PCE Comment on Departmental Report – Report 4

MfE Recommendation/Topic		Comment	Recommendation
Natural resource levies			
1	General recommendation regarding drafting of levies provisions	As set out by the Tax Working Group,[1] resource rentals on the use of natural resources are a justifiable and efficient way of collecting revenue compared with other forms of taxation. Other benefits of natural resource levies include rationing the use of a scarce resource and ensuring that it is used to add the most value possible. OECD research demonstrates that New Zealand makes relatively little use of environmental taxation compared to our peers.[2] The resources in question are public (e.g. fresh water), so it makes perfect sense for users of that resource to contribute to public coffers. The alternative is not lower food prices as submitters imply, but instead that the value of that public resource becomes capitalised in land values.[3] Restricting or hypothecating the collection of levies to recovering certain costs in specific domains or management units may improve political palatability for the levies but have no evidential basis.	Overall, the amendments aim to ensure that natural resource levies are hypothecated for certain uses (e.g. cost recovery) in certain places. However, any justification for is entirely about political palatability. Many of the comments in this section will return to this point of an excessive focus on hypothecation.
2f	Regulations relating to natural resource levies NEB cl 313	Consistent with the purpose of levies (addressing overallocation/use in a management unit and covering costs of specified activities), the regional council should be able to pursue unpaid levies, enforce in the District Court, and be payable to the regional council.	Broaden MfE rec 2(f) so that unpaid levies and any interest are payable as a debt due to the entity that set the levy (not just the Crown) and enforceable in the District Court.

1 https://taxworkinggroup.govt.nz/resources/future-tax-final-report-vol-i-html.html#section-7
2 https://www.oecd.org/en/topics/policy-issues/tax-and-the-environment.html
3 https://www.otago.ac.nz/_data/assets/pdf_file/0019/263233/read-the-paper-079369.pdf

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4b	Regulations relating to natural resource levies NEB cl 313(2)(a), NEB cl 314(2)(c)	DR4, MfE rec 4, recommends that revenues from levies established in line with this purpose should also be able to be used "to cover the cost of activities that increase the availability of the resource". This is reasonable. Along similar lines, submitters (such as Dairy NZ) discussed the concept of qualitative limits, which would allow catchments other forms of environmental restoration other than directly dealing with overallocation. This might involve preparing collaborative catchment plans, undertaking other environmental restoration unrelated to overallocation and even buying back land or water rights.	Add to MfE rec 4b that the Bill should be explicit that levy revenues can be used to: • fund the preparation of collaborative catchment plans; • reduce demand for the resource through (for example) permit/consent/land buy backs; and • undertake other environmental restoration that may be unrelated to overallocation.
5a	Collection and spending of levy under clause 313(2)(b) NEB cl 334	The definition of the domains in the Bill is "a domain of the natural environment". As the NEB includes several different lists of domains, it is not clear how domains will be defined, and whether government and regional councils can reasonably divide their functions and duties into those domains.	Recommend the Committee request advice from officials – how tightly are domains defined? Would this prevent a levy on water use from being used to improve water *quality*?
5b	Collection and spending of levy under clause 313(2)(b) NEB cl 334	Compliance, monitoring, and enforcement involves a variety of tools and approaches that operate as a system to prevent limits from being breached. These tools cover the spectrum from public information, education and advice (which are often delivered through catchment groups), through to monitoring, investigations, advice, warnings, infringement notices and litigation. For compliance and enforcement to be effective, councils need to be able to use the full spectrum of tools. Not enabling cost recovery for investigations, public information, education and advice may drive councils to prefer more regulatory and hardline approaches to the softer tools to be enabled by these Bills, because councils will be able recover their costs for those hardline approaches.	Do not accept MfE rec 5b, so that the ability to cover the costs of investigations whose costs are not covered by litigation costs, and public information, education and advice is still enabled.

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7	Regional councils to pay rents, royalties, and other money received into Crown Bank Account NEB cl 322 Obligation to pay rent and royalties deemed condition of permit NEB cl 323	It is unclear why different rationale is offered for the use of proceeds from rents as opposed to natural resource levies.	The Committee should consider requesting advice from officials as to why this is treated differently.
Wildlife approvals			
8	Natural resource permit may include wildlife approval NEB cl 128	The policy problem that the proposed wildlife approvals scheme addresses (MfE response, p.24) is the length of time taken for approvals under the Wildlife Act, and that applicants may not identify the need for approvals until late in consenting processes, which causes overall delay. As raised by submitters, DOC retains the expertise for such matters and is the appropriate authority to determine approval applications. The PCE comments that follow, addressing specific MfE recs, will note the necessary opportunities for improvements that such a scheme should incorporate to ensure robust, evidence-based decisions are made. These include consultation requirements, assessment criteria, notification discretion and enforcement options. However, adding these important elements to the process would likely extend timeframes for approvals.	If responsiveness of approvals must increase, the answer should not be to shift the decision to regional councils. Rather, the Bill should include the ability for councils to refer the decision on specified wildlife approvals to DOC, to be determined by DOC within a prescribed timeframe. This overarching point regarding the design of the wildlife approvals process under the NEB provides a basis for several of the comments that will follow in relation to specific MfE recs. Note that duplication in applications and processes will not be avoided if the system is flexible for applicants to submit approval applications late in a NEB permit process.

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11a	NEB procedural principles	The procedural principles will impose a requirement to be 'enabling' and 'solutions-focused' for wildlife approvals. It may also require all practicable steps to be taken to clarify that 'enabling' means: acting in a pragmatic way that supports practical solutions, setting of conditions to be no more onerous than necessary, use of technology/digital tools and systems – as recommended additions to cl 13 by DR3 in MfE rec 30. The Ministry's response at p.30 states that applying the NEB principles supports fair, proportionate and transparent decision-making but provides no analysis to support this conclusion.	The Committee should not accept MfE rec 11a, as this will construct a different decision-making assessment as compared to approvals under the Wildlife Act, and risk substantially different decisions being made.
11d	Application of Bill's procedural framework	The MfE response (p.30) recommends that the information requirements for wildlife approvals be based on Schedule 7, clause 2 of the Fast-track Approvals Act 2024, adapted for NEB purposes. There is no statutory purpose for the Wildlife Act. While attempts are made to interpret this from its provisions, it does not provide clear criteria for applications to be assessed against. Support: The exclusion of the ability to propose or consider information on compensation and to exclude consideration of compensation as an effects management response for wildlife approvals under the NEB.	If the wildlife approvals are retained as a bespoke NEB process, determined by regional councils, clear information requirements for applicants and assessment criteria for determining approvals should be prescribed.
11e	Application of Bill's procedural framework	Regional councils appear to be unable to seek advice or support from DOC unless there are significant implications for protected wildlife (see MfE discussion p.30). Notwithstanding PCE's view that DOC should retain the decision-making role for wildlife approvals, there are two concerns with this. Firstly, how significant implications are defined or characterised is unclear. Secondly, regional councils may not have sufficient information to assess whether the implications are significant without obtaining relevant information from the experts at DOC. Consultation with DOC should be required for all wildlife approvals	If the wildlife approvals are retained as a bespoke NEB process, determined by regional councils, DOC should be consulted on all wildlife approval applications. Alternatively, a council should have full discretion to consult with DOC as it considers appropriate.

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		as DOC holds relevant expertise for protected species and the associated responsibilities for their protection under the Wildlife Act. If it is intended that DOC will prepare guidance to assist with the implementation of the NEB approval process, this will result in a duplication of DOC effort and create inefficiency. DOC will still be processing all other wildlife approvals, while providing guidance and support to the NEB bespoke process.	
12	Notification of wildlife authorisations	While the Wildlife Act may not have explicit requirements regarding notification, it is not prohibited under that Act, as is proposed for wildlife approvals under the NEB. Legitimate public interest in protected wildlife goes well beyond Treaty obligations. A council should be able to notify an application to any person it considers appropriate. This not only extends an opportunity to participate in the process but ensures that all relevant information is made available to the decision-maker.	If the wildlife approvals are retained as a bespoke NEB process, determined by regional councils, a council should be able to notify an application to anyone it considers appropriate. If such a discretion is considered too broad, the Committee might limit such notification to person with an interest greater than that of the general public.
14	Consideration of applications	In addition to any guidance, protocols or standards issued by DOC, councils should be required to have regard to feedback provided by DOC on an application. Councils should have the ability to consult with relevant independent experts and, if consulted, must have regard to the comment provided by such experts.	If the wildlife approvals are retained as a bespoke NEB process, determined by regional councils, assessment criteria for councils should include having regard to any comments provided by DOC or other relevant independent experts.
20	Compliance and enforcement of NEB wildlife approvals	While we agree that, for relatively minor contraventions of wildlife, approval preference should be given to respond “restoratively, using directive tools such as abatement notices and enforcement orders” (see MfE response p.36), the ultimate sanction of loss of the wildlife approval should remain an option for significant breaches. Rescinding an approval should be available to regional councils, in addition to any associated prosecution that DOC could initiate.	If the wildlife approvals are retained as a bespoke NEB process, a regional council should be empowered to revoke any wildlife approvals it has granted, in response to significant breaches.

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20	Compliance and enforcement of NEB wildlife approvals	While the powers and responsibilities of enforcement officers is not specifically addressed in the discussion on p.36 or MfE rec 20, this is relevant and is an aspect that should be strengthened. It appears that the role of enforcement officers would be expanded, with powers to enter property/premises to gather environmental information (including information relating to the built environment), to support the preparation, change or review of plans, setting of environmental limits, implementation of plans and environmental monitoring.[4] This goes quite some way beyond 'enforcement', broadening their functions to apply across methods for gathering environmental information. Landowners may find it alarming, despite notification of intended property access, to have 'enforcement officers' on their property for non-enforcement purposes. Additionally, enforcement officers may be granted powers with respect to wildlife approvals that are granted under the NEB. This adds another function to the role of enforcement officers, which may rely on specialist or technical expertise.	There should be an explicit requirement for suitably qualified persons to be appointed as enforcement officers under NEB cl 244. The requirements prescribed for EPA enforcement officers under NEB cl 249 provides a useful comparison. The Committee might consider whether the expanded functions of enforcement officers are appropriate. The Committee might also consider seeking advice regarding the non-enforcement functions of an enforcement officer, if information gathered in the course of performing non-enforcement functions is then used for compliance/enforcement purposes.
21	Cost recovery (for wildlife approvals)	Support: That reasonable cost recovery for approvals be enabled. Cost recovery should also extend to the cost related to ongoing compliance monitoring of wildlife approvals not just the assessment of the original approvals.	If not already addressed elsewhere in the Bill, ensure cost recovery for wildlife approvals extends to recovery of compliance monitoring costs.

4 See p.1 of Ministry for the Environment: Responses to the Committee's request for further information 22 May 2026.