



## COVERSHEET

<b>Minister</b>	Hon Dr Megan Woods	<b>Portfolio</b>	Energy and Resources
<b>Title of Cabinet paper</b>	Fuel Industry Bill: Further Policy decisions and approval for introduction	<b>Date to be published</b>	1 July 2020

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
24 June 2020	Fuel Industry Bill: Further policy decisions and approval for introduction	Office of the Minister of Energy and Resources
29 June 2020	Fuel Industry Bill: Further policy decisions and approval for introduction CAB-20-MIN-0308.01	Cabinet Office
24 June 2020	Annex to Regulatory Impact Statement – Government response to Commerce Commission Retail Fuel Sector Market Study.	MBIE

### Information redacted

### YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the following reasons:

- Constitutional conventions

In confidence

Office of the Minister of Energy and Resources  
Chair, Cabinet Economic Development Committee

## **Fuel Industry Bill: Further policy decisions and approval for introduction**

### **Proposal**

1. A Fuel Industry Bill (Bill) has been drafted to implement Cabinet decisions made on 17 February to implement a new regulatory regime for the fuel industry [CAB-20-MIN-0031 refers]. This paper seeks approval for introduction of the Bill, together with approval for policy changes and additions to address issues that have arisen during drafting, which are reflected in the Bill.

### **Executive Summary**

2. On 17 February 2020, Cabinet agreed to implement a new regulatory regime for the fuel industry [CAB-20-MIN-0031 refers]. The Bill has been prepared to implement Cabinet's decisions. Among other things, the Bill introduces:
  - 2.1. a new regime relating to wholesale prices at fuel terminals (terminal gate pricing)
  - 2.2. a regime governing wholesale contracts to ensure that these are fair and promote competition
  - 2.3. requirements for transparent information for retail fuel consumers, and
  - 2.4. an information disclosure regime to assess whether the purpose of the Bill is being met.
3. However, during drafting of the Fuel Industry Bill to implement these decisions, a number of issues have arisen that require additional policy approvals or changes to current policy approvals. This paper seeks the following changes and approvals:
  - 3.1. To assist those seeking supply under the terminal gate pricing regime to manage supply, approval is sought to require wholesale suppliers to alert customers when there are supply constraints.
  - 3.2. To provide more certainty to market participants, approval is sought for the Act (rather than regulations) to provide for a list of terms that may limit the ability of dealers or distributors to compete.
  - 3.3. To promote competition earlier, approval is sought to set the same maximum implementation timeframe of 12 months, for both new and existing contracts, for provisions allowing resellers to terminate wholesale contracts after a particular period.

- 3.4. To provide a more proportionate way to seek compliance with consumer information provisions, the paper seeks approval for the Commerce Commission to be able to issue notices for corrective action for any breaches of consumer information requirements, and for a civil pecuniary penalty for failure to comply with a corrective action notice of \$10,000 for an individual and \$30,000 in any other case.
  - 3.5. To clarify the purposes of information disclosure, the paper seeks approval that the purposes of information disclosure exclude enforcement, as while information gained through the regime could indicate whether there may have been a contravention (which could lead to further investigation), the information disclosure regime should be focussed on enabling the monitoring of fuel markets and understanding whether the purpose of the Act is being met.
4. This paper seeks your approval to make these policy changes and additions, and to introduce the Bill, which reflects these changes.

## **Background**

5. On 5 December 2019, the Commission released its final report on its market study into the retail fuel sector. The Commission found that fuel companies have been making persistently higher profits over the past decade than would be expected in a competitive market. The Commission also found that wholesale prices are higher than it would expect in a competitive market and that this flows through to consumers paying higher pump prices. The Commission identified that:
  - 5.1. there was limited competition in the wholesale fuel market, with barriers to entry and limited options for dealers and distributors to switch suppliers, and
  - 5.2. on the retail market side, there is evidence of regional price differences that are not explained by differences in cost to supply, and that margins for premium petrol have been growing faster than for other fuels.
6. The Commission recommended a range of changes to address issues in the fuel market. Some of these recommended industry-led changes whilst others required government intervention. On 16 December 2019, Cabinet agreed in principle to responses to the Commission's market study [CAB-19-MIN-680 refers], and on 17 February 2020, Cabinet agreed to regulate certain aspects of the petroleum fuels market in New Zealand, and that a Fuel Industry Bill be drafted to implement a new regulatory framework for the fuel industry [CAB-20-MIN-0031 refers].
7. In particular, Cabinet agreed that a Bill should promote competition in fuel markets for the long term benefit of consumers, and that it should do this by providing for:
  - 7.1. a terminal gate pricing regime, requiring fuel suppliers to publicly post the prices they sell to wholesale customers at storage terminals
  - 7.2. a regime governing contractual terms between wholesale suppliers and their wholesale customers (excluding commercial customers such as Fonterra)

- 7.3. requirements for display of information relating to the price of fuel at retail fuel sites
- 7.4. requirements for fuel industry participants to collect and disclose certain information to enable monitoring of the fuel market, assessment of the regulatory regime and enforcement of the regulatory regime
- 7.5. mediation and arbitration procedures for disputes in relation to the terminal gate pricing and wholesale contract provisions, and
- 7.6. enforcement powers for the Commerce Commission, and civil pecuniary penalties based on those in the Commerce Act.

## Analysis

8. A Bill is required to implement regulatory changes. Options for industry self-regulation are limited and unlikely to be effective given the features of the New Zealand fuel market identified by the Commission.
9. During the market study, industry participants indicated that regulatory intervention would be required to implement the Commission's recommendations. They suggested that industry agreement on options was unrealistic and that joint negotiation about some relevant matters would expose them to liability under the Commerce Act 1986 (for anti-competitive conduct). Finally, given the features of the industry identified by the Commission, self-regulation may not lead to optimal outcomes for consumers.
10. The attached Bill has been drafted to implement the new regulatory framework agreed by Cabinet.
11. The proposed regulatory regime was announced in February, and did not prompt a strong reaction from stakeholders, in part due to its alignment with the Commission's recommendations. However industry dynamics have changed in the wake of the COVID-19 response, and major suppliers may assert that the conditions observed by the Commission no longer apply. In particular, Z Energy has reported a significant annual loss, and a major review of Refining NZ's operations is underway which may impact the sharing of infrastructure and services among the major suppliers. However, I consider that the problems identified by the Commission are likely to be enduring and that intervention to stimulate competition remains appropriate.
12. During drafting of the Bill, some issues have arisen which require additional policy approvals or changes to policy. These issues and the reasons that the additional approvals are sought are outlined below. Your approval is sought for the approaches proposed below to address these issues.

### *Notification when a wholesale supplier cannot supply because it requires fuel to meet its obligations*

13. Under the terminal gate price regime, wholesale suppliers are still required to supply a minimum amount of fuel at the terminal gate price, even when there is a supply shortage at a storage facility. This requirement ensures that some supply is available

under the regime even when fuel inventories are low, but limits the exposure of suppliers.

14. Approval is sought, as part of the terminal gate pricing regime, to allow regulations to be made to require wholesale suppliers to make clear to potential customers under the regime when there are supply constraints at a storage facility. Alerting resellers seeking supply under the terminal gate pricing regime to supply constraints will assist them in managing supply.

*Wholesale contract terms that limit the ability of dealers or distributors to compete*

15. In order to provide more certainty to market participants, I propose that the Act (rather than regulations as in recommendation 11.6.1 of CAB-20-MIN-0031) provides for a list of types of terms that are likely to limit the ability of dealers or distributors to compete. This list will give examples of contractual provisions that may limit competition, such as provisions that limit the ability of the distributor or dealer from obtaining supply of fuel from another wholesale supplier or provisions that restrict the ability of the distributor or dealer to make independent decisions about the conduct of their business.
16. Putting such examples in the Bill rather than regulations, will increase certainty for stakeholders by removing the ability of the Minister to add or remove examples. Adding or removing examples would make it difficult for market participants to rely on these as guidance for stable contractual provisions and could result in more costs for dealers and distributors with additional contract variations.
17. It would ultimately be up to a court to rule that a contractual term 'limits the ability of a distributor or dealer to compete'. The Bill will specify that the court could take into account any matters it thought relevant in determining whether a term of a wholesale contract limits the ability of a dealer or distributor to compete. However, it would have to take the contract as a whole into account.

*Implementation timeframes for wholesale contract provisions*

18. I consider that the right of a distributor to terminate a wholesale contract after a prescribed maximum duration under part 3 of the Bill should come into force at the same time for both new and existing contracts.
19. In particular, I propose that that the maximum timeframe for implementation of changes in relation to the new right to terminate contracts after a prescribed period is set at 12 months from the date the Bill receives Royal Assent for both new and existing contracts. This would replace the current recommendation 13.2 of CAB-20-MIN-0031, which provides for a maximum implementation timeframe of 24 months after Royal assent for all provisions relating to existing contracts. The move from 24 months to 12 months for this provision in relation to existing contracts is designed to ensure customers are not tied up in excessively long term contractual arrangements for any longer than necessary. This will ensure the competitive benefits are experienced earlier.

*Notices for corrective action*

20. Approval is sought to provide the Commission with the ability to issue a notice for corrective action in relation to consumer information requirements. This would enable the Commission to provide a notice requiring a person who has not complied with an

engine fuel information requirement to remedy the compliance or ensure that non-compliance is not continued or repeated.

21. Approval is sought for a civil pecuniary penalty for failure to comply with a notice for corrective action of \$10,000 for individuals and \$30,000 in any other case.
22. Without inclusion of these provisions, there would be no avenue for the Commission to seek for a retailer to comply with an engine fuel information requirement (such as displaying premium fuel prices) without recourse to the court. Providing for notices for corrective action would give the Commission a more proportionate and timely way to seek compliance.

#### *Purposes of information disclosure*

23. I propose some amendments to the purposes of information disclosure. Cabinet previously agreed (recommendation 21 of CAB-20-MIN-0031) to an information disclosure regime to enable monitoring of the market and assessment of the regulatory regime, and to enable the Commission to enforce the regime. I propose the following amendments:
  - 23.1. that 'enabling assessment of the regulatory regime' is amended to 'ensuring information is available to assess whether the purpose of the Act is being met'. It is not appropriate for a regulatory agency like the Commission to assess the regulatory regime that it is charged with administering. Information on whether the purpose of the Act is being met will enable policy assessment of the effectiveness of the regulatory regime.
  - 23.2. that 'enabling enforcement of the regime' is not included as a purpose of information disclosure. This change is being made given that it would be inappropriate for the information disclosure regime to explicitly support enforcement purposes. While information gained through the regime could indicate whether there may have been a contravention (which could lead to further investigation), the information disclosure regime should be focussed on enabling the monitoring of fuel markets and understanding whether the purpose of the Act is being met.

#### *Consultation on draft Bill*

24. Cabinet previously agreed that a draft of the Bill be released for targeted consultation with key stakeholders. Due to the impacts of Covid-19 Alert Levels 4 and 3, such a consultation is no longer possible within the timeframes for the Bill to be introduced prior to the General Election. I seek agreement for Cabinet to rescind the decision referred to in recommendation 37 of CAB-20-MIN-0031, relating to targeted consultation on a draft Bill.

#### **Financial Implications**

25. Cabinet previously agreed to add 'Liquid Fuels Monitoring and Enforcement' within the multi-category appropriation 'Enforcement of General Market Regulation', limited to the activities of the Commerce Commission in relation to the Fuel Industry Act. Cabinet also agreed to an appropriation of \$0.5 million in 2020/21 for this activity [recommendations 31 and 32 of CAB-20-MIN-0031 refer].

26. Cabinet also noted that further consideration should be given to how best to fund the ongoing costs of implementing this regulatory regime [recommendation 34 of CAB-20-MIN-0031]. Constitutional conventions

### **Impact analysis**

27. A Quality Assurance Panel with representatives from the Regulatory Quality Team at the Treasury and Ministry of Business, Innovation, and Employment (MBIE) has reviewed the 'Government response to Commerce Commission Retail Fuel Sector Market Study' Regulatory Impact Assessment (RIA) produced by MBIE in May 2020. This is an updated version of the RIA produced in December 2019. The Panel considers that the RIA meets the Quality Assurance criteria.
28. While the RIA has been prepared under significant time constraints, MBIE has clearly and completely described the status quo and the problem definition. The RIA outlines a range of options based on the recommendations in the Final report of the Market study into the retail fuel sector by the Commission, and recognises the interrelationships between the options. It clearly identifies the main beneficiaries and who will likely bear the associated costs.
29. However, due to the complexity of the design, a regulatory backstop regime as part of the terminal gate regime has not been considered at this time. MBIE will continue to develop it with a view that it should be considered by Ministers at a future date and added to the Fuel Industry Bill or Act.
30. Further, as recognised in the RIA, this regime requires effective monitoring of industry practices to maintain incentives for competitive conduct and allow timely intervention if the regime is not working as intended. There are risks if there is no adequate level of resources for MBIE and the Commission to carry out these functions.
31. The updated version of the RIA provided in May 2020 clearly outlines additional policy changes, reasons for these changes, and how these changes affect the preferred option and the overall objectives. It also incorporates stakeholders' views and notes that there will not be significant costs implications.

### **Climate Implications of Policy Assessment**

32. An assessment of climate implications was carried out in February 2020 when Cabinet agreed to implement a new regulatory regime for the fuel industry [CAB-20-MIN-0031 refers]. The proposed policy changes do not change the climate implications of the overall policy. The Climate Implications of Policy Assessment on the February paper noted that the Ministry for the Environment has been consulted and confirms that the CIPA requirements do not apply to this proposal. Initial analysis of GHG emissions impacts shows that the per annum impacts of these proposals will be below the CIPA threshold of 250,000 tonnes per annum. Analysis shows that emissions increases could range from between approximately 11 Kt CO<sub>2</sub> per annum

for a price change of 1cpl (cents per litre) in the short run, through to approximately 219 Kt CO<sub>2</sub> per annum in the long run for a price change of 12cpl.

33. Although greenhouse gas and air pollutant emissions from transport increase as a result of a fall in fuel prices, other initiatives are being advanced to drive emission reductions. In particular, Ministers will shortly be asked to progress the Clean Car Standard to reduce the emissions of light vehicles imported into New Zealand. It will be important to progress this initiative as it will complement the reforms recommended in this paper, by encouraging a shift to lower emission vehicles despite an expected fall in fuel prices.

## Compliance

34. The proposed legislative amendments comply with:
- 34.1. the principles of the Treaty of Waitangi;
  - 34.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.
  - 34.3. the disclosure statement requirements, and a disclosure statement has been prepared and is attached to the paper;
  - 34.4. the principles and guidelines set out in the Privacy Act 1993. The Privacy Commissioner has been consulted and has no comment;
  - 34.5. relevant international standards and obligations;
  - 34.6. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee. Officials consulted with the Legislation Design and Advisory Committee who advised that the key Legislation Guidelines and design issues with the Bill related to the interaction between the Bill and the Commerce Act 1986, the divide between primary and secondary legislation, appropriate enforcement options, the use of civil pecuniary penalties and whether the Bill should include regular reviews. I note that:
    - 34.6.1. Officials discussed with the Committee the relationship between the Bill and the Commerce Act, and whether the Bill's provisions could be incorporated in the Commerce Act itself. Where appropriate, precedents from the Commerce Act have been followed. The Bill draws on features of the Commerce Act, particularly in relation to enforcement. However, a bespoke legislative model is more appropriate for fuel markets, where there is scope for competitive entry, unlike industries subject to Part 4 of the Commerce Act.
    - 34.6.2. The primary legislation contains the key obligations and prohibitions, and the regulations generally provide for the more detailed specification of these provisions. Where the Minister has scope to make exceptions to legislative provisions through regulations, these choices are guided by specific criteria to limit the discretion to depart from the primary legislation. Where the new wholesale contract regime applies to



existing contracts, it allows for transitional periods of up to two years for industry participants to adjust.

- 34.6.3. As noted above, enforcement options in the Bill draw on existing models, and focus on civil pecuniary penalties. To allow for more proportional remedies, a new enforcement tool has been introduced – corrective action notices allow the Commission to deal with minor offences in a proportional manner.
- 34.6.4. The Bill does not include regular reviews, but the information disclosure provisions give MBIE and the Commission significant scope to analyse trends and assess whether the purpose of the Act is being met.
- 34.6.5. As suggested by the Committee, officials have discussed the proportionality of the civil pecuniary penalties regime with the Ministry of Justice, and have incorporated feedback from the Ministry of Justice into the Bill.
- 34.6.6. Finally, as suggested by the Committee, the use of a backstop regulatory power if competition issues persist is not a feature of the current Bill although it is still under consideration. Given the importance of the regulatory backstop to the effectiveness of the overall regime, officials are continuing with work to develop the backstop.

## Consultation

35. Summarise the consultation that has taken place, under the following categories, and the results of that consultation:
  - 35.1. Officials have consulted with government departments on the policy for the Bill, and on the draft Bill including the Ministry of Transport, the Ministry of Justice, the Ministry for the Environment and the Treasury. Officials have also consulted closely with the Commission on implementation of the recommendations from the market study and drafting of the Bill. The Department of Prime Minister and Cabinet were informed.
  - 35.2. The policy in the Bill is based on adopting a number of the recommendations of the Commission in its final Retail Fuel Market Study report. In developing its report, the Commission undertook a significant consultative process including gathering evidence from a wide range of stakeholders. The Commission sought submissions on an issues paper and on a draft report, released in August 2020. The Commission also held a consultation conference and sought cross-submissions on the draft report. Following release of the Commission's final report, officials have undertaken a range of engagements with industry on the policy decisions for the government's proposed response to the report.
  - 35.3. The Bill has been consulted with relevant Ministers and coalition partners in Parliament and feedback has been incorporated.

## **Binding on the Crown**

36. The Act will be binding on the Crown [CAB-20-MIN-0031 refers].
37. The legislation does not create any new agencies. The Act will amend the law relating to existing agencies. MBIE and the Commission will have responsibility for administering the Act. The Act will provide extended powers and a sector-specific framework for MBIE and the Commission to promote competition in engine fuel markets for the long term benefit of end-users of engine fuel products.
38. The Act does not amend the existing coverage of the Ombudsmen Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

## **Allocation of decision making powers**

39. The Executive is empowered to make regulations in relation to the details of the regulatory regimes for terminal gate pricing, wholesale contracts, dispute resolution in relation to these matters, display of information at retail fuel outlets and information disclosure by fuel industry participants.
40. The courts are able to make decisions about contraventions and pecuniary penalties, and other enforcement matters. Their powers under this Bill are based on existing powers under the Commerce Act 1986 and Fair Trading Act 1986.
41. Where a dispute arises between a wholesale supplier and a reseller in relation to a duty or right under the terminal gate pricing regime or wholesale contractual terms that dispute can be taken to mediation or arbitration. The dispute must first be referred to mediation. If parties are unable to resolve the dispute by mediation, then where both parties agree, they may refer the dispute to arbitration. The provisions of the Arbitration Act 1996 will apply to that dispute. Details of the dispute resolution procedure will be set out in the regulations.
42. The criteria relating to the qualifications and responsibilities of decision makers and the procedures that they follow have been applied.

## **Associated regulations**

43. Regulations will be required to bring the bill into operation. Regulations will be made:
  - 43.1. Enabling terms and conditions for supply of fuel under the terminal gate pricing regime (which require fuel suppliers to publicly post the prices they sell to wholesale customers at storage terminals).
  - 43.2. Setting out details for the regime governing contractual terms between wholesale suppliers and their wholesale customers (excluding commercial customers such as Fonterra)
  - 43.3. Setting out details of mediation and arbitration procedures for dispute resolution in relation to the above matters

- 43.4. Prescribing requirements for consumer information relating to the price of engine fuels
- 43.5. Prescribing information disclosure requirements.
44. Regulations are to be developed as soon as possible, alongside passage of the Bill through Parliament. Regulations will be developed before the relevant section of the Bill comes into force and no later than:
- 44.1. One year after the date on which the Act receives Royal assent for the provisions relating to terminal gate pricing, termination of wholesale contracts longer than a prescribed period, wholesale contracts entered into after the Act receives Royal Assent, and dispute resolution;
- 44.2. Eighteen months after the date on which the Act receives Royal assent for the provisions relating to consumer information and information disclosure;
- 44.3. Two years after the date on which the Act receives Royal assent for the remaining provisions relating to wholesale contracts.
45. These are maximum periods – commencement can take place at an earlier time on a date appointed by the Governor-General by Order-in-Council.
46. The 28 day rule is not proposed to be waived. Drafting of regulations is likely to be substantial, given the significant amount of legal and technical detail relating to regulation of the engine fuel market that is likely to be required. This includes details for terminal gate pricing, for contract terms and for specific information required to be disclosed under information disclosure.

#### **Other instruments**

47. The Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

#### **Definition of Minister/department**

48. The Bill contains a definition of chief executive and Commission. The Cabinet Office has been consulted on the definitions and indicates that there are no issues with the proposed definitions.

#### **Commencement of legislation**

49. Parts of the Act relating to preliminary provisions, enforcement and miscellaneous provisions will come into force on the day after the date on which the Act receives Royal assent. The rest of the Act comes into force on a date appointed by the Governor General by Order in Council, with one or more orders able to be made appointing different dates for different provisions and different purposes. However:
- 49.1. Parts of the Act relating to terminal gate pricing, termination of new and existing wholesale contracts once they have reached a prescribed maximum duration, other wholesale contract provisions in relation to new contracts and

disputes resolution provisions come into force no later than one year after the date on which the Act receives Royal assent

49.2. Parts of the Act relating to consumer information standards and information disclosure come into force no later than 18 months after the date on which the Act receives Royal assent;

49.3. Parts of the Act relating to existing wholesale contracts other than termination come into force no later than two years after the date on which the Act receives Royal assent.

50. Bringing all parts of the Bill into force on the day after the date on which the Act receives Royal Assent is not appropriate. Time is required for development of regulations to implement detail of key parts of the Bill including terminal gate pricing and wholesale contracts, and to enable guidance for businesses to be developed. Agencies and businesses will also need time to change and implement systems to comply, for example, to enable collection of information in a particular format for information disclosure. For the wholesale contracts section, time is required for regulations to be finalised and for contracts to be negotiated or renegotiated. Some suppliers have large number of contracts and will need some time to adjust their terms.

### Parliamentary stages

51. The Bill should be introduced on 29 June 2020 and passed in July 2020.

52. The Bill should be referred to the Transport and Infrastructure Committee.

### Proactive Release

53. I propose to release this paper proactively, subject to any redactions that may be required consistent with the Official Information Act. I propose to release this paper within 30 business days following its consideration.

### Recommendations

The Minister of Energy and Resources recommends that the Committee:

1. **note** that during drafting of the Fuel Industry Bill a number of issues have arisen that require additional policy approvals or changes to current policy approvals;
2. **agree** to provide for a regulation making power as part of the terminal gate pricing regime to require wholesale suppliers to provide notice of supply constraints to resellers;
3. **agree:**
  - 3.1. to recommend that Cabinet rescind the decision referred to in recommendation 11.6.1 of CAB-20-MIN-0031 to prescribe a list of terms that are likely to have an anti-competitive effect in regulations; and

- 3.2. that a list of terms that are likely to have an anti-competitive effect is prescribed in the Bill;
4. **agree:**
- 4.1. to recommend that Cabinet rescind the decision referred to in recommendation 13.2 of CAB-20-MIN-0031 in relation to termination of an existing wholesale contract after a prescribed maximum duration; and
- 4.2. that the timeframe for implementation of provisions relating to termination of contracts once they have reached a prescribed maximum duration be the same for new and existing contracts, and that this timeframe be set on a date appointed by Order in Council and no later than 12 months after the date the Bill receives Royal Assent;
5. **agree** that the Commerce Commission be able to provide a notice for corrective action requiring a person who has not complied with a consumer information requirement to remedy the compliance or ensure that non-compliance is not continued or repeated;
6. **agree** to provide for civil pecuniary penalties for breaches of the requirement to comply with a notice for corrective action of \$10,000 for an individual and \$30,000 in any other case;
7. **agree:**
- 7.1. to recommend that Cabinet rescind the decisions referred to in recommendation 21.1 and 21.2 of CAB-20-MIN-0031 in relation to the purposes of information disclosure and;
- 7.2. that the purposes of information disclosure be to enable monitoring of the performance of engine fuel markets and to ensure that sufficient information is readily available for MBIE and the Commerce Commission to assess whether the purpose of this Act is being met;
8. **agree** to recommend that Cabinet rescind the decision referred to in recommendation 37 of CAB-20-MIN-0031 relating to targeted consultation on a draft Bill;
9. **note** that in February 2020, Cabinet noted that the government would give further consideration to how best to fund the ongoing costs of implementing this regulatory regime;
10. Constitutional conventions
11. **note** that the Fuel Industry Bill holds a category 2 priority (to be passed in the year) on the 2020 Legislation Programme;
12. **note** that the Bill will promote competition in fuel markets for the long term benefit of consumers, by providing for:

- 12.1. A regime requiring fuel suppliers to publicly post the prices at which they will sell to wholesale customers at storage terminals;
- 12.2. A regime governing contractual terms between wholesale suppliers and their wholesale customers (excluding commercial customers such as Fonterra);
- 12.3. Requirements for display of information relating to the price of fuel at retail fuel sites;
- 12.4. Requirements for fuel industry participants to collect and disclose certain information to enable monitoring of the fuel market and to ensure enough information is available to assess whether the purpose of the Act is being met;
- 12.5. Mediation and arbitration procedures for disputes in relation to the terminal gate pricing and wholesale contract provisions;
- 12.6. Enforcement powers for the Commerce Commission, and civil pecuniary penalties based on those in the Commerce Act;
13. **note** that minor changes arising from Parliamentary Counsel Office quality assurance processes may be made to the Bill prior to consideration by Cabinet;
14. **approve** the Fuel Industry Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
15. **agree** that the Bill be introduced on 29 June 2020;
16. **agree** that the government propose that the Bill be:
  - 16.1. referred to the Transport and Infrastructure Committee for consideration;
  - 16.2. enacted by July 2020.

Authorised for lodgement

Hon Dr Megan Woods  
Minister of Energy and Resources