Regulatory Impact Statement

Customs and Excise Act Review: Excise duty on alcohol products

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 excise duty on alcohol products in New Zealand.

The following are constraints on the analysis:

- there is a lack of quantitative information in some areas. Customs does not hold data that illustrates when a return has not been provided. This is because the current system is a manual process that relies on businesses submitting a return and an officer making contact with those LMAs who do not file a return. No collation of these instances is undertaken. Customs does not know the exact number of businesses that avoid filing excise returns and making excise payments due to financial instability. In some instances 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 analysis of the risks is based on subjective judgments about the magnitude of these risks. This subjectivity is due to the lack of real examples of these risks eventuating in the New Zealand context and the inability to reliably predict the potential of these risks eventuating
- the impacts, including the financial impacts, of some options in this RIS are estimated based on assumptions about the growth of the alcohol manufacturing business in New Zealand.

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

Signed by Michael Papesch on 15 September 2015

Michael Papesch
Group Manager Policy, Legal and Governance 15 September 2015

Executive summary

1 Excise is a tax or duty on the domestic manufacture of specific goods, including alcohol. Excise is applied to all forms of consumable alcohol, including beer, spirits, wine (fruit wine and cider) and ethanol. Approximately $910 million of excise and excise equivalent was collected from alcohol in 2014/15.

2 The majority of domestically produced alcohol is exported and no excise applies to those goods. There is a system in place to collect excise from alcohol manufacturers that sell to the domestic market. In recent years there has been an increase in the number of manufacturers selling to the domestic market, particularly through the growth in the boutique beer industry.

3 Overall the current system for collecting excise on these alcohol products is functioning adequately. However this Regulatory Impact Statement (RIS) provides analysis of options to ensure that:

- requirements on businesses support collection of the appropriate amount of revenue, while avoiding unnecessary compliance costs
- the system supports modern business practices and business growth, while supporting collection of the appropriate amount of revenue

4 The recommendations in this RIS are to:

- amend the Act to provide where no excise is payable in a given period, a Nil excise return must still be filed as part of a filers normal filing cycle
- amend the regulations to provide for off-site storage for all alcohol. Manufacturers who have insufficient storage in their Licensed Manufacturing Area need to apply to Customs for off-site storage and demonstrate they have sufficient record keeping systems to track inventories across storage sites. Licensed Manufacturing Areas who require off-site storage will need to have an alcohol excise plan that would indicate the off-site storage locations and who pays the excise duty.

5 Customs is also looking at other options to assist excise payers to better manage their excise obligations. An example is the ability for the Comptroller of Customs to shorten or extend timeframes for businesses to submit excise returns and make excise payments.

Section A: Requirement to pay excise and file returns

Status Quo

6 Excisable goods must be manufactured in an area that has been licensed by Customs, unless there is a specific exemption. These areas are called Licensed Manufacturing Areas (LMAs) and are one type of Customs Controlled Area.

7 Once the finished goods are released from the licensed area, excise becomes due. This system enables the Crown to collect revenue efficiently and at the right amount, and to manage the risk of revenue "leakage" as early as practicable in the supply chain.

8 Currently under the Act when alcohol products are released from an LMA, there is a requirement for businesses to provide an excise return and pay excise to Customs in relation to that alcohol.

9 Alcohol manufacturers are required to submit excise returns and pay excise in accordance with their annual excise liability. The following table sets out the various return and payment periods.

Annual excise duty liability	Return and payment frequency
$0-$50,000	Annually
$50,000-$100,000	Six-monthly
>$100,000	Monthly

Current Excise Filers

10 The table below sets out excise filers by Customs port office. Some excise filers elect to file monthly returns rather than file by their filing period to keep track of their excise requirements. For example, for those businesses covered by [redacted] the monthly figure includes 8 clients that are licensed to submit six monthly returns, but voluntarily submit monthly returns and payments, and 15 twelve monthly clients that do the same.

	Monthly	Six monthly	Twelve monthly
Auckland	32	26	97
Wellington	35	30	28
Christchurch	40	9	50
Dunedin	36	10	38
Tauranga	18	8	18
Napier	35	5	36
Nelson	66	8	55
New Plymouth	8	1	1
Total	**270**	**97**	**323**
Grand total	**690**		

11 Currently excise returns are emailed to Customs for Customs officers to manually enter them. However the development of the Joint Border Management System (JBMS) will enable electronic returns from mid-2016. This will make for a much more efficient system for licensees and Customs.

12 An excise return provides a summary of the excise duty owed by the business to Customs. There are penalties for not providing Customs with the information required in an excise return.

13 An excise filer is not required to produce an excise return if no excisable goods have been released from an LMA.

14 Customs revenue collection system relies heavily on traders and excise manufacturers voluntarily complying with legislative obligations to provide accurate, timely information about goods, and the duty owed in respect of those goods, to Customs. Excise returns include information such as the quantity and value of goods and excise payable when released from an LMA.

15 A small number of businesses already file nil returns.

Problems

16 Overall, the excise filing and payment system for alcohol products is functioning well and meets the objective of Customs collecting the appropriate amount of revenue.

17 However there are two situations which currently cause an absence of excise returns which affects the operation of the system. Firstly, an excise filer is under no obligation to provide a 'nil' return to Customs if no excisable goods have been released from an LMA. Secondly, some excise filers choose to avoid filing an excise return if their business is in financial difficulty. Due to the absence in a requirement for excise filers to produce nil returns, it is not always clear whether businesses are intentionally avoiding filing excise returns and paying excise, or businesses are just not filing returns because no goods have been released from an LMA.

18 Customs has existing systems in place to check who has not completed a return, but these are manual systems (eg spreadsheet) and no data is collated. When excise returns are available in Joint Border Management System, Customs will be able to run a report that identifies who has not filed a return. **No obligation to provide a nil return**

19 The absence of an obligation on alcohol manufacturers to provide a 'nil' return means that the manufacturers are not reminded of their obligation to make an excise payment. This does not support voluntary compliance.

20 The absence of the requirement to provide a nil return can also lead to a lack of information being provided to Customs about the amount of excise owed by an alcohol manufacturer. If the return is not provided Customs does not know whether or not the business is still in operation. Given the number of LMAs Customs requires resources to investigate each licensee that has not filed a return in that filing period. This is not a good use of Customs resource.

Businesses may avoid making excise returns

21 A small number of businesses may choose not to file an excise return and therefore avoid excise payment when their business is in financial difficulty. Customs views this to be more likely for small and medium alcohol manufacturers that have more modest cash flow and are only required to file excise returns and pay excise every six months or annually.

22 If a business becomes unable to pay the excise debt, Customs is less likely to recover the debt. For example a business may fall heavily into debt and go into liquidation with excise duty still outstanding. Unless Customs information is received from an alcohol manufacturer it is difficult for Customs to ascertain whether excise payments are being avoided.

Extent of the issue

23 This issue only exists in relation to alcohol manufacturers, not other manufacturers of excisable goods (fuel, tobacco). This is because entities in fuel and tobacco industries produce larger quantities of excisable goods and are therefore subject to requirements to make monthly excise returns and payments. The vast majority of alcohol excise is received from manufacturers that return on a monthly basis. While there are greater numbers who file on a six or twelve monthly basis their share of the excise receipts is small. While Customs does not hold accurate data it is likely that only a small number of the smaller filers will at any time not file a return.

24 Customs does not know the exact number of businesses that avoid filing excise returns and making excise payments due to financial instability.

Objectives

25 The objective is to ensure that requirements on businesses support collection of the appropriate amount of revenue, while avoiding unnecessary compliance costs.

26 Customs used a cost benefit analysis framework to assess the options.

Options and impact analysis

27 Customs considered the following regulatory options:

Option one: status quo:

- Alcohol manufacturers are required to submit excise returns and pay excise in accordance to their annual excise liability (monthly, six monthly or annually). Alcohol manufacturers only need to file an excise return (and make payment) to Customs when excisable goods leave an LMA.

- Retaining the status quo would mean Customs would continue to have no information about the status of LMAs who do not complete a return. This could lead to some minor revenue leakage

Option two: provide a nil return based on filing period (preferred option)

- Alcohol manufacturers will continue to be required to submit excise returns and pay excise in accordance to their annual excise liability (monthly, six monthly or annually).

- Customs would also require manufacturers to file an excise return regardless of whether excisable goods have left an LMA or if the excise return is nil. Frequency of reporting requirements and payments will continue to depend on the excise liability of the manufacturer. This would require the manufacturer to insert 'nil' on their current excise return form and submit it to Customs.

- This option would provide Customs with information at each filing period. This would mean Customs would know the status of those LMAs who have filed a return including those who have no excise to pay. Given the level of voluntary compliance it is likely that the numbers of those who do not submit any return would be quite small. Customs could then better focus resource in this area.

- As this would be a mandatory requirement on an ongoing basis (based on their filing period) this would assist with compliance and serve as reminder for their obligations. It may also address debt management issues that some of these smaller businesses face.

- Requiring a nil return using the current filing periods would not only provide Customs with better information earlier but it would also mean that the LMA does not incur additional cost associated with having to set up any new systems.

- Some LMAs already submit a nil return. This option would impose a very minor compliance cost on a small number of LMAs.

***Option three:** provide an annual nil return*

- Alcohol manufacturers will continue to be required to submit excise returns and pay excise in accordance to their annual excise liability (monthly, six monthly or annually).

- Customs would also require manufacturers to file an excise return regardless of whether excisable goods have left an LMA or if the excise return is nil. A nil return would be required on an annual basis.

- This option would allow businesses who do not file a return of excise liability to file a nil annual return. By only having an annual return those who should be filing six monthly would have to set up a new system. For annual filers there would be no change. Customs would not receive timely information on the excise status of the business as it would be delayed by six months.

- This option would impose a very minor compliance cost on a small number of LMAs.

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

Criteria	Costs	Benefits	Risks	Conclusion
Status quo: **Periodic reporting, depends on excise liability. Only require excise returns when goods leave an LMA.**	For alcohol manufacturers, compliance costs exist due to periodic requirements to pay and submit returns about excise.	Regular information on excise liabilities and payments are made to Customs when excisable goods are regularly released from an LMA. This supports Customs collecting the appropriate amount of excise duty.	Some excise revenue leakage due to small alcohol manufacturers failing to have sufficient awareness of excise obligations. This means manufacturers may fall behind in paying excise debt, and Customs may be unaware of indebtedness.	
Option two: **Periodic reporting, depends on excise liability. <u>Return required even if nil</u>.**	Very minor compliance cost associated with submitting a nil return in the event that they do not release any goods for home consumption. Compliance burden is proportionate to excise liability.	Regular reporting requirements will remind manufacturers of their obligation to pay excise. A better flow of information to Customs is one tool to help Customs to help small and medium businesses manage excise debt. Customs can more readily recognise if meeting excise debt liabilities are an issue for an alcohol manufacturer. Consistent with other systems, for example companies must submit income tax returns to Inland Revenue. If there is no income a company must either enter a nil return or apply to Inland Revenue for 'non-active declaration' (an exemption from the requirement to submit a return). This option will require manufacturers to file nil returns according to their normal return filing period instead of annually (option two).		There would be a better flow of information to Customs and the system would better support compliance by manufacturers. There would be a very minor increase in compliance cost for a small number of small alcohol manufacturers. **This is the preferred option.**
Option three: **Periodic reporting, depends on excise liability. Return required even if nil. <u>Nil returns required annually.</u>**	Very minor compliance costs associated with submitting nil returns. Returns would only be required annually.	Regular information on excise liabilities and payments are made to Customs regardless of whether the return is a nil return. This supports Customs collecting the appropriate amount of excise duty.	Less ability to manage risk. Possibility for revenue leakage because nil returns are required infrequently. Similar to status quo, Customs may be unaware of indebtedness and therefore unable to manage debt payments.	

Consultation

29 Public consultation on the proposals was undertaken from March to May 2015. Between March and June Customs undertook more in-depth consultation with a range of alcohol manufacturers and the alcohol industry associations. A number of workshops enabled industry input into the development of final recommendations on legislative change.

30 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.[1]

31 In addition to the public consultation the following private sector organisations have been involved in the review process: New Zealand Winegrowers; Brewers Association of Australia and New Zealand Inc; Brewers Guild; Spirits NZ; New Zealand Food and Grocery Council; Russell McVeagh; Constellation Brands New Zealand; Pernod Ricard Winemakers; Lion; DB Breweries Ltd; Blackburn Croft & Co; Wineworks; Fruit Wine & Cider Makers New Zealand; Fonterra including Anchor Alcohol.

32 The following government agencies were consulted with the contents of this paper: the Treasury; Inland Revenue; and the Ministry of Health.

33 During the industry workshop stakeholders indicated support for the preferred option.

Impacts

34 The preferred option would have the following impacts for alcohol manufacturers and Customs.

	Preferred option: **Periodic reporting, depends on excise liability. Nil returns also required.**
Impact on alcohol manufacturers with an excise liability of more than $100,000	Neutral
Impact on alcohol manufacturers with an excise liability of $50,000-$100,000	Neutral This change is likely to impact medium sized alcohol manufacturers. Small positive impact because regular reporting requirements are likely to encourage voluntary compliance.

[1] 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.

	Marginal additional compliance burden on excise filers due to requiring nil returns to be made. Returns can be made electronically.
Impact on alcohol manufacturers with an excise liability of $0-$50,000	Neutral This change is likely to impact medium sized alcohol manufacturers. Small positive impact because regular reporting requirements are likely to encourage voluntary compliance. Marginal additional compliance burden on excise filers due to requiring nil returns to be made. Returns can be made electronically.
Impact on Customs	**Positive** More information provided to Customs, easier to manage assurance over revenue from excise.

Recommended option: Periodic reporting, depends on excise liability. Return required even if nil.

Section B: Off-site storage of alcohol

Status Quo

35 When manufacturing is completed (the product is bottled or canned and then labelled) the goods can remain excise unpaid in an LMA. If there is insufficient storage in the LMA, excise must be paid before the goods are moved to a storage area outside of the LMA (an off-site storage area (OSS)). There are currently 615 LMAs and 120 OSS areas in New Zealand.

36 Wine is the exception. Current regulations allow wine to be moved to a Customs Controlled OSS area excise unpaid.

37 Movement of wine to OSS areas, excise unpaid, is subject to certain constraints. Some of these conditions have been set operationally by Customs, and some are in Regulations. The conditions are primarily to control the unnecessary proliferation of storage sites that could impact on Customs' ability to undertake audit and provide revenue assurance. The conditions that Customs has set operationally are that:

- the applicant for a licence for an OSS does not need to be the manufacturer or the owner, but must be the person who owns, occupies or leases the area to be licensed. For example a wine maker who leases premises for the purpose, or a transport or storage company that is storing the wine on behalf of a manufacturer or first owner
- the manufacturing area and storage facility must be in the same locality.

38 The conditions that are prescribed by Regulations are that:

- evidence must be produced that the wine cannot be physically accommodated in the area where it was manufactured
- the storage must be by or for the manufacturer or the first owner.

39 Customs has issued temporary permits for some beer and ethanol[2] manufacturers. However there are issues with this process (outlined below).

40 The LMA and OSS licencing process currently takes approximately 8.5 FTEs for Customs to administer.

Problems

41 There is no strong rationale for OSS requirements to differ across the alcohol manufacturing sector. The storage restrictions faced by beer and ethanol

[2] Ethanol is pure alcohol and subject to excise duty. Ethanol produced in New Zealand is either used for excise duty free industrial purposes or used for further manufacture into fuel, or used to make beverages with excise

manufacturers can constrain business growth. As a business grows, it can outgrow its LMA and more storage space is needed. Without an approved OSS area businesses do not have sufficient storage capacity to store product excise unpaid, which forces earlier payment of excise. Use of business capital to pay excise can divert funds away from business growth and development opportunities.

42 Extra storage space can also be required due to the nature of certain products. Beer is a seasonal product which means there is a need to store large quantities at certain times of the year prior to peak selling periods. Given the seasonal nature of whey, ethanol is manufactured over a four month time period. As a result, storage of the product on-site is an issue. The beer industry is also developing a premium aged product which adds to pressure on storage in an LMA.

43 In certain situations, a non-wine alcohol company can apply to Customs for a temporary permit to store their goods off-site. This has been done [redacted] This is not the correct use of temporary permits, which are designed to alleviate temporary (not permanent) storage issues due to specific circumstances. The temporary permit process also results in compliance costs and a lack of certainty for business because temporary permits need to be applied for annually. This also creates administration costs for Customs.

Type and number of businesses affected by off-site storage restrictions

44 Small boutique breweries are particularly affected by the storage restrictions. Limited storage sites mean that boutique breweries are forced to either limit production, or pay excise to enable product to be stored off site, both of which can be barriers to business growth.

45 The beer market has changed markedly over the past decade, with a dramatic increase in the number of smaller breweries. There are currently 105 Licensed Manufacturing Areas that complete an excise return for beer, and over 110 craft breweries operating in New Zealand. The OSS problem is affecting an increasing number of New Zealand alcohol businesses.

Objective

46 The objective is to ensure that the system for managing excise supports modern business practices and business growth, while supporting collection of the appropriate amount of revenue.

47 Customs used the following criteria to assess the options:

- **Consistency:** The rules for off-site storage are consistent across the alcohol manufacturing sector, and are applied consistently by Customs nationwide.
- **Effectiveness:** The option helps to reduce the risk of revenue leakage.
- **Supports business growth:** The option provides businesses with flexibility, supporting business growth.

- **Costs:** Costs are proportionate to the benefits or less than the benefits.

48 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

49 Customs considered the following options:

Option one status quo: off-site storage for wine in same geographical location

- Regulations only allow off-site storage (excise unpaid) for wine manufacturers where there is insufficient storage in the LMA. A very small number of temporary one-year permits have been issued for OSS by other alcohol manufacturers under strict circumstances. This results in compliance costs and lack of certainty for business and administration costs for Customs. A wine manufacturer or storage provider must apply to Customs for approval to have an OSS area. Applicants must meet certain conditions set by Customs, including storage in the same locality.

- There can be a lack of clarity in some situations as to who is liable to pay excise.

- Submitters have indicated that this same locality requirement puts constraints on their business. They have advised that the current system has cash flow consequences tying up cash that could instead be used for further capital investment. Alcohol manufacturers other than wine have indicated that the lack of excise unpaid off-site storage is a key issue for them and is a restraint on business growth especially where they have a small manufacturing area.

Option two:** extend off-site storage to all alcohol manufacturers and require an Excise Alcohol Plan **(preferred option)

- Under this option regulations would be amended to allow off-site storage (excise unpaid) for all alcohol manufacturers where there is insufficient storage in the LMA. An alcohol manufacturer or storage provider would have to apply to Customs for approval to have an off-site storage area. Applicants would need to meet certain conditions set by Customs. Customs would not impose its internal procedure to restrict off-site storage to the same locality.

- Without the internal procedure restriction there is the potential for unnecessary proliferation of off-site storage. Any unnecessary proliferation would have resource and cost implication for Customs as it would need to licence and audit all off-site storage facilities. To control unnecessary proliferation, approved manufacturers would need to have an Alcohol Excise Plan. Manufacturers would need to demonstrate they have sufficient record keeping systems to track inventories across storage sites An Alcohol Excise Plan would outline where goods are stored and who pays excise duty and would be an extension of the procedure statement[3] they currently have with Customs.

- This option would address cash flow issues for other alcohol manufacturers and release capital for business growth. It would also remove compliance costs associated with having to apply for temporary permits and reduce administration costs for Customs.
- Removal of Customs internal procedure to restrict off-site storage to the same locality would enable wine and other alcohol manufacturers to take full advantage of the opportunity afforded by the regulation.
- Industry see the following benefits from the extension of off-site storage:
  - cash flow freed up for investment
  - certainty around logistics planning for the future
  - improved ability to meet seasonal demand
  - exporting made easier – no need to claim drawback of duty on export
  - reduced cost for producing cask aged beers

***Option three:** extend off-site storage to all alcohol manufacturers keeping geographical restriction*

- Under this option regulations would be amended to allow off-site storage (excise unpaid) for all alcohol manufacturers where there is insufficient storage in the LMA. An alcohol manufacturer or storage provider would have to apply to Customs for approval to have an off-site storage area. Applicants would need to meet certain conditions set by Customs. Customs would retain its internal procedure to restrict off-site storage to the same locality. Manufacturers would need to demonstrate they have sufficient record keeping systems to track inventories across storage sites.
- This option would only partially address the cash flow issues described in option two. Many excise clients would still need to use excise paid storage in the main centres. There could be a continuation of the lack of clarity in some situations as to who is liable to pay excise.
- While this option would permit off-site storage for all alcohol manufacturers it would not give them sufficient flexibility to locate the storage where it best suits their business. This would mean that they would not be able to take up the full benefits that regulation provides.

***Option four:** extend off-site storage to all alcohol manufacturers*

- Under this option regulations would be amended to allow off-site storage (excise unpaid) for all alcohol manufacturers where there is insufficient storage in the

[3] A procedure statement records the terms and conditions that the LMA must comply with as part of the issuing of the licence.

LMA. An alcohol manufacturer or storage provider would have to apply to Customs for approval to have an off-site storage area. Applicants would need to meet certain conditions set by Customs. Manufacturers would need to demonstrate they have sufficient record keeping systems to track inventories across storage sites

- There could be a continuation of the lack of clarity in some situations as to who is liable to pay excise.
- This option would address cash flow issues for other alcohol manufacturers and release capital for business growth. It would also remove compliance costs associated with having to apply for temporary permits.
- This option could have significant resource implications for Customs. There is significant increased opportunity for revenue leakage as there would be no controls on where or how many sites a manufacturer could have as long as they met the required conditions.

Option five:

- Under this option the entity or business would be licensed rather than the area. This option removes the physical control points of LMAs which is the basis of control and assurance for the excise system.

50 Customs considered this option but could not identify a viable excise collection point. For this reason this option is not considered further in the analysis. The following table provides analysis of the remaining options according to the criteria.

Key: ✓✗ Partially meets the criteria.

✓✓ Meets the criteria.

✗✗ Does not meet the criteria.

Criteria	Option 1; status quo: off-site storage for wine in same geographical location .	Option one-two: extend off-site storage to all alcohol manufacturers and require an Excise Alcohol Plan (preferred option)	Option three: extend off-site storage to all alcohol manufacturers keeping geographical restriction	Option four: extend off-site storage to all alcohol manufacturers
Consistency: **The rules for off-site storage are consistent across the alcohol manufacturing sector, and are applied consistently by Customs nationwide.**	✗✗ Rules for the alcohol sector are inconsistent and are applied inconsistently.	✓✓ Rules apply consistently across the alcohol sector.	✓✓ Rules apply consistently across the alcohol sector.	✓✓ Rules apply consistently across the alcohol sector.
Effectiveness: **The option helps to reduce the risk of revenue leakage.**	✓✗ The risk of revenue leakage with the current system is low due to the rules about areas where products can be manufactured and stored, excise unpaid, and a designated point at which excise becomes payable (when goods leave the designated LMA or OSS area). Rules about where products are manufactured and stored, and limiting OSS to the locality of manufacture helps Customs to manage revenue	✓✓ The system maintains low risk of revenue leakage through having clear rules about areas where products can be manufactured and stored, excise unpaid, and designating the point at which excise becomes payable (when goods leave the designated LMA or OSS area). Clear delineations help Customs to manage revenue assurance thereby reducing the risk of revenue leakage. Setting conditions for approval of	✓✓ The system maintains low risk of revenue leakage through having clear rules about areas where products can be manufactured and stored, excise unpaid, and designating the point at which excise becomes payable (when goods leave the designated LMA or OSS area). Retaining the geographical location restriction and extending it to all alcohol manufacturers will help to avoid the unnecessary proliferation of OSS.	✗✗ There is significant increased opportunity for revenue leakage as there would be no controls on where or how many sites a manufacturer could have as long as they met the required conditions.

	assurance.	OSS will help to avoid the unnecessary proliferation of OSS. This will help ensure that Customs has the capability to manage revenue assurance. The Excise Alcohol Plans are an extension of the existing requirement for wine manufacturers or storage providers to have Procedure Statements about OSS areas. Excise Alcohol Plans will further help Customs auditing and revenue assurance functions as there will be clarity as to who pays the excise and where the goods are located.	This will help ensure that Customs has the capability to manage revenue assurance.	
Supports business growth: **The option provides businesses with flexibility, supporting business growth.**	✓✗ Provides flexibility for wine manufacturers only.	✓✓ Provides flexibility for all alcohol manufacturers and supports business growth.	✗✗ Does not provide flexibility and does not support business growth	✓✓ Provides flexibility for all alcohol manufacturers and supports business growth.
Costs: **Costs are proportionate to the benefits or less than the benefits.**	✓✗ Overall compliance costs are mostly in proportion to the benefits of having an effective revenue collection system. However compliance costs are not proportionate for those beer and ethanol manufacturers who meet the criteria for a temporary permit as they must re-apply annually for a permit for	✓✗ Compliance costs are mostly proportionate to the benefits of having an effective revenue collection system. Extending OSS to all alcohol manufacturers will clarify the process for business, making compliance more straightforward and less costly.	✓✗ Compliance costs are mostly proportionate to the benefits of having an effective revenue collection system. Extending OSS to all alcohol manufacturers will clarify the process for business, making compliance more straightforward and less costly.	✓✗ Compliance costs are mostly proportionate to the benefits of having an effective revenue collection system. Extending OSS to all alcohol manufacturers will clarify the process for business, making compliance more straightforward and less costly.

	OSS. There are costs to Customs for administering these applications. Beer and spirit manufacturers with insufficient on-site storage must pay the excise to store product off-site prior to sale.	There will be costs for the Crown associated with the delay to the collection of excise through extending the use of OSS. The true cost is likely to be small as any revenue delay will be spread over time as LMAs apply for OSS. Administration costs will increase for Customs resulting from the need to licence and audit more sites. The scale of the increased costs will depend on the growth of the market. Customs has estimated that a low-growth scenario with approximately 40 additional licences per annum would require an additional 0.5-1FTE to administer [redacted] per year). A high growth scenario with an additional 100 licences per annum would require an additional 3 FTE per year [redacted]	There will be costs for the Crown associated with the delay to the collection of excise through extending the use of OSS. The true cost is likely to be small as any revenue delay will be spread over time as LMAs apply for OSS. Administration costs will increase for Customs resulting from the need to licence and audit more sites. The scale of the increased costs will depend on the growth of the market. Customs has estimated that a low-growth scenario with approximately 40 additional licences per annum would require an additional 0.5-1FTE to administer [redacted] per year). A high growth scenario with an additional 100 licences per annum would require an additional 3 FTE per year [redacted] This option is likely to result in a lower growth scenario than option two	There will be costs for the Crown associated with the delay to the collection of excise through extending the use of OSS. The true cost is likely to be small as any revenue delay will be spread over time as LMAs apply for OSS. Administration costs will increase for Customs resulting from the need to licence and audit more sites. The scale of the increased costs will depend on the growth of the market. Customs has estimated that a low-growth scenario with approximately 40 additional licences per annum would require an additional 0.5-1FTE to administer [redacted] per year). A high growth scenario with an additional 100 licences per annum would require an additional 3 FTE per year [redacted] This option is likely to result in a higher growth scenario than option two.
Conclusion	Partially meets the criteria.	Meets most criteria. **This is the preferred option.**		

Consultation

51 Public consultation on the proposals was undertaken from March to May 2015. Between March and June Customs undertook more in-depth consultation with a range of alcohol manufacturers and the alcohol industry associations. A number of workshops enabled industry input into the development of final recommendations on legislative change.

52 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.

Correction: New Zealand Food & Grocery Council; Fonterra including Anchor Ethanol Limited

53 In addition to the public consultation the following private sector organisations have been involved in the review process: New Zealand Winegrowers; Brewers Association of Australia and New Zealand Inc; Brewers Guild; Spirits NZ; New Zealand Food and Grocery Council; Russell McVeagh; Constellation Brands New Zealand; Pernod Ricard Winemakers; Lion; DB Breweries Ltd; Blackburn Croft & Co; Wineworks; Fruit Wine & Cider Makers New Zealand; Fonterra including Anchor Alcohol.

54 The following government agencies were consulted with the contents of this paper: the Treasury; Inland Revenue; and the Ministry of Health.

55 There is strong industry support from all alcohol producers for extending off site storage to all alcohol manufacturers. Alcohol submitters on the public discussion paper on the review of the Act were of the view that off-site storage should be extended to all alcohol excisable products and there should be no geographical restrictions. The beer industry sees off site storage as a necessary component in their future growth. Submissions were received requesting off-site storage be extended from the Brewers Association (big beer), the Brewers Guild (craft beer), all three major breweries and seven craft brewers. Both associations and two of the major breweries also attended our consultation workshops.

Impacts

56 The preferred option would have the following impacts on alcohol manufacturers and Customs.

	Preferred option: Regulations allow off-site storage (excise unpaid) for all alcohol manufacturers. An alcohol manufacturer or storage provider must apply to Customs for approval to have an OSS area. Applicants must meet certain conditions set by Customs. Approved manufacturers must have an Excise Alcohol Plan. An Excise Alcohol Plan will outline where goods are stored and who pays excise duty.
Impact on wine manufacturers	**Positive** Removes the location restriction. Enables storage closer to market.
Impact on other alcohol manufacturers	**Positive** **Enables storage of product off-site excise unpaid where there is insufficient storage.** **Enables storage closer to market.**
Impact on Customs	**Positive and Negative** Maintains low risk of revenue leakage. Avoid unnecessary proliferation of off-site storage.

Recommended option: Regulations allow off-site storage (excise unpaid) for all alcohol manufacturers. An alcohol manufacturer or storage provider must apply to Customs for approval to have an OSS area. Applicants must meet certain conditions set by Customs. Approved manufacturers must have an Excise Alcohol Plan. An Excise Alcohol Plan will outline where goods are stored and who pays excise duty.

Implementation plan

57 The requirement for a nil excise return will require legislative change (section 70 of the Customs and Excise Act). A Customs Bill is on the Legislation Programme to give effect to the Review of the Customs and Excise Act. The extension of off-site storage to all alcohol and the requirement for an alcohol excise plan requires an amendment to regulation.

58 If these proposals are accepted Customs will engage with industry to publicise the changes and ensure business understand the new requirements and know how to comply. Customs will need to review the operating procedure for licencing, and respond to more requests and queries from industry. No system changes are needed for filing of returns as the LMA would submit the current form indicating a nil return. The proposals have been designed to minimise compliance costs and encourage voluntary compliance, thereby minimise enforcement requirements.

59 It is a requirement for Customs to follow up with licensees if a return is not filed within the timeframe set out in their licence. This process will be automated through the Joint Border Management System from mid-2016. This will assist Customs to allocate its resources to support collection of the appropriate amount of revenue. Customs will continue to assist LMAs to comply with the requirements which will increase compliance.

Monitoring, evaluation and review

60 An evaluation and review process will be established by Customs after a period of implementation of the legislative amendments. Monitoring will be built into normal reporting and assurance (including audit) functions. Once Customs have a nil return requirement it can be monitored from routine reporting from Trade Single Window on excise payees/amounts paid. Standard audit procedures will check the validity of the return.