

28 March 2023

Hon David Parker, Attorney-General

**Consistency with the New Zealand Bill of Rights Act 1990: Energy (Fuels, Levies, and References) Amendment Bill**

1. We have considered whether the Energy (Fuels, Levies, and References) Amendment Bill (the Bill) is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act).
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 25231/2.2). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. The Bill amends the Energy (Fuels, Levies, and References) Act 1989 (the Act) and aims to strengthen New Zealand's fuel resilience and economic security. The Bill adds the purpose of meeting the reasonable costs and expenses of the Crown in promoting resilience of engine fuel supplies in New Zealand as an additional purpose for which the petroleum or engine fuel monitoring levy (the levy) can be applied. This will enable the government to use the levy to cover the costs of fuel resilience measures, such as:
  - a. the government procurement of services relating to storage and management of reserve fuel stocks to be held onshore:
  - b. facilities that would be useful for mitigating the impacts of local fuel disruptions or distributing fuels in an emergency:
  - c. fuel emergency planning and management activities:
  - d. tools and programs for improving monitoring and collecting information on fuel resilience.
4. Section 14(2) of the Act sets out the statutory purposes of the levy. One of the existing statutory purposes is to meet the reasonable costs of complying with the 90-day reserve commitment obligation under the International Energy Agreement (IEA). There is uncertainty about whether the levy can be used to fund onshore fuel resilience initiatives under the current purposes of the Act. For example, government procurement of onshore reserve diesel stock may be more expensive than other options for meeting obligations under the IEA, so such procurement may not be consistent with the levy's existing statutory purposes. The Bill will ensure that the Government will have the flexibility to use the levy to fund initiatives such as government procurement of onshore diesel stock.

5. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.



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