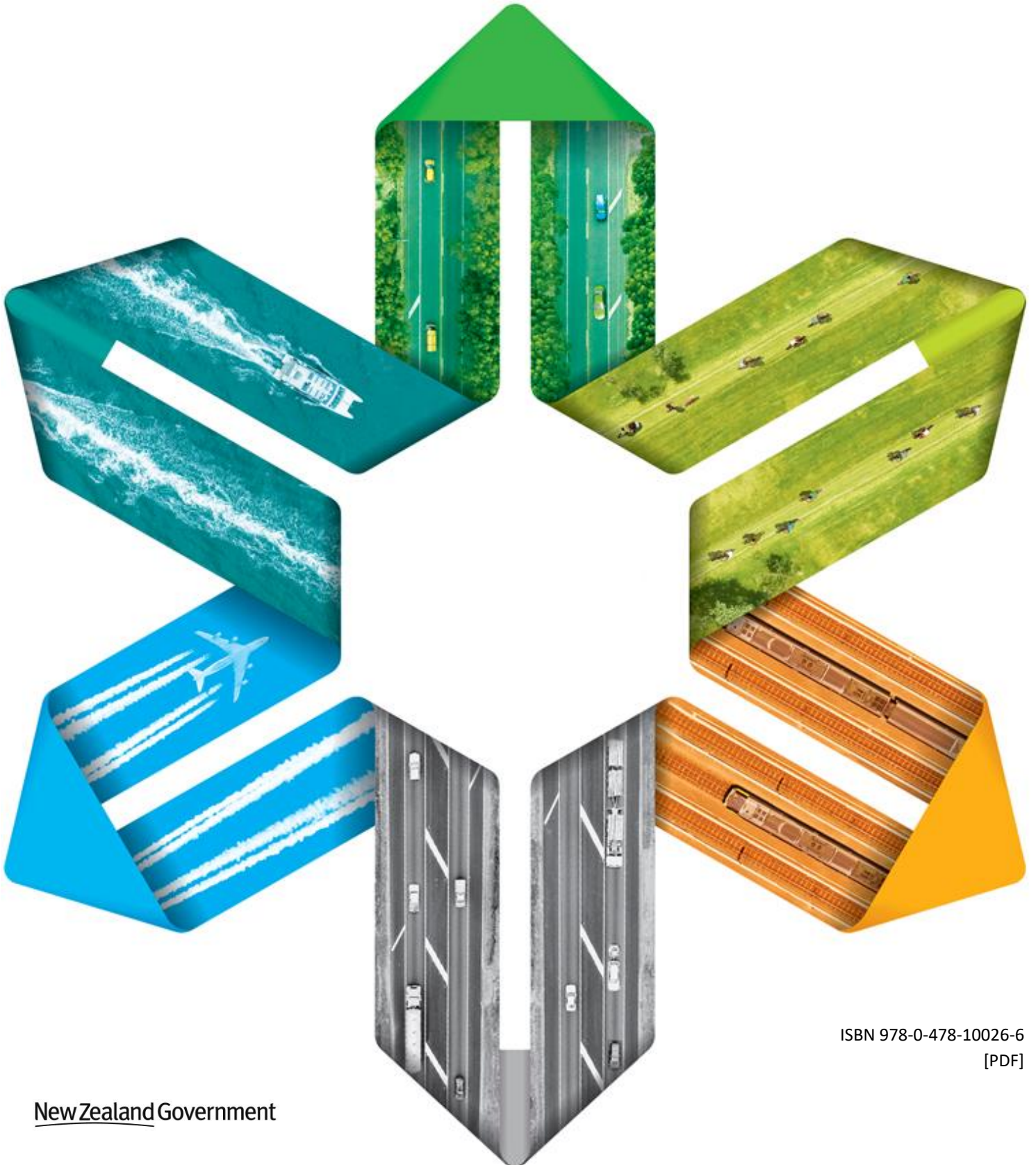


Fuel excise duty refund and regional fuel tax rebate entitlements

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Summary

1. The purpose of fuel excise duty and regional fuel tax is to raise revenue for transport expenditure. Refunds are available for fuel excise duty and rebates for regional fuel tax in certain situations where fuel is used off-road. This report provides a summary of the Ministry of Transport's work reviewing the range of situations where someone may be eligible for a refund or rebate.
2. Currently, most of the refund and rebate entitlements relate to productive uses of fuel. For example, entitlements exist for fuel used in agricultural vehicles, commercial ships or for fuel used for a commercial purpose. We considered whether there was merit in providing a refund or a rebate entitlement for fuel used in a broader range of situations – for example, for fuel used around homes, in motor vehicles, recreational boats or aircraft.
3. Our starting point was that those who use the transport system ought to help pay for it. However, this was not the only factor relevant to creating new entitlements. Other factors included the administrative cost (efficiency), the risk of fraud (integrity), and the practicality of creating new entitlements.
4. As a result of this work, new entitlements were created for the rebate of regional fuel tax, which, unlike fuel excise duty, applies to diesel. New entitlements were created for diesel used for home heating and for diesel used in a dedicated off-road vehicle (mainly used in the construction sector) and for other specific off-road situations relating to regional fuel tax.
5. On balance, we were unable to recommend that further new entitlements be created at this time for fuel excise duty and regional fuel tax. This was mainly due to the likely administrative cost. We were also concerned about the risk of fraud in situations where documentation or proof may not be readily available.
6. Work is underway by Waka Kotahi (the NZ Transport Agency) to improve its systems used for handling claims, including potentially implementing an online system which could result in greater efficiencies. We also note that an eventual move to a distance-based charge would reduce the need for a refund and rebate system.
7. This document also sets out our consideration of specific off-road uses of fuel not currently eligible for a refund or rebate, including:
 - 7.1. fuel used around homes, including in domestic appliances such as lawnmowers and chainsaws
 - 7.2. fuel used in motor vehicles, including road registered motor vehicles when not used on a public road
 - 7.3. fuel used in recreational boats
 - 7.4. fuel used in aircraft.
8. In the case of recreational boats, instead of a refund entitlement, funding is provided to search and rescue and recreational boating safety activities. Providing a refund for fuel used in recreational boats would compromise this arrangement which benefits the recreational boating community.

Introduction

9. Most motor vehicles in New Zealand use either petrol or diesel as their primary fuel. Fuel excise duty is paid on all petrol that is produced or imported in New Zealand and fuel companies recover the cost of fuel excise duty at the pump. Diesel vehicle owners pay road user charges (RUC) on a per-kilometre basis.
10. Most fuel of the sold in New Zealand is used in motor vehicles on public roads. However, some fuel is also used not on public roads (off-road). This includes fuel used in sectors such as construction and agriculture, or for activities like motor racing or boating. Fuel is also used in small machines such as chainsaws or lawnmowers and in recreational boats and in the aviation sector.
11. In some situations, people who use fuel off the road are entitled to apply for a refund of the fuel excise duty included in the price of petrol. The situations where someone may be eligible to apply for a refund are set in regulations and generally relate to productive or commercial uses of fuels.¹
12. On 1 July 2018, a regional fuel tax of 10 cents per litre was applied to diesel and petrol in Auckland. To facilitate the introduction of the regional fuel tax, the Ministry of Transport reviewed the range of situations where someone may be entitled to claim a rebate for regional fuel tax and a refund for fuel excise duty.²
13. The Ministry of Transport has now completed its investigations into the range of situations where someone may be entitled to claim a rebate for regional fuel tax and a refund for fuel excise duty (an 'entitlement'). This document provides a summary of the work.

The purpose of fuel excise duty and regional fuel tax is to raise revenue for transport expenditure

14. Fuel excise duty and regional fuel tax are fuel taxes that raise revenue to help pay for transport expenditure. Excise duty is applied on fuel when it is either produced in or imported into New Zealand. The New Zealand Customs Service collects fuel excise duty. Most of the revenue from fuel excise duty goes into the National Land Transport Fund, administered by Waka Kotahi which is a central government agency with responsibilities relating to the land transport system.
15. From 1 July 2019, fuel excise duty is 66.524 cents per litre (excluding GST) on petrol. Fuel excise duty also applies to LPG (liquid petroleum gas) and CNG (compressed natural gas) but at a different rate.
16. Regional fuel tax, unlike fuel excise duty, is a local government funding tool that applies to both petrol and diesel distributed in a region. Regional fuel tax is collected only on fuel distributed in a region with a regional fuel tax scheme. For a regional fuel tax to be put in place, a regional fuel tax proposal must be approved

¹ Land Transport Management (Apportionment and Refund of Excise Duty and Excise-Equivalent Duty) Regulations 2004, referred to in this paper as the "existing regulations".

² Land Transport Management Act 2003 uses the word "refund" for fuel excise duty and the word "rebate" for regional fuel tax. There is no practical distinction between a refund and a rebate. We use the term "entitlement" to cover both situations.

by the Ministers of Finance and Transport. The only regional fuel tax in place is in Auckland.³

17. Waka Kotahi collects the regional fuel tax and the revenue is passed to Auckland Council and is used to fund transport projects in the Auckland region. The rate of regional fuel tax in Auckland is 10 cent per litre (plus GST).

Our starting point for this review: those who use the transport system ought to help pay for it

18. Our starting point in considering new entitlements was that, in principle, both fuel excise duty and regional fuel tax are intended to be 'use-taxes'. This is based on the idea that those who use our transport system (notably, our roads) ought to help pay for it. To achieve this, rebates and refunds are provided for specified situations where fuel is used off-road. Revenue raised from both fuel excise duty and regional fuel tax is dedicated or ring fenced to transport expenditure (this known as a hypothecated tax).
19. Other factors relevant to assessing the merits and disadvantages of creating new entitlements included:
 - 19.1. efficiency – specifically, the administrative costs of additional claims, whether providing new entitlements would compromise the efficiency of the refund and rebate system and more broadly compromise fuel taxes as an efficient way to raise revenue for transport expenditure
 - 19.2. integrity – whether new entitlements would be able to be administered without compromising the integrity of the refund and rebate system, specifically, the risk of fraud
 - 19.3. practicality – in terms of recordkeeping and supporting documentation, whether verifying fuel use and making a claim would likely be found to be burdensome on claimants or the Waka Kotahi
 - 19.4. existing policy settings and funding arrangements – whether creating new entitlements would compromise or contradict other funding arrangements or existing policy settings. For example, productive uses of fuel are the predominant focus of the existing entitlements, particularly fuel used in the agricultural sector, rather than discretionary uses of fuel, for example, fuel used for recreational or leisure activities.

We did not look at making fundamental changes to how fuel is taxed in New Zealand

20. As part of this work, we looked at how other jurisdictions deal with the off-road use of fuel. Some countries differentiate between fuels for use on the road (taxed) and off-road (non-taxed). These countries often mandate the adding of dyes and other tracking substances to indicate what fuel may be used on-road. Colouring fuels requires a parallel but separate distribution chain and a compliance regime.

³ The regional fuel tax in Auckland is in place by the Land Transport Management (Regional Fuel Tax Scheme—Auckland) Order 2018.

Implementing such a system in New Zealand would likely have a substantial cost and was not considered as part of this review.⁴

21. Another limitation was a requirement that any rebate entitlement for regional fuel tax should be like, or consistent with, the refund entitlement available for fuel excise duty. Members of the public express concern about the complexity of the existing processes for claiming entitlements for fuel excise duty. Therefore, it did not make sense to add further complexity by having different entitlements for fuel excise duty and regional fuel tax. As much as possible, the entitlements for the rebate of regional fuel tax should not contradict the refund entitlement for fuel excise duty.
22. Existing entitlements, their scope or justification, were not reviewed.⁵ We only considered the need for new entitlements.

Existing refund and rebate entitlements relate mainly to productive off-road uses of fuel

23. In the existing regulations a person may be eligible (or entitled) to claim a refund for fuel excise duty or a rebate for regional fuel tax for fuel used:
 - 23.1. in an exempted vehicle – these are motor vehicles that are exempted from registration in the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011, or motor vehicles used in connection with an agricultural operation, farmers' vehicles, mobile machinery, forklifts, local authority tractors for verge or grass cutting or cemetery purposes
 - 23.2. in a road user charges licensed vehicle – these are vehicles that weigh over 3,500kg gross vehicle mass, and therefore subject to road user charges, that use petrol as fuel (rather than diesel). Owners can receive a refund for the fuel excise duty paid for the petrol as the owners of the vehicles are subject to road user charges.
 - 23.3. in a commercial vessel
 - 23.4. in a dedicated maritime rescue vessel for search and rescue purposes
 - 23.5. for a commercial purpose but not in a motor vehicle, vessel or aircraft.
24. Most of the existing entitlements are for productive uses of fuel, rather than for discretionary or recreational uses of fuel. Existing entitlements are heavily, but not exclusively, focused on fuel used in the agricultural community.

⁴ Further information may be found in the Road User Charges Review Group's report (2009) "*An Independent Review of the New Zealand Road User Charging System*" at www.transport.govt.nz/assets/Import/Documents/e8cf12e64c/RUC-Final-Report.pdf.

⁵ We also did not look at issues relating to the refund of fuel excise duty on LPG and CNG.

25. Waka Kotahi administers claims for the refund of fuel excise duty and for the rebate of regional fuel tax.⁶ Waka Kotahi also has audit and enforcement functions both in regard to fuel excise duty refunds and regional fuel tax.

New rebate entitlements were created for the regional fuel tax in Auckland

26. To ameliorate several unforeseen issues that came to light immediately following the implementation of the regional fuel tax in July 2018, it was necessary to create several new entitlements. New entitlements were created in tranches.
27. Tranche one resulted in additional entitlements for the rebate of regional fuel tax where fuel was shipped in bulk (legally defined as exported) outside Auckland by fuel distributors, for example, overseas to the Pacific Islands. This was also applied to fuel shipped to Great Barrier Island, as Auckland Council excluded the Great Barrier Local Board area from the boundaries of the regional fuel tax. It was necessary to ensure that fuel distributors could claim back the regional fuel tax on fuel transported to the islands. Tranche one entitlements were put in place on 24 August 2018.⁷
28. Tranche two addressed additional rebate circumstances that came to light following the introduction of the regional fuel tax in Auckland. These mainly related to refunds for the use of diesel, as this fuel was not previously taxed.⁸
29. Entitlements were created for:
- 29.1. diesel used for home heating or home water heating (if a distributor delivered the diesel to a fixed tank connected to the home heating or home water heating system)
 - 29.2. diesel used in the generation of electricity (but not by a private individual)
 - 29.3. fuel used in road registered motor vehicles that were used exclusively or predominately off-road, for example, in the construction sector
 - 29.4. fuel transported for on-sale outside the regional fuel tax region.
30. Tranche two entitlements were put in place on 21 December 2018.
31. Both tranche one and tranche two entitlements applied to all fuel purchased in Auckland since 1 July 2018.⁹

⁶ Under the Land Transport Management Act 2003 the Secretary of Transport is responsible for the refund of fuel excise duty. On 7 December 2017, the Secretary of Transport fully delegated the refund of fuel excise duty to the Chief Executive of Waka Kotahi (and his delegates).

⁷ Land Transport Management (Regional Fuel Tax) Amendment Regulations 2018.

⁸ Diesel is not subject to fuel excise duty. Diesel is however subject to the Local Authorities Fuel Tax, the Petroleum or Engine Fuel Monitoring Levy and GST.

⁹ Land Transport Management (Regional Fuel Tax) Amendment Regulations (No 2) 2018.

Further entitlements explored, both for fuel excise duty and regional fuel tax

32. As part of the third stage of work, the Ministry also considered creating new entitlements including for fuel used:
 - 32.1. privately in machines (for example, in lawnmowers and chain saws)
 - 32.2. in all motor vehicles when not used on a public road (including registered and licensed motor vehicles)
 - 32.3. in recreational boats
 - 32.4. in aircraft.
33. Along with further entitlements, consideration was also given to different approaches to legislative design and a range of technical changes to the existing regulations.
34. Much of the language in the existing regulations dates to the Transport Act 1962 and the Motor Vehicle Taxation Regulations 1966. The existing regulations have been amended, most notably in 2004 to provide a refund for fuel used in dedicated search and rescue vessels. However, many of the core entitlement provisions have largely remained unchanged since 1966.
35. Broadly, the existing regulations are prescriptive, detailed and complex. Rewriting the existing regulations would need to be carefully worked through to ensure that those who are currently eligible are not inadvertently disadvantaged. As the existing regulations have remained mostly unchanged for a substantial period, an understanding has developed in the community, particularly in the agricultural community, about the situations where someone is eligible for a refund.
36. If new entitlements were to be created, it is likely that other regulations may also need to be changed as the existing regulations are cross-referenced elsewhere.¹⁰

On balance, we are unable to recommend that further new entitlements should be created at this time

A concern was the likely administrative cost

37. As there is no fee to claim a refund of fuel excise duty, or a rebate of regional fuel tax, road users fund the administration of claims (the cost to process a claim).¹¹ Currently, Waka Kotahi is funded \$799,000 from the National Land Transport Fund to process claims for the refund of fuel excise duty. The systems used by Waka Kotahi to process claims are mostly manual and paper-based. These have

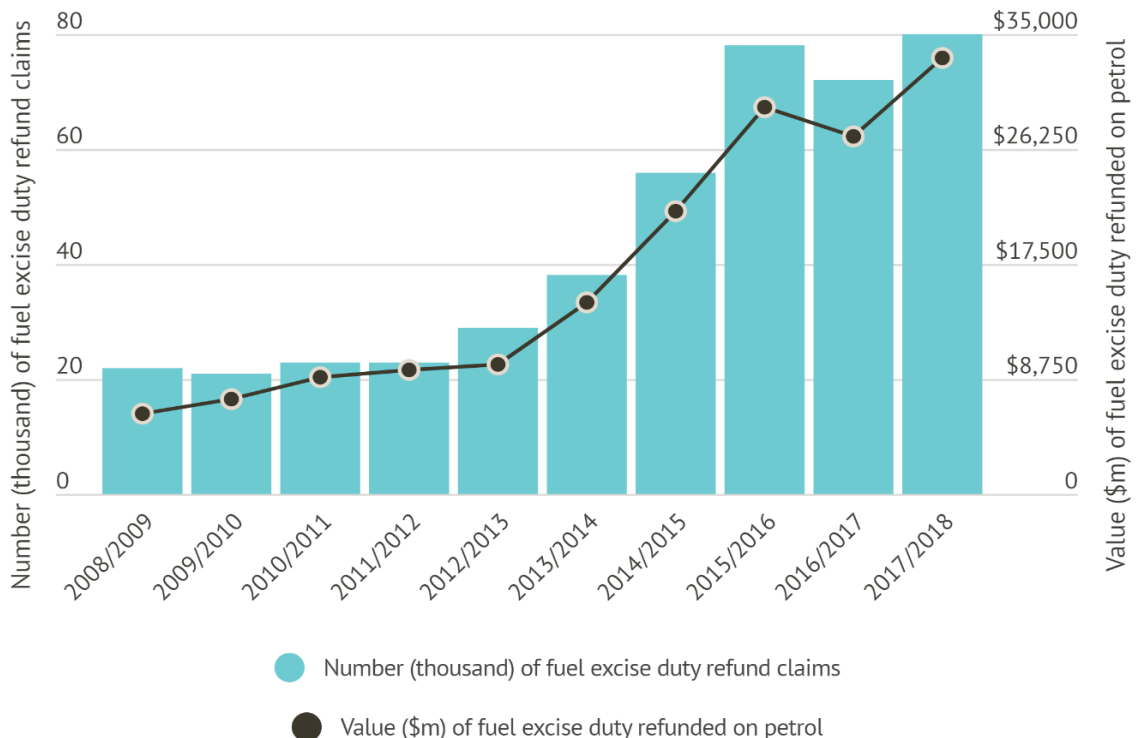
¹⁰ Most notably, the existing regulations are cross referenced in the Injury Prevention, Rehabilitation, and Compensation (Refund of Fuel Levy) Regulations 2003 and in the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011.

¹¹ In regard to fuel excise duty, the administration of refunds is funded from land transport revenue (most notably, fuel excise duty, road user charges and registration and licensing fees). The administration of regional fuel tax rebates is funded from the revenue collected in the region. A deduction for costs and expenses is made before the regional fuel tax revenue is passed to the appropriate regional/unitary authority (Auckland Council).

been under strain for some years due to a very significant increase in the volume of claims in the past decade.

38. The Ministry’s main finding was that creating new entitlements would significantly increase administrative costs. In carrying out the review, it became apparent that the cost to process a claim is likely to be substantially more than the roughly \$10 per claim that Waka Kotahi has been funded to carry out this activity. Waka Kotahi found that the full cost of processing a claim is more likely to be around \$38 per claim (if not more). The newly identified higher costs made recommending new entitlements more challenging.
39. In the last ten years, there has been a significant increase in claims for refunds of fuel excise duty, particularly in small claims, following the emergence of agents¹² who make claims on behalf of off-road fuel users on a ‘no refund, no fee’ basis. Now, around half of the total number of claims are made by agents and the individual claims tend to be of a lower value than those made directly by the public.
40. The graph below shows that since 2008, the volume of claims for the refund of fuel excise duty has almost quadrupled. In 2009/10 there were roughly 21,000 claims. In 2015/16 there were over 77,000 claims.

Volume and value of fuel excise duty refund claims between 2008/09 and 2017/18



¹² Waka Kotahi refers to “agents” (those in the business of acting for users of fuel) as “bureaus”. The agency relationship does not exist with the Waka Kotahi but rather between the refund business and off-road user of the fuel / claimant.

41. It is likely that the increased volume of claims also reflects the increase in the rates of fuel excise over this period. Waka Kotahi reports that when fuel excise duty is increased it is often accompanied by an increase in claims. Waka Kotahi reports the rise in fuel excise duty in 2013 was accompanied by a significant increase in persons making and enquiring about the ability to claim. Even marginal increases in fuel excise duty may be accompanied by an increase in enquires about the potential to claim.
42. Although the volume of claims has dramatically increased it has not materially impacted total revenue. The share of refunds, as a percentage of gross revenue, has remained relatively static at between 2.3 and 2.9 percent of total revenue, though in recent years the amount refunded has been at the top end of this range. This suggests much of the growth has been in smaller claims or claims that are ultimately refused.
43. Any further significant increase in the volume of claims and an associated increase in administrative costs could undermine the efficiency of the existing rebate and refund system.

We are also concerned at the increased risk of fraud

44. Fraud has the potential to undermine the integrity of the land transport revenue system. The current land transport revenue system has a high degree of integrity as fuel taxes are collected at the importer-producer level. The fraud risk primarily resides with the refund and rebate system. One aspect that makes the refund and rebate system very susceptible to fraud is that fuel is used so widely across society and the economy, and is easily transported, meaning that it is difficult to prove how any quantity of fuel purchased is ultimately used.
45. Ascertaining fraud can be complicated, and the difference between an error and fraud may be an individual's intent. International work to identify and quantify the level of errors and fraud in fuel refund systems has found:¹³
 - 45.1. a significant number of claims forms contained errors
 - 45.2. the risk of fraud increases with the rate of tax – places with higher fuel taxes tend to have more claims than those with lower fuel taxes, suggesting the fraud incentive is stronger when the tax rates are high.¹⁴
46. Currently, those entitled to claim refunds or rebates tend to be businesses or similar organisations. Such users of fuel are typically more able to provide records to verify off-road use. This is because those users may have fuel delivered by a fuel distributor and are likely to maintain records for other business reasons. If

¹³ For example, see Western Transportation Institute (2011) "*Montana Fuel Tax Refunds*" at www.westerntransportationinstitute.org/wp-content/uploads/2016/08/4W2969_Final_Report.pdf.

¹⁴ Please note, this has not been seen in Auckland. Auckland following the regional fuel tax has a higher rate of tax on petrol and diesel than the rest of New Zealand. Factors that mitigate against this phenomenon probably include the rate of tax is 10 cents (probably not high enough to provide a strong incentive) and despite regional fuel tax in Auckland the price of some fuels remain lower in Auckland than in some other parts of the country.

new entitlements were created, especially entitlements for private individuals, records might not be able to be readily provided to verify the off-road use.

47. There are two potentially conflicting objectives in the refund/rebate process: requiring claimants to provide sufficient information to minimise the risk of fraud; and ensuring the process is straightforward and easy for claimants to complete. Experience has shown there is likely to be significant push back against any increased administrative or recordkeeping requirements, particularly requirements that claimants view as being unnecessary or overly complicated. Getting the balance right is challenging.
48. Additional checking and auditing of claims may also be required and prosecutions where there is evidence of fraud, though this is usually very resource-intensive and expensive and may greatly exceed the value of the claim.
49. In considering the risk of fraud, we also looked at the entitlements available for the off-road of fuel in other countries. Overall, the entitlements available in New Zealand are comparable to those available in different countries, and we have not found any significant gaps.¹⁵ Entitlements for fuel used for domestic home heating are relatively common internationally. However, refund or rebate entitlements for the private uses, for example, including for use in recreational boats are relatively rare in other countries.

A potential move to distance-based charging will reduce the need for a refund and rebate system

50. Consideration is currently being given to future charging options as part of the Ministry's Future of the Land Transport Revenue System project. One option likely to be considered is a distance-based charge to replace fuel excise duty. This would mean road users would only pay for distance travelled on a public road. This would minimise the need for refunds and rebates and ultimately resolve one of the disadvantages with fuel tax being a land transport funding tool (the tax is also charged on fuel not used exclusively for land transport, necessitating a rebate and refund system).

Waka Kotahi is making administrative improvements that may result in greater efficiency

51. One of the main concerns expressed to the Finance and Expenditure Select Committee when it was considering the Land Transport Management (Regional Fuel Tax) Amendment Bill 2018 was with the current administration of the refund system. Some agricultural stakeholders complained it was cumbersome, costly and paper-based.
52. As a response to the concerns expressed, and this work reviewing entitlements, Waka Kotahi is investigating initiatives to improve its administration of refunds and rebates, including re-commencing a project to enable online refunds. Waka Kotahi notes, in the past, there has been a lack of funding for continuous improvement activities. Despite this, Waka Kotahi has made numerous process changes that

¹⁵ The only potential difference that was noted related was an explicit entitlement for auxiliary engines. Some parts of the United States have an explicit entitlement for engines on refrigerated (reefer) trucks. The Waka Kotahi is working through its operational policy for ancillary engines.

have boosted efficiency and performance. Waka Kotahi has also successfully designed and implemented an online system for the rebate of regional fuel tax.

53. Establishing an online refund system for fuel excise duty may bring further efficiency and cost savings. If these eventuate, it may facilitate additional entitlements in the future, should it be considered a transport priority.
54. To provide Waka Kotahi with the opportunity to improve its administration, and build an online system for fuel excise duty refunds, certainty is required about entitlements. In our view, making further regulatory changes at this time would delay Waka Kotahi completing its operational work to improve the administration of existing entitlements.

We looked at whether further entitlements were justified for specific off-road uses of fuel

55. As noted in para 32, we looked at several sectors or specific off-road uses of fuel to consider whether new entitlements were justified. This section discusses the findings from that work.

We considered an entitlement for fuel used around homes, including in domestic appliances such as lawnmowers and chainsaws

56. Individuals who use fuel at home, for instance, in a lawnmower or a chainsaw are not currently entitled to a fuel excise duty refund or a regional fuel tax rebate.¹⁶ The Ministry occasionally receives an enquiry about the refund of fuel excise duty for fuel used in lawnmowers or chainsaws; however, it is not a frequent point of contention.

Number of potential claimants – many households have lawnmowers and chainsaws and other appliances that use fuel

57. There is no accurate data on how much fuel is used off-road for domestic purposes by private individuals, for example, around homes. Statistics relating to the off-road use of fuel do not differentiate whether the fuel is used commercially or privately.¹⁷
58. There are also no official statistics on how many individuals own or use, a lawnmower, chainsaw or other similar appliances. Using dwelling data from Statistics New Zealand and analysis on likely fuel consumption, the Ministry estimated over one million households may own petrol-powered lawnmowers or similar motorised tools and up to 10.0 million litres of petrol could be used each year in these appliances.

¹⁶ The existing regulations implicitly distinguish between whether the fuel is used for a commercial purpose versus other purposes (for example, for domestic or recreational purposes). With the exclusion of CNG and LPG, petrol that is used for a purpose that is not commercial is not eligible for a refund or rebate. The entitlement for CNG and LPG is in recognition that it is also used in homes for heating and cooking purposes.

¹⁷ In total, it is estimated that around 150 million litres of petrol (5 per cent of total petrol volume) is used off-road.

It would not be administratively efficient to reinstate an entitlement at this time

59. As background, before 1963, domestic users (private individuals) were entitled to claim a refund for taxes on fuel used off-road, but not in motor vehicles. In 1963, this entitlement was removed, reportedly because claims were often for minimal amounts of money and it was not considered administratively efficient to provide such refunds.
60. Around that time, due to the increase in the availability and affordability of household motorised tools and appliances the number of low-value claims was potentially on the rise. Maintaining the entitlement was likely not administratively efficient, especially if it would cost more to provide the refund than the amount refunded. It would not have been cost-effective to check and potentially audit low-value claims thoroughly. The ability to claim refunds for fuel used in appliances at home was removed.
61. It is not known how many individuals would claim a refund or rebate for household uses if an entitlement was introduced: the potential pool of end-users that could make a claim is effectively the whole adult population. It is possible that the uptake rate could be low because most individuals would not consider it worthwhile to make a claim given the likely small sums of money involved.
62. Despite the rise of commercial property maintenance services and electric powered tools, many individuals continue to have tools that use petrol. This situation has unlikely changed since 1963, and it would unlikely be an efficient use of resources to handle such claims.¹⁸
63. Establishing an online system may provide greater efficiency to process low-value claims at a lower cost. However, this is not known at this time, and even if greater efficiency was achieved verifying and ensuring the integrity of claims would remain challenging.

Many users may be unable to substantiate fuel usage

64. As with any refund or rebate system, there is a possibility of fraud. Fraud could occur by a person overstating a claim or making a claim for fuel that was used in a vehicle on the road. At a minimum, claimants would need to supply documentation to Waka Kotahi to validate the claim.
65. It is likely part of the reason the entitlement for private individuals was removed in 1963 was that many private users were unable to provide records to substantiate their claim. Due to the absence of a method to verify use, establishing an entitlement may present difficulties in terms of maintaining the integrity of the system (in terms of the risk of fraud).

¹⁸ Throughout this work, consideration was given to the idea of establishing 'de minimis' meaning that if the value of the claim was less than a set amount, no claim would be able to be made to the Waka Kotahi for a refund. There was a concern that potentially establishing a de minimis for fuel excise duty refunds would disadvantage some commercial claimants who have for a long time made and received fuel excise duty refunds. Establishing a de minimis may also potentially impact the integrity of the revenue system – as it provides an incentive for users to overstate their claim, so the value reaches the minimum threshold.

We considered an entitlement for fuel used in motor vehicles, including registered motor vehicles when not used on a public road

66. The Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011 provide that motor vehicles used primarily on private land are exempt from the registration and licensing requirement. Currently, owners of motor vehicles that are specifically exempted from the registration requirement, or which are specified in the existing regulations, are eligible to claim refunds for off-road fuel use. The motor vehicles specified in the regulations are agricultural vehicles, forklifts, local authority tractors used for verge or grass cutting or cemetery purposes. These motor vehicles are eligible to a refund of fuel excise duty and a rebate for regional fuel tax.
67. There is currently no entitlement that allows owners of other vehicle-types to make claims for fuel used in their vehicle when off-road.¹⁹

It would not be administratively efficient to create a further entitlement for off-road use of motor vehicles

68. There is little available data on the amount of fuel used off-road by petrol vehicles. Most vehicles owned by private individuals probably go off-road some of the time. For example, any instance where a vehicle goes on private land is technically an off-road use. This could include a residential driveway, or in a supermarket or shopping mall carpark and this travel could potentially give rise to a claim, should an entitlement be created.
69. For this work, an estimate was made for fuel used off-road in karts, rally racing, speedway, motocross and four-wheel driving. The Ministry estimated that the costs of administering a claim, in many instances, would likely be more than or equal the value of the claim. Paying more, or similar amounts, to handle the claim than that being refunded would not likely aid the efficient administration of the system.

Providing such an entitlement also has the potential to impact the integrity of the land transport revenue system adversely

70. As noted, it is unlikely that many vehicle owners would be able to produce sufficient information to substantiate their off-road fuel use. Not every vehicle has technology that records its movements and its actual fuel use. It is likely many owners would only be able to provide very rough estimations of their off-road travel and without an ability to demonstrate the accuracy of fuel usage information it would be difficult for the claimants to substantiate a claim.²⁰
71. Without records that show the actual fuel use of the vehicle, there is a real risk that people may overstate their off-road use or make claims for fuel that was actually used on the road.

¹⁹ The refund entitlement is different for road user charges (see section 30 of the Road User Charges Act 2012).

²⁰ This is, however, not the case for vehicles with electronic road user charges, which is a distance-based charge. Vehicles with electronic systems can often provide information on their distance and specific location information to validate a claim.

We considered an entitlement for fuel used in recreational boats

72. In the maritime sector, fuel used in a commercial vessel is entitled to a refund of fuel excise duty and a rebate for the regional fuel tax.²¹ Fuel used, for example, in a pleasure craft (a recreational boat) is not entitled to a refund or rebate.
73. Waka Kotahi, in deciding whether a vessel is a commercial vessel, ascertains whether the ship has a maritime document issued by Maritime New Zealand. All commercial ships in New Zealand are required to have a maritime document issued or recognised by Maritime New Zealand.²² Waka Kotahi considers the certification of the vessel and any other relevant information and decides whether the vessel is entitled to a refund or rebate.

Estimates on the number of recreational boats in New Zealand vary widely

74. A challenge for providing a refund entitlement for fuel use by recreational boats is that the widely differing statistics and estimates on the number of recreational boats in New Zealand.²³ This makes it difficult to estimate the operational and administrative impact of implementing a new entitlement for fuel used in recreational boats.
75. It was estimated in 2007 that there were 350,000 pleasure boats in New Zealand. The estimate rose to 450,000 in 2009 and has now reached around 900,000, with more than half being kayaks or canoes (which are not powered by fuel) or powerboats less than six metres in length. In a separate 2014 study, the marine industry estimated there were 509,360 recreational boats (excluding 5,495 moored commercial ships).²⁴
76. The number of registered boat-trailers could be used as a way to provide a rough indication of the number of powered recreational boats. It has been reported that the number of registered boat trailers was 133,619 in 2012 and 156,701 in 2018.²⁵ This is well below the estimate for all types and sizes of powered craft from other studies.
77. Even with wide variation in estimates, it is clear that there are a relatively large number of recreational boats. Providing an entitlement would be expected to

²¹ As noted earlier, fuel used in a dedicated search and rescue vessel is eligible for a fuel excise duty refund and a regional fuel tax rebate.

²² Even though the Maritime Transport Act 1994 uses the term "commercial ship" and the existing regulations use the term "commercial vessels", in practice, Waka Kotahi in determining whether there is eligibility for a rebate there seems to be no distinction between the term commercial ship and a commercial vessel.

²³ Recreational boats are not required to be registered unless going overseas and are not required to have a maritime document issued by Maritime New Zealand (the maritime safety regulator).

²⁴ Iain Matheson (2014) "2014 Review of the New Zealand Pleasure Boat Safety Strategy" at www.maritimenz.govt.nz/recreational/safety-campaigns/documents/PBSAG-full-report-December2014.pdf. This report was prepared for Maritime New Zealand and the National Pleasure Boat Safety Forum (now called the Safer Boating Forum).

²⁵ Data was obtained from the Motor Vehicle Register (administered by Waka Kotahi).

significantly increase the number and complexity of claims th Waka Kotahi needs to verify and process, which would be very administratively difficult.

Funding is provided for search and rescue and recreational safety boating activities instead of a refund entitlement

78. Part of the reason for not providing an entitlement for fuel used in recreational boats is that funding is instead provided to services that benefit recreational boaties. An estimate is made of the amount of fuel excise duty paid by users of recreational boats and no more than that amount is used to fund search and rescue and recreational boating safety activities.
79. This arrangement was put in place due to the practical and administrative difficulties in providing refunds to users of recreational boats. It was established on the basis that the recreational boating community would value a robust search and rescue system and that the delivery of recreational boating safety activities was a priority.
80. In this context, the ability to provide a stable, reliable funding mechanism for a robust search and rescue system and maritime safety activities was the priority.
81. A funding review is also currently underway considering the level of funding for search and rescue and recreational boating activities provided under section 9(1) of the Land Transport Management Act 2003. This funding review is anticipated to report back to the Ministers of Transport and Finance as soon as it is complete.

There is a risk of fraud due to a potential lack of records

82. As with other sectors, and with any new entitlement, there is a risk of fraud. There are no registration, certification, or recordkeeping requirements for recreational boats. In contrast, commercial ships must be certified; they have official and unique names and identification numbers and are required to have logbooks that record use and voyages that can be drawn on readily to verify the claim. Due to a potential lack of mandatory record keeping requirements for recreational boats, in many cases, it would be difficult for Waka Kotahi to authoritatively verify the fuel was used on the water rather than on the road.

An entitlement for recreational boats refuelled at a marina or fuel dock was explored

83. Consideration has been given to the idea of a rebate or refund entitlement for fuel bought from a marina (fuel dock). Such an entitlement is likely to be of limited benefit to the broader recreational boating community. Research commissioned by Maritime New Zealand suggests that most recreational boats are not based or launched at a marina. Many of the recreational vessels that refuel at fuel docks are likely to use diesel rather than petrol, in contrast to boats launched at other locations.²⁶ An entitlement for fuel bought from a marina (but not for fuel brought from another location) would also add further complexity to a refund system that is already viewed as being overly complicated by the public.

²⁶ Maritime New Zealand (2018) "Recreational boating research", report by Ipsos New Zealand at www.maritimenz.govt.nz/recreational/safety-campaigns/documents/2018%20Recreational%20Boating%20Participation%20Research.pdf.

We considered an entitlement for fuel used in aircraft

84. Most large aircraft are powered by jet fuel (a blend of mostly kerosene) or 'AvGas' (a form of highly refined, high-octane petrol made specifically for aviation uses). Such aircraft tend to be turbine and be jet-engine aircraft or have piston engines. Neither jet fuel nor AvGas is subject to fuel excise duty or regional fuel tax.
85. Under the existing regulations, neither petrol (known as motor gas or 'MoGas' in the aviation sector) nor diesel used in an aircraft is entitled to a refund for fuel excise duty or a rebate for the regional fuel tax. The lack of a refund or rebate entitlement impacts mostly microlight, homebuilt and vintage aircraft. Some general aviation stakeholders are concerned about there being no refund and rebate entitlement for petrol and diesel used in aircraft. Concerns were also expressed to the Finance and Expenditure Select Committee when it was considering the Land Transport Management (Regional Fuel Tax) Amendment Bill 2018.
86. In doing this work, the Ministry explored the merits of creating a new entitlement that would allow aircraft (whether used recreationally or commercially) to claim back the fuel excise duty and regional fuel tax paid on fuel used in aviation.

Around a thousand aircraft in New Zealand use petrol as a fuel

87. We understand there are likely to be around a 1,000 aircraft that use petrol as a fuel. It is not known how many aircraft use diesel, but it is reported to be rare and it is likely only a few are routinely used in New Zealand.
88. We do not know how many owners would consider it worthwhile to make a claim, should an entitlement be created.

Administrative costs to handle a claim would likely exceed the value of the average claim

89. In principle, there should be an entitlement for petrol used in aircraft.
90. An important factor with considering an entitlement for aircraft is the potential administrative cost of processing a refund versus the likely value of a claim. The Ministry estimated, based on available flight data, that for many claims, the average value of a claim would roughly equate to the administrative cost of processing the claim every quarter. The Ministry concluded it was therefore not currently practical to create an entitlement for refunds for petrol used in aircraft.
91. As noted, Waka Kotahi is looking at how to improve its administration of refund claims. Efficiencies may be identified as part of this work that may address our concerns with the administrative cost of providing an entitlement for fuel used in aircraft.

Some fuel companies do not routinely supply petrol to airfields or aerodromes for safety reasons

92. In exploring a potential entitlement for aircraft, it was brought to the Ministry's attention that some major fuel companies do not provide petrol to airfields or aerodromes for use in aircraft, and do not warranty their fuel for use in aircraft. Safety concerns were expressed to the Ministry about petrol being used in aircraft, particularly those not specifically designed to run on petrol.

93. Extra controls and quality assurance measures exist for jet fuel and AvGas that do not necessarily exist for petrol (or diesel).²⁷ The controls ensure the quality of the fuel and prevent contamination. These controls are necessary due to the potential for engine issues arising from poor quality fuel.
94. Because the major fuel companies do not provide fuel to airfields or aerodromes, the aircraft may be refuelled from a portable canister. Concern was expressed to the Ministry about this practice, due to the risk of fuel being contaminated by the canister.²⁸
95. Concern was also expressed to the Ministry that providing a refund or rebate could create a financial incentive for owners of aircraft to refuel with petrol (rather than AvGas). This would potentially provide the wrong incentive from a safety point of view. There have been accidents involving aircraft being operated using unsuitable fuel.

Aviation regulatory requirements mean that fuel use may be able to be readily verified

96. In terms of maintaining the integrity of the system, there are entry requirements into the civil aviation system for many types of aircraft and personnel. These entry requirements may be drawn upon to verify fuel use. The civil aviation system imposes registration requirements on most aircraft. This means aircraft and the operators can be identified with a high level of certainty.
97. Waka Kotahi, when processing a refund or rebate, could require that the aircraft identification mark be provided along with other information necessary to verify the claim.²⁹ Some regulatory documentation may be able to be drawn up – for example, flight records or flying hours – to help ascertain fuel was used off-road. The potential for fraud, given these controls, therefore is not a significant concern with regard to fuel used in aircraft.

Other considerations that weighed against creating an entitlement at this time for aircraft: change may be required to additional regulations, and the focus of most entitlements is the productive use of fuel

98. Putting in place an entitlement for aircraft (or any other new user), due to the way the current regulations are set out, may also require a change to other refund

²⁷ For example, it was noted jet fuel has very strict quality standards and certification requirements including the need for specialised tanks, trucks and other facilities in the report “*Government Inquiry into the Auckland Fuel Supply Disruption*” (2019) at www.dia.govt.nz/Government-Inquiry-into-the-Auckland-Fuel-Supply-Disruption.

²⁸ Some aircraft engines are designed to run on petrol (for example, some engines made by the German manufacturer Rotax use automotive fuel rather than AvGas). We would note that the fuel guidance emphasises the importance of using ‘fresh’ fuel supplied from pumps with a high turnover. We do not know if the pumps or storage canisters where recreational owners refuel have this characteristic. We also note another manufacture of aircraft engines has produced material about an engine running on petrol but does not recommend “pump gas”.

²⁹ However, experience suggests there is likely to be significant push back against any administrative or recordkeeping requirements, particularly when claimants view them as being unnecessary or complex.

regulations.³⁰ Agreement may be needed more widely across government on the degree to which this is a legislative priority.

99. In terms of existing policy settings, current entitlements are, for the most part, aimed at productive uses of fuel. Providing a refund or rebate entitlement for one set of recreational activities could compromise this focus and undermine the rationale for not providing refunds for other recreational activities.
100. As noted above, the Ministry's Future of the Land Transport Revenue System project is looking into different ways to pay for the land transport system. Removing land transport taxes on transport fuel would ultimately resolve the off-road use issue, including for the aviation sector.

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³⁰ Injury Prevention, Rehabilitation, and Compensation (Refund of Fuel Levy) Regulations 2003.