

## Regulatory Impact Statement

### Customs and Excise Act Review: Excise Duty on Fuel

#### Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the New Zealand Customs Service (Customs).

It provides an analysis of options to address issues associated with the collection of fuel excise duty in New Zealand.

The following are constraints on the analysis:

- there is a lack of quantitative information in some areas. For example, Customs does not know the cost to business of complying with the current fuel excise system or what the costs to business would be of the options. Quantitative information was also not provided through the consultation process. This RIS therefore makes assumptions and uses anecdotal evidence and comparative information in some areas where data is not available.
- the impacts, including the financial impacts, of some options in this RIS are estimated based on material provided in submissions and examples provided by the companies during consultation.
- Customs is in dispute with [REDACTED] of the fuel companies about the collection of revenue that is outstanding resulting from additional manufacture being undertaken at the tank farms. Consultation has taken place within this background. This has affected the quality of information available for the analysis of the options.

The impacts discussed in this paper are primarily on fuel manufacturers and Customs in its role of managing the collection of excise.

*Signed by Michael Papesch on 22 October 2015*

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22 October 2015

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## Executive summary

- 1 Excise is a tax or duty on the domestic manufacture of tobacco, fuel and alcohol and is applied to imports of these goods. Total excise revenue collected in 2014/15 was \$4.2 billion (\$2.2 billion in excise and \$2 billion in excise-equivalent duty). Approximately \$1.789 billion of excise and excise duty equivalent was collected from fuel in 2014/15.
- 2 The manufacture of fuel (motor spirit) takes place primarily at the Marsden Point refinery. Fuel is also imported and delivered directly to tank farms at major ports. There are [REDACTED] oil companies [REDACTED]
- 3 Overall the current system for collecting excise on fuel is functioning adequately and collects 99.7% of due revenue. Blending of slops and additives has been occurring at the Wiri and coastal tank farms for some time. A 2013 Supreme Court ruling deemed that the blending of fuels resulting in an increase in volume constituted "manufacture" as defined in the current legislation and requires collection of excise on further manufacture of fuel.
- 4 The three options in this RIS support decisions on how to collect excise on the additional manufacture that occurs at Wiri and the coastal tank farms. The options are:
  - Option one: a shift back to the pre-2013 status quo without collecting excise on manufacturing that occurs in tank farms.
  - Option two: collection at the gantry point, which would be more streamlined but with a one-off implication for revenue and upfront costs for industry.
  - Option three (preferred option): a system that will see collection at three points (the border, as fuel leaves Marsden Point, and a wash up of manufacture in the tank farms), with no substantive impact on revenue.
- 5 The preferred option (option 3) would collect all due revenue, imposes less costs on business and is less administratively complex as the majority of revenue is still collected at the two current points rather than across many new points. For the fuel companies and Customs, the preferred option will provide clarity as to what constitutes manufacture and is subject to excise duty. The excise system for fuel would also be future proofed to enable collection of revenue from all blending operations at tank farms.

## Status Quo

### The Fuel Manufacturing System

- 6 The manufacture of fuel (motor spirit) in New Zealand occurs primarily at the Marsden Point refinery, with crude oil imported into the refinery and manufactured



into petrol, jet, and diesel fuel. 100% of the refinery capacity is contracted to its customers [REDACTED]. The customers supply the refinery with crude and then receive finished products.

7 Fuel is distributed from the refinery either by pipeline to the Wiri tank farm or by coastal vessel to the coastal tank farms. The [REDACTED] companies also import motor spirit which is delivered directly from overseas to the tank farms at major ports. [REDACTED]

8 Product leaves the Wiri and coastal tank farm gantries by road tanker for despatch to the individual companies' service stations. Blending of slops and additives has been occurring at Wiri and the coastal tank farms for some time. The Wiri tank farm supplies the Auckland area. The coastal tank farms supply the regions.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

Fig [REDACTED]

Section 9(2)(b)(ii)

## The Excise Collection System

- 12 Fuel is an excisable good specified in Part A of the Excise and Excise-equivalent Duties Table. The table is the working document based on the Tariff Act 1988. The definition of manufacture for fuel is set out in S2 (interpretation) of the Customs and Excise Act 1996 (the Act). Manufacture of fuel is defined as:
  - manufacture, in relation to goods specified in the Excise and Excise-equivalent Duties Table, means, — if the goods are a fuel, any operation, or process, involved in the production of the goods.
- 13 Section 68 (1) of the Act states that - No person may manufacture goods specified in Part A of the Excise and Excise-equivalent Duties Table except in a manufacturing area that is licensed under this Act.
- 14 Excise duty is imposed on fuel on the basis of volume. That has been the case since excise duty was first imposed on motor spirits.
- 15 Excise is collected on fuel when the goods leave the refinery licensed manufacturing area either by pipeline to the Wiri tank farm or by coastal vessel to the coastal tank farms. This provides a single point for excise payment for the refinery product, despite individual ownership of fuel by companies.
- 16 The [REDACTED] also import motor spirit which is delivered directly from overseas to the tank farms at major ports. Excise is collected on these imports (as excise-equivalent duty) as the product crosses the border.
- 17 The excise on motor spirits (91, 95 & 98 octane) is \$0.596 /L. The excise rate for Diesel is \$0.000 /L – the revenue is collected through road user charges. There is no excise on jet fuel.
- 18 The refinery is a Licenced Manufacturing Area (LMA). Approximately 65% of excise revenue is collected when fuel leaves the refinery. The remaining 35% of excise is collected as excise equivalent duty (EED) on imports of finished fuel to coastal tank farms. For the 35% Customs has a bulk fuels system where each importer [REDACTED] makes a single monthly return for EED, GST, ACC and PFM levies. Importers are allowed 23 working days to pay and Customs audits every return.
- 19 Excise is collected on butane additions to fuel by licencing the gantry area at the tank farm where butane is mixed with the motor spirits.
- 20 Excise paid on fuel is hypothecated to the National Land Transport Fund. Changes to the amount of excise collected directly impact on the amount the New Zealand Transport Agency is able to invest in the land transport system.



- 21 The purpose of the review was to collect all due excise revenue efficiently, to reduce compliance costs for business and Customs and provide certainty for business as to what constitutes manufacture. Overall the current system for collecting excise on fuel is functioning adequately and collects 99.7% of due revenue.

#### 2013 Supreme Court Decision

- 22 Fuel companies blend butane and biofuels into motor spirit. A Supreme Court ruling in 2013 (Terminals NZ v Customs) determined that this addition constituted manufacture of motor spirit and that the motor spirit rate of excise duty should apply to the increased volume created. Fuel companies have been paying full excise duty on the butane additions to motor spirit since the 2013 case. [REDACTED] an issue has arisen with section 85 of the Act when they make the return for the additional volume. Section 85 of the Act enables a licensee to claim a credit of excise duty paid on materials purchased for use in manufacture.

- 23 All coastal motor spirit terminals storing motor spirit further increase the volume of motor spirit with slops (mixture of fuels resulting from terminal operations) and company specific additives. The Terminals NZ v Customs Supreme Court decision has indicated that these additions are further manufacture and therefore subject to excise duty. [REDACTED]

- 24 A 2013 Supreme Court ruling deemed that the blending of fuels resulting in an increase in volume constituted "manufacture" as defined in the current legislation and requires collection of excise on further manufacture of fuel. [REDACTED]

[REDACTED] Customs has been working with industry to determine the extent of this manufacture in order to collect the excise duty on the additional volume of motor spirit created at the tank farms and terminals.

25 [REDACTED]

- 26 Under the Act, any site that manufactures excisable goods (i.e. blends motor spirit) is required to be licensed to enable legal manufacture and the collection of excise duty.

- 27 While the tank farms are unlicensed, Customs can collect excise as fuel leaves the refinery under section 72 of the Act because the goods have been removed from an LMA and no permission exists to move it to another Customs controlled area. [REDACTED]

## Problems

- 28 Industry practices around blending of fuels and mixing slops indicate some issues with the regulatory framework. These issues mean the current system does not easily facilitate the efficient collection of [REDACTED] of excise per annum from additional manufacture being undertaken at Wiri and the coastal tank farms on unlicensed sites.
- 29 The impact of the Supreme Court decision is that tank farms where manufacture is occurring have to be licensed, with excise then collected on the additional volume of fuel manufactured. Other sections in the Act, which provide for excisable goods to be moved from one Customs controlled area to another without duty paid until the goods are released for home consumption, will then have the impact of moving the excise and excise-equivalent duty collection points to the gantry unless the Government changes the current legislation.
- 30 Section 85 of the Act, which enables a licensee to claim a credit of excise duty paid on materials purchased for use in manufacture, is a constraint for licensees who do not purchase or own the product manufactured. Currently this only affects [REDACTED] who own the product but contract [REDACTED] to blend in the butane at their facility in [REDACTED]. At present [REDACTED] as the licensee cannot legally claim an excise duty credit on their return for the duty paid butane and motor spirit that they blend for their client [REDACTED]. Customs is currently facilitating this process.
- 31 The fiscal impact of moving the excise collection point to the gantry will be a one-off delay in revenue collection which will impact on the Crown's fiscal position in the year the change is made. The estimate is this would be [REDACTED] with [REDACTED] of that relating to GST, ACC/PEFML. The cash flow impact is [REDACTED] less than the liability impact as some of the cash payment comes forward.

## Objectives

- 32 The objective is a fuel excise system that collects all due revenue effectively and efficiently.
- 33 Customs used the following criteria to assess the options:
- All due revenue collected
  - You manufacture you pay excise duty, you import you pay excise-equivalent duty
  - Excise duty and excise-equivalent duty collection is as early as possible with least impact on annual revenue figures
  - Streamlined and efficient system

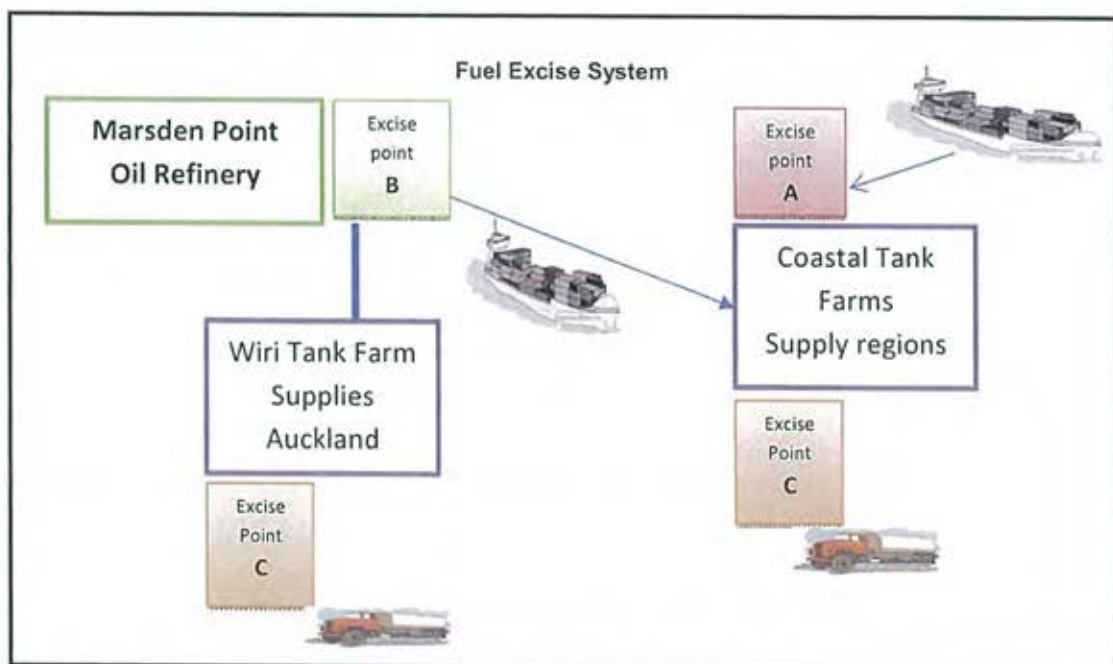


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- Administration costs for government and business are kept low
  - Clarity as to what constitutes manufacture
  - Can accommodate future business practices
  - Compliance costs for business are kept low
  - Change is proportional.
- 34 Options that meet these criteria are likely to address the problems that have been identified. The criteria have been accorded different weights when analysing the options. The criteria are listed in order of importance.

### Options and impact analysis

- 35 The diagram below illustrates the fuel excise system. Current excise collection points are A and B. Excise collection point C will be required when tank farms are licensed.



- 36 Excise is due when goods are released for home consumption – i.e. at the end of the production process. Licensing the tank farms and terminals where manufacturing is currently occurring will – under the current legislative framework – see the excise point pushed out until the motor spirit leaves the gantry in each of those locations (option 2 below).
- 37 Customs considered a range of options to address the problem. Some were discarded early on in the policy development process as they were not feasible. For all of them, the extent of the change is not proportionate with the extent of the

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problem. These options are identified in the table below with the reason why they were not pursued.

<b>Options considered but discarded early in the policy development process</b>	
<u>Description of Option</u>	<u>Reasons for non-inclusion</u>
Apply excise to all fuel types and additives	<ul style="list-style-type: none"> <li>• Revenue on diesel is already collected via the Road User Charges system.</li> <li>• Complex refund system required to meet international obligations on jet fuel for international flights.</li> <li>• Increased tax burden for local aviation industry.</li> </ul>
Remove excise duty on fuel and move to a Road User Charges system	<ul style="list-style-type: none"> <li>• Increases costs and compliance requirements for majority of motorists.</li> <li>• Delay in revenue and consequent fiscal impacts in year one.</li> <li>• Risk to revenue from non-compliance as tax base includes every vehicle owner.</li> </ul>
Move to a licensed entity model rather than a licensed premises model	<ul style="list-style-type: none"> <li>• Complete restructure of excise system required.</li> <li>• This essentially moves revenue point to the pump where a fuel company also owns service stations.</li> <li>• Delay in revenue and consequent fiscal impacts in year one.</li> </ul>

38 As excise is a tax, only regulatory options apply. Customs considered the following feasible regulatory options:

*Option one: pre-2013 status quo – no excise collection on manufacture at the tank farms*

- Option 1 would collect 99.7 % of revenue. It would involve a shift back to the pre 2013 status quo when excise was not collected on additional manufacture from blending of slops and additives at the tank farms (approximately [REDACTED] of annual revenue). Overtime, this would result in the production of additional motor spirit excise unpaid and a loss of revenue to the government of millions of dollars.
- Excise collection would still be collected early in the supply chain and remain at existing points (as fuel leaves the Marsden Point refinery and on importation into the tank farms at major ports).
- There would be no additional costs to business or Customs.
- This option would require the definition of manufacture in the Act to be amended to exclude slops and additives from the manufacturing processes. Customs would also need to address the issue with section 85 of the Act encountered by [REDACTED] Excise due on the additional volume resulting from blending at the gantry under the current



Act would still be payable as the amendment to the definition of manufacture in any new legislation would not be retrospective (to date Customs has issued assessment notices [REDACTED]).

- This option would likely be preferred by the four major fuel companies as the current system is maintained and they could blend up to 0.5 percent of motor spirit with diesel or jet fuel and not pay excise.
- Blending butane would still be defined as manufacture and subject to excise duty. [REDACTED]

*Option two: Excise collection point at the gantry only*

- Under this option the excise collection point would move to the gantry.
- Option 2 would see excise 100% of revenue collected, although further down the supply chain at the approximately 20 tank farms across the country. The system would capture all future blending developments at the tank farms. In terms of the Wiri terminal, this is estimated at [REDACTED] per annum, with the balance of tank farms or terminals likely to be about [REDACTED] per annum.
- A key benefit of this option is it does not require legislative change to implement it, although some tidy up of the Act would be necessary. Customs would also need to address the issue with section 85 of the Act encountered by [REDACTED]. Customs can collect revenue under the current legislation until implementation.
- Depending on how the licensing of the tank farms and terminals occurs, there will be some additional administration costs for Customs. Customs estimate the costs to them of licensing the tank farms will be [REDACTED].
- There will also be some additional costs for firms particularly in the initial stages as they make any necessary IT system changes. Some of the additional costs can be mitigated by allowing the firms to make combined returns and payment for all tank farms or terminals where they hold the licence (for example, [REDACTED] of which manufacture motor spirit). As with alcohol, costs can also be addressed by streamlining the permit system (no permit application required) to move motor spirit between CCAs or requiring a Fuel Excise Plan to accompany the licence for LMAs. This may be addressed by changes to regulation.
- The industry has indicated implementation will take some time, to allow for system changes in their information management systems. The firms have robust data about the volume of fuel leaving tank farms and terminals from the gantry point, but they have indicated that will need to provide a closer link between these systems and their accounting packages.

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- The four firms, other than Gull, have also indicated if this option was preferred, it took effect on one agreed date. They operate a shared inventory, which allows them to draw from each other's terminals and then reconcile balances through a 'borrow and loan scheme'. Having the different tank farms and terminals licensed on different dates would create challenges for the firms in this reconciliation process.
- This will create some challenges – legally, the tank farms and terminals need to be licensed if manufacture is occurring. Before implementing this approach, there will need to be a transition phase as the owners and operators of the tank farms and terminals will need to be licenced to manufacture at those sites and comply with the current legislation, including keeping adequate business records. This transition phase will last until all tank farms are licensed and industry systems are ready to move to the gantry model. Movement to the gantry model would occur on a date agreed by Customs and industry.
- Moving the excise collection point down the supply chain to the gantry will cause a delay in revenue collection which will flow through to end of year figures. The estimate is this would be about [REDACTED] of that relating to GST, ACC/PEFML. The [REDACTED] would count against OBEGAL and would likely be counted against the Budget 2016 operating allowance. The cash flow impact is about [REDACTED] than the liability impact as some of the cash payment comes forward.
- The impact of this change on the National Land Transport Fund will be minimal with careful sequencing. If option 2 is preferred, Customs will work closely with the Ministry of Transport and Treasury to manage the timeframes for licensing of the tank farms to coincide with the peak cash holdings of the NLTF.
- This is the [REDACTED] Engagement with industry suggests that, if the gantry model is simple, streamlined and transparent they will be able to implement it.

*Option three: excise collection at existing points (as fuel leaves Marsden Point and on importation into the tank farms at major ports) and the tank farm gantry<sup>1</sup>*

- Under this option excise collection will be retained at existing points (as fuel leaves Marsden Point and on importation into the tank farms at major ports), with an additional collection point created at the gantry to capture increased volume from blending at the tank farms.
- Option 3 would collect 100% of revenue with 99.7% of the revenue still collected at the earliest possible points (collection points A and B). Only 0.3% of the revenue will be collected at point C. The system would capture all

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<sup>1</sup> The point at which the road tankers load fuel for delivery to market.



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future blending developments at the tank farms. In terms of the Wiri terminal, this is estimated at [REDACTED] per annum, with the balance of tank farms or terminals yet to be determined but could be about [REDACTED] per annum. This is consistent with the assessment notices issued to Wiri and the major fuel companies.

- Customs can collect all due revenue under the current legislation until implementation of any new legislation.
- The legislation would need to provide for the current excise collection points A and B as well as an excise collection point C for the additional volume from blending slops and additives at the coastal tank farms. In terms of the Wiri terminal, this is estimated at [REDACTED] with the balance of tank farms or terminals likely to be about [REDACTED]
- Retaining collection point A will likely require changes to the Excise and Excise Equivalent Duties Table and the Working Tariff Document. Retaining collection point B will require changes to the C&E Act. To establish excise collection point C, Customs is looking at how legislation can be amended to enable calculation of excise duty on the additional volume of fuel arising from blending slops and additives at the tank farms. This work will also address the issue with section 85 of the Act encountered by [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- Depending on how the licensing of the tank farms and terminals occurs, there will be some additional administration costs for Customs. Customs estimate the costs to them of licensing the tank farms will be between [REDACTED] [REDACTED] If the fuel companies decide to licence and return excise through their head office structures then licensing costs will be at the lower end. Should the fuel companies decide that each tank farm should operate in a standalone manner then licensing costs will be at the higher end of the estimate. Audit costs for the additional sites are estimated at [REDACTED] for either scenario.
- There will also be some additional costs for the fuel companies in terms of licensing the tank farms and additional systems to enable the calculation of the excise due at the tank farms from the blending of slops and additives. While these costs have not been quantified, they are not expected to be high as the data is readily available. System changes are expected to be small. Some of the additional costs can be mitigated by allowing the firms to make combined returns and payment for all tank farms or terminals where they hold the license (for example, [REDACTED] of which manufacture motor spirit). As with alcohol, costs can also be addressed by streamlining the permit system (no permit application required) to move motor spirit between CCAs or requiring a Fuel Excise Plan to

accompany the licence for LMAs. Customs will work with Industry to find the best way. This may be addressed by changes to regulation.

- Customs will work with the fuel companies to determine who is liable for returning excise at the gantry and the timeframes for the return. Discussion held with industry earlier in the consultation process indicated quarterly returns at the tank farms would reduce the compliance burden.
- If option 1 is not implemented, this option would likely be supported by at least [REDACTED]

39 The following table sets out a summary analysis of the options.



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- Key: ✓✗ Partially meets the criteria.  
 ✓✓ Meets the criteria.  
 ✗✗ Does not meet the criteria.

Criteria	Option 1: Pre 2013 Supreme Court Decision Status Quo. EED collected on importation and ED from the refinery but not collected on slops and additives blended at tank farms	Option 2: Collection at the Gantry. EED no longer collected at time of import, no ED collected at the refinery. All ED collected as fuel leaves the gantries at Wiri and the coastal tank farms	Option 3: Collection at 3 Points. EED collected on importation, ED collected at the refinery and ED collected on additional manufacture at the gantry at Wiri and the coastal tank farms
1. All due revenue collected.	✓✗ 99.7% of revenue collected. 0.3% of revenue not collected.	✓✓ 100% collected.	✓✓ 100% collected.
2. You manufacture you pay ED, you import you pay EED.	✓✗ ED not collected on blending of slops and additives at tank farms	✓✗ EED no longer collected.	✓✓ EED collected at import and ED collected at all manufacturing points.
3. ED and EED collection is as early as possible with least impact on annual revenue figures	✓✓ Collected at the earliest possible points, refinery and importation.	✗✗ EED no longer collected and collection of ED moved down supply chain causing revenue delay and fiscal loss of [REDACTED]	✓✓ Collected at the earliest possible points, refinery and importation and ED collected on additional manufacture at Wiri and the coastal tank farms.
4. Streamlined and efficient system.	✓✓ Only two collection points and system works well from a Customs perspective. Industry generally supportive.	✓✗ Number of collection points expands to 20. Some industry support.	✓✗ Number of collection points expands to 21. Some industry support.
5. Administration costs for government and business are kept low	✓✓ Only 2 collection points and 6 payers.	✓✗ Administration costs rise for Customs and industry from licensing and auditing the tank farms including additional excise return reconciliation. Customs estimates costs of licensing tank farms between [REDACTED] Audit costs estimated [REDACTED]	✓✗ Administration costs rise for Customs and industry from licensing and auditing the tank farms including additional excise return reconciliation. Customs estimates costs of licensing tank farms between [REDACTED] Audit costs estimated [REDACTED]

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6. Compliance costs for business are kept low	✓ ✓ Current system is low cost for business.	✗ ✗ More sites and new systems for business. Likely to require additional staff. Staff will need to become familiar with the new system.	✓ ✗ More sites and some new systems for business. Staff will need to become familiar with the new system.
7. Clarity as to what constitutes manufacture	✓ ✗		✓ ✓
8. Can accommodate future business practices	✗ ✗ System not flexible enough to deal with blending at tank farms.	✓ ✓ System captures all future blending developments at tank farms.	✓ ✓ System captures all future blending developments at tank farms.
9. Change proportional	✓ ✗ Change to definition of manufacture.	✗ ✗ More sites and new systems to collect \$3-5m additional revenue.	✓ ✗ More sites and some new systems to collect \$3-5m additional revenue.
ASSESSMENT	✓ = TWELVE ✗ = SIX	✓ = NINE ✗ = NINE	✓ = FOURTEEN ✗ = FOUR
Conclusion	Meets some criteria.	Meets some criteria.	Meets some criteria and those criteria have more weight than the criteria met by the status quo. <b>This is the preferred option.</b>
<p>On benefit cost grounds, options 2 and 3 are very much the same. The key difference is what industry have indicated about compliance costs. Option 2 will require industry to implement new systems. While the extent of these costs were not supplied, some of the companies indicated option 2 could mean major system changes (which could take as much as 12 months to implement and test) and require additional staff to implement. The system change would be a one-off cost to business. Additional staff would be an on-going cost. Based on this cost benefit analysis, Customs concludes that option 3 is the most feasible and cost effective.</p>			



Other Impacts			
Criteria	Option 1: Pre 2013 Supreme Court Decision Status Quo.	Option 2: Collection at the Gantry.	Option 3: Collection at 3 Points.
<b>ESTIMATED FISCAL IMPACT</b>	Approximately [redacted] additional revenue not collected annually.	Estimated [redacted] loss of revenue in year 1. Approximately [redacted] additional revenue collected annually.	Approximately [redacted] additional revenue collected annually.
<b>LEGISLATIVE CHANGE</b>	C & E Act Section 2. New definition of manufacture required to exclude slops and additives, possibly using a de minimis amount.	Minor changes to C&E Act to assist transition to collection at gantry. Amend s85. Remove requirement for permit application.	Tariff Act. Change to tariff required to preserve EED on importation. Change to C&E Act required to keep collection point at refinery. Amend S85. Remove requirement for permit application.
<b>Conclusion</b>	On balance, these other impacts do not change the benefit cost analysis. <b>Option 3</b> is the preferred option.		

**Summary of Impacts**

- 40 The preferred option would collect all due revenue and be less administratively complex than option 2, as the majority of revenue is still collected at the two current points rather than across many and will impose fewer compliance costs on the fuel companies. For the fuel companies and Customs, the preferred option will provide clarity as to what constitutes manufacture and is subject to excise duty. The system would also be future proofed to enable collection of revenue from all blending operations at tank farms. It would have the following impacts for the refinery, fuel companies and Customs:

Preferred option:	
<b>Impact on fuel companies</b>	<p><b>Neutral</b></p> <p>There will be a marginal increase in the compliance burden for the fuel companies as they will need to license more sites and make some changes to their systems to enable a reconciliation to identify the excise due on the additional volume of fuel resulting from blending at the tank farms (approximately 0.3% of excise). These changes are expected to be small. The data is already available for those returns. This process is already underway as part of the evolving status quo.</p>
<b>Impact on the refinery</b>	<p><b>Neutral</b></p> <p>There will be no impact on the refinery.</p>
<b>Impact on Customs</b>	<p><b>Neutral</b></p> <p>There will be a marginal increase in the cost of administering the regime due to licensing and auditing the tank farms. This would be the outcome of the evolving status quo.</p> <p>All due revenue will be collected. This includes approximately [REDACTED] per annum additional revenue at Wiri with the balance of tank farms or terminals yet to be determined but could be about [REDACTED] per annum.</p>

**Recommended option:** Provide for excise collection at existing points (as fuel leaves Marsden Point and on importation into the tank farms at major ports) and create an additional collection point at the gantry to capture increased volume from blending at the tank farms.

**Implementation plan**

- 41 The three options require amendment to the Customs and Excise Act. If option 3 is accepted, the tariff document may also need to be amended. Options 2 and 3 will require an implementation and transition plan. This will include the period from Cabinet decision to when the new Act is in place. Under option 3, prior to the



legislation being amended, a decision will need to be made about collection of excise once the tank farms are licensed.

- 42 Once a decision is made, Customs will consult and work with industry to develop an implementation plan aimed at achieving implementation with the least cost possible for business and Customs. This will include discussion regarding licensing of the tank farms and the movement of goods between LMAs. Part of this discussion will be around who is liable for returning excise at the gantry and the timeframes for the return. Discussion held with industry earlier in the consultation process indicated quarterly returns at the tank farms would reduce the compliance burden. Customs will also engage with industry to publicise the changes and ensure business understand the new requirements and know how to comply. Customs will need to review its operating policies and procedures and ensure all staff understands the new requirements. No system changes are needed.

### **Monitoring, evaluation and review**

- 43 An evaluation and review process will be established by Customs after a period of implementation of the legislative amendments. The Customs audit system will ensure all due revenue is collected. Customs will establish a process for engaging with industry to ensure ongoing evaluation and review of the efficiency and effectiveness of the system from a business and Customs perspective. Monitoring will be built into normal reporting and assurance (including audit) functions.

### **Consultation**

- 44 Public consultation on the proposals was undertaken from March to May 2015 with 33 of the 89 submissions received commenting on excise. Three submissions were received from the fuel companies. Between May and September Customs undertook more in-depth consultation with the fuel companies. Four workshops enabled industry input into the development of final recommendations on legislative change.
- 45 Initial submissions from industry reflected a wide range of views on how best to collect excise, ranging from retaining the status quo through to moving to the gantry. This position was reflected during the workshops. Workshop engagement with industry has indicated both options 2 and 3 would be acceptable if Customs worked with industry to ensure a smooth transition.
- 46 Customs is in dispute with [REDACTED] of the fuel companies about the collection of revenue that is outstanding resulting from additional manufacture being undertaken at the tank farms. Consultation has taken place within this background.

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- 47 Customs established a Senior Officials Advisory Group and the Stakeholder Reference Group in early 2014. These Groups met regularly during the review and consulted on the issues and recommendations in this paper.<sup>2</sup>
- 48 In addition to the public consultation the following private sector organisations have been involved in the review process: Z Energy, BP, Mobil, Gull /Terminals and Chevron.
- 49 The following government agencies were consulted on the contents of this Regulatory Impact Statement: The Treasury; Inland Revenue, the Ministry of Business, Innovation and Employment, Ministry of Transport, Accident Compensation Corporation and the New Zealand Transport Agency.

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<sup>2</sup> Members of the Senior Officials Advisory Group include: the Ministry for Primary Industries, the Ministry of Business, Innovation, and Employment, New Zealand Police, the Ministry of Transport, Inland Revenue and the Department of the Prime Minister and Cabinet. The Stakeholder Reference Group included representatives from the Importers' Institute, NZ Shippers' Council, Port CEO Forum, New Zealand Airports Association, Business New Zealand / Export New Zealand, Board of Airline Representatives NZ, International Container Lines Committee, Customs Brokers and Freight Forwarders Federation of NZ, the Conference of Asia Pacific Express Carriers, and Shipping New Zealand.