

21 March 2018

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By email - [costrecovery@mpi.govt.nz](mailto:costrecovery@mpi.govt.nz)

**Re: Consultation – Cost Recovery Proposals targeting 1 July 2018  
Proposal 2: Extend the Border Clearance Levy Period**

Tēnā koe Bruce,

Tourism Industry Aotearoa (TIA) welcomes the opportunity to comment on Proposal 2 – Extend the Border Clearance Levy Period.

TIA is the peak body for the tourism industry in New Zealand. With over 1,500 members, TIA represents a range of tourism-related activities including hospitality, accommodation, adventure & other activities, attractions, retail, airports & airlines, as well as related tourism services.

[Tourism 2025](#), an industry-led, government-supported economic growth framework was launched in New Zealand in 2014 and has set an aspirational goal of reaching \$41 billion in annual tourism revenues by 2025. The industry's focus is on growing value faster than volume. The Tourism 2025 growth framework is based around five key themes which are: Insight, Connectivity, Productivity, Visitor Experience and Target for Value.

This framework was reviewed in 2016 ([Tourism 2025-two years on](#)). While the five themes of the framework remain unchanged, the emphasis in some focus areas has shifted. One of the actions that came out of the review is:

- *Reducing regulatory compliance burden* – Examine the regulatory environment applied to tourism and assess the effectiveness of these requirements in relation to the impost on tourism and the resulting benefits.

As part of our stakeholder consultation in preparation for this letter, TIA has engaged with members in the air transport sector and the cruise line sector.

Strategic Partners supporting TIA  
and the tourism industry

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## *Border Clearance Levy*

In 2015, TIA submitted on the consultation on the Implementation of the Border Clearance Levy (BCL), strongly opposing the introduction of the BCL.<sup>1</sup> In our opinion, border services clearly have a public good purpose and should therefore be funded from general taxation.

In 2016, TIA submitted on the discussion document on developing a Cost Recovery Framework for the Ministry for Primary Industries.<sup>2</sup> We were concerned that MPI's cost recovery framework may seek to legitimise what is in our view an unnecessary and unjustifiable tax on both New Zealand and overseas travellers and we were concerned that the proposed framework could be used to legitimise over-accumulation, such as is the case with the BCL. In our opinion, the tourism industry was being perceived as an easy target for Government revenue gathering.

TIA's CE Chris Roberts, together with other tourism representatives, met with Customs and MPI to discuss the BCL in February 2018. There was a commitment at that meeting to greater engagement with industry. One of the issues covered was the setting of the BCL period, including amending the MPI levy period to align it with the Customs BCL period.

The MPI Levy has been gazetted in February 2018, applicable from July 2018 to June 2019. We understand that if the proposal of extending the BCL period is agreed, the next levy period will be 24 months (July 2019 – June 2021) to align with the end of the current Customs levy period.

**TIA is supportive in principle of the proposal to amend the Border Clearance Levy to a levy period of up to 36 months, subject to addressing the issues below.**

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<sup>1</sup> Tourism Industry Association and the Coalition Against Travel Tax, *Submission to NZ Customs Service and the Ministry for Primary Industries on the Implementation of the Border Clearance Levy*, 28 July 2015 – as can be found on <https://tia.org.nz/assets/Uploads/PDFs/RS-CATT-submission-final-28-July.pdf>

<sup>2</sup> Tourism Industry Aotearoa, *Submission to Ministry for Primary Industries on the Discussion Document on Developing a Cost Recovery Framework for the Ministry for Primary Industries*, 21 July 2016 – as can be found on <https://tia.org.nz/assets/Uploads/TIA-submission-MPI-Cost-Recovery-Framework2.pdf>

### *Stability in levy rates*

Stability in the levy rate and the levy period is important for the industry. Airlines and cruise lines desire this as they set their prices well in advance. For example, cruise lines need to get their brochures and pricing into the market at least twelve months in advance. Changing the BCL period to up to 36 months means more certainty for the industry and as such makes it more likely that a cruise line can pass at least some of the cost of the BCL to their guests, instead of having to bear the cost themselves as prices once set cannot be amended. In support of this, it is essential for airlines and cruise lines to be informed of any changes to the levy as early as possible.

We understand MPI/Customs will work to a 4-6 month window in setting the BCL before it takes effect. We acknowledge that the agencies might prefer to set the levy closer to the date it takes effect to negate any changes in market conditions. However, to allow businesses to pass on any changes the earlier the notice, the better. Even six months advance notice is problematic given the need to get prices into the market early.

### *Forecasts*

As noted, MPI/Customs agreed with tourism representatives when setting the next levy period that proper engagement with the industry would take place. This includes disclosure of anticipated costs and visitor assumptions. We understand that MBIE's tourism forecast form the basis for MPI's projections. Other forecasts being used are:

- A growth rate in New Zealand travellers equivalent to the growth rate of overseas visitors;
- A growth rate in departing travellers equivalent to arriving travellers;
- A growth rate in cruise travellers derived from the actual growth in cruise travellers over the last two years, as reported by Stats NZ.

There are some concerns within the tourism industry about the forecasting models being used, and the difference between these forecasting models and industry forecasts. For example, the cruise sector is able to accurately forecast arrivals in the short term due to itineraries and berth bookings being made well in advance. TIA recommends for MPI/Customs to better align their forecasts with industry forecasts.

### *Stakeholder consultation*

We understand that Customs have agreed to improve both their annual reporting on the BCL and their engagement with the sector on this reporting. This would allow Customs to share trends in volumes, test assumptions about future volumes of passengers, performance against KPIs, how costs are tracking, and how changes in activity will impact on future costs. The industry agrees that this would be a good change and would like to see this formalised.

It was disappointing to see that in a recent response from Customs attention was drawn to the fact that neither MPI nor Customs has formal consultation obligations with regard to the BCL levy. In fairness, Customs also acknowledged the agencies are very willing to provide greater transparency and to regularly meet with industry.

We saw the unfortunate side of this lack of formalised consultation when the BCL was reviewed after its initial 30-month period with no consultation with industry. While the general election was certainly a complicating factor, the process reflected poorly on the agencies. I would like to draw your attention to Treasury's Guidelines for Setting Charges in the Public Sector (2017). In particular, it notes:

*In essence, consultation needs to be more than 'mere notification'. As a minimum:*

- *There should be sufficient time for genuine and considered feedback to be developed by the stakeholders;*
- *The information provided in a consultation process should be appropriate to the audience;*
- *The material used in consultation processes should include enough underlying cost data and accompanying analysis to enable stakeholders to understand the rationale for the proposed levels for charges; and*
- *Entities should genuinely consider how the feedback provided through the consultation process could change its advice.*

At present, the Director-General of MPI is able to amend the levy order (within the prescribed maximum) without any formal consultation requirement. We are concerned about this and we recommend for the order to be amended to require the Director-General to consult with stakeholders every time the levy is adjusted. This is particularly

important if the levy is only to be reset once every three years as the expenditure and revenue forecasts will affect passenger costs for a considerable period of time.

#### *Over/under accumulation of levy fees*

There is strong concern within the tourism industry about the over/under accumulation of levy fees. We understand that MPI will continue to monitor the financial performance and cost drivers of the levy annually, regardless of the levy period, and make adjustments as necessary.

We would like to see a model developed setting limits of under/over accumulation that trigger a review of the BCL before the end of the gazetted period. For example, a 10% or \$2m over-accumulation could be a trigger for a levy review. We strongly recommend for MPI/Customs to consult with the industry before establishing any such model. This consultation should be done before the next levy period (July 2019-June 2021) is set.

Aligned with this model is concern that interest is not accumulated on balances in the Memorandum Account. More than \$16m was over accumulated at the end of the previous period. While we acknowledge that interest is equally not applied to deficits in the account, it is our view that the mix of conservative forecasting combined with a practice of running Memorandum Accounts in the positive fuels the argument that acknowledgment of accumulated interest should be made when setting new levy rates.

#### *Conclusion*

Overall, TIA is supportive in principle of changing the levy period to up to 36 months due to the stability it provides for operators. We do have concerns as noted above. We request that the concerns are addressed in conjunction with proper consultation with the industry.

Please do not hesitate to contact us if you have any queries about our feedback.

Ngā mihi



Steve Hanrahan  
**Advocacy Manager Tourism Industry Aotearoa**