I refer to your request dated 7 June 2019, pursuant to the Official Information Act 1982 (the Act):

"I request all information provided to Ministers in the last 12 months, other than the Cabinet Paper published on the Maritime NZ website, in respect of the change to the levies that fund Maritime New Zealand.

I understand that ministers were provided with additional briefing papers and I include any such briefings in the scope of this request. My request is not limited to such additional briefing papers."

Three briefings and four related attachments fall within the scope of your request.

Your request in relation to the four attachments is refused, as the documents are publicly available either on the Ministry of Transport website or the Maritime New Zealand website.

Some information is being withheld under the following sections of the Act:

- section 9(2)(a), to protect the privacy of natural persons
- section 9(2)(b)(ii), to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
- section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinions by employees of any department or organisation in the course of their duty.

The appendix to this letter sets out the documents that fall within scope of this request, and the applicable grounds where information is being withheld or your request is refused under the Act.

I have considered whether there are any countervailing public interest grounds to release the information that has been withheld and have concluded that there are none.
The Ministry publishes its Official Information Act responses and the information contained in our reply to you will be published on the Ministry website. Before publishing we will remove any personal or identifiable information.

You have the right under section 28 of the Act to make a complaint to the Ombudsman about my decisions to withhold information. The contact address of the Ombudsman is:

Office of the Ombudsman
PO Box 10152
WELLINGTON 6143

Yours sincerely

Tom Forster
Manager, International Connections
<table>
<thead>
<tr>
<th>No.</th>
<th>Date</th>
<th>Title</th>
<th>Document</th>
<th>Comment</th>
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<tr>
<td>1</td>
<td>8 October 2018</td>
<td>Maritime Funding Review 2018/19 -- Draft Cabinet Paper</td>
<td>Briefing</td>
<td>Some information withheld under section 9(2)(a), 9(2)(b)(ii) and 9(2)(g)(i)</td>
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<td>2</td>
<td></td>
<td>Maritime Funding Review</td>
<td>Cabinet paper (attachment to document 1)</td>
<td>Refused under section 18(d)</td>
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<tr>
<td>3</td>
<td></td>
<td>Review of Maritime NZ Funding for 2019/20 – 2024/26</td>
<td>Consultation document (attachment to document 2)</td>
<td>Refused under section 18(d)</td>
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<td>4</td>
<td>21 February 2019</td>
<td>Maritime funding review 2018/19 – Briefing</td>
<td>Briefing</td>
<td>Some information withheld under section 9(2)(a), 9(2)(b)(ii) and 9(2)(g)(i)</td>
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<td>Stage 2 Cost Recovery Impact Statement Maritime New Zealand 2018/19 funding review -- changes to the Maritime Levy and fees</td>
<td>Cost recovery impact statement (attachment to document 4)</td>
<td>Refused under section 18(d)</td>
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<td>2 May 2019</td>
<td>Maritime Funding Review 2019</td>
<td>Briefing</td>
<td>Some information withheld under section 9(2)(a)</td>
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<td>7</td>
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<td>Maritime Funding Review 2019</td>
<td>Cabinet paper (attachment to document 6)</td>
<td>Refused under section 18(d)</td>
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Maritime Funding Review 2018/19 – Draft Cabinet Paper

Reason for this briefing
To provide you with a draft Cabinet paper requesting approval for Maritime New Zealand to release a consultation document which presents proposals arising from its current funding review.

Action required
Sign the attached Cabinet paper and undertake cross-party consultation.

Deadline
Wednesday 24 October 2018.

Reason for deadline
To enable the paper to be lodged with the Cabinet office by 25 October 2018, for consideration by the Cabinet Economic Development Committee on 31 October 2018.

Contact for telephone discussion (if required)

<table>
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<tr>
<th>Name</th>
<th>Position</th>
<th>Telephone</th>
<th>First contact</th>
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<tbody>
<tr>
<td>Tom Forster</td>
<td>Manager, International Connections</td>
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<td></td>
<td>Principal Adviser</td>
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<td>Senior Adviser</td>
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MINISTER’S COMMENTS: Withheld under section 9(2)(a)

Date: 8 October 2018  Briefing number: OC180725
Attention: Hon Phil Twyford  Security level:

Minister of Transport’s office actions
☐ Noted  ☐ Seen  ☐ Approved

☐ Needs change  ☐ Referred to

☐ Withdrawn  ☐ Not seen by Minister  ☐ Overtaken by events
Purpose of report

1. To request your agreement to lodge the attached Cabinet paper and consultation document resulting from the Maritime New Zealand funding review, prior to commencing cross-party consultation.

Comment

2. Maritime New Zealand is undertaking a funding review. As part of the review, it intends to release the attached consultation document, which contains proposals to change how Maritime New Zealand charges the maritime industry to fund its regulatory activities.

3. Maritime New Zealand reviews its funding every six years with a mid-point review occurring in the third year. The last full review took place in 2012, and there was an extensive mid-point review in 2015.

4. Maritime New Zealand receives funding from commercial maritime operators through a Maritime Levy, and from fees for some activities. The consultation document proposes an overall increase in revenue from the Maritime Levy and fees, with the Levy becoming more significant. Fees will actually reduce for most operators, because some activities currently funded by fees will instead be funded from the Levy. There will also be a simplification of fees, which will all be based on one hourly rate.

5. The consultation document proposes a complete overhaul of the method for calculating the Levy paid by each operator. This will provide a clear rationale for the levy, which the current method lacks.

6. Maritime New Zealand intends to issue the consultation document for a consultation period of ten weeks, to allow for the summer high season and Christmas break, as requested by industry.

7. You are empowered to recommend changes to levies, and to set fees by regulation, by the Maritime Transport Act 1994. With respect to changes to levies, the Act requires you to consult with the maritime industry as you consider appropriate.

The new levy methodology

8. The current method for calculating the Maritime Levy is the result of long historical tinkering. It does not use consistent criteria for different vessel types, has some apparent anomalies, and the full rationale for all its features is no longer known.

9. Maritime New Zealand commissioned consultants, Castalia Strategic Advisors, to design a new methodology for determining levies. Castalia recommends that the amount of levy payable for a vessel be determined by the risk its operation poses within Maritime New Zealand’s domain of responsibility.

10. Castalia determined that just three characteristics of vessels – gross tonnage\(^1\), passenger capacity and deadweight tonnage\(^2\) – could be reasonably used as proxies for calculating the value put at risk by operation of a vessel. This is the potential impact of something going wrong.

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\(^1\) A ship’s internal volume.

\(^2\) How much weight a ship can carry.
11. A further three characteristics – whether a vessel is foreign or domestic, whether (if domestic) it is a SOLAS<sup>3</sup> vessel, and (if foreign) how often it visits – are reasonable proxies for the likelihood of something going wrong.

12. Using these risk factors, and forecast shipping volumes, Castalia calculated the proportion of risk represented by each type of vessel, and how best to categorise them. The revenue needed for Maritime New Zealand to perform its levy-funded activities was then divided amongst the categories, and the vessels within them, to determine the rates at which the Maritime Levy should be paid. Actual levies are calculated using these rates and, for each vessel as appropriate, gross tonnage, passenger capacity, deadweight tonnage and length.

13. Castalia recommended that the method would work with only four vessel categories, but noted that more consideration of operational risk factors might justify further splitting up domestic vessels. Maritime New Zealand’s consultation with the sector confirmed this, resulting in five proposed categories:

- 13.1. Domestic non-SOLAS <24m
- 13.2. Domestic non-SOLAS >24m
- 13.3. Domestic SOLAS
- 13.4. Foreign Passenger
- 13.5. Foreign Cargo.

14. The proposed methodology is simple, consistent across all vessels, clearly based on the risk addressed by Maritime New Zealand’s activities, uses available information and is easy to administer.

**Effect of the new levy methodology**

15. The proposed change to Maritime New Zealand’s Maritime Levy methodology, which will result in levy increases for most operator groups, will place a greater burden on foreign cargo and passenger vessel operators than on domestic operators.

16. Maritime New Zealand also proposes to increase its Levy income by $10m to $32.4m in 2019/20. Of this, $3.54m will be borne by domestic operators, with the remaining $28.86m being taken from foreign operators.

17. The new model clearly allocates the levy burden according to risk, ensuring that larger operators pay more, as they do under the current model. These larger operators are also more likely to be able to absorb the additional levy costs, potentially passing them onto their customers. While domestic operators will make a greater levy contribution under the new model, this is partially offset by proposed changes to the Maritime New Zealand fee structure which will see previously fee-incurring services covered under the levy contribution.

**Most significantly affected domestic categories**

*Domestic passenger vessels*

18. The proposed levy methodology takes into account passenger capacity, which means that domestic ferry and charter boat operators that to date have been levied only on the basis of vessel size will see their levies increase, in some cases significantly.

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<sup>3</sup> Merchant ships subject to the design, construction and equipment requirements of the International Convention for the Safety of Life at Sea, 1974 (SOLAS).
19. This is a product of moving from a levy methodology that undercharged these vessels in comparison with larger passenger vessels (cruise ships and domestic SOLAS ferries) at the same time as the overall levy revenue target is being increased by around 50 percent.

20. The increases are, however, partly offset by reductions in seafarer certification fees and the proposed discontinuation of audit fees.

21. The net increase for common sizes of passenger vessel ranges from $2,190 for a 140 passenger vessel to $5,483 for a larger, 300 passenger vessel.

22. Operators of the large interisland ferries have previously complained that they could not understand the basis of their Levy liability, or why it was so big relative to higher risk fishing boats or smaller ferries. The proposed changes slightly reduce their Levy, provide a clear risk basis, and increase the Levy for large fishing boats and small ferries.

*Domestic fishing vessels*

23. Most of the fishing fleet comprises under-24 metre vessels that will see little or no net change to their Levy by $1,805.

**Most affected individual operators**

24. Withheld under section 9(2)(b)(ii) and 9(2)(g)(i)

25. Withheld under section 9(2)(b)(ii)

26. Withheld under section 9(2)(b)(ii)

27. Withheld under section 9(2)(b)(ii)

28. Withheld under section 9(2)(b)(ii)

29. Withheld under section 9(2)(b)(ii)

30. Withheld under section 9(2)(b)(ii)
31. This may represent a relatively small amount for the scale of the business, but without knowing its turnover, we lack context. Consultation is an opportunity to test this.

Risks

32. The Ministry agrees that Maritime New Zealand’s proposals, including the revised Maritime Levy methodology and hourly rate for fees, are reasonable. However, we note the following aspects of the consultation document:

32.1. The document is quite large and contains a lot of detail. Although the front part of the document has a good summary, this might discourage some stakeholders from engaging with the review. Maritime New Zealand’s view is that some parts of industry will be expecting this level of detail, and that it is necessary to ensure transparency.

32.2. Maritime New Zealand intends its proposed hourly rate to address the Regulations Review Committee’s recommendation that the basis for fees be clarified. Maritime New Zealand can show the proposed rate is reasonable using several different assessments, but the actual derivation of the rate is not explained. Maritime New Zealand’s analysis of what goes into each task found a range of hourly rates for different activities – these can be broken down into their components to show what is being paid for. The proposed single rate of $245 (including GST) is expected to recover the overall cost of these activities, but cannot similarly be broken into components.

32.3. The categories of vessel for calculating the Maritime Levy are based on proxies for exposure to risk (foreign or domestic, SOLAS, number of port visits), identified by Castalia as measures of the likelihood of something going wrong. These factors are also part of the calculation of Levy rates. Maritime New Zealand is concerned that mention of likelihood will confuse stakeholders and they might expect that actual individual risk should be taken into account, as it is for the Oil Pollution Levy. For this reason, the consultation document does not emphasis likelihood as a factor in the methodology which could also lead to misunderstanding that affects feedback.

Forthcoming budget bids

33. In addition to the proposals contained in the consultation document, Maritime New Zealand intends to ask you to submit Budget bids, and will itself seek further fuel excise duty (FED) funding, to fund some activities. These bids are briefly described in the consultation document and, although they are not part of the proposals being consulted on, their outcomes will affect the cost projections on which the other proposals are based.

   - Maritime New Zealand has been funded by the Crown up to 2019 to maintain a strategy and capability to respond to maritime pollution incidents other than oil spills, or where oil is not the only pollutant. Further funding is required to maintain this capability for the next 6 years.

33.2. Crown funding for the maintenance of classic (historic) lighthouses.
   - Maritime New Zealand owns 23 historic lighthouses. These are part of the aids to navigation (AtONs) network, but Maritime New Zealand also receives Crown funding to maintain the buildings’ significant cultural and heritage
value, and to ensure their safety for tourism and public recreation. Existing funding is not sufficient.

33.3. Crown funding to cover cost pressures attributable to Crown funded activities.

33.4. More FED funding to improve the safety of recreational boating.
   - Recreational boaties who have petrol powered boats pay FED, and that is the basis on which Maritime New Zealand receives Crown funding to promote safer recreational boating. That funding is not sufficient for Maritime New Zealand to deliver all the initiatives that will make a difference to the safety of recreational boating. It will be asking the Government for an increase in the current FED allocation over the 5 years between 2020/21 and 2024/25, under the separate review of FED funding planned by the Ministry of Transport for 2019.

33.5. FED funding for the Rescue Coordination Centre New Zealand (RCCNZ).
   - The RCCNZ is a business group of Maritime New Zealand which provides search and rescue coordination services for land, sea and air. Maritime New Zealand anticipates more demand for search and rescue services, an increase in the cost of external contracts, more equipment maintenance costs, salary adjustments, and a greater use of helicopters in search and rescue responses. It will be seeking additional Crown funding to cover those costs, under the separate review of FED funding planned by the Ministry of Transport for 2019.

Recommendations

34. The recommendations are that you:

   (a)  **sign** the attached Cabinet paper, seeking approval for Maritime New Zealand to release the attached consultation document about its funding review, for consideration by the Cabinet Economic Development Committee

   (b)  **agree** to lodge the Cabinet paper and attached consultation document with the Cabinet office by 25 October 2018, for consideration by the Cabinet Economic Development Committee on 31 October 2018.

**MINISTER’S SIGNATURE:**

**DATE:**

Page 6 of 6
Maritime funding review 2018/19 – Briefing

<table>
<thead>
<tr>
<th>Reason for this briefing</th>
<th>To provide you with a draft Cabinet paper requesting approval to make changes to regulations to implement the recommendations of Maritime New Zealand's funding review 2018/19.</th>
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<tbody>
<tr>
<td>Action required</td>
<td>Sign the attached Cabinet paper and undertake cross-party consultation.</td>
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<td>Deadline</td>
<td>Wednesday 13 March 2019</td>
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<tr>
<td>Reason for deadline</td>
<td>To enable the paper to be lodged with the Cabinet office by 10.00am, 14 March 2019, for consideration by the Cabinet Economic Development Committee on 20 March 2019.</td>
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Contact for telephone discussion (if required)

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MINISTER'S COMMENTS: Withheld under section 9(2)(a)

Date: 21 February 2019
Briefing number: OC190091
Attention: Hon. Phil Twyford
Security level:

Minister of Transport’s office actions

- Noted
- Seen
- Approved
- Needs change
- Referred to
- Withdrawn
- Not seen by Minister
- Overtaken by events
Purpose of report

1. To request your agreement to undertake cross-party consultation and lodge the attached Cabinet paper making recommendations resulting from the Maritime New Zealand funding review 2018/19.

2. The Cabinet paper seeks agreement to implement levy and fee changes for commercial ship operators by amending:
   2.1. Maritime Levies Regulations 2016
   2.2. Shipping (Charges) Regulations 2014
   2.3. Ship Registration (Fees) Regulations 2013
   2.4. Maritime Security (Charges) Regulations 2016

Comment

3. To fund its regulatory activities, Maritime New Zealand receives funding from commercial maritime operators through a maritime levy, and from fees for some activities. It reviews its funding every six years with a mid-point review occurring in the third year. The previous full review took place in 2012, with an extensive mid-point review in 2015.


5. You are empowered to recommend changes to levies, and to set fees by regulation, by the Maritime Transport Act 1994. With respect to changes to levies, the Act requires you to consult with the maritime industry as you consider appropriate.

6. Having completed public consultation on proposals arising from its 2018/19 funding review, Maritime New Zealand has finalised its recommendations without making any significant change to the proposals outlined in the discussion document.

7. Briefly, the proposals are to:
   7.1. increase the annual revenue Maritime New Zealand receives from fees and levies, to meet the costs of continuing to perform its current functions and activities and to meet additional government and sector expectations.
   7.2. remove fees for the routine audit and inspection of domestic maritime operators, which will henceforth be funded from the levy
   7.3. replace the five existing rates for activities that are charged for by the hour with a single hourly rate of $245 (GST incl)
   7.4. replace existing seafarer certification and endorsement fees (which range from $467 to $1,105) with a fixed fee of $368 (GST incl) – additional actual costs to be funded from the levy
   7.5. introduce a new method for calculating the annual levy paid by operators for each ship, which is clear, consistent and risk-based.

8. Maritime New Zealand’s budget forecasts, on which the levy proposal depends, anticipates that changes to fees and the maritime levy take effect from 1 July 2018.
Impacts

9. The current method of calculating the levy for each vessel is inconsistent across types of operation. As such, its rationale is unclear and, in some cases, actually lost to history. The proposed new method is clear and consistent. It is based on an analysis of risk that takes account of the value put at risk (size of ship, freight capacity, passenger numbers) and exposure to risk (domestic or foreign, type of ship, number of visits).

10. The proposed way to calculate the levy entails that larger operations pay a larger share of the overall levy. This distribution of the burden corresponds with operators’ ability to pay, and probably with their ability to pass on costs to many customers.

11. Most of New Zealand’s 1,600 domestic operators, which operate relatively small vessels, will experience a small increase in their levy contribution, which will be at least partly offset by a reduction in fees.

12. Foreign cargo and cruise ship operators will continue to pay around 90 percent of all maritime levies – which reflects the volume of international shipping.

13. The five Interisland ferries will see a small reduction in their annual levy.

Big levy increases for some operators

14. Some larger operators will face considerable levy increases. In particular, the current levy calculations do not take account of the risk to passengers on harbour ferries and large excursion vessels. These vessels are levied only on the basis of their length. Even so, the increased levy cost represents a small proportion of the cost of their services.

Consultation

17. Consultation did not reveal flaws in the rationale for the proposals. There was support for many of the changes, and objections mostly related to cost increases.

18. Some objections were raised about the proposed method for calculating the maritime levy. Operators who objected tended to argue that:

18.1. the size of their potential levy was not proportionate to the services they receive from Maritime New Zealand; or

18.2. the risk analysis in the calculation overstates their risk and should be adjusted to reduce their potential levy.

19. With respect to the former claim, the levy is not a fee for a service. The total levy pays for the provision of Maritime New Zealand’s activities, and it is proposed that the levy burden should be shared according to the risk that makes those activities necessary, not by who is directly affected by the activities.
20. The risk analysis in the proposed levy calculation is based substantially on the value put at risk by operation of each vessel. This is straightforwardly assessed using data that are already available for every vessel. Some operators argue that, because of their mitigation measures, this overstates their actual risk of a mishap. However, alternative more complex ways of assessing risk are not practical.

20.1. Because safety incidents are uncommon, there is limited data on which to base individual risk assessments, and highly contestable assumptions would have to be made about the nature of different operations.

20.2. Even if it is plausible that smaller operations have a higher actual likelihood of mishap, it would not be feasible to shift more of the levy burden onto operators less able to pay.

21. It should also be noted that the overall levy budget will increase — because it will cover some activities currently funded by fees, and because costs are increasing. The sort of tweaks to how the burden is shared that could perhaps be argued for would not make a big difference to the resulting levies.

Recommendations

22. The recommendations are that you:

(a) sign the attached Cabinet paper, seeking agreement to amend the Maritime Levies Regulations 2016, Shipping (Charges) Regulations 2014, Ship Registration (Fees) Regulations 2013 and Maritime Security (Charges) Regulations 2016 in order to implement levy and fee changes proposed as a result of the Maritime New Zealand Funding Review 2018/19, for consideration by the Cabinet Economic Development Committee

(b) agree to lodge the Cabinet paper with the Cabinet office by 14 March 2019, for consideration by the Cabinet Economic Development Committee on 20 March 2019.

MINISTER'S SIGNATURE: 

DATE: 23.2.19
Maritime Funding Review 2019

Reason for this briefing
To provide you with a draft copy of a Cabinet paper, which recommends the authorisation for submission to the Executive Council of the:

- Maritime Levies Amendment Regulations 2019
- Maritime Security (Charges) Amendment Regulations 2019
- Shipping (Charges) Amendment Regulations 2019
- Shipping Registration (Fees) Amendment Regulations 2019.

Action required
Review the draft Cabinet paper.

Deadline
Monday 6 May 2019.

Reason for deadline
The draft Cabinet paper is currently undergoing departmental consultation. This consultation period ends on Monday 6 May 2019, after which an updated Cabinet paper will be provided to you for the purpose of cross-party consultation.

Contact for telephone discussion (if required)

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<tr>
<td>[Redacted]</td>
<td>Solicitor</td>
<td>[Redacted]</td>
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<tr>
<td>Brendan Booth</td>
<td>Chief Legal Adviser</td>
<td>027 547 4391</td>
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<td>[Redacted]</td>
<td>Principal Adviser</td>
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MINISTER'S COMMENTS:
Date: 2 May 2019
Attention: Hon Phil Twyford
Security level: In-confidence

Minister of Transport's office actions
☐ Noted   ☐ Seen   ☐ Approved
☐ Needs change   ☐ Referred to
☐ Withdrawn   ☐ Not seen by Minister   ☐ Overtaken by events

Withheld under section 9(2)(a)
Purpose of report

1. To request your agreement to undertake cross-party consultation following the provision of an updated Cabinet paper when departmental consultation finishes on Monday 6 May 2019. The attached draft Cabinet paper looks to implement decisions made by the Cabinet Economic Development Committee on 3 April 2019.

2. The Cabinet paper seeks authorisation for submission to the Executive Council of the:
   2.1. Maritime Levies Amendment Regulations 2019
   2.2. Shipping (Charges) Amendment Regulations 2019
   2.3. Ship Registration (Fees) Regulations 2019
   2.4. Maritime Security (Charges) Regulations 2019 together referred to as the Amendment Regulations.

Background

3. To fund its regulatory activities, Maritime New Zealand (MNZ) receives funding from commercial maritime operators through a maritime levy, and from fees from those who require certification, approval, recognition, audit, inspection or other services. It reviews its funding every six years with a mid-point review occurring in the third year. The previous full review took place in 2012, with an extensive mid-point review in 2015.

4. The 2018/19 review concerned MNZ’s funding for 2019/20 through to 2024/25.

5. Following the review, and consultation with the industry on proposals arising from it, the Cabinet Economic Development Committee agreed, on 3 April 2019, that the total forecast revenue from the maritime levy must increase by $10 million a year from 2019/20 – 2021/22 and a further $3 million a year from 2022/23 to 2024/25 [refer DEV-19-MIN-062].

6. This increased funding is enable MNZ to meet the costs of continuing to perform its current functions and activities and to meet additional government and sector expectations.

7. Cabinet also agreed:
   7.1. to a revised maritime levy allocation methodology that addresses industry and Regulations Review Committee concerns that the rationale for the current methodology is not clear, consistent and transparent
   7.2. to replace the multiple existing rates for activities that are charged for by the hour with a single hourly rate of $245 (GST incl)
   7.3. to replace existing seafarer certificate and endorsement fees (which range from $467 to $1,105) with a fixed fee of $368 (GST incl) – with additional actual costs of processing applications to be funded from the maritime levy
   7.4. to discontinue, except for offshore installations, fees charged for routine maritime safety audits and inspections conducted in New Zealand that do not require follow up visits.
7.5. any seafarer certificate and endorsement fees not met by the new fees and all routine audit and inspection costs to be levy funded

7.6. the time and cost of any travel associated with conducting a feasible activity (except to an offshore installation or to an overseas location) would not be recovered through fees but would be levy funded

7.7. to simplifying the structure of chargeable activities

7.8. that vessels used routinely for search and rescue and emergency assistance purposes should not be exempted from the maritime levy. Instead, only vessels that become liable for the maritime levy because they enter New Zealand waters for the specific purpose of providing search and rescue or emergency assistance should be exempted

7.9. that the maritime levy will not apply to any vessel that is regulated under the Health and Safety at Work (Adventure Activities) Regulations 2016 (all of which are domestic non-SOLAS <24m vessels).

8. The Amendment Regulations give effect to these policy decisions. No material changes are proposed to what Cabinet agreed on 3 April 2019.

Impact of the Amendment Regulations

9. The current method of calculating the maritime levy for each vessel is inconsistent in its treatment of different categories of ship. As such, its rationale is unclear and, in some cases, actually lost to history. The new method agreed to by Cabinet is clear and consistent. It is based on an analysis of risk that takes account of the value placed at risk (size of ship, freight capacity, passenger numbers) and exposure to risk (domestic or foreign, type of ship, number of port visits).

10. The proposed way to calculate the levy results in larger operations paying a larger share of the overall levy. This distribution of the burden corresponds with, but is in no way based on, operators' ability to pay, and probably with their ability to pass on costs to many customers.

11. Most of New Zealand's 1,600 domestic operators, who operate relatively small vessels, will experience a small increase in their levy contribution, which will be offset by the fact that domestic operators will no longer pay audit fees and that seafarer certification fees will be reduced.

12. Foreign cargo and cruise ship operators will continue to pay around 90 percent of all maritime levies (although, percentage-wise, slightly less than they do now) – which reflects the volume of international shipping.

13. Some of the five interisland ferries will see a reduction in their annual levies.

14. For a small number of domestic passenger operators that have a high passenger capacity, levies will rise sharply due to the change in levy methodology. The increase is a product of correcting an anomaly in the existing levy methodology under which most domestic passenger vessels are levied on the basis of size, in contrast to Interisland ferries and cruise ships, which are currently the only passenger ships levied according to passenger capacity. Despite the levy increases seeming significant, they equate to no more than a few cents per passenger over the course of a year.
15. The proposed methodology is simple and consistent, and based on a clear measure of the value of what is placed at risk. It addresses the issues previously raised by complaints to the Regulations Review Committee about the maritime levy.

Legal authority

16. Section 191 of the Maritime Transport Act 1994 allows for the Governor-General, on your recommendation, to make regulations providing for the payment of maritime levies.

17. Section 445(1) of the Maritime Transport Act 1994 allows for the Governor-General to make regulations prescribing, or providing for the fixing of, fees or charges, or both.

18. Section 87 of the Ship Registration Act 1992 allows for the Governor-General to make regulations prescribing, or providing for the fixing of, fees payable in respect of any matter under the Ship Registration Act.

19. Section 76 of the Maritime Security Act 2004 allows for the Governor-General, on your recommendation, to make regulations prescribing, or providing for the fixing of, fees and charges payable in respect of security functions provided by, or security activities undertaken by, a government department or Crown entity.

Consultation

20. The draft Cabinet paper attached is currently undergoing a departmental consultation that ends on 6 May 2019. As Maritime New Zealand has already been consulted on the paper, and there have been no material changes since Cabinet made decisions on 3 April 2019, we are not expecting any major comments.

Next steps

21. Following departmental consultation we will provide you with an updated Cabinet paper on 6 May 2019.

22. In order for the Amendment Regulations to be in-force on 1 July 2019, the Cabinet paper would need to be lodged by 10am on 16 May 2019 for Cabinet Legislation Committee to consider the paper on 21 May 2019. Table one below outlines the steps needed to have the Amendment Regulations in-force by 1 July 2019. Failure to have the Amendment Regulations in-force by this date may create confusion in the sector, and will present financial and operational challenges for Maritime New Zealand.

Table one: Timeline to have the Amendment Regulations in-force by 1 July 2019

<table>
<thead>
<tr>
<th>Stage</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Departmental consultation on draft Cabinet paper</td>
<td>1 May 2019 – 6 May 2019</td>
</tr>
<tr>
<td>Your review of the draft Cabinet paper</td>
<td>Weekend bag of 4 – 5 May 2019</td>
</tr>
<tr>
<td>Ministry provides updated Cabinet paper</td>
<td>6 May 2019</td>
</tr>
<tr>
<td>following departmental consultation</td>
<td></td>
</tr>
<tr>
<td>Cross party consultation</td>
<td>6 – 16 May 2019</td>
</tr>
<tr>
<td>Lodge for Cabinet Legislation Committee</td>
<td>By 10am 16 May 2019</td>
</tr>
<tr>
<td>Cabinet Legislation Committee</td>
<td>21 May 2019</td>
</tr>
<tr>
<td>Executive Council</td>
<td>27 May 2019</td>
</tr>
<tr>
<td>Notified in the Gazette</td>
<td>30 May 2019</td>
</tr>
</tbody>
</table>
23. We continue to work with the Parliamentary Counsel Office (PCO) on the draft Amendment Regulations and will provide you with drafts on 6 May 2019. These drafts will still be subject to change as the PCO continues to refine them until final copies are presented at Cabinet Legislation Committee on 21 May 2019. This process includes the PCO carrying out its quality assurance processes.

Recommendations

24. The recommendations are that you:

(a) note the attached draft Cabinet paper

(b) agree to undertake cross-party consultation following the provision of an updated Cabinet paper when departmental consultation finishes on Monday 6 May 2019.

Solicitor

Brendan Booth
Chief Legal Adviser

MINISTER'S SIGNATURE:

DATE: 5-5-19

Withheld under section 9(2)(a)
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