



Implementing the Border Clearance Levy

Regulatory Impact Statement

Prepared by the New Zealand Customs Service and Ministry for Primary Industries.

ISBN No:

11 September 2015

Contents

Page

1	Agency Disclosure Statement	2
1.1	11 September 2015	2
2	Executive summary	3
3	Status Quo and Problem Definition	4
3.1	The Government has agreed to implement a border clearance levy	4
3.2	Activities delivered at the border	4
3.3	The demand for border clearance services is increasing	4
3.4	Agencies are under ongoing pressure to meet customer expectations	5
3.5	The rationale for adopting cost recovery for border clearance activities	7
4	Objectives	8
5	Options and impact analysis	8
5.1	Activities funded through the Levy	9
5.2	Exemptions to the policy	12
5.3	Allocation of costs	15
5.4	Levy collection mechanism	17
5.5	Setting the amount of the Levy	20
5.6	Implementation timing	21
6	Consultation	21
6.1	Public consultation	21
6.2	Departmental consultation	27
7	Conclusions and recommendations	27
7.1	Approach to exempting crew	Error! Bookmark not defined.
8	Implementation plan	28
8.1	Levy Orders	28
8.2	Linkages to other regulatory frameworks	28
9	Monitoring, evaluation and review	28
9.1	Monitoring and reporting	29
9.2	Evaluation and review	32
10	Appendix One: Tourism Impacts	33
11	Appendix Two: Calculation of Levy Rates and indicative memorandum account	37
12	Works Cited	39

1 Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the New Zealand Customs Service (Customs) and the Ministry for Primary Industries (MPI).

It provides an analysis of options to implement the Border Clearance Levy (Levy) which the Government has decided to introduce to recover the costs incurred by Customs and MPI in clearing people that arrive and depart from New Zealand.

The analysis is based on the following contextual considerations:

1. Cabinet has approved the implementation of a Border Clearance Levy on 1 January 2016; therefore the status quo and other non-regulatory options have not been considered.
2. This analysis has been prepared to assess the options for implementing this policy to best deliver the Government's policy objectives.
3. Agencies currently have limited information on costs at an activity level. This has constrained the possible level of analysis on this issue.
4. This RIS has been prepared following public consultation between 16 June and 28 July 2015. It expands and updates the Consultation Regulatory Impact Statement that was published to support that process.

The Treasury's Regulatory Impact Analysis Team (RIAT) has reviewed the RIS prepared by the New Zealand Customs Service and the Ministry for Primary Industries and associated supporting material, and considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria.

Anna Cook
Policy Director, New Zealand Customs Service

Julie Collins
Director, Biosecurity and Animal Welfare Policy, Ministry for Primary Industries

11 September 2015

2 Executive summary

5. In April 2015, the Government agreed to impose a Levy to recover the costs incurred by the Ministry for Primary Industries (MPI) and the New Zealand Customs Service (Customs) in relation to clearing travellers that arrive and depart from New Zealand.
6. The purpose of this levy is to ensure that Customs and MPI are resourced to manage risks at the border efficiently and effectively. The shift in the source of revenue from the Crown to users reflects the fact that those who need the service should pay. The introduction of a Levy also ensures that the level of available resources will grow in accordance with demand.
7. A substantial consultation process was undertaken in June and July 2015. As part of this process, officials met with representatives from over 40 organisations to discuss the proposals. In total, 33 submissions on the Levy were received.
8. Most submitters do not support the introduction of the Levy. They have suggested that the Levy has been introduced without sufficient consultation or justification, and that the economic impacts of this change have not been adequately considered.
9. It is proposed that:
 - a. activities funded through the Levy should include the costs before, at and after travellers cross the border, and it will also include indirect costs
 - b. exemptions to the Levy should be limited, but that crew and certain other travellers should be made exempt
 - c. costs should be allocated on a nationally-averaged basis, with the exception of Cruise, due to the additional costs incurred by MPI
 - d. the Levy will be collected on the basis of data submitted to Customs, and collectors will be invoiced on a monthly or voyage -by-voyage basis
 - e. the actual amounts of the Levy should be set for the first two- and-half years, and then an upper limit should be implemented, to ensure that reductions due to over-recovery can be made effectively, while constraining agencies' powers to increase rates without undertaking full consultation
 - f. the Levy will be implemented from 1 January 2016, but provisions should be made to accommodate passengers who purchased their tickets before this date.
10. Stakeholders have emphasised the need for strong accountability and transparency as part of the implementation and management of the Levy. There should be ongoing discussions with key stakeholders, as well as regular, detailed reporting. This should set out a clear performance view that balances both compliance and service-delivery outcomes with the costs that are borne by Levy payers.
11. Customs and MPI will review Levy system in 2018 to ensure that it is performing effectively and delivering the results expected by Government.

3 Status Quo and Problem Definition

3.1 THE GOVERNMENT HAS AGREED TO IMPLEMENT A BORDER CLEARANCE LEVY

12. In April 2015, the Government agreed to impose a Levy to recover the costs incurred by MPI and Customs in delivering their respective functions in relation to people arriving and departing from New Zealand [CBC Min (15) 1/2]. This has been given effect through amendments to the Customs and Excise Act 1996 and the Biosecurity Act 1993.
13. Under the legislation, all individuals (unless exempted) that arrive or depart from New Zealand from 1 January 2016 are liable for the costs incurred by MPI and Customs in the delivery of their border functions.
14. To have effect, the Minister for Primary Industries and the Minister of Customs must issue a levy order under the respective provisions of the Customs and Excise Act 1996 and the Biosecurity Act 1993.

3.2 ACTIVITIES DELIVERED AT THE BORDER

15. The New Zealand Customs Service (Customs) and the Ministry for Primary Industries (MPI) are the agencies that are primarily responsible for processing individuals (both paying passengers and crew) that arrive in New Zealand. In addition, Customs has primary responsibility for processing individuals departing from New Zealand. The Aviation Security Service (Avsec) has a separate responsibility for the security-screening of both international and domestic passengers when boarding aircraft.
16. Agencies perform a wide range of activities in delivering these functions including:
 - a. the collection and use of information and intelligence for the screening and risk-assessment of travellers prior to their arrival or departure from New Zealand
 - b. questioning and searching of travellers and their baggage at designated places of first arrival¹ before giving them clearance to leave the area
 - c. surveillance, investigations, and other activities to verify the effectiveness of border-processing activities.

3.3 THE DEMAND FOR BORDER CLEARANCE SERVICES IS INCREASING

17. New Zealand's success in growing trade and tourism has led to increased demand for the services delivered by MPI and Customs at the border. Arriving air passenger volumes have grown 19 percent in the last five years (from 4.4 million in 2009 to 5.2 million in 2014) and 49 percent in the last ten years. Cruise NZ forecasts that the total number of cruise ship passengers travelling through New Zealand will rise to 267,000 in

¹ For the purpose of this document, 'place of first arrival' refers to both Place of First Arrival under the Biosecurity Act and Customs Port under the Customs and Excise Act.

the 2015/16 season. This is almost double the number of passengers five years ago (136,000 in the 2010/11 season).²

18. Total passenger and crew volumes (arriving and departing, air and cruise ship, other craft) are forecast to increase to approximately 13.3 million individuals by 2018/19 (from approximately 10.1 million in 2014). Total volumes are expected to grow at a rate of approximately 3.5 percent per annum.
19. The risk profile of passengers and crew is also changing. Globalisation and increasing trade and travel opportunities, more free-trade agreements with states, as well as targeted tourism marketing in emerging economies means that the flow of people (and goods) coming across our borders will continue to become increasingly diverse. Higher-risk passengers require higher levels of intervention (e.g. x-ray screening, detector dog screening and physical inspections), which will increase costs.
20. If insufficient resources are applied to manage risks, the frequency of biosecurity incursions and harm from prohibited goods or persons will increase. The social and economic cost of such events occurring are very high, for example:
 - a. the current Queensland Fruit Fly response is expected to cost approximately \$17 million³
 - b. the outbreak of Foot and Mouth Disease in the United Kingdom in 2001 cost £7.7 billion; MPI estimates the cost to the New Zealand economy of a Foot and Mouth Disease outbreak would be up to \$16 billion
 - c. managing the didymo invasion cost \$10 million between 2004 and 2007, with significant ongoing management costs
 - d. the potential harm avoided by interceptions of some major classes of illicit drugs in 2013/14 has been quantified using the New Zealand Drug Harm Index at a little over \$107.4 million, at an increase from just over \$57 million in 2012/13.

3.4 AGENCIES ARE UNDER ONGOING PRESSURE TO MEET CUSTOMER EXPECTATIONS

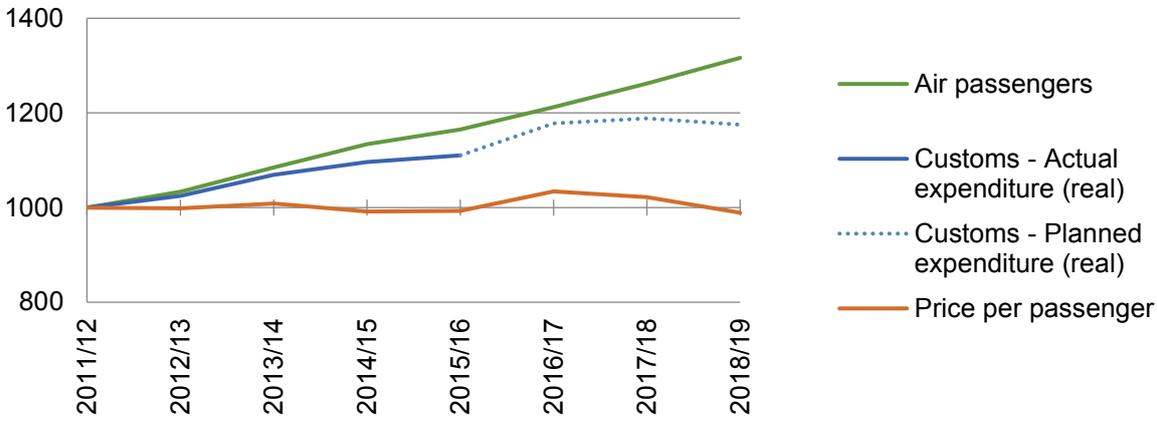
21. Service expectations are also increasing. Passenger and tourism industry expectations for fast border-processing and high quality experiences place ongoing pressure on MPI and Customs to minimise interventions and disruptions to compliant travellers through better targeting. Some of the additional costs imposed through increasing service expectations include:
 - a. increasing numbers of craft and passengers arriving at airports and seaports which are not designated as places of first arrival, and where MPI and Customs do not have a permanent presence (e.g. charter flights, cruise ship arrivals)
 - b. changes to flight schedules at established ports that have significant flow-on implications for rostered staffing.

² Cruise New Zealand forecasts as at August 2015. Cruise NZ is forecasting a decrease to 259,200 in the 2016/17 season.

³ Budget 2015 includes additional Crown funding of \$16.913 million and \$1.2 million of re-prioritised Vote Primary Industries funding for the response.

- 22. In effect, most recent investments at the border have been made to improve the quality of the passenger experience. From an efficiency perspective, Customs and MPI have the capabilities to prioritise risk-management over passenger facilitation. However, this would not be in the interest of the traveller.
- 23. Furthermore, MPI is under increasing pressure from the primary industries to adopt a more stringent approach to risk-management, due to recent biosecurity incursions such as the Queensland Fruit Fly in the Grey Lynn area of Auckland.
- 24. In the past, the increases in costs have either been absorbed by agencies as efficiency gains, or through specific investments, such as the Government’s investment in SmartGate capacity since 2009. While overall baselines have remained flat, both agencies have had to re-allocate certain resources to manage volume pressures. However, the gap between volume growth and resources will continue to widen, and there is limited capacity for the continued shifting of resources from other operational areas without also creating higher risks.
- 25. Figure 1 below compares the level of passenger growth with real funding levels over the last four years, as well as forecasts for the next five years.⁴ The increase in planned expenditure in 2016/17 relates to the expansion of Customs’ automated-processing capacity. However, Customs expects that this short-term investment will reduce the pressures to increase staffing over the longer term. As indicated, the nominal price per passenger should not change markedly over this period. As such, it is likely that proposed levy rates will not need to be substantially adjusted over time.

Figure 1: Index of passenger growth and real expenditure on passenger and crew clearance 2011/12 to 2018/19



Source: Customs and Treasury CPI forecasts

- 26. While MPI and Customs will continue to seek efficiency gains, these will not be enough to cope with demand pressures in the longer term on their own. The gap between increasing demand, risks and service expectations, and available resources will continue to grow. For both agencies to continue to carry out their functions effectively, their capacity to intervene with high-risk travellers must be able to keep pace with the growth of travellers in volumes.

⁴ Real funding (at 1 July 2015) is used as a means of separating out the volume-related costs from price inflation.

27. A key element of Customs' and MPI's strategies is promoting voluntary compliance by travellers. It is important that agencies are able to continue to work with key stakeholders, such as the airline and cruise industry, to identify opportunities to improve compliance. This will reduce overall costs for all parties, while ensuring that adequate systems are in place to detect and respond to any non-compliance by individuals.

3.5 THE RATIONALE FOR ADOPTING COST RECOVERY FOR BORDER CLEARANCE ACTIVITIES

28. The Government agreed to implement the Border Clearance Levy based on the rationale that it is appropriate for users of MPI and Customs border clearance services to meet the full costs of border-processing activities, rather than the general taxpayer. Cost recovery will:

- be more equitable. It will ensure that costs are borne by:
 - those who give rise to the risks that require delivery of border-processing services (all travellers are potential risk exacerbators and it is necessary for Customs and MPI to interact with all travellers to assess and intervene where necessary); and/or
 - those who benefit from them; the costs of border clearance are primarily driven by individuals entering and departing from New Zealand, and the primary beneficiaries of the Customs and MPI border-processing systems are travellers, not the public.
- ensure that funding will scale up and down in line with traveller volumes
- ensure that funding arrangements for MPI and Customs border-processing services are sustainable
- be consistent with other cost-recovery arrangements already managed by MPI and Customs (e.g. goods clearance activities).
- provide greater transparency by requiring border agencies to clearly identify the costs of services provided
- increase users' and collectors' awareness of the costs of the service that users pay for, increasing the drive for efficiency in service delivery.

29. Cost recovery is consistent with the recommendations of the Australian and New Zealand Productivity Commissions' joint study on *Strengthening Trans-Tasman Relations* (2012, p. 118). While they recommended the Australian Government change the Passenger Movement Charge (an effective tax) to a user-charge for services provided, they also recommended that the New Zealand Government review the appropriateness of using Crown funding for passenger clearance services, given the potential advantages and consistency with other cost-recovery arrangements at the border.⁵

⁵ In the Joint Government Response to the Productivity Commissions' Report, the New Zealand Government noted that "In New Zealand, previous reviews, including an extensive ministerial committee review in 2005,

30. This is a change to the policy set in 2004 by the previous Government on the funding of passenger clearance services. At that time, the New Zealand public was considered to be the primary beneficiary of Customs and MPI's passenger clearance services, and therefore all costs should be met by the Crown. The new policy places greater emphasis on recovering the costs from those that give rise to potential risks.

4 Objectives

31. The overarching objective is the implementation of a Border Clearance Levy that supports Customs and MPI in meeting the border clearance costs of individuals arriving and departing from New Zealand. In order to be considered viable, all options must:
- support Customs' and MPI's strategic direction
 - be consistent with the guidelines on cost recovery issued by the Treasury (2002) and the Office of the Auditor-General (2008)
 - be feasible and achievable (i.e. ensuring implementation occurs on 1 January 2016).
32. The options for implementation will be assessed against the following objectives:

Table 1: Assessment objectives

Objective	Elements	Explanation
Equity and fairness	Horizontal equity	Parties with similar benefits/risks are treated the same
	Vertical equity	Parties with different benefits/risks are treated differently
Efficiency	Revenue balances with costs	Costs should be allocated and recovered in a manner that ensures maximum benefits are delivered at minimum costs
	Minimal distortion	Imposition does not lead to undesirable changes in behaviour
Effectiveness	Level of service maintained	Ability to deliver the services expected by those paying
	Minimal scope for avoidance	Payment is easy to do and hard to avoid
	Ease and costs of collection	Simple to administer and manage
Legitimacy	Transparency and visibility	Liable parties understand what services are funded through the fee.
	Certainty and clarity of rules	Parties can comply with minimal effort (incl. convenience to travellers)

5 Options and impact analysis

33. There are no non-regulatory options available. The Customs and Excise Act 1996 and the Biosecurity Act 1993 have now been amended to impose a Levy on all individuals arriving, and in the case of Customs, departing from New Zealand. Therefore, this analysis excludes consideration of alternative, non-regulatory options, including

have determined that the Crown would meet the costs of passenger movement processing, and airlines would meet the full costs of aviation security.”

maintaining the status quo. It is limited to assessing the options for implementing the Levy, as agreed to by Cabinet in April 2015.

34. Table 2 outlines the key design dimensions available and the long-list of choices available under each dimension.

Table 2: Long list of options for implementing the Border Clearance Levy

Dimension	← Choices within dimension →		
5.1 Activities funded through the Levy	The direct costs of activities that relate to functions delivered under the relevant Acts specifically at the border	A wider set of activities that relate to the delivery of functions (e.g. pre-clearance, staff and dog training etc.)	Indirect costs are also included
5.2 Exemptions to the policy	All travellers are liable to pay the Levy	Where travellers do not generate costs (e.g. transit passengers, infants etc.)	Where the collection conflicts with other objectives (e.g. diplomatic objectives)
5.3 Allocation of costs through Levy	Applying one national average charge across all travellers	Differentiating charge by class (scheduled flights/cruise ships/other)	Differentiating charge by location and class
5.4 Collection mechanism and metrics	Levy collected by third party (e.g. airline on tickets) and paid once liability incurred, through:		Individuals are responsible for meeting their obligations (i.e. turnstile model)
	Pull model – Customs issues invoices	Push model – collectors provide separate returns	
5.5 Setting the amount(s) of the Levy	Specifying the amounts in the Levy order for a three year period	Specifying a formula	Specifying the maximum amount of the Levy
5.6 Implementation timing	Full implementation on 1 January 2016 All users required to pay, regardless of date of ticket purchase	All crew liable for Levy from 1 January 2016 but applies to tickets purchased on or after 1 January 2016.	

35. While some of the options apply equally across all travellers, some will need to be tailored to different contexts. These design choices will be applied differently to different modes. For example, there is less scope for third parties to collect levies from private vessels and aircraft compared with commercial passenger services.

5.1 ACTIVITIES FUNDED THROUGH THE LEVY

36. The respective provisions (as amended) of the Biosecurity Act 1993 and Customs and Excise Act 1996 provide that:

Every traveller who on or after 1 January 2016 arrives in [or departs] New Zealand is liable ... to pay a levy in relation to the costs incurred by [the Customs or MPI] in, or for the purpose of, exercising its powers or performing its functions in relation to travellers and their accompanying baggage (or other goods in their possession or under their control).

37. While the cost generated by the majority of travellers is lower than the actual costs incurred by Customs and MPI in the performance of their border clearance functions, this recognises that all travellers will potentially consume all of these services. For

charges to be equitable, all biosecurity and customs activities funded through the Levy are *potentially* consumed by all travellers.

38. There are three dimensions to the costs of activities delivered by MPI and Customs:
- a. activities that are delivered before, at and after travellers cross the border
 - b. the level of activity delivered by the mode and type of traveller
 - c. direct and indirect costs of these activities.

5.1.1 Activities delivered before, at and after travellers cross the border

39. In general, Customs and MPI activities in relation to the clearance of travellers can be considered in three separate phases: pre-border, at border and post-border. These are summarised in Table 3 below.

Table 3: Activities funded through the levy

Stage of the process	Customs	MPI
Pre-border	<ul style="list-style-type: none"> • Identification of persons of interest from advanced information • Planning processes for significant operations/events • Intelligence/information sharing with other agencies and administrations to inform risk identification and operational activity • Forecasting and supporting analysis • Provision of co-ordination functions (including for ad hoc arrivals) 	<ul style="list-style-type: none"> • Screening for targeted interventions - identifying travellers of biosecurity interest • Co-ordination of resourcing and tasking of border activities • En-route biosecurity clearance - where possible • Management of craft applications for arrival at non-approved Places Of First Arrival
At border	<ul style="list-style-type: none"> • Primary-line processing (manual and via SmartGate): validation of identity, completion of immigration processes, identification of persons of interest • Secondary activities and processes i.e. interaction with persons of interest, questioning and search activities • En-route and alongside processing of cruise passengers • On-site support to secondary and verification activities and processes (i.e. more involved questioning and intervention with persons of interest, assistance around examination of electronic devices) • Customer service functions 	<ul style="list-style-type: none"> • Assessment of arrival documentation against biosecurity requirements • Verification of compliance to biosecurity requirements of travellers • Application of intervention tools e.g. communications, searches, detector dogs, x-ray • Collection of information relating to pathways and effectiveness of interventions
Post-border activities	<ul style="list-style-type: none"> • Investigative activity (including surveillance and monitoring of persons of interest once they move beyond the border process) • Processing of the reporting that is completed (i.e. activity and information reports) including review and management of entities/alerts/profiles • Post-seizure analysis (including supporting frontline briefing processes) • Debriefing processes for significant operations/events • Information-sharing with other agencies/administrations • Storage and disposal of seized goods • More involved analysis and intelligence processes (i.e. strategic assessments, analysis and refinement of profiles and alerts) 	<ul style="list-style-type: none"> • Review and management of high-risk travellers • Verification of the process for the disposal of risk goods seized from travellers • Investigations into non-compliance • Compliance monitoring and analysis to measure performance of pathways

5.1.2 The level of activity delivered in relation to different types of travellers

40. Customs and MPI do not deliver the same level and type of activities for every type of traveller. For some, there is limited amount of direct interaction – crew on cargo vessels have noted that they rarely see a Customs or MPI officer.
41. Customs and MPI may have different motivations and reasons for interacting with different types of travellers.
42. Different legislative definitions of ‘arrival’ set different limits on the types of travellers subject to the Levy. For example, under the Biosecurity Act 1993, the biosecurity component of the Levy cannot be charged on travellers who do not disembark from a maritime vessel. This narrows the scope of leviable travellers for MPI, but also recognises that biosecurity officers have little or no interaction with travellers that do not leave vessels. In comparison, Customs has a greater interest in crew and passengers on vessels.

Table 4: Types of travellers and the nature of interaction by agencies

	Customs	MPI
Commercial air passengers	Pre-border risk assessment At border screening and search	Pre-border risk assessment for high risk passengers At border risk assessment, search and screening (x-ray/dogs)
Commercial aircrew	Pre-border risk assessment At border screening and search	Pre-border risk assessment for high risk passengers At border risk assessment, search and screening (x-ray/dogs)
Air passengers and crew in secure transit areas	Pre-border risk assessment There may be direct interaction within the secure area.	No interaction
Cruise ship passengers	Pre-border risk assessment At border screening and search (100% of those immigrated). Risk profiling and interventions for travellers in transit (i.e. deemed to hold a visa).	Full screening (including x-ray and dogs) of all landing passengers that leave the vessel at every port Risk profiling and targeted interventions for passengers in transit
Cruise ship crew	Pre-border risk assessment Risk profiling and interventions for travellers in transit	Full screening (including x-ray and dogs) of all landing crew that leave the vessel at every port Risk profiling and targeted interventions for crew in transit
Crew (and passengers) on mercantile vessels and aircraft	Pre-border risk assessment Targeted operations can be undertaken based on assessed risks.	As per commercial aircrew and passengers above
Travellers on small craft (eg private yachts)	Pre-border risk assessment. 100% interaction	Pre-border risk assessment. 100% interaction
Travellers on vessels that do not land in New Zealand (eg ironsand at Taharoa)	Pre-border risk assessment. Zero physical interaction	Pre-border risk assessment

Travellers on vessels that cross 12 nm limit but do not leave EEZ or interact with other craft.	Exempt from requirement to submit arrival or departure documentation ⁶	No interaction [Not subject to Biosecurity Act definition of arrival]
Military aircraft and vessels	NZDF personnel on military orders are not subject to immigration requirements However, risk assessment and screening is performed	Biosecurity risk assessment for craft, crew and passengers – can be cost-recovered if performed offshore

5.1.3 The indirect costs of these activities

43. There is also a range of indirect costs associated with the delivery of activities at the border. This relates to:
- a. **Operational Support areas:** Supporting Operations - Surveillance (post-border trapping), Planning, Scheduling
 - b. **Corporate Support:** Human Resources, IT Applications, Accommodation, Finance, Legal, Communications and Strategy
 - c. **Capital-related costs:** Depreciation and capital charge on assets
44. Activities funded through the Levy include the costs before, at and after travellers cross the border, and it will include indirect costs. The method of allocating indirect costs will be disclosed as part of regular reporting.

5.2 EXEMPTIONS TO THE POLICY

45. In general, the application of exemptions will undermine the objectives of the policy by reducing efficiency, effectiveness and equity objectives. Overall, our preferred option is to limit the number of exemptions as far as possible. There is no waiver option provided in the legislation and therefore all exemptions will need to be specified in the levy order.
46. If large groups of travellers are made exempt, the costs will either be spread across other travellers, or through alternative means (i.e. from the Crown), if this relates to a large, unrelated group of travellers that may substantively change the cost for levy payers.

5.2.1 Approaches to Levying crew

Crew on passenger aircraft and vessels

47. Under similar arrangements within New Zealand and overseas, crew on passenger aircraft are generally exempted from the requirement to pay departure taxes. Where cost-recovery arrangements are in place, the costs of processing crew are met by passengers (this is the case, for example, with the Passenger Security Charge). Submitters have strongly argued that:
- a. the Levy proposal is inconsistent with other international arrangements

⁶ Regulation 16 of the Customs Regulations Customs and Excise Regulations 1996.

- b. the costs of the Levy will be passed onto passengers anyway
 - c. it will unfairly affect airlines with large numbers of New Zealand-based crew (other crew would remain in transit and not be liable to pay the Levy); and
 - d. around 40 percent of cruise crew do not actually leave the vessel while in New Zealand.
48. However, from a border-management perspective, both Customs and MPI consider that members of the crew pose the same potential risk as paying passengers. Both Customs and MPI can and do identify instances of non-compliance by crew. While crew cross the border much more regularly than other travellers, there is also a greater familiarity with systems and processes which can result in accidental non-compliance, as well as deliberate attempts to evade border controls.
49. Therefore, it is appropriate from an equity perspective that the Levy is applied to crew as well, and that the costs generated by crew are recovered from crew (or at least by the operator responsible). This also ensures horizontal equity with the treatment of commercial vessels where there are no paying passengers (if they are not made exempt).
50. From an efficiency perspective, it is more appropriate to spread the costs over all travellers, rather than exempting specific classes. This reduces the scope for distortions, and ensures that those that give rise to the need for the service are required to pay.
51. From an effectiveness perspective, there is less scope for avoidance of the Levy if it applied to all travellers. However, this would place a greater administrative burden on carriers who would need to put systems in place to identify those who disembark and those who do not, and separate Levy payments would need to be based on different numbers of travellers. This would also move away from the principle of a more broad-based Levy.
52. From a legitimacy perspective, both options have merit:
- a. if crew are not exempt, the cost per traveller is transparent and understood by both operators and passengers; however
 - b. if crew are made exempt, and these costs are passed on to the passenger, then passengers would have a clearer understanding of the actual cost of the Levy, rather than part of the cost being recovered separately through the ticket price.

Assessment criteria (1 (does not meet objectives) – 5 (strongly meets objectives))	Levy crew	Exempt crew	
Policy objectives:			
• Equity/fairness	4	3	
• Efficiency	3	3	
• Effectiveness	3	4	
• Legitimacy	4	4	
Critical Success Factors:			
• Strategic fit	Yes	Yes	

• Satisfies cost recovery principles	Yes	Yes	
• Feasibility/practicality	Yes	Yes	

Crew on mercantile vessels and aircraft

53. Crew on mercantile cargo vessels and aircraft are subject to pre-border risk assessment by Customs and MPI. This means that MPI and Customs may only attend where risks are identified, or passengers and crew must be immigrated.
54. Submitters noted that mercantile vessels only berth at ports for short periods, and crew may not even come ashore. However, there are no controls on the movement of crew on and off vessels. Furthermore, there is no information available on the crew that do come ashore – unless they are disembarking from the vessel and are subject to immigration requirements.
55. Despite this, there is a much wider range of possible interactions than other modes where travellers can generally expect to interact a Customs or MPI officer. However, substantial resources can be applied as part of specific operations in the maritime space.
56. It is appropriate to continue to build a stronger understanding of the risk across the maritime environment to inform how Levy rates should be set in the longer term. This would reflect the average cost per traveller of administering the border system and making sure that resources can be applied as and where risks are identified. This will be considered again as part of the 2018 review of the Levy.
57. Establishing a separate category of Levy for commercial crew does add additional complexity; particularly due to the fact that no information on the number of crew that physically leave the vessels to inform the calculation of the MPI component of the Levy. There are approximately 57,000 mercantile crew arriving each year on around 2,500 voyages.

Assessment criteria (1 – 5)	Levy crew	Exempt crew	
Policy objectives:			
• Equity/fairness	4	3	
• Efficiency	3	4	
• Effectiveness	3	4	
• Legitimacy	4	3	
Critical Success Factors:			
• Strategic fit	Yes	Yes	
• Satisfies cost recovery principles	Yes	Yes	
• Feasibility/practicality	Yes	Yes	

Recommended approach

58. On balance, agencies recommend that the Levy should not be applied to crew. This is because it would be costly to establish systems to collect information on those who do

not disembark from vessels, as well as the difficulties in justifying cost-recovery based on the level of activity delivered, which varies for each agency.

5.2.2 Other exemptions

59. Table 5 below sets out our recommendations for the other travellers that should be made exempt from the Levy and the rationale for this for each group. The treatment of the costs of exempting these travellers is outlined in section 5.3.2.

Table 5: Other travellers made exempt to the Levy

Traveller	Rationale	Comment
Any air passenger or crew member in transit through New Zealand who does not leave the transit/arrival/departure areas of the airport	A passenger in transit through New Zealand who does not leave the transit or arrival or departure areas of an aerodrome.	While less activity is undertaken, agencies do screen all arriving passengers – and may intervene. In the event that a transit passenger leaves the secure areas, they would be liable to pay the Levy
Young people aged under two	These travellers do not usually generate Customs or biosecurity work, and it would therefore be unfair to apply a charge to them.	Costs are still incurred in relation to these individuals, though these are minimal.
Passengers travelling on any vessel or aircraft being used specifically for the military, diplomatic, or ceremonial purposes of any Government	This applies to travel undertaken in the course of their duty and on New Zealand Defence Force aircraft or vessels, as well as visits by heads of state and other VIPs.	Costs may still be incurred and military flights do carry non-military passengers.
Passengers and crew travelling on any aircraft or ship used for the purposes of the National Antarctic Programme of any contracting party to the Antarctic Treaty.	New Zealand has a number of bilateral treaties which impose an obligation to facilitate entry to Antarctica.	Any imposition of the Levy could be seen as inconsistent with these obligations
Emergency events: people rescued at sea or who seek temporary relief from stress of weather	This includes, for example, people who arrive in New Zealand due to bad weather, or medical emergencies.	No intent to arrive, but must still report to Customs officer. It would also be unfair to charge the vessel for rescues.
Travellers on any aircraft or ship used specifically for the purposes of a humanitarian mission organised or carried out by any government	This is consistent with the treatment of travellers being used for military, diplomatic or ceremonial purposes.	Costs may still be incurred.
Travellers on vessels that cross 12 nm limit but do not leave EEZ or interact with other craft. [CUSTOMS ONLY]	These people are liable for the Levy because they arrive from a place outside New Zealand.	These travellers are exempt from the requirement to submit arrival documentation entering or departing from New Zealand. No Customs or MPI resources would be applied.

5.3 ALLOCATION OF COSTS

60. There are several options for how the costs should be recovered through the levies. This includes:

- a. one levy based on the total costs divided by the total number of liable individuals (a national average)
 - b. differentiated levies based on the mode of travel (i.e. Air/Cruise)
 - c. differentiated levies by location – to reflect the differences in costs of delivering services
 - d. whether the costs of exempt travellers should be recovered from other Levy payers.
61. Costs are driven, to some extent, by traveller choices. Entering or departing New Zealand from remote locations can also add costs that would otherwise not be incurred by Customs or MPI. However, it is essential that agencies maintain the flexibility to direct resources to respond to emerging risks and service demands, rather than being constrained by a fixed level of resources available for each mode. This will be reviewed over time.

Assessment criteria (1 – 5)	Nationally averaged charge	Differentiated based on mode	Differentiated by location
Policy objectives:			
• Equity/fairness	2	3	4
• Efficiency	4	3	2
• Effectiveness	4	3	2
• Legitimacy	3	4	5
Critical Success Factors:			
• Strategic fit	Yes	Yes	No
• Satisfies cost recovery principles	Yes	Yes	Yes
• Feasibility/practicality	Yes	Yes	No
		Recommended option	

5.3.1 Differences in costs by mode, arrival and departure

62. The pre- and post-border costs of activities are applied regardless of the mode of travel. Table 5 below sets out the average costs of processing by mode. As demonstrated below, the cost per traveller on cruise ships (both passenger and crew) is higher by around \$4.00. This reflects the additional activities that MPI must undertake in relation to cruise ships, where biosecurity officers must assess risks at each port.
63. Customs has not identified a substantial difference in costs by travel mode if crew are subject to the Levy. However, this does change if cruise ship crew are made exempt from Levy, because of the higher ratio of cruise ship crew to passengers. In addition, the level of resources applied to manage arrival processes (approximately 72 percent) is much greater than for departures.

5.3.2 Treatment of the costs of exempt travellers

64. The Border Clearance Levy is a mechanism for recovering the costs of clearance activities – as such, it is not necessary to draw a direct link between the services provided and the individual charged, however this would be desirable. In this respect, it can be argued that it is appropriate that the marginal costs of the exemptions outlined in Table 5 are borne by other users.
65. However, there are limits to this approach. If air and cruise ship crew were made exempt, it is still appropriate that these costs are met by passengers – given the logical connection between these crew and their passengers.
66. This would result in the following increases in Levy rates:
- a. air and other: from \$18.07 to \$18.76 per passenger
 - b. cruise: \$26.29 to \$30.85.
67. It is important to recognise that the proposed rates for cruise are higher than what was consulted on (a range of \$21.60 - \$22.80). There is a risk that in applying a higher than consulted rate on cruise ship passengers. This point was emphasised as part of consultation discussions.
68. However, there is less scope to justify this if further exemptions such as crew and passengers on cargo vessels are adopted. There is little clear connection between these costs and other travellers, and it reaches a level where it is disproportionate to recover these costs. If these travellers are made exempt, Customs and MPI recommend that funding of around \$1.1 million per annum should be sought from the Crown.

5.3.3 Alternative charging arrangements may be considered in future

69. Customs and MPI will consider alternative charging arrangements where the costs of providing a higher level of service are identified. This includes, for example:
- servicing ad-hoc arrivals or remote locations where the costs are substantially higher than the average cost
 - establishment costs for new and restart airports (as per paragraph 137 below)
 - requests for higher levels of service (e.g. VIP processing).
70. Where the levy is applied, only the additional costs will be recovered through alternative mechanisms.

5.4 LEVY COLLECTION MECHANISM

71. While individuals will be liable for paying the Levy, there are options for the collection process. Where practical, it is preferable that the Levy would be incorporated in the price of tickets and paid by a collector – generally the airline or cruise company. This makes it substantially more convenient for travellers to meet their obligations, and reduces the risk of non-compliance. There are three options:
- a. **Pull model:** Customs or MPI would issue a monthly invoice, based on identified passenger and crew volumes for the previous month, using the data collected by

Customs. The collector would have the opportunity to reconcile payment with the data it holds.

- b. **Push model:** Collectors would provide a monthly return based on their assessment of how much is owed, with the opportunity for a wash-up later in the month. This is consistent with the model managed by the Civil Aviation Authority.
- c. **The turnstile option:** the individual is required to pay directly when crossing the border.

72. The key consideration between the push and pull mechanisms is which one has the least administrative impact on the collectors. The risk in implementing the pull option is that collectors will argue that they do not have the systems in place to administer returns on arrivals (albeit they manage this for departures). Under either option, the expectation would be that both parties act to check and validate the amount owing.

73. The pull arrangement is already in place in the commercial aviation sector. The Civil Aviation Authority issues invoices for its passenger charges on the basis of passenger movements provided by Customs.

Assessment criteria (1 – 5)	Pull	Push	Turnstile option
Policy objectives:			
• Equity/fairness	3	3	3
• Efficiency	5	2	1
• Effectiveness	4	2	2
• Legitimacy	4	4	3
Critical Success Factors:			
• Strategic fit	Yes	Yes	Yes
• Satisfies cost recovery principles	Yes	Yes	Yes
• Feasibility/practicality	Yes	Yes	Yes
	Recommended option		

74. The pull mechanism is the preferred option. Under this arrangement Customs will issue invoices based on information that has been provided by operators. For commercial airlines, invoices will be issued on a monthly basis; for other craft and vessels, invoices will be issues on a voyage-by-voyage basis.

75. Returns with additional information will be required where additional information is required to determine whether or not the Levy is payable. This includes, for example: number of travellers claiming the exemption for tickets purchased prior to 1 January 2016.

5.4.1 Collection of departures costs on arrival

- 76. As part of consultation, a number of maritime submitters suggested that Levying only once in a voyage would simplify the process, rather than collecting the main component upon arrival, and then collecting a further amount of around \$3 per passenger upon departure.
- 77. Having one invoice covering both components would be simpler for both collectors and for Customs in administering the Levy. This is less of an issue for commercial airlines – the Levy payable on arrivals and departures can be calculated on the basis of passengers processed each month. The airline sector has indicated that it does not support applying the Levy on arrivals only.
- 78. However, it would be necessary to adopt a consistent approach – otherwise travellers that arrive on a maritime mode (e.g. cruise ship) and then leave on a commercial airline would pay the departures component twice.
- 79. There are potential problems with this approach – it may mean that some travellers that leave the country and do not return do not contribute to the costs incurred by Customs as part of their departure – this would instead be paid by those that arrive in New Zealand and do not leave again. On balance, the number of travellers in such a category is likely to be minimal, particularly over time.
- 80. We propose continuing to collect the Levy on departing travellers, as this is consistent with the provisions of the legislation. However, as means of providing an administratively simple solution, we will look to provide the opportunity for collectors to meet their obligations within one invoice at arrival. If they choose not to, they will be issued a separate invoice upon departure.

Assessment criteria (1 – 5)	Collect on arrivals only	Collect on arrivals and departures	
Policy objectives:			
• Equity/fairness	3	4	
• Efficiency	4	2	
• Effectiveness	4	2	
• Legitimacy	2	4	
Critical Success Factors:			
• Strategic fit	Yes	Yes	
• Satisfies cost recovery principles	No	Yes	
• Feasibility/practicality	Yes	Yes	
		Recommended option	

5.5 SETTING THE AMOUNT OF THE LEVY

81. There are several options for setting the amount of the Levy:
 - a. specifying the actual amounts in the Levy order for a specified period
 - b. specifying a formula which can enable incremental adjustments, if required revenue or expenditure changes
 - c. specifying the maximum amount of the Levy, to limit the extent of any increases without full consultation to amend the Levy Orders.
82. To provide certainty, we recommend setting actual rates for the first two-and-a-half years; these are set out in the table below. If crew are made exempt as set out in the Cabinet paper, these rates assumes that the crew are exempt and the costs of aircrew will be passed on to passengers, and crew on commercial vessels will be met through Crown funding.
83. The main parameters of the Levy will be reviewed and reset on a triennial basis. It will incorporate forecasts based on the current service delivery model and cost structure. The expenditure estimates do include new costs: including future servicing of new places of first arrival (i.e. cruise ships and charter flights), schedule changes, increasing service expectations, and new risks.
84. The Levy rates will be calculated on the basis of dividing:
 - a. the estimated annual costs separately incurred by MPI or Customs (taking into account any shortfalls or over-recovery in previous years); by
 - b. the estimated total number of leviabile travellers in that period.
85. To provide certainty for stakeholders, this formula will be constrained by a maximum rate, allowing an increase of up to 5 percent if either travel volumes are lower than anticipated or expenditure plans change. This provides flexibility to reduce Levy rates if over-recovery is identified. However, if increases to the Levy rates above the maximum are required, the respective Levy Orders would need to be amended. It is appropriate that these are subject to greater scrutiny and feedback from affected stakeholders.
86. The resulting rates are set out in Table 6 below. More detailed information on how rates have been calculated is included as Appendix Two on page 37.

Table 6: Actual rates for 1 January 2016 to 30 June 2018 and maximum rates that will apply from 1 July 2018

	Mode	Actual rate per traveller	Maximum rate (@ 5%)
Customs	Arrivals Air and other	\$7.45	\$8.80
	Arrivals Cruise	\$9.93	\$17.90
	Departures Air and other	\$2.93	\$7.80
	Departures Cruise	\$3.88	\$3.10
MPI	Air and other	\$8.38	\$10.40
	Cruise	\$17.04	\$4.10
Total	All except...	\$18.76	\$19.70
	Cruise	\$30.85	\$32.40

5.6 IMPLEMENTATION TIMING

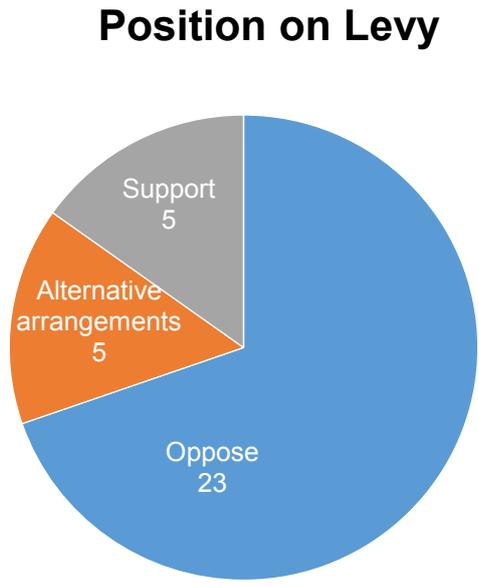
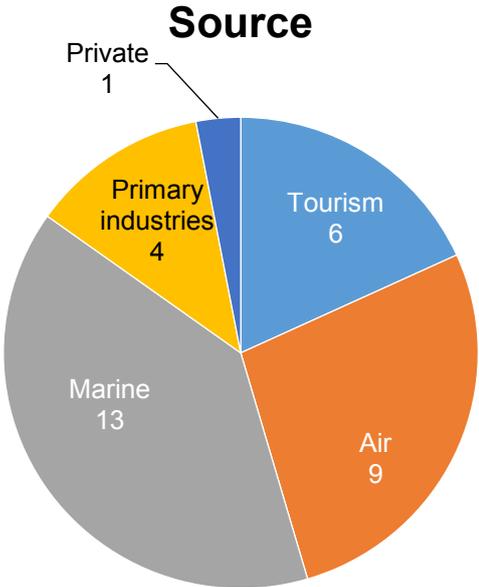
87. All travellers will be liable to pay the Levy from 1 January 2016. However, collectors will not be in a position to include the Levy in the price of tickets purchased before the final Levy order is issued (expected in November 2015).
88. Therefore, we recommend making passengers that purchased tickets before 1 January 2016 exempt from the requirement to pay the Levy. We will work with collectors to identify those travellers that purchased tickets before this date. This may require additional effort in the early stages to separate out which passengers are liable for the Levy and which are not.
89. Customs and MPI will continue to work with affected stakeholders, including identified collectors to ensure that transaction costs can be minimised, or collectors recover costs transparently.

6 Consultation

6.1 PUBLIC CONSULTATION

90. Public consultation took place from 16 June to 28 July 2015. The consultation document contained the following proposals:
- all travellers (both passengers and crew) will be required to pay the Levy unless there is a compelling reason not to
 - the Levy would be collected, where practical, as part of ticket prices by passenger airline and cruise ship operators, and collected directly from travellers at the point of arrival and departure on other craft (e.g. private yachts or aircraft)
 - the Levy would be collected on tickets purchased on or after 1 January 2016
 - the Levy would be set at different rates for arriving and departing passengers to reflect differences in costs between these two groups
 - rates would be set for air and other travel at between \$17.80 to \$19.00 per travellers (passengers and crew), and for cruise travel at \$21.60 to 22.80.

91. During the consultation period, Customs and MPI officials met with representatives from 45 separate companies and industry groups. This included:
- a. eight international airlines, as well as the Board of Airline Representatives of New Zealand (BARNZ)
 - b. the New Zealand Airports Association, as well as seven airports
 - c. the Tourism Industry Association of New Zealand, Travel Agents Association of New Zealand, Tourism Export Council, Holiday Parks Association, Motels Association, Regional Tourism Associations NZ, NZ Māori Tourism, Bay of Plenty Tourism
 - d. Cruise New Zealand, the Cruise Line International Association, Carnival Australia, Royal Caribbean Cruises
 - e. shipping agents, Customs Brokers and Freight Forwarders Federation of New Zealand (CBAFF) and two ports
 - f. yachting and small craft representatives including NZ Marine, the Island Cruising Association and luxury yacht agents
 - g. primary industry representatives: Kiwifruit Vine Health, Horticulture NZ, Pipfruit NZ and Federated Farmers.
92. In total 33 submissions were received. Of these:
- a. five were in full support: these were primarily from the primary industries, but also included New Zealand Māori Tourism
 - b. five sought different arrangements in their areas
 - c. 23 opposed the introduction of the Levy: these submitters represent those industries most affected by the Levy (airlines, cruise lines and the tourism industry).



93. The following section summarises the key feedback received in relation to each of the eight questions, as well as the following additional issues raised by submitters:
- a. the rationale for the Levy
 - b. the unanticipated impacts of introducing the Levy
 - c. the treatment of GST
 - d. the funding of activities delivered by Customs on behalf of other government agencies.

6.1.1 Exemptions to the Levy

Crew

94. Nine stakeholders argued that crew should be exempt from the Levy on the grounds that:
- a. it is inconsistent with other international arrangements
 - b. it may not be possible to pass these costs on to passengers on competitive routes
 - c. it will unfairly affect airlines with large numbers of New Zealand-based crew (crew in transit will not be subject to the Levy)
 - d. most cruise crew will not leave the vessel.
95. Crew on commercial vessels may not leave ships and often do not interact with Customs or biosecurity officers when they do.

Age

96. Three submitters (Qantas, Cruise Lines International and Carnival Australia) suggested that the age exemption could be set at 12. This is consistent with the approaches in Australia and the UK. Those younger than 12 generally travel with families and it would minimise impacts on this market.

Vessels crossing the 12 mile limit

97. Some vessels (e.g. fishing boats) will cross the 12 mile nautical limit, but will return to a New Zealand port without interacting with MPI or Customs. Under the Customs and Excise Act definition, travellers on these craft would be subject to the Levy.
98. Submitters sought an exemption on the grounds that no interaction occurs and such vessels are exempt from the requirement to submit arrival and departure documents.

Passengers and crew travelling to sub-Antarctic islands

99. Heritage Expeditions must clear Customs and MPI because passengers land at Macquarie Island – which is part of Australia. These landings occur under specific permit conditions.

Humanitarian rescues

100. It should be made clear that if a vessel rescues people, they do not become liable for the Levy once they arrive in New Zealand.

101. Support exemption on humanitarian grounds – such as unintended arrivals, refugees and incoming Urban Search and Rescue (USAR) teams.

6.1.2 Differentiation by transport mode or location

Differentiation by mode

102. There was strong support for the levy to be differentiated by travel mode – i.e. airlines do not want to subsidise other clearance activities.

Differentiating by location

103. We proposed not differentiating the levy by location. This was generally supported in submissions as it would add additional complexity and could lead to smaller locations with a higher per-passenger cost getting a decline in visitors. New and restart airports can be managed separately through powers provided in the Airports (Cost Recovery for Processing of International Travellers) Act 2014.

Rates for trans-Tasman routes

104. Emirates and Qantas suggested that the Government should consider lower rates for trans-Tasman routes given the price sensitivity of travellers on these routes. This was not supported by BARNZ on the grounds that it added complexity.

6.1.3 Transitional arrangements for tickets purchased before 1 January 2016

105. Airlines said that it was not practical to separate out information on when each individual purchased a ticket. This would require substantial investment in systems for a limited purpose.
106. BARNZ has proposed working with Customs and MPI to agree to a profile of ticket sales over 2016 that will reflect the approximate split between those that purchased tickets before and after 1 January 2016.

6.1.4 Arrangements for other modes

107. Horticulture NZ noted that it is important that the Levy for small craft does not discourage arrival declaration.

6.1.5 Levy collection mechanism

108. Most submitters preferred to be invoiced directly by MPI or Customs instead of through CAA, rather than providing a separate return.

6.1.6 Collecting the levy on arrivals and departures

109. We proposed a levy on arrivals and departures, to reflect the costs incurred on arriving and departing passengers. However, to make collection simpler, seven submitters suggested applying the Levy at one point only – most suggested this should occur on arrivals.

110. This was not supported by the airline sector.

6.1.7 Timing of implementation

111. Most submitters recommended the Government take further time to assess the potential impacts of the Levy, and to allow more time for implementation.

112. The cruise industry has raised concerns about its ability to implement from 1 January 2016, due to Australian requirements to publish ticket prices inclusive of all costs. Carnival Cruise has estimated that the costs of publishing a new set of brochures would be around AUD\$1.4m and would expect to incur a further cost of AUD\$1m as a result of confusion over the changes in price. The cruise industry has sought a deferral until at least 1 July 2016.

6.1.8 Costs of collection

113. A range of submitters have indicated that there will be costs, and have indicated that they are likely to ask for a rebate (of around 3 percent) from Customs/MPI for collecting the Levy. This would be consistent with practices in other countries, such as Australia, Papua New Guinea, Samoa and Tonga, where operators collect levies or taxes on behalf of the government.

114. Shipping agents have suggested that there is little scope to recover administration costs from their clients.

6.1.9 Transparency and accountability

115. The need for strong transparency and accountability was emphasised in the majority of submissions. In particular, stakeholders want to have a more informed view of cost structures and planning to have an assurance that resources are being used responsibly.

Joint advisory group

116. Three submitters supported the establishment of a joint advisory group to review the performance of the Levy over time. This group should provide oversight for the Levy on behalf of all interested stakeholders

Sector working groups

117. Cruise and airline stakeholders have expressed a desire for ongoing conversations – both for an assurance on how the Levy is being used, but also to determine how they can support voluntary compliance to lower overall costs.

Performance measures

118. Current performance measures are only focused on commercial air lines, and are of limited value, particularly from a customer perspective. Stakeholders are willing to work with Customs and MPI to establish metrics that are more suitable.

Primary industries' views

119. Primary industries noted that there is scope to report on traveller compliance in other modes – an assurance on the effectiveness of traveller clearance will also influence their decisions to commit to Government Industry Agreements.

6.1.10 Matters to be addressed in the post-implementation review

120. Submitters suggested the following areas should be considered as part of the planned review:

- a. whether there is any undue impact on international travellers, and on those transport operators responsible for collecting the Levy

- b. whether costs could (or should) be more closely aligned with costs associated with certain transport modes and/or with clearance activities at certain locations
 - c. what further steps can be taken to improve the effectiveness of Levy collection arrangements
 - d. the impact on economic growth both nationally and regionally
 - e. an assessment of whether the results attained by Customs and MPI against each of their performance metrics have improved or deteriorated.
121. Qantas has sought a commitment from the New Zealand Government to freeze the charge amount with a view to reducing or even withdrawing the charge in 2018.

6.1.11 The rationale for the Levy

122. Submitters had mixed views but were generally of the view that full cost recovery was not justified. The New Zealand Airports Association suggested that the changes to the Act did not mean the Levy was set in stone – the Government still needs to establish evidential basis to justify any Levy as cost recovery, and not as an unauthorised tax. NZ Airports submits that simply taking existing Crown appropriations as evidence of the costs of the activities to be funded by the Levy does not establish the necessary evidential foundation.
123. A number of submitters recognised that there was potentially a case for sharing the costs.
124. These views were countered by the primary industries and New Zealand Māori Tourism who saw it as fair that travellers should meet these costs.
125. The International Air Transport Association (IATA) and other aviation submitters have also suggested that the Levy contradicts ICAO conventions, which prohibit charges on travel.

6.1.12 Unanticipated impacts

126. Submitters are not convinced that the Government has fully taken the impacts of this decision in account. Five submitters recommended that the Government delay implementation until 1 January 2017 to fully assess the overall impacts of the Levy.
- a. IATA provided figures stating the Levy would cost the tourism industry between \$183m and \$196m, and between 1,591 and 1,702 jobs.
 - b. The Levy would further weaken airlines' already fragile profitability, and it will make the trans-Tasman route one of the most heavily taxed in the world
 - c. cruise lines will make commercial decisions – New Zealand is already a costly choice, and if they can generate a larger profit elsewhere they will shift schedules from the 2017/18 season – this could result in a loss of around 20 voyages by 2018/19 – at an estimated economic impact of \$85.2 million.

6.1.13 GST treatment

127. Seven submitters suggested that because the Levy is directly associated with international transportation services, it should not be subject to GST, in line with the

zero-rating of transport services under section 11(a) of the Goods and Services Act 1985.

6.1.14 Funding of activities delivered by Customs on behalf of other government agencies

128. Two submitters (Air New Zealand and Coalition Against Travel Tax) suggested that tax should not be used to fund duties that Customs carries out on behalf of other agencies, such as:
- a. checking for non-payment of fines (Ministry of Justice) or unpaid child support (Inland Revenue)
 - b. acting as delegated Immigration Officers under the Immigration Act 2009.

6.2 DEPARTMENTAL CONSULTATION

129. The Ministry of Foreign Affairs and Trade has been consulted to determine whether the proposals are consistent with New Zealand's international obligations under the ICAO Convention and relevant International Maritime Organisation conventions. MFAT has advised that the proposal is consistent with international conventions.

7 Conclusions and recommendations

130. Customs and MPI recommend that the Levy be implemented with the following features:
- a. activities funded through the Levy include the costs before, at and after travellers cross the border, and it will include indirect costs
 - b. costs should be allocated on a nationally averaged basis, with the exception of Cruise, due to the additional costs incurred by MPI
 - c. the Levy will be collected on the basis of data submitted to Customs, and collectors will be invoiced on a monthly or voyage by voyage basis
 - d. crew on passenger aircraft and vessels and mercantile vessels should be made exempt from the Levy
 - e. other travellers should be made exempt where the costs incurred are minimal or other policy objectives are met (as set out in Table 5 on page 15)
 - f. the actual amounts of the Levy should be set for the first 30 months (two and a half years), and then be made subject to a maximum to ensure that reductions due to over-recovery can be made effectively, while constraining agencies' powers to increase rates without undertaking full consultation
 - g. the Levy will be implemented from 1 January 2016, but provision should be made to exempt passengers who purchased their tickets before that date.
131. Customs and MPI will continue discussions with key stakeholders, and provide regular, detailed, reporting which sets out a performance view that balances both compliance and service delivery performance with the costs borne by Levy payers. These discussions will also support wider work with each industry sector to respond to changing risk profiles and to support initiatives to improve voluntary compliance.

8 Implementation plan

8.1 LEVY ORDERS

132. In order to give effect to the Levy, Levy Orders must be made by Order in Council which will prescribe implementation details. This will include:
- a. returns to be provided to enable amounts of the Levy payable to be calculated, determined, or verified - this will include passengers that purchased tickets before 1 January 2016, and passengers that do not disembark from cruise vessels
 - b. extension of time for payment of the Levy, and the conditions put on this
 - c. penalties in the case of late or non-payment of 8 percent plus 2 percent additional per month
 - d. specifying the records which must be kept - collection agents will be required to keep records for seven years for the purpose of determining whether an Order is being complied with
 - e. appointment and remuneration of auditors.
133. It is expected that this order will be made by November 2015.

8.2 LINKAGES TO OTHER REGULATORY FRAMEWORKS

134. The Airports (Cost Recovery for Processing of International Travellers) Act 2014 sets the framework for recovering the costs of services delivered by Customs, MPI and then Aviation Security Service at new and restarting international airports.
135. The enabling regulations have not yet been promulgated. These will be made in such a way to ensure that the costs collected through these different mechanisms do not relate to the same activities.⁷

9 Monitoring, evaluation and review

136. The need for transparency and accountability for the performance of the Levy was strongly emphasised in consultation. We intend to implement a set of arrangements to provide a balanced scorecard for performance of the levy, consisting of financial information, performance effectiveness and service delivery.
137. Table 7 below sets out a time key timings for reviewing the Levy. As indicated, we intend to provide an initial report with more detailed information on costings and the design of charges in mid-November. This will be updated regularly after this.

⁷ This is explicitly provided for in section 140AA of the Biosecurity Act 1993 and section 288B of the Customs and Excise Act 1996.

Table 7: Key forward dates and events

Date	Event
Mid-November 2015	Initial report on Border Clearance Levy: providing more detailed information on costings and the design of charges.
1 January 2016	Border Clearance Levy implemented
1 July 2017	End of first full financial year: review of costing and revenue assumptions
Early 2018	Review of the operation of the Border Clearance Levy – to inform how rates should be set from 1 July 2018.
1 July 2018	End of 30 month period (2.5 years). Customs and MPI may update rates to reflect changes in revenue and expenditure within the parameters set in Levy Order
1 July 2019	End of first three year cycle – reset rates based on update revenue and expenditure planning.

9.1 MONITORING AND REPORTING

9.1.1 Financial monitoring

138. As costs (and volumes) are not static, it is important that levies are reviewed on a regular basis to ensure they remain appropriate, and that the assumptions upon which they are based remain valid.
139. Both agencies will use memorandum accounts to manage fluctuations in revenue and expenditure, while inflows and outflows will be monitored on a monthly basis. Customs expects to carry out a simple review each financial year to ensure that revenue and costing assumptions remain valid, and that the overall balance of the memorandum account is trending towards zero. As MPI can only transfer surpluses or deficits into the next financial year, it will need to take into consideration the calculations for the following year.
140. We will seek to limit the frequency of changes to levy rates, so as to provide certainty to users and collectors. However, to avoid the risk of amassing substantial surpluses if volumes are higher than anticipated, we intend to set a maximum set of rates within the Levy Orders.
141. A review will be conducted every three years, as per the Auditor-General’s guidelines (Charging fees for public sector goods and services, 2008). This will ensure the Levy remains fit-for-purpose and that the objectives are still being met, as well as ensuring that expenditure is still aligned with revenue.
142. This will also be an opportunity to provide, for example, ongoing checks to assure users that they are receiving value-for-money, as well as responding to requests for improved levels of service from all (or some users). We will also consider alternative cost-recovery mechanisms where a differentiated level of service is sought by some users.

9.1.2 Regular reporting

143. We will use a modified form of the Australian Cost Recovery Implementation Statement (Department of Finance, 2014). This is now mandatory in Australia and offers a useful framework for describing and reporting on cost recovery.

144. The key elements of this statement are:

- a. background information on the activity, including the outputs that the activity will produce to achieve government policy outcomes
- b. details of the Government policy approval to charge for the activity
- c. details of the legislation authorising the charges
- d. an explanation of how the activity was costed
- e. an explanation of the design of charges
- f. financial estimates for the activity (i.e. expenses and revenue)
- g. reporting on financial and non-financial performance of the activity
- h. key forward dates and events, including scheduled reviews and updates
- i. that it is regularly updated, so interested stakeholders can monitor performance against a consistent framework.

145. We expect to issue the first of these reports before the Levy is introduced in mid-November 2015. This will be updated regularly after that.

9.1.3 Performance measures

146. Customs will continue to report on the basis of existing performance measures:

Measure	Performance target
The value of harm avoided through Customs drug seizures	\$100-\$200 million per annum
Losses incurred by importers of illegal goods(e.g. drugs, proceeds of crime) through intervention by Customs	Equal to or more than \$10 million per annum
Percentage of travellers who rate their experience of immigration processing as being good or very good	Equal to or more than 85% of those surveyed
Percentage of international air passengers satisfied or very satisfied that Customs processes passengers quickly and conveniently	Equal to or more than 77% of those surveyed
Percentage of arriving international air passengers who exit Customs primary processing points within 45 minutes of arrival	Equal to or more than 90%

147. For MPI, the relevant performance target is:

Measure	Performance target
Percentage of international air passengers that comply with biosecurity requirements by the time they leave the airport	98.5%

148. There is scope to consider other cross-departmental performance measures to provide a more customer-specific view of performance which could include:

- a. focusing on queue time information – this would provide more complete data on the overall flow of a passengers through airports, that could be disaggregated by agency, rather than relying on the “90 in 45 measure”
- b. how informed customers are on the process to identify ways to further promote voluntary compliance
- c. expanding survey Customs regularly conducts regular surveys of arriving international air passengers.

149. It is important that these surveys and measures are developed in order that the customer perspective is reflected in how queue times are reported and how the efficacy of the levy is judged. passengers do not necessarily distinguish between AvSec, Customs, and MPI. It is therefore suggested that future surveys need to incorporate a Border Services perspective. There is also a need to expand the survey of passengers to include departing international air passengers and passengers on Cruise Ships.

150. Work is already underway on some of these measures, and we will look to incorporate this information as it becomes available.

9.1.4 Establishing an Advisory Group

151. It is important that users have a role in monitoring the performance of the Levy. This will ensure that MPI and Customs are held accountable for the delivery of services paid for by travellers, and that there are appropriate measures in place to balance improvements in service delivery, compliance activities and costs.

152. A range of stakeholders have a clear interest in the activities delivered by MPI and Customs at the border. But the focus of their interest is quite different. Without adequate controls on costs, the risk is that all interests may prioritise service delivery and/or compliance over cost. Therefore, it is essential to capture the voice of the traveller in decisions to implement Levy, as a means of constraining costs (imposing the levy on crew as well as passengers means that operators will have a closer interest in this).

153. Given the wide range of stakeholders and interests, a Levy Advisory Group would not be effective in monitoring and improving services. However regular reporting and one-to-one meetings (where appropriate) will be arranged by MPI and/or Customs, to assist, for example, with the implementation of the Levy and ongoing service improvements.

9.2 EVALUATION AND REVIEW

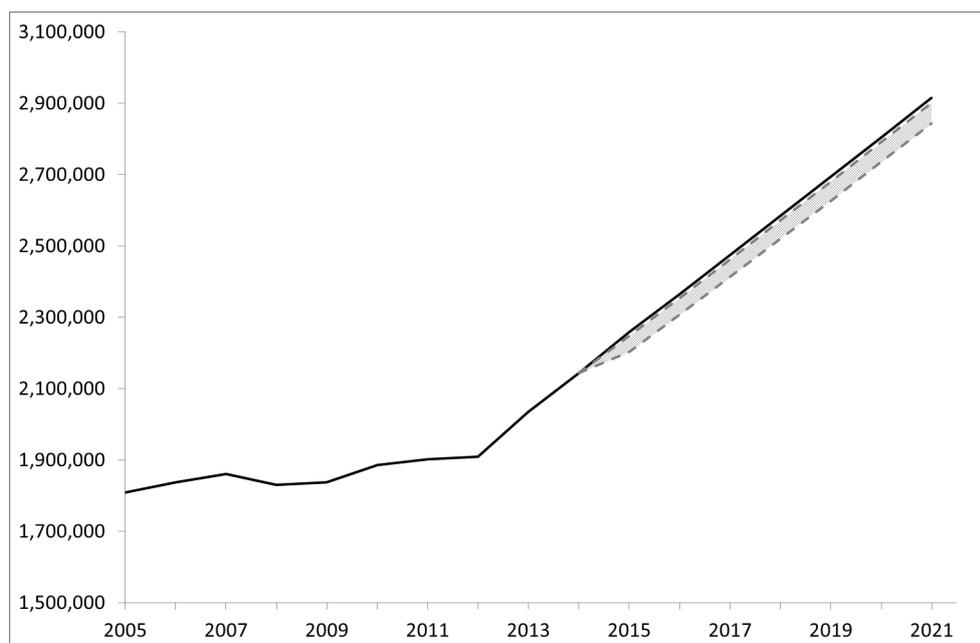
154. Customs and MPI will undertake ongoing reviews of the performance of the Levy. The review in early 2018 will include the following:
- whether Levy rates could (or should) be more closely aligned with costs associated with certain transport modes and/or with clearance activities at certain locations
 - what further steps can be taken to improve the effectiveness of Levy collection arrangements.
 - concepts around trusted travellers, including improvements to support crew compliance.
155. We intend to work alongside other agencies with responsibilities at the border, such as Immigration New Zealand, and transport agencies (including Aviation Security Service and Maritime New Zealand) to ensure consistency of approach across the border sector.

10 Appendix One: Tourism Impacts

10.1.1 Travellers to New Zealand

156. Tourism is important to New Zealand's economy. Tourism contributes (directly and indirectly) 7.1 percent of New Zealand's Gross Domestic Product (Statistics New Zealand, 2014, p. 11). Around half of this is generated by international tourists. In March 2014, international tourism expenditure was estimated at \$10.3 billion. This equates to 15.4 percent of New Zealand's total exports of goods and services.
157. The Ministry of Business, Innovation and Employment's (MBIE) latest tourism forecast notes that New Zealand's international tourism sector is in good health – even at a time that the strong New Zealand dollar might have been expected to have slow growth in some markets. It also indicates a very positive outlook for growth through to 2021 (Ministry of Business, Innovation and Employment, 2015).
158. Despite this positive outlook, many of the submissions on the Levy expressed concern about the level of impact the Levy may have on tourism. They have suggested that imposing the levy, particularly on high-volume, low cost routes, such as the Trans-Tasman route will have a substantial impact on demand (noting that there is already a high level of price competition on these routes).
159. MPI and Customs commissioned Sapere Research Group to undertake a provisional assessment of the potential impact of the Levy based on demand elasticities (McWha & Murray, 2015).
160. The report considered the effect of a price increase on visitor numbers from seven key markets: namely Australia, United Kingdom, United States, Japan, South Korea, China and Germany.
161. The report found that the Levy could reduce the forecast increases in visitor numbers by between 11,000 and 56,000, or a reduction of between 0.5 percent to 2.4 percent on the forecast growth rate of 5.4 percent. This could reduce the forecast increase in tourist expenditure by \$51 million (0.9 percent compared to current forecasts). This would be a one-off impact only in the first year of implementation. Growth is expected to return to the levels forecast by MBIE after the first year.
162. Figure 2 below illustrates the MBIE forecast for total arrivals from the seven key markets. The level of the impact on forecast growth is shown by the shaded area.

Figure 2: Total visitor arrivals



Source: MBIE, McWha & Murray (2015)

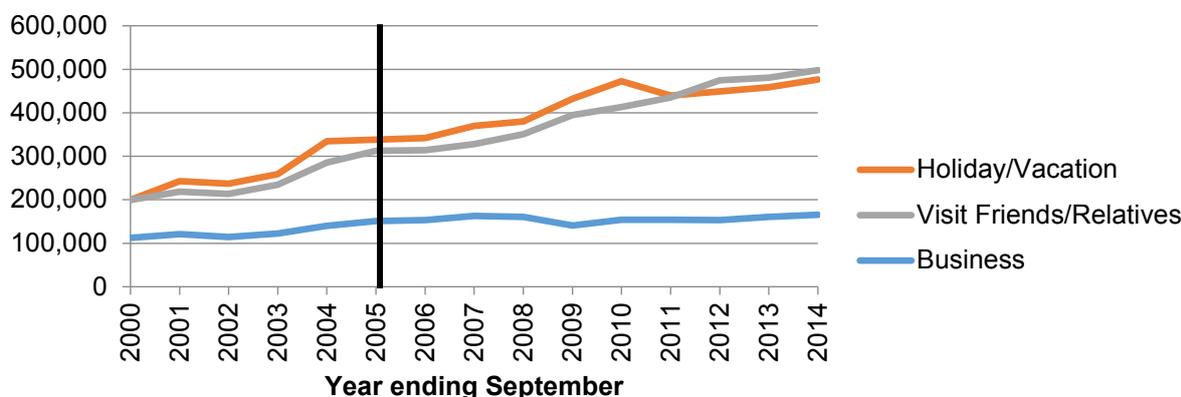
163. It must be recognised that the report did not consider other factors that would affect traveller decisions such as price of travelling to other countries, changes in exchange rates, security issues and levels of disposable income.
164. For example, the extent of changes in the exchange rate between Australian and New Zealand dollars means that the average Australian tourist spend of \$1,881 NZD would have cost \$1873 AUD on 5 April 2015 and would cost \$1656 AUD on 1 July 2015. This difference (\$217) is around ten times the cost of the Levy on a return ticket.
165. In our view, this should be considered as representing the maximum level of potential impact, given the range of other factors that also influence the decision to travel. The impact of the price of the airfare is just one of a range of factors in driving tourism demand. Income, wealth and confidence are also other important drivers – if not more important, as consumers need income to finance purchases. In this context, it is assumed that income is the most important driver of tourism demand, followed by price drivers such as exchange rate and airfares.

Comparisons with the introduction of the Passenger Security Charge

166. The Aviation Security Services' Passenger Security Charge took effect on 1 October 2005 and was applied at an initial rate of \$8.31 per departing international air passenger (GST incl.). This offers a useful comparison for the possible effects of the Border Clearance Levy.
167. Figure 3 below shows the annual numbers of Australian residents arriving in New Zealand before and after the implementation of this charge (marked in black on the graph). It is difficult to conclude that there was a substantial impact on travellers' choice due the introduction of this charge:
- the visiting friends and relatives category (which is most sensitive to price changes) did not grow in the year following the charge

- b. the numbers of those travelling to New Zealand for holidays had already slowed over 2004/05

Figure 3: Arrivals of Australian Residents by purpose, Oct 1999 - Sept 2014



Source: Statistics New Zealand, International Travel and Migration data

168. It also important to note that the Australian Passenger Movement Charge also increased from \$AU30 in 1999 to \$AU55 in 2012.⁸

10.1.2 Travellers from New Zealand

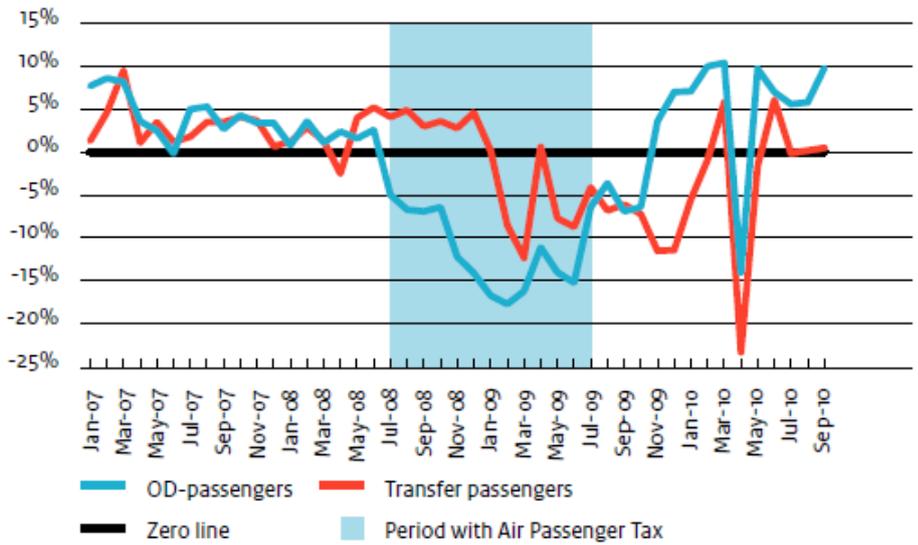
169. Our analysis has primarily focused on the potential impacts on New Zealand's tourism industry. However, there is a similar risk that the Levy may also affect New Zealanders decisions to travel overseas. This may be positive from a domestic tourism perspective, but has other potential impacts.
170. New Zealanders are regarded as one of the most price sensitive to air fare changes in the Australian market.
171. We understand that the Ministry of Transport is intending to address this as part of work to be completed by mid-2016.

The Dutch experience

172. The evidence from other countries is that there can be an impact. For example, the Netherlands introduced a departure tax of €11 to €45 (\$NZ18 to \$NZ75) in 2008. This tax only lasted a year, because of the decline in Dutch travellers using Dutch airports, particularly Schiphol, which experienced an 8 percent reduction in volumes (around 2 million travellers). While some chose not to travel by air, around half choose to use airports in other countries, such as Belgium and Germany, where there was no charge (KiM Netherlands Institute for Transport Policy Analysis, 2011). According to various airports, airline companies and other stakeholders, publicity played a key role in the extent of this effect.

⁸ Stepped increases were also made in 2003 and 2008.

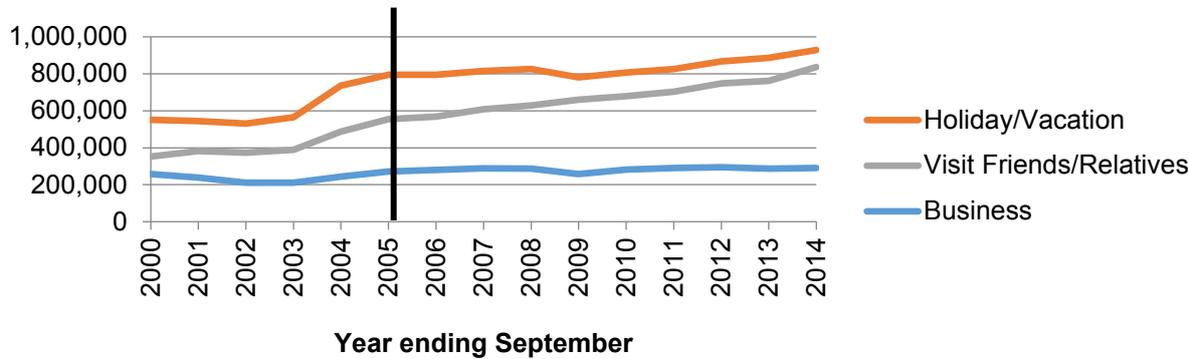
Figure 4: Growth in number of Originating-Destination (OD) and Transfer Passengers at Schiphol compared with same month in previous year



Source: Schiphol Group, presented in KiM Netherlands Institute for Transport Policy Analysis (2011, p. 35)

- 173. It is important to recognise that this occurred within quite a different context:
 - a. the tax was introduced as the Global Financial Crisis took hold
 - b. the location of the Netherlands within the wider European transport network meant that there were considerably more choices available to travellers.
- 174. This is part of the reason why we recommend adopting a nationally-averaged charge, rather than differentiating levy rates by location. While the distances between current international airports make substitution unlikely, this may not be the case in the future.⁹
- 175. As a comparison with Figure 3 above, Figure 5 below shows New Zealanders’ departures before and after the implementation of the Passenger Security Charge in October 2005. Again, there is little to suggest a substantial impact on travellers’ choices.

Figure 5: New Zealand-resident traveller departures by purpose, Oct 1999 - Sept 2014



Source: Statistics New Zealand, International Travel and Migration data

⁹ The additional costs establishing and delivering services at new and restart international airports will be recovered separately. This will be subject to separate regulations.

11 Appendix Two: Calculation of Levy Rates and indicative memorandum account

Charge component	Estimated volumes of travellers	Planned costs	Base year for cost calculation	Rate (GST excl.) Revenue/volume
Biosecurity				
<i>Cruise</i>	163,300	\$2.8 m	2014/15 only	\$17.04
<i>Air and other</i>	5.305 m	\$44.5 m	2014/15 only	\$8.38
Customs				
<i>Cruise - Arrivals</i>	202,500	\$2.008m	Averaged over 3.5 years	\$9.93
<i>Cruise - Departures</i>	202,000	\$0.781m	Averaged over 3.5 years	\$3.88
<i>Air and other - Arrivals</i>	5.771m	\$42.935m	Averaged over 3.5 years	\$7.45
<i>Air and other - Departures</i>	5.717 m	\$16.697m	Averaged over 3.5 years	\$2.93

Indicative Customs and MPI border clearance forecast cost and cost recovery

		2015/16	2016/17	2017/18
		Estimated (\$m)	Forecast (\$m)	Forecast (\$m)
Expenses				
Biosecurity*		49.349	51.148	52.972
Customs		59.102	64.033	65.911
	Total	108.4509	115.1809	118.8829
Revenue				
Biosecurity	Crown**	37.722	13.465	
	Third party	11.785	38.028	52.884
	Total - MPI	49.507	51.493	52.884
Customs	Crown**	45.330	15.750	
	Third party	15.110	47.256	65.586
	Total - Customs	60.440	63.008	65.586
	Total	109.947	114.501	118.470
Annual balance		1.496	(0.680)	(0.413)
Cumulative balance		1.496	0.816	0.403

The assumptions for the memorandum account table are as follows:

***Expenditure**

Expenditure projections are based on 2014/15 costs, plus an expected 2% per annum for cost pressures and projected traveller volumes. Customs costs also include the ongoing operating costs associated with the investment in automated border processing.

****Levy Revenue**

Most tickets are purchased weeks or months in advance of travel. If cost recovery is implemented on 1 January 2016, we have estimated that approximately 25 percent of the annualised amount will be generated in Levy revenue in 2015/16, and approximately 75 percent in 2016/17.

This table does not account for the costs of travellers exempted from the Levy that will be funded by the Crown.

Traveller Volumes

Traveller volumes have been taken from Customs base data, adjusted for the proposed exemptions, and projected using forecast tourist volumes from the Ministry of Business, Innovation and Employment. Air passenger forecasts have been updated since previous consultation. This has resulted in the following forecast of traveller volume increases by transport mode.

	2016/17	2017/18	2018/19
Air	3.9%	3.8%	3.8%
Cruise	5.5%	5.7%	6.1%
Other	3.1%	0.0%	0.0%
Total	3.1%	4.0%	4.1%

Review Period

The Levy rate will be reviewed after the end of the 2017/18, after the first complete year of cost recovery. The review will cover the levels and methods of cost recovery as well as any shortfall in cost recovery for any of the preceding 3 financial years, or make allowance for any over-recovery of costs.

12 Works Cited

- Department of Finance. (2014). *Australian Government Cost Recovery Guidelines* (Third ed.). Canberra.
- KiM Netherlands Institute for Transport Policy Analysis. (2011). *Effects of the Air Passenger Tax: Behavioural responses of passengers, airlines and airports*. Ministry of Infrastructure and the Environment (Netherlands).
- McWha, V., & Murray, K. (2015). *Effects of an increase in travel ticket price on New Zealand tourism*. Sapere Research Group.
- Ministry of Business, Innovation and Employment. (2015). *New Zealand Tourism Forecasts 2015-2021*. Wellington: Ministry of Business, Innovation and Employment.
- New Zealand Customs Service and Ministry for Primary Industries. (2015). *Implementing the Border Clearance Levy: Consultation Regulatory Impact Statement*. Retrieved from <http://www.mpi.govt.nz/document-vault/8202>
- New Zealand Productivity Commission and Australian Productivity Commission. (2012). *Strengthening trans-Tasman economic relations: Joint study*.
- Office of the Auditor-General. (2008). *Charging fees for public sector goods and services*. Wellington: Office of the Auditor-General.
- Schiff, A., & Becken, S. (2011). Demand elasticity estimates for New Zealand tourism. *Tourism Management*, 32, 564-575.
- Statistics New Zealand. (2014). *Tourism Satellite Account: 2014*. Wellington: Statistics New Zealand.
- The Treasury. (2002). *Guidelines for Setting Charges in the Public Sector*.