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Hon Grant Robertson
Minister of Finance

Hon Michael Wood
Minister of Transport

TAKING ACTION ON FUEL PRICES: REDUCING ROAD USER CHARGES, RELATED FINANCE MATTERS, AND REIMBURSING TRACK USER CHARGES

Purpose

To outline a proposed Cabinet paper that seeks approval to introduce the Road User Charges (Temporary RUC Reduction Scheme) Amendment Bill (the Bill) into the House.

Seek your agreement, and that of the Minister of Finance, to financial matters relating to topping up the National Land Transport Fund for the reduced revenue and the cost of discounted public transport fares. Waka Kotahi also seeks funding for administering the temporary road user charges and petrol excise duty reduction scheme.

Provide you and the Minister of Finance advice on reimbursing KiwiRail Holdings Limited (KiwiRail) for a proportion of track user charges equivalent to the reduction in road user charges.

Key points

- 1 A proposed Cabinet paper seeks approval for the Road User Charges (Temporary RUC Reduction Scheme) Amendment Bill (the Bill) to be introduced into the House. The Bill legislates a reduction of road user charges (RUC) for owners of RUC vehicles (predominately diesel vehicles) equivalent to that put in place for owners of petrol vehicles (via the reduction to petrol excise duty on 14 March 2022).
- 2 Key features of the Bill:
 - 2.1 the rate of reduction – 36 percent across all legislative rates of road user charges which is equivalent to the reduction in petrol excise duty
 - 2.2 the duration of the reduction – 3 months, from 21 April until 21 July 2022
 - 2.3 safeguard provisions – enabling Waka Kotahi to claw back any unreasonable, excessive, or abusive purchases. And, any road user charges purchased for a

heavy vehicle become invalid one month from the end of the temporary reduction period.

3 Waka Kotahi has an important regulatory oversight role in administering the temporary reduction scheme. ^{s 9(2)(f)(iv)}

It will be important to communicate the safeguards effectively to deter excessive purchases.

4 ^{s 9(2)(f)(iv)}

5 ^{s 9(2)(f)(iv)}

6 For the reduction to come into effect on 21 April 2022, the Bill will need to be accorded urgency, which will require the agreement of the Leader of the House. To allow officials time to prepare any supplementary order paper, we propose in the week beginning:

- 4 April: First and Second readings
- 11 April: Committee of the Whole and Third reading (this would allow officials time to prepare any supplementary order paper, including engage with relevant agencies).

Finance matters

7 To support half-price public transport fares from 1 April 2022, we seek joint Ministers' agreement to changes to appropriations. We propose that Waka Kotahi receive top-up funding in arrears to provide funding based on actual fare revenue lost. A similar in arrears arrangement is proposed to top up the National Land Transport Fund in respect to reduced revenue.

8 Waka Kotahi has also advised it will incur some administration costs (for example, employing temporary contact centre staff, undertaking increased and new compliance activities). Officials propose that up to \$2.15 million in administration costs are met from the existing appropriation.

Reimbursing KiwiRail for 36 percent of railway track user charges

9 We understand that you wish to proceed with a reduction in the railway track user charges payable by KiwiRail under the Land Transport (Railway Track User Charges) Regulations 2021, consistent with the recently announced reduction in road user charges. This follows a request from KiwiRail on the grounds that the three-month road user charges reduction will impact on competitive neutrality between road and rail freight.

- 10 This reduction is expected to cost up to \$1.5 million and a decision by Cabinet is required to facilitate this. We recommend a non-regulatory approach to implement the track user charges reimbursement. Rather than decreasing the railway track user charges payable by KiwiRail (which would require regulation amendment), we recommend that the Crown provide a reimbursement to KiwiRail of 36 percent of the railway track user charges paid for the period of April-June 2022. This reimbursement would be paid to KiwiRail once it has calculated and paid the railway track user charges in full.
- 11 We recommend that a letter be provided by the Minister of Finance (as a shareholding minister) to KiwiRail to inform it of the reimbursement and how it will be administered (although we note that Ministers have no powers to direct or verify that KiwiRail passes the reduction on to its commercial rail freight customers).
- 12 The track user charges rate is set to increase over the next three years (by 40 percent and 28 percent for the 2022/23 and 2023/24 financial years respectively from the current rate), in accordance with the abovementioned regulations. An annual increase in the rate was agreed by Cabinet [DEV-21-MIN-0109 refers], with the goal being that track user charges would recover the direct costs of railway network usage from KiwiRail's freight operation after a ten-year transition period (estimated at the time to be \$53 million per annum).
- 13 Given this, the Ministry considers that a three-month reimbursement is not justified and will have little to no effect on promoting competitive neutrality between road and rail freight.

Recommendations

14 We recommend that:

the Minister of Transport

- 1. **provide** any feedback on the Cabinet paper so that officials can make any changes Yes / No
- 2. **agree** to lodge the Cabinet paper to be considered by Cabinet on 4 April 2022 Yes / No

s 9(2)(f)(iv)



Yes / No

Yes /No

4. **engage** with the Leader of the House on prioritisation of the Road User Charges (Temporary RUC Reduction Scheme) Amendment Bill and for it to be accorded urgency and specifically in the week beginning:

- 4 April: First and Second readings occurs
- 11 April: Committee of the Whole and Third reading occurs (this s 9(2)(f)(iv)

Yes / No

5. s 9(2)(f)(iv)

Yes / No

the Minister of Transport and the Minister of Finance

Minister of Transport

Minister of Finance

6. **note** that on 14 March 2022, Cabinet [CAB-22-MIN-0073 refers]:

- 6.1. agreed to a 25 cent per litre reduction to the rate of petrol excise duty (and an equivalent reduction to road user charges) for three months
- 6.2. agreed to top up the National Land Transport Fund to account for the anticipated shortfall in revenue, subject to further work being completed on the decrease in revenue
- 6.3. agreed to establish a tagged operating contingency as follows in Vote Transport, to provide for the top-up of the National Land Transport Fund:

	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
NLTF Crown Funding for Temporary	350.000	-	-	-	-
Decrease in Petrol Excise Duty and Road User Charges – Tagged					
Operating Contingency					

6.4. authorised the Minister of Transport and Minister of Finance jointly to draw down the tagged operating contingency in recommendation 6.3 above (establishing any new appropriations, or changing the scope of existing appropriations as necessary), subject to their satisfaction with the outcome of the further work described in recommendation 6.2

7. **agree** that, as the further work described in recommendation 6.2 above has been satisfactorily completed, a top up to the National Land Transport Fund to account for the anticipated shortfall in revenue can now proceed

Yes / No Yes / No

8. **agree** to establish the following new multi-year appropriation, to run from 11 April 2022 to 30 June 2023:

Vote	Appropriation Minister	Title	Type	Scope
Transport	Minister of Transport	Funding for temporary decreases in Fuel Excise Duty, Road User Charges, Public Transport fares and Railway Track User Charges	Non – Departmental Output Expense	This appropriation is limited to providing operating funding to Waka Kotahi NZ Transport Agency to top up the National Land Transport Fund, to account for the shortfall in revenue as a result of temporary reductions in Fuel Excise Duty and Road User Charges, increased expenditure as a result of temporary Public Transport fare decreases, and administration costs, and to reimburse KiwiRail for temporary reductions to Railway Track User Charges

Yes / No Yes / No

9. **note** that the title and scope of this appropriation includes the ability to reimburse KiwiRail Holdings Limited for temporary reductions in railway track user charges, which will be subject to further decisions by Cabinet in early April
10. **note** that including the ability to reimburse KiwiRail Holdings Limited for the temporary reductions in railway track user charges in the scope of the appropriation does not prejudge Cabinet's decision or commit Cabinet to provide funding for this purpose
11. **approve** the following changes to appropriations to provide for the decision in recommendation 7 above, with a corresponding impact on the operating balance:

	\$m – increase/(decrease)	
	2021/22 to 2022/23	2023/24 & Outyears
Vote Transport Minister of Transport		
Funding for the temporary decrease in Fuel Excise Duty, Road User Charges, Public Transport fares and Railway Track User Charges	350.000	-

Yes / No Yes / No

12. **agree** that the expenses incurred under recommendation 11 above be charged against the NLTF Crown Funding for Temporary Decrease in Petrol Excise Duty and Road User Charges – Tagged Operating Contingency described in recommendation 6.3 above

Yes / No Yes / No

13. **note** that Cabinet agreed to reimburse Waka Kotahi and local councils to enable public transport fare reductions of 50 percent for three months, and authorised the Ministers of Finance and Transport to agree the final amount of funding required up to \$40 million [CAB-22-MIN-0073 refers]

Yes / No Yes / No

14. **agree** that the final amount of funding required to reimburse Waka Kotahi and local councils to give effect to the policy decision in recommendation 13 above is \$40 million

Yes / No Yes / No

15. **approve** the following changes to appropriations to provide for the decision in recommendation 14 above, with a corresponding impact on the operating balance:

	\$m – increase/(decrease)	
	2021/22 to 2022/23	2023/24 & Outyears
Vote Transport Minister of Transport		
Funding for the temporary decrease in Fuel Excise Duty, Road User Charges, Public Transport fares and Railway Track User Charges	40.000	-

Yes / No Yes / No

16. **note** that Cabinet agreed to fund the expenses incurred under recommendation 13 above from outside budget allowances with a corresponding negative impact on the fiscal position [CAB-22-MIN-0073 refers]
17. **note** that to offset the negative fiscal impact of the decision in recommendation 13 above, Cabinet has agreed to reduce the size of the COVID-19 Response and Recovery Fund by an amount corresponding to this charge [CAB-22-MIN-0073 refers]
18. **note** that the indicative spending profile for the new multi-year appropriation described in recommendations 8 and 11 above is as follows:

	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Funding for the temporary decrease in Fuel Excise Duty, Road User Charges, Public Transport fares and Railway Track User Charges	330.000	60.000	-	-	-

19. **agree** that the proposed changes to appropriations for 2021/22 in recommendations 8 and 11 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply
- Yes / No Yes / No

Reimbursement to KiwiRail for the railway track user charge

20. **agree** to seek Cabinet approval to provide KiwiRail with a 36 percent reimbursement of the charge payable under regulation 7 of the Land Transport (Railway Track User Charges) Regulations 2021 for the period 1 April 2022 to 30 June 2022, limited to a maximum amount of \$1.5 million
- Yes / No Yes / No

21. **note** that the reimbursement to KiwiRail is expected to be used by the company to provide its commercial rail freight customers with a three-month reduction in the railway track user charge



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....1/04/2022...

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Minister's comments

Hon Grant Robertson
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TAKING ACTION ON FUEL PRICES: REDUCING ROAD USER CHARGES, RELATED FINANCIAL MATTERS, AND REBATING TRACK USER CHARGES

Introduction

- 1 This briefing:
 - 1.1 sets out key features of the Road User Charges (Temporary RUC Reduction Scheme) Amendment Bill (the Bill) which legislates an equivalent reduction for road user charges, as made to petrol excise duty on 15 March 2022.
 - 1.2 addresses remaining financial matters relating to the appropriations to top up the National Land Transport Fund for reduced revenue and to reimburse Waka Kotahi / regional councils for reduced public transport fare revenue from 1 April 2022.
 - 1.3 addresses rebating railway track user charges.

The Road User Charges (Temporary RUC Reduction Scheme) Amendment Bill specifies the reduction, its duration, and safeguards to prevent abuse

- 2 On 4 April 2022, you are asking Cabinet to approve the introduction of a Bill to reduce road user charges for three months. The Bill seeks to amend the Road User Charges Act 2012 (the RUC Act), the principal enactment for the road user charges system. The Bill provides:
 - 2.1 the percentage discount to be applied by the RUC collector (Waka Kotahi) to all legislated road user charges rates
 - 2.2 the temporary reduction period (the duration of the reduction)
 - 2.3 safeguard provisions (Waka Kotahi having the ability to claw back unreasonable purchases, extending the invalidation provision for heavy vehicles).
- 3 The Bill does not contain a provision to waive the administration fee for the issue of a distance licence. The original case for waiving the fee was due to a \$20 minimum refund limit applying. When coupled with the fee for the issue of a distance licence (at least \$4.80), this limit would seriously erode the value of the reduction to road user charges, especially for light vehicle owners. Waka Kotahi subsequently advised it would provide credits (rather than refunds) for the value of any unused distance when a person buys a new licence at a reduced rate. Due to this, we do not think there is a need to waive the fee for the issue of a distance licence at the reduction would no longer be substantially eroded. As such, no provision to waive the fee is included in the Bill.

Level of reduction (clause 42B)

- 4 The Bill, rather than amending each rate of road user charges, of which there are many, instructs the RUC collector to apply a 36 percent discount (discount rate) to all legislated standard rates of road user charges.
- 5 The Bill provides that the discount rate may be adjusted by Order in Council. This means if there is a wish to increase or decrease the discount during the reduction period, primary legislation (that is, a Bill) is not needed. This allows the discount rate to be adjusted more readily via Order in Council.

Temporary reduction period (clause 42A)

- 6 The Bill sets the duration of the reduction, namely it:
 - 6.1 begins on 21 April 2022
 - 6.2 ends on 21 July 2022.
- 7 The reduction duration is three months. The end date can be adjusted by Order in Council. At the end of the reduction period the full rates of road user charges apply (clause 42C).

Safeguard provisions to address and discourage abuse of the temporary reduction period (clauses 42D & 42F)

- 8 A concern of Ministry of Transport officials is the potential for abuse of the temporary reduction period and the associated revenue risk. Specifically, some road users may purchase a significant amount of road user charges whilst discounted. Road users able to do this are more likely to be those with financial means than those struggling with increased fuel prices, who are the primary intended beneficiaries of the scheme. Much engagement has occurred with Waka Kotahi on potential safeguards to discourage and address any abuse.
- 9 The draft Bill provides Waka Kotahi with the ability to issue assessments for road user charges if a road user has made excessive or unreasonable purchases or is likely to have abused the temporary reduction period. This incorporates existing provisions in the RUC Act, which enable the RUC collector to issue assessments for unpaid RUC if it appears that a RUC vehicle has exceeded the distance for which RUC has been purchased. If Waka Kotahi identifies that a road user has purchased, for example, an excessive amount of distance for three months, Waka Kotahi can issue an assessment (an invoice) to the road user. The assessment will be the difference between the charge for the excessive distance at the full rate and what was paid at the reduced rate. Waka Kotahi publicising that unreasonable or excessive purchases will likely be followed up could provide some deterrent to this occurring.
- 10 Waka Kotahi, in forming an opinion that a purchase is excessive, unreasonable, or an abuse of the scheme, may consider:
 - 10.1 the objective of the scheme – is to provide a discount equivalent to that provided to owners of petrol vehicles (via the reduction of petrol excise duty) for three months

10.2 whether the purchase is consistent with guidance issued by Waka Kotahi (about what is a reasonable amount having regard to the vehicle's type and use, and any other relevant circumstances), this provision enables Waka Kotahi to publish indicative 'caps' on the amount of kilometres to be purchased and publish guidance on what is likely an acceptable purchase.

10.3 any other matters the RUC collector considers relevant (for example, the road user's purchase history).

11 We anticipate that assessments will mainly be used for light vehicle RUC purchases. For heavy vehicles, the Bill extends an existing provision that means that any road user charges purchased whilst discounted become invalid a month after the date when rates transition back to their full rates. Waka Kotahi publicising that road user charges purchased for heavy vehicles will become invalid (or expire) may discourage excessive purchase of kilometres by heavy vehicle operators. When a distance licence becomes invalid (and is not replaced), an operator is subject to existing penalty provisions in the Act.

s 9(2)(f)(iv)

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s 9(2)(f)(iv)

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s 9(2)(f)(iv)

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s 9(2)(f)(iv)

24 Waka Kotahi will be the key implementation agency for the temporary reduction scheme. Waka Kotahi will need to apply the discounts and exercise regulatory oversight over the scheme. Waka Kotahi will have a key role in deterring and following up on any suspected instances of abuse.

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s 9(2)(f)(iv)

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s 9(2)(f)(iv)

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Parliamentary consideration between 1 April and 13 April (two weeks)

29 To introduce the Bill into the House, you need to seek approval from Cabinet. We propose you do this on 4 April. Then the same day, introduce the Bill into the House.

30 For the Bill to be in place on 21 April, it will be necessary to complete all readings prior to the House adjourning on 14 April 2022. Your Office will need to discuss the Bill's prioritisation during these two weeks with the Leader of the House. We anticipate urgency would be accorded to all readings of the Bill. The Ministry will prepare speeches for you.

31 s 9(2)(f)(iv) we propose that in the weeks beginning:

31.1 4 April – First and Second Readings happen

31.2 11 April – Committee of the Whole and Third Readings happen. s 9(2)(f)(iv)

32 s 9(2)(g)(i)

Financial matters (to be agreed by Minister of Finance and Minister of Transport before the budget moratorium that begins on 11 April 2022)

Reimbursing the National Land Transport Fund for lost revenue due to the reductions

- 34 On 14 March 2022, Cabinet agreed to establish a tagged operating contingency of \$350 million in 2021/22 to account for any anticipated shortfall in revenue due to reduced petrol excise duty and road user charges.
- 35 Cabinet authorised that the Minister of Transport and the Minister of Finance draw down the tagged operating contingency subject to further work being completed. We propose that Waka Kotahi receive top-up funding in arrears rather than in advance or anticipation of reduced revenue. This means top-ups would be provided based on actual revenue lost rather than estimated revenue lost. We propose Waka Kotahi receive funding in arrears for two reasons:
- 35.1 payment in arrears, based on actual reduced revenue, is consistent with the approach taken previously for COVID facilities
- 35.2 it is the expectation of the Treasury
- 35.3 it would allow ongoing monitoring by the Ministry and Treasury.
- 36 Payment in arrears could result in short-term cash flow issues, but such issues can likely be managed through existing borrowing facilities.
- 37 Cabinet was advised on 14 March 2022 of initial estimates of revenue impacts. Officials will closely monitor the uptake of the temporary reduction scheme and associated revenue impacts. The Bill contains tools to potentially respond to unforeseen occurrences (for example, reducing the reduction or the duration of the reduction) if necessary.

Waka Kotahi has also asked to access the contingency to fund its administration of the reduction scheme

- 38 Waka Kotahi has advised that it requires \$2.15 million to administer the temporary reduction scheme. Administering the scheme, especially with respect to road user charges, will require additional resourcing due to increased and new activity. Waka Kotahi has advised it will need to employ temporary staff for its call centre and undertake compliance activity (namely spot-checks). There are also some system cost changes.

- 39 Administering the temporary reduction scheme will have a resourcing impact on Waka Kotahi. Waka Kotahi will encourage road users to engage via digital channels (its website) but administering the scheme will have a resourcing impact, especially new compliance activities. Officials propose, based on Waka Kotahi advice, up to \$2.15 million will be needed to administer the scheme and it should be met from the existing appropriation.

Reimbursing Waka Kotahi and local councils for public transport fare reductions

- 40 Following Cabinet's agreement to 50% public transport fare reductions from 1 April 2022, you recently updated Cabinet on the proposed scope of the scheme, which covers the following.

Scope	Includes	Estimated cost (\$m)	Cumulative Cost (\$m)
Core public transport services	Services operating under contract with councils	32.1	32.1
Inter-regional train services	Te Huia and Capital Connection	0.3	32.4
Total mobility	Transport for people with long-term impairments unable to use regular public transport	4.1	36.5

- 41 As with the petrol excise duty and road user charges revenue reductions, we propose that Waka Kotahi receives top-up funding in arrears rather than in advance. This means top-ups would be provided based on actual fare revenue lost rather than estimated revenue lost. We propose Waka Kotahi receives funding in arrears, to be transferred to public transport authorities where appropriate, because:

41.1 payment in arrears, based on actual revenue lost, is consistent with the approach taken previously for COVID facilities

41.2 public transport authorities will be able to show precise information as to how much the fare reduction has cost, which will allow for an accurate reimbursement

41.3 payment in arrears is consistent with how Waka Kotahi usually provides funding to public transport authorities.

- 42 Appropriations need to reflect the above approach. We propose to include this in a new appropriation as outlined in recommendation 8, which will also provide funding for the excise duty and RUC discounts.

Reimbursing KiwiRail for 36 percent of railway track user charges

- 43 Based on communication with your Office on 28 March 2022, we understand that Ministers wish to proceed, following a request from KiwiRail, with a reduction in the charge payable by KiwiRail under the Land Transport (Railway Track User Charges) Regulations 2021 (the railway track user charges), consistent with the recently announced reduction in road user charges.

- 44 To reduce the charge payable by KiwiRail, an amendment to the track user charges regulations would be required, as the regulations specify the payable rate. Instead, we recommend reimbursing KiwiRail with in arrears equivalent to 36 percent of railway track user charges paid by KiwiRail over the three-month period 1 April 2022 to 30 June 2022. This would effectively reimburse KiwiRail for the cost of providing its commercial rail freight customers with a 36 percent reduction in the railway track user charges.
- 45 Officials estimate that this will cost up to \$1.5 million for the three-month period 1 April 2022 to 30 June 2022. As a railway track user charges reduction was not considered by Cabinet as part of decisions on the reduction in road user charges, Cabinet approval is required to fund this. The Cabinet paper includes recommendations to establish this funding, utilising the new appropriation being established by joint Ministers in this briefing.
- 46 If Cabinet agrees to fund this initiative, it will need to be funded outside of Budget allowances, with a corresponding negative impact on the fiscal position. The size of the COVID-19 Response and Recovery Fund will be reduced by an equivalent amount to offset the negative fiscal impact of this decision.
- 47 The reimbursement will not require changes to the Land Transport (Railway Track User Charges) Regulations 2021 (track user charges regulations) but would be facilitated through a letter of comfort to KiwiRail from the Minister of Finance.
- 48 It's important to note, as outlined in the regulations, the railway track user charges are due to increase from 1 July 2022 (the next financial year) from the current rate of \$1.18 per 1,000 GTK to \$1.65 per 1,000 GTK (a 40 percent increase). There will also be an additional increase in the following financial year (2023/24) to \$2.11 per 1,000 GTK (a 28 percent increase). Temporarily reducing the rate for three months will make the next increase, due to come into effect on 1 July 2022, much steeper.
- 49 Railway track user charges are set to increase over the next decade to recover the estimated direct costs of KiwiRail's freight business using the rail network, which was estimated to be \$53 million per annum as part of the Future of Rail review. The current rate only recovers a fraction of this cost (less than \$11 million in the first financial year, approximately \$16.3 million in the 2022/23 financial year, and \$20.9 from 2023/24 onwards).
- 50 Therefore, the Ministry considers that a reduction in the track user charges will have little to no effect on promoting competitive neutrality between road and rail freight.
- 51 Notwithstanding this, if Ministers wish to proceed with a reduction in the track user charges rate equivalent to the 36 percent reduction in road user charges, a non-regulatory approach is the most efficient means of achieving this outcome, which would include the following steps:
- 51.1 Agreement by Cabinet to fund the reduction in the track user charges rate as explained in paragraph 36 and 37 above
- 51.2 Ministers and Cabinet support KiwiRail reducing, through its commercial contracts with its rail freight customers, the amount it recovers for the track user charge (noting that Ministers have no powers to direct or verify that KiwiRail

passes the reduction on to its commercial rail freight customers, and the regulations still require KiwiRail to pay the full amount of the charge to Waka Kotahi)

- 51.3 The Minister of Finance (as one of the two shareholding Ministers in KiwiRail), provides KiwiRail with a letter of comfort advising them of how the rebate scheme will be administered
- 51.4 KiwiRail will pay the track user charges in full for the three-month period through which the rebate applies (1 April 2022 to 30 June 2022)
- 51.5 Upon payment of the track user charges, KiwiRail will receive a 36 percent reimbursement on the amount paid from the abovementioned appropriation, limited to a maximum of \$1.5 million for the three-month period 1 April 2022 to 30 June 2022.