

[Security classification – In-confidence]

Office of the Minister of Energy and Resources

Office of the Minister of Transport

Cabinet

Taking action on fuel prices: Extending the reductions to petrol excise duty and road user charges and monitoring arrangements

Proposal

- 1 This paper seeks authorisation to submit the:
 - 1.1 Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022
 - 1.2 Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022
 - 1.3 Road User Charges (Temporary RUC Reduction Scheme Extension) Order 2022
 - 1.4 Fuel Industry Amendment Regulations (No 2) 2022(the proposed instruments) to the Executive Council.
- 2 The proposed instruments extend:
 - 2.1 the reductions to petrol excise duty until 15 August 2022
 - 2.2 the reductions to road user charges until 21 September 2022
 - 2.3 the monitoring arrangements of fuel industry margins to align with one month after the instrument giving effect to reduced petrol excise duty expires or is revoked.
- 3 The paper also seeks agreement to reimburse KiwiRail Holdings Limited (KiwiRail) for the costs of a further two-month reduction of the railway track user charges payable under the Land Transport (Railway Track User Charge) Regulations 2021.

Relation to government priorities

- 4 This proposal aligns with the Government's objective of supporting households and families with high fuel prices resulting from Russia's invasion of Ukraine and supply and demand pressures relating to the global pandemic. Sheltering the country from adverse external events is important to this Government.

Background and authorisation sought

- 5 On 11 April 2022, Cabinet agreed to a two-month extension to the three-month temporary reduction of petrol excise duty and road user charges [CAB-22-MIN-0130 refers]. The 25 cents per litre reduction to petrol excise duty is currently legislated to end at midnight on 14 June 2022, and the 36 percent reduction to road user charges is legislated to end on 21 July 2022. Unless extended, the standard or full rates of petrol excise duty and road user charges will apply from 12.01 am after these dates.
- 6 The reduction was for three months in response to a sudden, significant and sustained rise in the price of petrol and diesel following Russia's invasion of Ukraine and an increase in the demand for fuel due to the global recovery from the pandemic. The reduction to petrol excise duty and road user charges was agreed upon by Cabinet on 14 March 2022.
- 7 When the reduction to petrol excise duty was put in place, the price of petrol at the pump fell. Before the reductions, the price in some main centres was more than \$3.25 per litre. The price dropped to around \$2.95 per litre in some main centres following the reductions. The Government urged fuel companies to pass on the reductions immediately to consumers at the pump. The price of regular petrol fell by 33.33 cents per litre between Friday 11 March and Friday 18 March, mainly due to the Government's decision to cut petrol excise by 25 cents per litre.
- 8 Fuel prices remain high. High fuel prices are due to international factors, including Russia's continued invasion of Ukraine (and subsequent sanctions). The global recovery from the pandemic, namely increased travel, has also impacted demand. Internationally, actions are underway to increase fuel supply. Countries, including New Zealand, have begun releasing barrels from emergency stocks. Despite this action, the largest release of emergency stocks in almost 50 years by member countries, prices remain elevated worldwide, including in New Zealand.

Extending the reductions to petrol excise duty and road user charges

- 9 Due to this, Cabinet decided to extend the reductions for two months. This will mean the:
- 9.1 25 cents per litre reduction to petrol excise duty will be extended until **15 August 2022** (instead of ending on 15 June 2022) under clause 20 of Schedule 3 of the Customs and Excise Act 2018
- 9.2 36 percent reduction to legislated rates of road user charges will be extended until **21 September 2022** (instead of ending on 21 July 2022)

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by Order in Council under section 42A(2) of the Road User Charges Act 2012.

- 10 The difference in dates reflects that the reduction in petrol excise duty took effect earlier (on 15 March 2022) than the reduction in road user charges (which came into effect on 21 April 2022).
- 11 Extending the reductions to petrol excise duty and road user charges does not impact the funding and delivery of our transport agenda. The Crown will backfill reduced revenue relating to the reductions (initial estimates are that an extra two months would result in \$235 million less revenue, backfilled by a Crown appropriation). Cabinet also agreed that Waka Kotahi the NZ Transport Agency may access up to \$0.850 million for additional administration of the scheme from the appropriation due to the two-month extension.
- 12 The Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022 extend the reduced rate of refund for petrol excise duty. Some specific uses of petrol are eligible to claim back a refund (for example, farmers, construction sector) from Waka Kotahi the NZ Transport Agency. This regulation is a technical but necessary corollary to the Order to extend the reductions to petrol excise duty.

Extending the monitoring arrangement

- 13 Following the original three-month reduction of petrol excise duty, Cabinet Business Committee, with Power to Act, agreed to make changes to regulations under the Fuel industry Act 2020 to require certain fuel industry participants to disclose specific information on their wholesale and retail fuel margins to the Ministry of Business, Innovation and Employment (MBIE) [CBC-22-MIN-0023].
- 14 The information disclosure requirements are to enable monitoring of the performance of fuel markets in relation to the continued pass through of the reduction to petrol excise duty agreed by Cabinet, as well as any consequent GST reduction in a manner that is expected in a competitive market.
- 15 Cabinet agreed for information to be sought four weeks after the removal of changes to excise duty to monitor market performance and to show whether companies are or are not raising margins alongside removal of changes to excise duty [CBC-22-MIN-0023].
- 16 As such, it is appropriate that the monitoring arrangement is extended in line with the extension to the reductions as outlined above. This will mean the monitoring regime is extended to a month after the instrument giving effect to reduced petrol excise duty expires or is revoked.

Recommencing the standard rates of petrol excise duty and road user charges

- 17 The proposed instruments provide that the full rates of petrol excise duty and road user charges will apply at the end of the further two months. This is

legislated to occur in the absence of a two-month extension, and is a hard end date

- 18 As Minister of Transport, I have asked the Ministry of Transport to advise me on options for reverting to full rates once the further two-month reduction period ends. I expect to receive advice from the Ministry of Transport shortly. Options could include:

18.1 [Redacted] 9(2)(f)(iv)

[Redacted]

[Redacted]

- 19 [Redacted] 9(2)(f)(iv)

Officials advise that any Order in Council to put in place any additional extension will need to be made by **21 July 2022**. There are limited Cabinet (including Committee) and Executive Council meetings in July. If a decision was made to extend in early July, special arrangements may be necessary (for example, Cabinet authorising a group of Ministers to make decisions and submit any instrument to Executive Council prior to 21 July 2022).

- 20 I have asked my officials to engage across Government and potentially with industry on pathways to reinstate the full rates of petrol excise duty and road user charges. I expect that officials will also consider both the benefits and disadvantages of various options, including transport demand implications or changes in travel patterns because of the temporary reduction. Some information on potential transport demand impacts is set out in the Climate Implications of Policy Assessment section (below).

- 21 [Redacted] 9(2)(f)(iv)

- 22 The Treasury has noted that anything less than immediately recommencing full rates will result in increased pressure on the National Land Transport Fund. Cabinet may again wish to mitigate the risk of needing to delay or defer

transport projects due to a shortfall in revenue by providing further Crown funding, which would represent a fiscal risk to the Crown.

Reimbursing KiwiRail for a further two-month reduction in track user charges

- 23 Following a request from KiwiRail, I seek Cabinet approval to provide Crown funding to reimburse KiwiRail Holdings Limited (KiwiRail) for up to \$1 million, provided through Vote Transport. This funding is to reimburse KiwiRail for the cost of providing its commercial rail freight customers with a 36 percent reduction in the railway track user charge, payable in accordance with the Land Transport (Railway Track User Charges) Regulations 2021.
- 24 KiwiRail sought this reimbursement in response to the announcement of a further two-month extension to the 36 percent reduction in the road user charges as part of Budget 22. This reimbursement will not impact National Land Transport Fund (NLTF) revenue – as there is no change to the charge payable by KiwiRail under the Land Transport (Railway Track User Charge) Regulations 2021.
- 25 The reimbursement will apply for the two-month period beginning on 1 July 2022 and concluding on 31 August 2022. KiwiRail pay the railway track user charges on a quarterly basis in arrears. Although the reduction in charges will not apply for the full quarter, the reimbursement for the two relevant months will be processed after KiwiRail has paid its full track user charges to Waka Kotahi for the July-September 2022 quarter.
- 26 Despite the focus of the petrol excise duty and road user charges reductions being primarily to support households with the high fuel prices (and KiwiRail already benefiting from the reduced petrol excise duty and road user charges rate in the fuel the company uses on road), and the fact that the TUC rate is already heavily discounted and is not related to the price of fuel or road user charges, I, as the Minister of Transport, support the reimbursement to KiwiRail consistent with the earlier decision.
- 27 Treasury is not supportive of extending the TUC reduction for a further two months. The value-for-money of doing so is weak at best and given that Budget 22 has just been completed, the only practical option would be to fund this from within the \$235 million appropriated for the petrol excise duty and road user charges reductions. There is already uncertainty around what the actual costs of the petrol excise duty and road user charges reduction will be. Using funding set aside for that purpose exacerbates the existing risk there may be a funding shortfall. This could leave the NLTF or the Crown exposed for the difference.
- 28 The TUC payable by KiwiRail is due to increase on 1 July 2022 from the current rate of \$1.18 per 1,000 Gross Ton Kilometres (GTK) to \$1.65 per 1,000 GTK. The 36 percent reduction will therefore apply to the new rate for the period 1 July 2022 to 31 August 2022.
- 29 I, as the Minister of Transport, propose that funding for the reimbursement will come from the existing “Funding for Temporary Decreases in Fuel Excise

Duty, Road User Charges, Public Transport Fares and Railway Track User Charges” multi-year appropriation. The scope of this appropriation already provides for a track user charge reimbursement.

- 30 There are financial risks associated with using the existing funding to provide for the additional two months of the track user charge reduction, as uncertainty remains over the actual costs likely to be incurred for the temporary reduction in petrol excise duty and road user charges.
- 31 KiwiRail will be advised of the reimbursement, including the administrative requirements and criteria which must be met before payment, through a letter from the Minister of Finance.

The Minister of Transport is asking Cabinet to amend its earlier decisions of 11 April 2022

- 32 I, as the Minister of Transport, seek minor and largely technical amendments to the decisions recorded in Cabinet minute CAB-22-MIN-0130 referring to the two-month extension. I ask Cabinet to:
- 32.1 remove recommendation 10 that authorised the making of an Order in Council at the next meeting of the Executive Council. Such authorisation was unnecessary as these extensions could be put in place before the legislated end dates. Removing this recommendation also reflects that the instruments were not submitted at the next meeting of the Executive Council but submitted at a later meeting (following Cabinet consideration of this paper meeting on 7 June 2022).
- 32.2 insert a recommendation inviting the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to draft an Order to give effect to the Road User Charges reduction extension. Not including this recommendation was an oversight.
- 32.3 insert the Climate Implications of Policy Assessment (CIPA) requirements.
- 33 The specific amendments are set out in the recommendations.

Timing and the 28-day rule

- 34 Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022 and the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022 will come into force on 10 June 2022. The Road User Charges (Temporary RUC Reduction Scheme Extension) Order 2022 will come into force on 7 July 2022, which will be at least 28 days after its notification in the *Gazette*.

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- 35 I, the Minister of Transport, seek a waiver of the 28-day rule with respect to the:
- 35.1 Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022
 - 35.2 Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022.
- 36 The waiver is sought because the Order confers a benefit to the public. Early commencement of the Regulations is also necessary to avoid unfair commercial advantage (for example, refunds of petrol excise for specified off-road uses of fuel paid at a higher rate) or the purpose of the regulations being defeated.

Compliance

- 37 The proposed instruments comply with each of the following:
- 37.1 the principles of the Treaty of Waitangi
 - 37.2 the rights and freedoms contained in the Human Rights Act 1993
 - 37.3 the principles and guidelines set out in the Privacy Act 2020
 - 37.4 relevant international standards and obligations
 - 37.5 the Legislation Guidelines (2018 edition), maintained by the Legislation Design and Advisory Committee.
- 38 I, the Minister of Energy and Resources, raised potential concerns to Cabinet regarding the monitoring arrangements under the New Zealand Bill of Rights Act 1990 (BORA) [DEV-22-MIN-0064]. The Fuel Industry Amendment Regulations 2022, which I am seeking Cabinet's approval to extend for a further two months, may have engaged the right to freedom of expression and the right to be secure from unreasonable search and seizure under section 14 and 21 of BORA. I continue to consider the requirement to disclose information under the regulations, and its extension, constitute a reasonable search, and is a reasonable limitation on the right to freedom of expression under s 14 that is demonstrably justified in a free and democratic society

The Minister of Energy and Resources must consult on monitoring arrangements

- 39 The Fuel Industry Act 2020 provides that before regulations can be made, I as the Minister of Energy and Resources must consult with fuel industry participants that I consider are likely to be significantly affected by the proposed regulations.

- 40 I, as the Minister of Energy and Resources, consulted with fuel industry participants 18 March 2022 and took these views into account when developing the monitoring arrangements.

I will further consult with fuel industry participants before making my recommendation to Cabinet on 7 June 2020. The Minister of Energy and Resources must be satisfied that the monitoring regulations are necessary or desirable

- 41 Section 27 of the Act provides that before regulations are made, I, as the Minister of Energy and Resources, must be satisfied that the regulations are necessary or desirable after having regard to the purposes of the Act and subpart 4 of the Act.
- 42 The Cabinet paper [CBC-22-MIN-0023 refers] noted that I consider regulations are desirable to monitor whether the reduction to petrol excise duty as well as any consequent GST reduction is passed through to consumers in a manner that is expected in a competitive market, in order to promote competition in engine fuel markets for the long-term benefit of end users of engine fuel products.

Regulations Review Committee

- 43 There are no grounds for the Regulations Review Committee to draw the proposed instruments to the attention of the House of Representatives under Standing Order 327.

Certification by Chief Legal Adviser of the New Zealand Customs Service and Parliamentary Counsel

- 44 The New Zealand Customs Service's Chief Legal Adviser has certified the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022 under the Customs and Excise Act 2018 as being in order for submission to Executive Council.
- 45 Parliamentary Counsel Office has certified the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022, the Road User Charges (Temporary RUC Reduction Scheme Extension) Order 2022 and the Fuel Industry Amendment Regulations (No 2) 2022 as being in order for submission to the Executive Council.

Impact Analysis

Regulatory Impact Analysis

- 46 As earlier advised, Cabinet's impact analysis requirements apply to the proposals in this paper. There is no accompanying Regulatory Impact Statement, and the Treasury has not exempted the proposal from the impact

analysis requirements. Therefore, it does not meet Cabinet's requirements for regulatory proposals.

- 47 The Treasury's Regulatory Impact Analysis team and the Ministry of Transport have agreed that a post-implementation assessment will be completed on the reduction of petrol excise duty and road user charges. The post-implementation assessment (PIRA) will be completed as soon as possible.
- 48 The Treasury's Regulatory Impact Analysis team has determined that the proposal to extend the Fuel Industry Amendment Regulations 2022 requiring fuel companies to provide weekly disclosures on their fuel margins for a further two months is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that relevant issues on information disclosure have been addressed by existing impact analysis (Regulatory Impact Statement on Fuel Industry Act 2020 – Information disclosure regulations; CAB-21-MIN-0073 refers), and the marginal effect of extending this temporary change has only minor impacts on businesses, individuals and not-for-profit entities.
- 49 This exemption is granted on the condition that marginal impacts of extending the disclosure requirements are outlined in the **Annex One** of this Cabinet paper, and any permanent change to disclosure requirement beyond the two-month extension is accompanied by an update to the existing Regulatory Impact Statement.

Climate Implications of Policy Assessment

- 50 When Cabinet decided on 14 March 2022 to reduce petrol excise duty and road user charges modelling of the potential climate implications was not available. This is because Cabinet was responding to an urgent situation, and it was necessary to take immediate action. The modelling below applies to the original three-month period, and this proposed two-month extension.
- 51 The Climate Implications of Policy Assessment Requirements (CIPA) disclosure sheet is attached to this paper. The disclosure sheet shows that the reductions to petrol excise duty and road user charges may result in slightly more travel of 1 or 2 percent (measured in vehicle kilometres travelled), and it may have an emissions impact.
- 52 The Climate Implications of Policy Assessment (CIPA) team has been consulted. It confirms that the CIPA requirements do not strictly apply to this proposal as the emissions threshold of 500,000 tonnes of CO₂-e over ten years is not met. However, a CIPA disclosure has been provided as the estimated emissions impact is significant over the short time of the proposal, surpassing the annual average of this threshold of 50,000 tonnes of CO₂-e per year.
- 53 This proposal is estimated to increase emissions by around 54,000 to 99,000 tonnes of CO₂-e over the five months that this policy is in place. This estimate includes the impact of the first three months already agreed to and the additional two-month extension of reduced petrol excise duty and road user

charges. This estimated increase in emissions is due to an expected increase in total vehicle kilometres travelled due to a decrease in overall motor vehicle travel costs.

- 54 The estimated impact does not include the impact of decreasing public transport fares as this is unable to be accurately quantified. However, officials consider this impact is likely to be minimal given that increased public transport use is likely substituting for a range of other modes, including active modes.
- 55 The CIPA team has reviewed the estimates at a high level and considers the modelling for this proposal to follow good practice and use reasonable assumptions.
- 56 The CIPA team notes that the CIPA requirements do not apply to the fuel monitoring extension proposals in this Cabinet paper as the potential emissions impact is indirect and unable to be accurately quantified.

Publicity

- 57 The decision to extend the reduction to petrol excise duty and road user charges was announced as part of Budget 22. In addition to the proactive release of this paper (mentioned below), consideration will be given to what, if any, further public communication will be required once the instruments are made at Executive Council.

Proactive release

- 58 We propose to release this paper proactively in whole or in part, subject to redaction as appropriate under the Official Information Act 1982.

Consultation

- 59 The New Zealand Customs Service, the Ministry of Foreign Affairs and Trade, the Ministry for Primary Industries, the Parliamentary Counsel Office, and The Treasury have been consulted. Waka Kotahi (the NZ Transport Agency) has been notified.
- 60 The Department of the Prime Minister and Cabinet has been informed.
- 61 I, the Minister of Transport, have consulted with the Minister of Customs (who has overall responsibility for excise matters), and she agrees to the presentation of this paper.

Recommendations

I, the Minister for Transport, recommend that Cabinet:

- 1 **note** that on 11 April 2022, Cabinet agreed to a further two-month extension to the three-month temporary reduction of fuel excise duty and road user charges [CAB-22-MIN-0130]

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Authorisation to submit Orders in Council to Executive Council to put in place the extension to petrol excise duty (including its refund) and road user charges

- 2 **note** that the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022 will give effect to the decision referred to in recommendation 1 above;
- 3 **note** that the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022 are necessary to effect the corresponding refund reduction as a consequence of the decision referred to in recommendation 1 above;
- 4 **note** that the Road User Charges (Temporary RUC Reduction Scheme Extension) Order 2022 will give effect to the decision referred to in recommendation 1 above;
- 5 **authorise** the submission to the Executive Council of the:
 - 5.1 Petrol excise duty via the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022;
 - 5.2 Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022;
 - 5.3 Road User Charges (Temporary RUC Reduction Scheme Extension) Order 2022;
- 6 **note** that the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022 and the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022 will come into force on 10 June 2022 and the Road User Charges (Temporary RUC Reduction Scheme Extension) Order 2022 will come into force on 7 July 2022;
- 7 **note** that a waiver of the 28-day rule is sought for the Excise and Excise-equivalent Duties Table (Temporary Reduction of Motor Spirits Duty) Amendment Order 2022 Amendment Order 2022 and the Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Amendment Regulations 2022 Amendment Regulations 2022:
 - 7.1 so that the instruments can come into force prior to rates returning to pre-15 March 2022 levels on 15 June 2022;
 - 7.2 on the grounds that the Order confers only benefits on to the public. Early commencement of the Regulations is necessary to avoid unfair commercial advantage (for example, refunds being received at the non-reduced rate) or the purpose of the regulations being defeated;

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- 8 **agree** to waive the 28-day rule so that those instruments can come into force on 10 June 2022;
- 9 **invite** the Minister of Transport to report back to Cabinet in July on whether a hard end date for the reduction or a phasing in of full rates is preferred'

Amendments to CAB-22-MIN-0130

- 10 **agree** to the following changes to CAB-22-MIN-0130:
- 10.1 remove recommendation 10 in that minute that authorised the Minister of Transport and the Minister of Customs to recommend to the Governor-General an Order in Council to suspend and reduce the rates of petrol excise duty at the next meeting of the Executive Council;
 - 10.2 insert a recommendation inviting the Minister of Transport to issue instructions to the Parliamentary Counsel Office to draft the Order to give effect to the extension to the Road User Charges temporary reduction scheme under the Road User Charges Act 2012;
 - 10.3 insert the following wording in the minute in accordance with Cabinet's CIPA requirements:
 - 10.3.1 **note** that Cabinet Office Circular (20)(3) requires a Climate Implications of Policy Assessment (CIPA) to have been conducted where the impact on GHG emissions is likely to be equal or above 0.5 million tonnes carbon dioxide equivalent (CO₂e) within the first ten years of the proposal period (representing an annual average of 50,000 tonnes)
 - 10.3.2 **note** that officials are still working with the Ministry for the Environment to determine whether the CIPA applies to this proposal
 - 10.3.3 **note** that, as Cabinet Office Circular (20)(3) anticipates where a CIPA is not available for a Cabinet decision, I will, if a CIPA is needed, further report to Cabinet on the CIPA;

Reimbursement to KiwiRail for a two-month reduction in railway track user charges

- 11 **agree** to reimburse KiwiRail Holdings Limited, following payment under regulation 7 of the Land Transport (Railway Track User Charges) Regulations 2021, 36 percent of the amount of railway track user charges paid by KiwiRail Holdings Limited for the period 1 July 2022 to 31 August 2022, limited to a maximum amount of \$1 million
- 12 **agree** that the reimbursement will be met, up to a maximum amount of \$1 million, from the existing funding in the "Funding for Temporary Decreases in Fuel Excise Duty, Road User Charges, Public Transport Fares and Railway Track User Charges" multi-year appropriation

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- 13 **note** that there are financial risks associated with using the existing funding in this appropriation to provide for the additional two months of the track user charge reduction, as uncertainty remains over the actual costs of the temporary reduction of the petrol Excise Duty and Road User Charges reductions
- 14 **note** that reimbursement to KiwiRail Holdings Limited, limited to \$1 million, is expected to be used by KiwiRail Holdings Limited for the costs of providing its commercial rail freight customers with a two-month reduction in railway track user charges for the period 1 July 2022 to 31 August 2022, payable in accordance with regulation 7 of the Land Transport (Railway Track User Charges) Regulations 2021
- 15 **note** that a letter will be provided to KiwiRail, from the Minister of Finance, which details the process through which the railway track user charge rebate will be administered and criteria which must be met prior to payment

I, the Minister of Energy and Resources, recommend that Cabinet:

- 16 **note** that on 30 March 2022, Cabinet agreed that fuel companies must continue to provide information to the Ministry of Business, Innovation and Employment to monitor fuel market performance in relation to the pass through to consumers of the reductions to petrol excise duty, as would be expected in a competitive market, until four weeks after the Order in Council giving effect to the fuel excise reduction expires or is revoked [DEV-22-MIN-0064];
- 17 **note** that the two-month extension to the three-month temporary reduction of petrol excise duty warrants a similar extension to the monitoring arrangement;
- 18 **note** that the Fuel Industry Amendment Regulations (No 2) 2022 will give effect to paragraphs 10 and 11 above;
- 19 **authorise** the submission to the Executive Council of the Fuel Industry Amendment Regulations (No 2) 2022;
- 20 **noted** that section 27 of the Fuel Industry Act 2020 (the Act) provides that before regulations are made, the Minister of Energy and Resources must be satisfied that the regulations are necessary or desirable after having regard to the purposes of the Act and subpart 4 of the Act;
- 21 **note** that the Minister considers this requirement has been met, as regulations are desirable to monitor whether the reduction to petrol excise duty as well as any consequent GST reduction is passed through to consumers in a manner that is expected in a competitive market, in order to promote competition in engine fuel markets for the long-term benefit of end users of engine fuel products [CBC-22-MIN-0023];
- 22 **note** that section 27 of the Act also provides that before regulations can be made, the Minister must consult with fuel industry participants that the Minister considers are likely to be significantly affected by the proposed regulation;

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23 **note** that the Minister of Energy and Resources consulted with fuel industry participants 18 March 2022 during the development of the monitoring arrangements and will further consult with fuel industry participants before making a recommendation to Cabinet on 7 June 2022.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Energy and Resources

Hon Michael Wood

Minister for Transport

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Appendix One: Regulatory impacts of additional disclosure requirements

A regulatory impact analysis has been prepared for the Fuel Industry Act Amendment Regulations relating to information disclosure regulations under the Fuel Industry Act.¹ We consider that the regulatory impacts of the proposals in this paper for a temporary change to monitoring requirements are broadly consistent with those outlined in that regulatory impact analysis and relevant issues on information disclosure have been addressed by this existing impact analysis.

The proposals in this paper are proposed ahead of the Fuel Industry Amendment Regulations coming into force, to enable monitoring of the performance of the fuel market in relation to the continued pass through to consumers of changes to excise duty agreed by Cabinet. This will be done through monitoring of fuel industry participants' wholesale and retail margins against recent performance using data from:


- the three month period prior to the introduction of changes to excise duty
- the three month period of changes to excise duty, and
- the four week period after the removal of changes to excise duty.

In addition to the impacts noted in the earlier regulatory impact analysis, we have identified the following marginal effects from the temporary change in requirements:

- For importers of fuel, the proposed information disclosure requirements in this paper are similar to requirements in the Fuel Industry Amendment regulations. The information required to be collected is less comprehensive than what will be required under the full information disclosures, but a higher frequency of collection is required – information will be required to be disclosed daily rather than on the timeframes outlined in the amendment regulations. We do not consider that the greater frequency of disclosure will increase compliance costs significantly as importers are able to collect the information requested on a daily basis already.
- The proposed information disclosure requirements in this paper for wholesale suppliers and distributors are also similar to requirements in the Fuel Industry Amendment regulations. The information required to be collected is also similar but less comprehensive than what will be required under full information disclosure. The paper proposes that this information is required from these participants on a weekly basis acknowledging that these businesses tend to be smaller and may not have systems in place to enable daily data collection.

In relation to the information being sought for the period three months before the introduction of the tax reduction, we note that the obligation to disclose the information does not commence until after regulations are made, and companies will be provided with sufficient time to provide this information.

¹ Regulatory Impact Statement: Fuel Industry Act 2020 - Information disclosure regulations - 19 August 2021 - Regulatory Impact Assessment - Ministry of Business, Innovation and Employment (treasury.govt.nz)



This will enable MBIE to monitor each individual fuel industry participant's margins against a benchmark of the three-month period prior to the introduction of the tax reduction. In a competitive market, other things being equal, fuel industry participants' margins should remain relatively constant as the full impact of the tax reduction including the GST (around 29 cpl in total will be passed to consumers.

Information is also being sought for four weeks after the removal of changes to excise duty to monitor market performance to show whether companies are or are not raising margins alongside removal of changes to excise duty.

Summary and analysis of information disclosed will be undertaken and made publicly available to show the performance of the market in relation to the pass through of excise reduction as well as any GST reduction to consumers. Such summary and analysis, while focusing on this specific issue, would not be inconsistent with proposals to provide summary and analysis of broader fuel market information when it is disclosed in future.

We note that an exemption to regulatory impact analysis requirements is granted on the condition that any extension of this disclosure requirement beyond the initial four months is accompanied by an update to the existing Regulatory Impact Statement. If changes to fuel excise duty are prolonged past this timeframe, additional regulatory impact analysis would be prepared.