of landfill could lead to waste being inappropriately disposed of at landfills with lower levy rates, or at sites not subject to the levy such as cleanfills or farm dumps. There could also be a risk of illegal dumping onto land not authorised to take waste such as roadsides, forests, public reserves and conservation land.
89. Levy avoidance would result in harm to the environment and reduced levy revenue, as well as increased costs for local government, private landowners and others (such as NZTA, Kiwi Rail, and the Department of Conservation).
90. Some waste sector participants already consider that higher levy rates, along with the differential in levy rate between class 1 landfills and other landfill classes, means that some waste that should be disposed of at class 1 sites (which have higher environmental control requirements in place) is instead being disposed of at lower landfill classes (which have more limited environmental obligations eg, sites may be unlined). To date, there is limited direct evidence of this (for example, there have not been substantial decreases in waste going to municipal landfills since levies were introduced at a lower rate for other landfill types).
91. The likely extent of levy avoidance is difficult to predict, and will depend on the effectiveness of compliance, monitoring and enforcement (CME) activities by both the Ministry and local government (discussed further in the implementation section).

92. **Impacts on recycling operators:** overall, benefits for recycling operators would be expected to outweigh costs, because increased disposal costs can lead to increased demand for recycling services, and levy revenue can be invested into waste minimisation services and infrastructure. However, some recycling operators will face increased costs for disposing of unavoidable by-products of their operations. Mitigation options should be developed in collaboration with recycling operators and others such as local government (for example to look at options for managing inappropriate disposal). In the medium term, work underway at the Ministry on product stewardship for e-waste (including whiteware) could also help, as it will improve recovery of such products at their end-of-life, and ensure producers/retailers bear the costs of appropriate end-of-life management such as recycling or safe disposal.

Impact of broadened scope and increased levy rates in relation to government's waste-related priorities

Supporting remediation of contaminated sites, including closed landfills

93. Cabinet has agreed to expand the range of activities able to be funded by the levy to include addressing environmental harm associated with contaminated sites including closed landfills (through appropriate remediation).
94. The impact of this will be that the scope of activities currently covered by the CSRF (or its eventual equivalent if re-branded) can be funded via levy revenue on an on-going basis, thereby reducing overall Crown expenditure. This approach is effective in addressing the policy issue/problem and delivering fiscal savings to the Crown.
95. This approach continues the availability of funding for the remediation of all types of contaminated sites. The Minister has indicated an intention to increase the current level of funding (facilitated by the change to allow this to be funded by the levy) so overall there should be a decrease in environmental harm. This will enable faster remediation and a greater volume of high-risk vulnerable landfills and contaminated sites being funded.
96. The actual number of likely contaminated sites requiring remediation will be dynamic. As scientific research on the environmental effects of chemicals, wastes and industrial processes develops over time, new harmful and hazardous substances are identified. In addition, previously unknown sites are uncovered by erosion, soil disturbance, land use changes or land-use/soil investigations. Current activity on a site that has not been adequately monitored or enforced may also be creating new land contamination yet to be discovered. Remediating a site requires a staged approach: discovery and desk-top research, site investigations, remedial planning and options analysis then finally on-site remediation works. Each stage can take one to three years to complete, with the final stage the most variable depending on the site, type of contaminant and preferred remediation approach. Therefore, the number of contaminated sites is likely to increase as sites are discovered and remediated.
97. There is potential regulatory overlap with the RMA (managing environmental discharges) and the responsibilities on Regional Councils to monitor and enforce activities that have an impact on the environment, this includes, in some circumstances, a bond from the consent holder to cover the future remediation of a site.
98. The WMA includes provisions to enable levy waivers, which allow for specific circumstances where waste disposed of to landfill would not incur the levy. Section 29 of the WMA provides that the Secretary for the Environment has discretion to waive a levy payment for the disposal facility operator if satisfied that 'exceptional circumstances' justify the waiver.¹² Waivers, granted by Secretary, are waste- and disposal-site specific and do not have conditions.

¹² As noted, considerations used by the Ministry to assess waiver applications are: foreseeability; controllability; and the impact of the levy

99. Cabinet has agreed to amend the levy waiver provision to correct inconsistencies and ensure remediation activities are not unduly hindered by the levy liability in situations where waste from a closed landfill needs to be relocated to a levied landfill site. To illustrate, based on existing legislative settings, any waste from planned remediation of a contaminated site and disposed of to a registered disposal facility will incur the levy (ie, generally not meet the threshold for 'exceptional circumstances' for a waiver or an exemption). Although contaminated sites, including closed landfills, that have become exposed (breached) by flooding, earthquake and cyclone may be waived from the levy as the result of an emergency event.¹³
100. A similar outcome may be achieved through use of the levy exemption provision as discussed above (section 41 of the WMA). However, this requires 12-18 months to establish regulations, is less likely to provide flexibility for individual scenarios and requires a lead-in time for implementation; it would also only be available in 'exceptional circumstances' which is unlikely to cover routine remediation projects.

Supporting emergency waste management activities

101. Cabinet has agreed to enable central government to use the levy to support local government with the costs of managing waste and resource recovery infrastructure damage caused by emergency events. This approach will help to manage the fiscal risk of emergency waste management costs on central government and local government. It also enables more rapid responses within an emergency and provides greater clarity and certainty to local government and communities. This would be achieved through an amendment to section 30 of the WMA to enable the Secretary for the Environment to spend levy money on emergency waste responses.
102. There are existing protocols for central government to support local government expenditure in response to/recovery measures resulting from emergencies, by which central government can reimburse local government for specified expenditures. This would enable rapid action by local authorities, within the overall framework of wider emergency management measures.
103. Enabling this use of the levy will provide greater certainty and transparency for councils and communities. It will also help manage the fiscal impact on central government of responding to waste arising from emergency events. However, it will not alleviate all fiscal impact caused through delayed response, frequency and scale of emergency events and the availability of funds.
104. Supporting operational policy will inform how levy funds will be made available, who receives funding, and when. Cabinet has agreed to enable the Minister to specify additional detail on the nature of the financial assistance to councils for dealing with emergency waste, where waste management that is necessary or desirable to address public health/environmental risk is beyond the resources of the affected council(s). This additional detail would also specify what types of wastes associated with an emergency event would be eligible for funding, what types of activities and wastes funding is being provided for, and the quantum of funding available.
105. Existing guidance is available to inform this operational policy and the notices gazetted by the Minister, including a recent report on the Government inquiry into the response to the North Island severe weather events¹⁴ and guidance from the Office of the Auditor

¹³ Note that disposal stemming from a declared emergency event does meet the 'exceptional circumstances' condition for a waiver or an exemption under the WMA. Over 20 examples of waivers approved to date. Waste from 2023 severe weather events are also levy exempt (under the Severe Weather Emergency Recovery (Waste Minimisation) Order 2023 until July 2025).

¹⁴ *Report of the Government Inquiry into the Response to the North Island Severe Weather Events*. 2024. Accessed at [https://www.dia.govt.nz/diawebsite.nsf/Files/Government-Inquiry-into-Severe-Weather-Events/\\$file/Report-of-the-Government-Inquiry-into-the-Response-to-the-North-Island-Severe-Weather-Events.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Government-Inquiry-into-Severe-Weather-Events/$file/Report-of-the-Government-Inquiry-into-the-Response-to-the-North-Island-Severe-Weather-Events.pdf).

General.¹⁵

Supporting more of the Ministry’s waste and hazardous substances work programme

106. Cabinet has agreed to amend the WMA to allow more components of the waste and hazardous substances work programme to be funded through the use of levy funds. As noted, the WMA currently allows for some functions to be levy-funded, which broadly covers levy administration (for example, activities to support collection and compliance of levy regime) and administration for levy-funded projects (for example, activities associated with considering and approving projects for funding).
107. Additional Ministry functions and activities that will be supported by the broadened use of levy funds include: product stewardship (supporting co-design of schemes for declared priority products, developing regulations for proposed schemes, implementation activities); policy development (including for legislative amendment proposals); data and evidence (collecting, maintaining and publishing waste data); negotiating, ratifying and implementing multilateral environmental agreements.
108. The proposal to allow the levy to be used to support more of the waste-related work programme is likely to draw particular interest and potentially some criticism from stakeholders. Previous consultation in 2021 on the levy-related matters did not focus on the Ministry’s functions. There is a risk that there may be decreased acceptance of the levy due to negative perceptions about the use of levy funds. This can be mitigated through communications with stakeholders and transparency about levy charges and spending.
109. Additionally, there is also the issue of how investment priorities will be managed when there are additional demands on the central government portion of levy funds. For example, based on the current proposal, the central government portion of levy funds would comprise the following components:
 - waste-related investment funds (ie, WMF, PIF, Contaminated Sites and Vulnerable Landfills Fund)
 - activities that reduce environmental harm and/or increase environmental benefits
 - funding for emergency waste management activities (as needed)
 - the Ministry’s waste and hazardous substances work programme (including levy collection and administration, funds administration, policy, implementation, data).
110. The legislative amendments will not create a hierarchy of funding needs. Funding decisions will need to be carefully prioritised to balance the need to achieve waste minimisation goals, as well as the additional funding areas the amendments to the WMA will enable. It is expected that the Vote Environment appropriation will provide further guidance on how funds shall be distributed between the range of activities that can be levy funded.

What are the marginal costs and benefits of the option?

Affected groups <i>(identify)</i>	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m where appropriate, for monetised impacts; high, medium or low for</i>	Evidence Certainty <i>High, medium, or low.</i>

¹⁵ *Observations from our work. Managing public funding in an emergency response or recovery.* Office of the Auditor General. 2023. Accessed at <https://oag.parliament.nz/2023/emergency-funding/doc/emergency-response-funding.pdf>.

		<i>non-monetised impacts.</i>	
Additional costs of the preferred option compared to taking no action			
Regulated groups	Disposal facility operators Requirements for record-keeping, reporting and paying levy to the Ministry (ongoing), as per levy increase and expansion underway since 2021; changes to levy rates passed on waste generators/disposers	Low	High
	Waste generators and disposers (incl individuals, businesses, builders, developers, etc) Experience higher costs due to increased levy rates on waste disposal activities (ongoing)	Estimated \$171m over 4 years	High
	Applicants and recipients of contestable funding (waste sector and non-waste sector) Reduced <i>portion</i> of levy revenue available for contestable portion of central government levy funds (ongoing)	Low	High
Regulators	Central government Ongoing compliance, monitoring and enforcement activities to support implementation and collection of waste levy (ongoing BAU); possible increase in levy avoidance behaviour	Low	Medium
	Central government Ability to manage possible competing priorities due to broadened levy scope	Medium	Medium
Total monetised costs	-	Unknown	
Non-monetised costs	-	Low	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Waste sector participants Likely increase in reuse and recycling activities in response to levy rates (greater incentives for diversion)	Medium	Medium
	Applicants and recipients of contestable funding (waste sector and non-waste sector) Ability to continue to access funding from contestable portion of levy funds to support environment outcomes (ongoing)	Low	High
Regulators	Central government Increased levy rates will result in funding available to support broader range of waste-related and environmental outcomes	Estimated \$85m over four years	High
	Central government Emergency agencies have assurance of funding to contribute to costs of emergency waste management activities	Medium	Medium
	Central government Savings to the Crown realised and ability to continue to support programmes and activities (ie, offset against levy)	\$tbc (Budget 2024 decision)	Medium
	Local government Increased levy rates will result in increased levy funds allocated to support waste minimisation activities	Estimated \$85m over four years	High

	Local government Ability to continue to access funding for contaminated site remediation (primarily regional councils), consistent with previous Contaminated Sites Remediation Fund	\$2.6m/yr based on current funding level (expected to increase)	High
	Local government Funding support available for dealing with emergency waste management in aftermath of declared civil emergencies	Estimated up to \$10m/yr	
Others (eg, wider govt, consumers, etc.)	Communities Benefits to wider public from improved environmental outcomes and reduction in environmental harm; greater assurance of funding to support	Medium	Medium
Total monetised benefits	-	Estimated >\$171m over four years	
Non-monetised benefits	-	Medium	

- 111. For monetised impacts, these are measured over the forecast period (four years); no discount rate applied.
- 112. For non-monetised impacts, these were categorised based on a comparison with the status quo (high, medium, low).

Section 3: Delivering an option

How will the new arrangements be implemented?

Legislative amendments to enable broader use of levy funds

113. The agreed amendments to the purpose of the WMA will enable a broader range of activities to be funded by levy funds, supplementing the existing WMA decision-making framework for use of levy funds by the Minister and Secretary for the Environment.
114. The overall proposal requires amendments to several provisions in the WMA which will increase the complexity of the implementation process related to allocation of levy funds and investment processes as there will be a broader range of funding priorities to be managed and communicated.
115. The changes will also need to be considered in the context of any broader waste legislation amendments in the future. It also increases the likelihood of unintended consequences as changes impact more of the current waste system in the absence of analysis of the consequences on the whole WMA.

Increases to levy rates

116. The step increases to levy rates will occur from 2025 to 2027 (inclusive) and involve increases of up to \$15 per tonne on previous levy rates. The full schedule is set out in table 3.
117. This directly follows increases to levy rates and expansion of levy coverage between 2021 to 2024 as set out in Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009. The further increases to levy rates will be achieved by directly amending Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 to extend the levy rate increases for the 2025/26, 2026/27 and 2027/28 financial years.
118. Existing processes are in place to notify disposal facility operators of levy rate increases and to operationalise this within the Online Waste Levy System so the levy collector (Ministry) can collect correct levy amounts.
119. While higher levy rates may in turn increase incentives for levy avoidance behaviours, the Ministry has a well-developed compliance strategy and implementation (discussed further below). The main future opportunity that would improve implementation would be changes to waste legislation, including inclusion of stronger compliance monitoring and enforcement provisions. This is part of the Ministry's work programme.

Enabling the government's waste-related priorities

120. Legislative amendments to support the government's waste-related priorities will be enabled through amendments to provisions in the WMA that establish use of levy funds by the Minister and Secretary for the Environment.

Supporting the remediation of contaminated sites remediation, including vulnerable landfills

121. Eligibility and assessment criteria would be issued by the Minister via a notice in the Gazette, as per the current WMF. Eligibility and assessment criteria can be based on the current CSRF approach, and there are existing internal processes and processes to manage and assess applications.
122. Once relaunched, regional councils or unitary authorities will be able to apply for funding for any of the following three remediation stages: site investigation, remediation planning and/or site remediation. A regional council or unitary authority can apply on behalf of the landowner. Applications will be administered by the Ministry, assisted by an expert panel, who make funding recommendations to the Minister.
123. Following the Minister's approval of funding, the Ministry will prepare the funding deed for the project. The Ministry will monitor and assess each project against the stated performance measures and conditions within their deed of funding. Agreed payments will

be made once milestones are met and deliverables are completed. This is the same as the current CSRF funding process and like the current approach for the WMF. There may be rationalising of process or approach between the two funds to ensure efficiencies.

- 124. The WMA’s amended levy waiver provisions would be available to use as appropriate, allowing for specific circumstances where waste disposed of to landfill would not incur the levy. The amended approach that Cabinet has agreed would enable a levy waiver to be considered by the Secretary for the Environment in a wider range of circumstances (not solely ‘exceptional circumstances’). For contaminated sites remediation, this would help to ensure these activities are not unduly hindered by the levy liability in situations where waste from a contaminated site needs to be relocated and disposed of to a levied landfill site.
- 125. Section 29 of the WMA provides that the Secretary for the Environment has discretion to waive a levy payment for the disposal facility operator. Waivers are waste- and disposal-site specific and could have specific conditions attached to the waiver.
- 126. In practice this could outline the expected process with relevant parties during the negotiating of a deed of funding, ahead of the planned remediation and disposal activities. Conditions could involve seeking to recover some valuable materials, if any, from relocated waste materials.
- 127. As noted, the Ministry has existing decision-making criteria to aid in assessment of levy waiver applications under current WMA provisions (ie, in exceptional circumstances). Further decision-making criteria will be needed to help ensure consistent assessment of levy waivers relating to contaminated site remediation.
- 128. There is potential that these waivers could facilitate levy avoidance activity (eg, a disposal facility could claim materials were from a site remediation project so should be eligible for a levy waiver). Operational procedures will be developed to address this risk, as part of an overall risk-based approach to compliance monitoring and enforcement.

Support for emergency waste management

- 129. Cabinet has agreed to enable the Minister to specify additional detail on the nature of the financial assistance to councils for dealing with emergency waste, where waste management that is necessary or desirable to address public health/environmental risk is beyond the resources of the affected council(s). This additional detail would also specify what types of wastes associated with an emergency event would be eligible for funding. This reflects the wide range of potential emergency events that could generate waste that requires additional management. The notices could detail information such as the geographic area for which financial assistance will be made available, the types of financial assistance (ie, what activities are in or out of scope) and the types of wastes.
- 130. The additional policies and operational guidance will determine how the funding operates within the existing framework for how central government should support local government in response and recovery measures from emergencies. The general framework established by the National Civil Defence Emergency Management Plan Order 2015 outlines that local risks are a local responsibility. Central government financial support to local authorities is based on the expectation that local authorities will be primarily responsible for the costs of the impact of an emergency in their areas. However, once operationalised, emergency management costs may be partially alleviated through this funding support.

Summary of implementation risks and possible mitigations

- 131. The range of implementation risks described in this supplementary analysis report are summarised below.

Risk	Mitigation
Complexity arising from managing multiple priorities (eg, funding availability, stakeholder impacts)	Effective communication of funding priorities to set stakeholder expectations.

	Use of existing financial processes and management such as Vote Environment appropriation to identify how levy will be allocated to different categories of expenditure.
Unintended consequences stemming from rapid legislative amendment (eg, change to WMA purpose)	Potential for future legislative reform to consider wider range of matters; review and report-back processes commencing soon.
Levy avoidance behaviour in response to increased levy rates	Ongoing compliance, monitoring and enforcement activities (noting actual levy increases are smaller compared to previous changes); possible improvements to compliance functions could be within scope of future legislative reform.
Unfavourable stakeholder response in relation to lack of consultation and impact of decisions	Proactive communications as soon as information can be made publicly available. Work with stakeholders to understand specific concerns and identify mitigation (eg through future legislative reform or other mitigation actions).
Rapid policy development and implementation has not fully considered differential impacts (eg, on different waste streams and/or population groups)	Work with stakeholders to understand specific concerns and identify mitigation.

How will the new arrangements be monitored, evaluated, and reviewed?

132. It is expected that monitoring, evaluation and review processes for the new arrangements will be included within existing mechanisms and processes. These are described below.

Review of the effectiveness of the levy

133. The WMA contains existing provisions for the Minister to undertake a review of the effectiveness of the levy (required every three years). In reviewing the levy, the Minister must consider:

- whether the amount of waste disposed of in New Zealand has decreased since the last review
- whether the amount of waste reused, recycled or recovered in has increased since the last review.

134. The Minister may also consider any other matters they think relevant. Future reviews of the levy could therefore cover the impact of this proposal, how it has been implemented, and the resulting environmental outcomes.

135. Under the WMA, the Minister must also obtain and consider the advice of the Waste Advisory Board. Information sources include: the Online Waste Levy System, which includes tonnage reporting and other information from landfills and other sites; published reports; and internal information, such as investment information.

Levy collection, administration and compliance activities

136. The increase and expansion of the levy and reporting requirements have resulted in a significant increase to the number of regulated disposal facilities nationwide (from less than 40 in 2020 to over 500 currently). This current proposal does not make changes to those facilities in scope, but does continue the reliance on effective compliance, monitoring and enforcement to ensure the levy is applied accurately and levy funds are collected from sites.

137. In recent years, the Ministry has adopted a range of policies and procedures for its role in collecting and administering the levy, including:
- a compliance, monitoring and enforcement strategy, which sets out the Ministry's approach to compliance monitoring and enforcement under the WMA and explains how the Ministry achieves compliance and interacts with regulated communities
 - an enforcement decision-making policy, which sets out the scope and procedure for making enforcement decisions under the WMA and related regulations
 - a prosecutions policy, which sets a framework for making decisions about the use of prosecutions under the WMA.
138. These documents are supported by additional internal guidance, including a WMA Investigations Manual and a WMA Communications and Engagement Strategy 2020. The Ministry has also begun reporting annually on its compliance monitoring and enforcement responsibilities under the WMA. Its inaugural report was published in December 2021, and a second report (covering the period 2021/2022) was published in December 2022.

Monitoring levy investment and supporting activities

Use of levy funds by central government

139. There are established processes for investment of levy funds. The three-yearly review of the effectiveness of the levy (discussed above) considers the Ministry's investment functions within the context of whether waste disposal volumes have decreased over time.
140. The Ministry publishes details of investments on its website, which also serves as a tool for considering future investment proposals. Additionally, the Ministry's annual report provides information on how the organisation has performed in the previous financial year and includes a summary of investment activities (non-departmental output expense).
141. Cabinet has invited the Minister, in consultation with the Minister for Regulation [CAB-24-MIN-0138] to report to Cabinet by October 2024 on:
- the performance of government spending funded by the levy with a focus on: value for money; whether private investment is being crowded out; improved environmental outcomes; the market failures surrounding waste disposal that have resulted in the need for a levy.
142. Cabinet also invited the Minister to independently review the process for making investment decisions using the levy and back-office functions in the Ministry relating to the levy with a focus on value for money.

Use of levy funds by local government

143. While the overall proposal does not make substantive changes to the local government levy settings (the allocation methodology or provisions that control levy spend), the increases to levy rates will result in further increases to the amount of levy revenue allocated to individual territorial authorities.
144. There are planned improvements to reporting that will increase oversight of levy spend by territorial authorities. Territorial authorities report to the Ministry annually on what they have spent their levy revenue on. This is currently on a voluntary basis through an online reporting system. The new data regulations will create mandatory record-keeping and reporting requirements for territorial authorities from 1 July 2024, with the first report (covering the 2024/25 financial year) due by 30 September 2025.
145. The Ministry also audits territorial authorities to ensure their levy spend is in line with their obligations. The scope of the audits includes:
- a compliance assessment of levy expenditure practices for the most recent reported financial year against the obligations in the WMA and conformance with the Ministry's written guidance

- a review of key documentation, such as the territorial authorities' waste assessment and WMMP, any applicable bylaw, and/or solid waste policy and reporting.

Improved waste data and reporting requirements

146. General review and monitoring processes will be enhanced by continued data obligations that is helping to provide accurate information about waste material flows. Alongside the expansion of the coverage of the levy, the Government has expanded the data reporting requirements for waste management facilities and operators. As the levy and associated reporting is rolled out (staged from 2021 to 2024) data is collected from a wider range of facilities.
147. The Ministry has a data programme that is utilising this core information and other data sources to gradually generate an overall picture of material flows into and throughout the waste management system.