

In Confidence

Office of the Minister of Transport

Cabinet Environment Committee

Release of discussion document on possible amendments to Road User Charges legislation to enable support of low carbon vehicles and improve the Road User Charges system.

Proposal

- 1 This paper seeks agreement to release, for public consultation, the attached discussion document 'Driving Change: Reviewing the Road User Charges System' on possible amendments to Road User Charges (RUC) legislation that are intended to support the uptake of low carbon vehicles and improve the RUC system more generally.

Relation to government priorities

- 2 One of the key intentions with this proposal is to enable carbon emissions and potentially other harms, such as air pollution, to be considered when setting RUC rates. This would support this Government's priority to tackle climate change and take action, in accordance with Parliament's declaration of a climate change emergency. In her Speech from the Throne in 2020, the Governor-General emphasised the importance of decarbonising the vehicle fleet through measures such as accelerating the uptake of Electric Vehicles (EV) and decarbonising public transport. Our Cooperation Agreement with the Green Party of Aotearoa echoes this in our commitment to "increasing the uptake of zero-emission vehicles".
- 3 The Government Policy Statement on Land Transport 2021 makes climate change a strategic priority. This recognises the need for investment decisions in the land transport system to align with the targets in the Climate Change Response Act 2002, which require carbon dioxide (CO₂) emissions and other greenhouse gases except biogenic methane, to reach net zero by 2050. It means investments that reduce emissions and transition the transport system to lower emissions will be prioritised for funding from the National Land Transport Fund.
- 4 A reduction in CO₂ emissions could be achieved through greater uptake and use of vehicles using low carbon fuel. This would also help us to meet the targets set out in the Climate Change Response Act 2002 and our targets for reducing CO₂ emissions through the Clean Car Import Standard.
- 5 The other proposed changes to the RUC legislation support good regulatory practice and are intended to reduce costs and improve the operation of the RUC system.

Executive Summary

- 6 A system of RUC, based on vehicle weight and distance travelled, for all non-petrol-powered vehicles using our roads, was first legislated for in 1977. There has only been one major legislative amendment since. The Road User Charges Act 2012 (RUC Act) changed and simplified how heavy vehicle weights were set for the purpose of charging RUC and introduced electronic RUC (eRUC) as a recognised way to pay for RUC.

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- 7 Manatū Waka Ministry of Transport (Manatū Waka) has worked with other departments to develop 'Driving Change: Reviewing the Road User Charges System' discussion document. It sets out a large package of policy options that the Government could consider to improve the administration and effectiveness of the RUC Act, and assist the sector to decarbonise.
- 8 Policy development is at an early stage and so the discussion document has been drafted to seek stakeholder feedback on the broad ideas. In most cases, it does not propose specific policy outcomes.
- 9 The topics I am seeking feedback on can be grouped into three broad areas:
- 9.1 whether to amend the RUC legislation to enable RUC to be used as a tool to support the uptake of low carbon fuels. It also asks whether it should be possible to consider other costs, such as air pollution or congestion, when setting RUC rates.
 - 9.2 whether to make a range of changes intended to improve the workability of the RUC system for end users and reducing their compliance costs. This includes whether to limit the RUC exemption for light EVs based on distance travelled.
 - 9.3 whether to make a range of possible changes to improve Waka Kotahi the NZ Transport Agency's and NZ Police's ability to administer and enforce the RUC system.
- 10 Some of these proposals could fundamentally change the purpose of RUC and for this reason extensive consultation will be required. Amending the RUC Act could provide us further tools to promote the uptake of low carbon fuel vehicles, such as hydrogen powered vehicles and heavy EVs. However, there are risks to offering support for the uptake of low carbon fuels through RUC exemptions, or reduced rates of RUC. These come at a cost of foregone revenue for land transport at a time when transport expenditure is under pressure. Any risk to long-term revenue, must be carefully considered.
- 11 I am seeking Cabinet's approval to release the attached discussion document for engagement with stakeholders. In addition to receiving written submissions on the discussion document, Officials will hold a series of stakeholder meetings to develop solutions to the policies.
- 12 The feedback received will inform advice to Cabinet on a package of amendments to the RUC Act and RUC regulations. I expect to have this package of amendments completed and ready for Cabinet approval by mid-2022. Some changes can be made under existing regulation-making powers, but many changes will require amendments to the RUC Act. [REDACTED]
- 13 I plan to announce the release of the discussion document at the Road Transport Forum's annual conference on 25 September 2021. The audience will include those most affected by the proposed changes.

Background – the Road User Charges system

- 14 Road user charges (RUC) are imposed under the Road User Charges Act 2012 (RUC Act). Their purpose, as set out in the RUC Act, is to charge vehicles for their

use of the roads in proportion to the costs that the vehicles generate through damage to the roads. All vehicles that use fuels other than petrol¹ or have a gross vehicle mass (GVM) greater than 3.5 tonnes (buses, trucks and trailers towed by trucks), are subject to RUC. Owners of RUC vehicles must pay RUC in advance of travel, purchase RUC in units of 1,000km, and display their purchased RUC on a licence shown on the windscreen of their vehicle². RUC vehicles are almost entirely diesel vehicles, but also include increasing numbers of vehicles using electricity, or other fuels such as hydrogen and biodiesel³. Owners of electric vehicles (EVs) are currently exempt from paying RUC, but will be expected to pay RUC once the exemption ends. Cabinet recently agreed that the light EV RUC exemption will expire on 31 March 2024 [ENV-21-MIN-0036 refers], while the heavy EV RUC exemption expires on 31 December 2025.

- 15 The revenue from RUC is used to fund the operation, maintenance, and improvement of our land transport system.
- 16 The cost of RUC increases with the vehicle's weight and varies with the number of axles. To date, the costs that owners of RUC vehicles face have been apportioned based solely on the vehicles' use and damage to the road network⁴, and not to other wider costs posed by vehicle use.
- 17 In the 2019/20 financial year RUC contributed \$1.8 billion in revenue to the National Land Transport Fund out of a total of \$3.9 billion revenue. Of this, 800,000 light RUC vehicles (those with a GVM of 3.5 tonnes or less: primarily, cars, vans and SUVs) contributed \$700 million, while 190,000 heavy vehicles (including trailers towed by heavy vehicles) contributed \$1.2 billion. For comparison, the roughly three million light petrol vehicles contributed around \$1.9 billion over the same period through fuel excise duty (FED). Vehicle registration and licence fees also contributed another \$200 million.
- 18 RUC was first introduced in 1978 and has had only one major legislative amendment since then. This resulted in the 2012 RUC Act. The key changes with the 2012 Act over the 1977 Act were to change and simplify how heavy vehicle weights are set for the purpose of charging RUC. The 2012 Act also introduced electronic RUC (eRUC) as a recognised way to pay for RUC. The 2012 revisions have been subject to several external reviews⁵ since they came into force. The revised RUC system has been found to largely be working well, though some areas were recommended for further review. Nearly a decade on, it is appropriate to look at whether the RUC Act remains fit for purpose, and is able to be used in way that meets this Government's

¹ CNG, and LPG fuels are defined as 'petrol' in the RUC Act as they also include Fuel Excise Duty (FED) in their price. Ethanol is unique when used as a transport fuel as it has a rate of zero of FED and the vehicle is not subject to RUC.

² There are separate requirements for heavy trailers, and there are some provisions for heavy vehicles to carry, rather than display licences, but these are not widely used.

³ EVs that plug in, but also have a petrol motor to extend their range, known as Plug-in Hybrid Electric Vehicles, will pay for some of their road use through FED in the price of any petrol that they use. PHEVs will also pay RUC once the RUC exemption ends, but would be entitled to a refund for amounts FED paid.

⁴ As well as weight, RUC rates a portion to cover common costs for things like road markings and damage from non-vehicle related events, such as weather-related damage. Common costs make up most of the costs of RUC for light vehicles. Vehicles need to have a GVM over about 10 tonnes before damage to the road, and therefore weight costs, become important. Heavy vehicle RUC rates also include a separate amount to fund the dedicated Commercial Vehicle Safety Team at NZ Police.

⁵ Reviews were undertaken in 2013, 2014 and 2016. <https://www.transport.govt.nz/area-of-interest/revenue/road-user-charges-system/>

priorities. We also need to consider the recommendations from the earlier independent reviews, and this is the first opportunity to do so.

- 19 I am aware that I am proposing a significant number of potential changes to the RUC system. Given the scope of the possible changes being considered, I think it is important to consult widely, especially on any possible changes to the RUC Act's purpose, before recommending any amendments. I am therefore proposing to release the attached discussion document for a formal two month consultation period to start this discussion. In addition to consulting through the discussion document Manatū Waka and Waka Kotahi NZ Transport Agency (Waka Kotahi) plan to hold workshops and take part in other public forums to discuss the contents.

Cabinet has already noted my intention to release a discussion document on potential changes to the RUC System

- 20 In July 2021, [ENV-21-MIN-0036 refers] as part of agreeing to extend the light EV RUC exemption, Cabinet invited the Minister of Transport to report back to ENV later in 2021 to consult on a:

20.1 substantive package of potential amendments to RUC legislation that could:

20.1.1 help to further promote the uptake of low carbon fuel vehicles, such as hydrogen powered vehicles and heavy EVs

20.1.2 improve the current RUC system, including options for limiting the RUC exemption for light electric vehicles based on distance travelled.

- 21 The attached discussion document responds to that decision. It covers three broad areas:

21.1 whether to amend the RUC legislation to enable RUC to be used as a tool to support the uptake of low carbon fuels. It also asks whether it should be possible to consider other costs, such as air pollution or congestion when setting RUC rates

21.2 whether to make a range of possible changes to improve the workability of the RUC system for end users, aimed at simplifying it for end users and reducing their compliance costs. This includes whether to limit the RUC exemption for light EVs based on distance travelled.

21.3 whether to make a range of possible changes to improve Waka Kotahi's and NZ Police's ability to administer and enforce the RUC system.

Discussion on changes to RUC to reduce costs for low carbon fuels

- 22 One of key changes to the wider transport system since 2012 is the increased importance of transport fuels other than petrol and diesel. Many of these new fuels are more expensive to use, or the vehicles that use them may cost more to purchase than their current equivalents. Exemptions from paying RUC have been proposed as tools to help reduce some of these costs, especially while technologies are becoming established. It is for this reason that EVs are currently exempted from paying RUC.

- 23 New technologies, such as vehicles using hydrogen as a fuel, are expected to become increasingly commercially available with the next few years. There is increasing interest from their proponents for the RUC system to also be able to

support their uptake by charging low RUC rate, or no RUC (an exemption). Similar to what occurs for EVs at present. However, the existing RUC legislation does not allow the RUC exemption to be extended to other fuels. The legislative ability to grant the exemption is set in the Act, not regulations, and only covers EVs. The current legislation also cannot be used to charge a different rate to a vehicle, based solely on its fuel type.

- 24 If the Government wishes to offer similar support for technology such as hydrogen powered vehicles, this requires an amendment to the RUC Act. It would be possible to simply name this technology, as occurs with EVs. However, it would be more appropriate to create enabling legislation, so that a wider range of technologies or fuels could be supported, if this was considered desirable. I propose to consult on whether factors, including the climate change impacts of the fuel, are able to be considered when setting RUC rates. As I have noted above, I am aware that amending the RUC Act in this way would be a substantial change. In particular, it would require a change to the Act's purpose to allow costs other than damage to the road network to be considered when setting RUC rates.
- 25 If it is agreed that the purpose of the RUC Act should be amended to consider promotion of the uptake of low carbon fuels, then I think it is also appropriate to consider whether RUC could also be used to recover other costs. These costs could include those associated with issues such as congestion or air pollution. This would also be a major change to how we think of the costs. I think it is worth consulting on the option of broader costs being considered as part of RUC now, even if the powers might only be used at some point in the future.
- 26 If we broaden the range of costs that are able to be recovered through RUC, we would also need to consider how these might also be able to be applied to petrol or other fuels that include FED. This issue is raised in the discussion document.

There are risks to offering support to low carbon fuels through the RUC system

- 27 Offering support for the uptake of low carbon fuels through RUC exemptions or reduced rates of RUC comes at a cost of foregone revenue. Any risk to long term revenue must be carefully considered, especially at a time when land transport funding is under increasing pressure. It is also not clear that RUC exemptions or reduced RUC rates would be the most cost-effective way to offer support for low carbon fuels.
- 28 Broadening the types of vehicles that are exempt from RUC may also risk the current consensus with the road transport sector on RUC. Broadly, road users have accepted regular increases to RUC (and FED) as well as the idea that heavier vehicles should pay more, because heavier vehicles cause more damage to the roads. This is largely because the money raised is then used to maintain the road network. This consensus is in stark contrast to other jurisdictions where there can be significant protests and unrest when fuel taxes are raised, or where taxes have not been able to be raised, often for decades.
- 29 The Road Transport Forum, which represents the road transport industry, advises it would not support extending the RUC exemption to other fuels because it would undermine the principles of the RUC system that vehicle owners should pay for the use of roads. It is also concerned at a potential decline in funds available for building and maintaining transport infrastructure and the likelihood of additional increased costs for its members to offset the expected revenue loss.

Other amendments can be considered at the same time

- 30 The last major suite of amendments to the RUC legislation were made in 2012. In the intervening years, the types of vehicles, their fuels, and the types of users subject to RUC have changed considerably. Heavy diesel vehicles remain the core of the RUC system, but are now only responsible for around sixty percent of RUC revenue. Light diesel vehicles, which now make up 20 percent of the overall light vehicle fleet, contribute the other forty percent of RUC revenue. Once the EV RUC exemption ends, owners of EVs will also pay RUC in ever increasing numbers.
- 31 Given the shifts in the RUC vehicle fleet and in technology more broadly since 2012, there are a wide range of other changes relating to the RUC system that I think could be proposed for consideration as part of the same consultation process. These potential changes are intended to improve the way the current RUC system works and reduce compliance costs for its users. One example of this type of change is the proposal to remove the requirement for the display of paper licences as other technology is now available to ensure compliance.
- 32 A range of changes are also proposed to assist Waka Kotahi in its role of implementing and enforcing the legislation. These include broadening its powers to assist it in investigations of unpaid RUC. This section also seeks to respond to recommendations from the external evaluations of the RUC Act commissioned by Manatū Waka since the 2012 reforms. The most recent of these evaluations was published in late 2016⁶ and the key recommendations from these reports have not been able to be considered until now.
- 33 Some of the matters proposed for discussion could also lay the groundwork for any future plans for a more comprehensive use of distance-based charges. Such an approach may be needed if existing revenue streams decline in response to factors such as improving fuel economy, or if there is a decrease in the distance travelled by the petrol vehicle fleet.
- 34 Annex 1 contains a copy of the table of contents for the discussion document.

I propose to consult through a discussion document before recommending any amendments

- 35 The attached is a discussion document, rather than draft legislation. It contains a broad range of ideas and options that I wish to seek feedback on. However, I do not expect that all of the matters set out in the discussion document will lead to recommendations for changes to legislation. This will depend on the feedback and the results of discussions with the sector.
- 36 Our publicity will be clear that this is a discussion document and that decisions to proceed to develop any legislation to implement any of the proposals will not be made until feedback has been considered by Cabinet as part of a report back next year. I expect that there would also be further opportunity for consultation and consideration of the impacts of any specific policy changes as part of the usual process of legislative change.
- 37 Given the breadth of the proposed changes I intend to allow sufficient time for consultation. I propose that the draft discussion document is released with a two-month consultation period. However, some topics, especially those that are responding to technical issues raised by the previous reviews of the RUC Act, may

⁶Evaluation of the New Road User Charges System Cycle Three Evaluation Report December 2016 Allen+Clarke

take longer to resolve and develop preferred options. I think it is appropriate to take sufficient time to engage with the transport sector to develop solutions that will work for all involved, rather than rush development at this time. For this reason, I do not intend to ask Cabinet to agree to a specific date for a report back, except to note that I intend to report back to Cabinet with a final package of possible amendments by mid-2022.

The discussion document is expected to attract a high level of public interest

- 38 The potential changes to enable RUC rates to include matters such as climate policy or wider environmental costs are likely to be of the widest public interest. We expect these to receive the strongest reactions. Some of the reaction could be negative, especially if people consider the proposals will lead to reduced transport spending on other areas, or increased costs for them. The Road Transport Forum has already indicated it is unlikely to support changes that move away from using vehicle weight and axle number as the primary variable to determine the costs of RUC.
- 39 I expect that the potential changes intended to improve compliance, such as removing the requirements for paper labels, will be of general interest.
- 40 I would note that most of the proposals are intended to reduce costs, make compliance simpler and ensure that all users contribute fairly to the land transport system. For this reason I expect the more technical changes to receive a generally neutral or favourable reaction from stakeholders.

I plan to release the discussion document on 25 September 2021

- 41 I have agreed to speak at the Road Transport Forum's conference on 25 September 2021. As its members are the key road transport stakeholders for the policies being proposed, the conference provides a useful opportunity to discuss the document. Cabinet's agreement to release the discussion document would be required by that date.
- 42 In the event that Cabinet has not agreed to the release of the discussion document before my speech on 25 September 2021, I will only discuss the general nature of the document's contents. As noted in paragraph 20, the intention to release a discussion document with proposals to change to the RUC system to address low carbon fuels was agreed by Cabinet in July 2021 and that Cabinet Paper has been proactively released.⁷

Financial Implications

- 43 There are no direct financial implications from the release of the discussion document. The potential impacts on the National Land Transport Fund, and on the costs faced by RUC system users, will be a key element to consider in developing recommendations for any amendments resulting from this discussion document.

Legislative Implications

- 44 There are several types of possible legislative response to the discussion document. Some of the changes, can be made under the existing regulation making powers. I expect to present a package of these possible regulation changes to Cabinet as part of the report back in 2022.

⁷ <https://www.transport.govt.nz/assets/Uploads/OC210437-Extension-of-light-EV-RUC-exemption-Cabinet-Paper.pdf>

- 45 Most of the substantive changes put forward for discussion would require amendments to the RUC Act to create new enabling powers. The actual policies would then be implemented by regulations once the amendments were in place.

[REDACTED]

Withheld to protect confidential advice to government

- 46

[REDACTED]

Withheld to protect confidential advice to government

Impact Analysis and Regulatory Impact Statement

- 47 A Regulatory Impact Assessment is not required as the paper is only seeking agreement to release a discussion document. An assessment will be prepared for any resulting proposals for legislative change.
- 48 The Regulatory Impact Analysis panel at Manatū Waka has reviewed and confirmed that the discussion document will lead to effective consultation and support the eventual development of a quality Regulatory Impact Statement when final decisions are being sought from Cabinet.

Climate Implications of Policy Assessment

- 49 A Climate Implications of Policy Assessment (CIPA) is not required at this time. This would be prepared if any relevant matters in the discussion document are proposed for implementation.

Population Implications

- 50 There are no population impacts from the release of the discussion document.

Human Rights

- 51 There are no human rights implications from the release of the discussion document.

Consultation

- 52 The following agencies were consulted on the contents of the discussion document and agree with its release: the Ministry for Business, Innovation and Employment, the Ministry for the Environment, Waka Kotahi NZ Transport Agency, and the Energy Efficiency and Conservation Authority. The Department of the Prime Minister and Cabinet and the Treasury were also informed.

Communications

- 53 I plan to announce the release the discussion document at the Road Transport Forum's annual conference on 25 September 2021. I expect that Manatū Waka and Waka Kotahi will also consult with stakeholders through workshops and other appropriate mechanisms once the document has been released, as well as through written submissions.

Proactive Release

- 54 Manatū Waka will proactively release this Cabinet paper with appropriate redactions under the Official Information Act 1982 within 30 business days of Cabinet confirming a decision, in line with guidelines from the Cabinet Office (CabGuide, and the

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Cabinet Office circular, Proactive Release of Cabinet Material: Updated Requirements [CO (18) 4]).

Recommendations

The Minister for Transport recommends that the Committee:

- 1 **agree** to the release the attached discussion document on potential reforms to the Road User Charges legislation that would enable promotion of low carbon fuels and improve the RUC system
- 2 **note** that I plan to announce the release of the discussion document at the Road Transport Forum's Conference on 25 September 2021.
- 3 **agree** that I can make minor editorial changes to the discussion document to improve the layout and clarity before the document is released
- 4 **agree** that I will report back to Cabinet on the results of this consultation with recommendations for legislative change before mid-2022
- 5 **note** that the Manatū Waka Ministry of Transport will proactively release this Cabinet paper with appropriate redactions under the Official Information Act 1982 on its website

Authorised for lodgement

Hon Michael wood
Minister of Transport

PROACTIVELY RELEASED BY
TE MANATŪ WAKA MINISTRY OF TRANSPORT

Annex 1

Copy of the table of contents for the Discussion Document

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