19 November 2019

Christopher Bishop
Private Bag 18888
Parliament Buildings
Wellington 6160
Christopher.Bishop@parliament.govt.nz

Dear Chris

I refer to your request dated 28 September 2019, pursuant to the Official Information Act 1982 (the Act), seeking 39 briefings the Ministry of Transport provided the Minister of Transport in August 2019.

On 29 October, I wrote to you to notify you that due to consultation necessary to make a decision on the request, the Ministry extended the time available to it by ten working days.

Some titles of briefings were withheld as part of an earlier request you made under the Act. These titles are now being released, alongside the content of these briefings.

The appendix to this letter sets out how the documents in scope have been treated under the Act. Of the 39 documents in scope, 14 have been withheld in full as the matters discussed are still under active consideration. Certain information is also being withheld under the following sections of the Act:

- section 6(a), which relates to information that would prejudice the security or defence of New Zealand or the international relations of the Government
- section 9(2)(a), which relates to the protection of privacy of natural persons
- section 9(2)(b)(ii), which relates to protecting information where the making available of the information would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information
- section 9(2)(f)(i), which relates to the confidentiality of communications by or with the Sovereign
- section 9(2)(f)(iv), which relates to maintaining the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
section 9(2)(g)(i), which relates to maintaining the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty

- section 9(2)(i), which relates to enabling a Minister of the Crown or any department or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities

- section 9(2)(j), which relates to enabling a Minister of the Crown or any department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

- section 18(d), that the information requested is or will soon be publicly available.

In Document 26, the list of measures in the annex to this briefing were finalised following discussion with the Ministers and final updates from NZTA on what would be available for reporting in the first year. The final set of measures will soon be available on the Ministry of Transport website.

I am satisfied that the public interest in releasing withheld information does not outweigh the reasons for withholding it at this time.

You have the right under section 28(3) of the Official Information Act to make a complaint about the withholding of information to the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsmen
P O Box 10-152
WELLINGTON

Yours sincerely

Tom Forster
Manager, International Connections
## Appendix: Documents in scope of this request

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<th></th>
<th>Title</th>
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<tr>
<td>1</td>
<td>Weekly Report to the Minister of Transport for the week ending 2 August 2019</td>
<td>Withheld in full under section 9(2)(f)(iv)</td>
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<td>Weekly Report to the Minister of Transport for the week ending 9 August 2019</td>
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<td>Weekly Report to the Minister of Transport for the week ending 16 August 2019</td>
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<td>Weekly Report to the Minister of Transport for the week ending 23 August 2019</td>
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<td>Weekly Report to the Minister of Transport for the week ending 30 August 2019</td>
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<td>6</td>
<td>Upper North Island Supply Chain Strategy Second Interim Report – Cabinet Paper</td>
<td>Some material is withheld under section 9(2)(f)(iv). The appendix is being withheld under section 18(d) as this report is publicly available on the Ministry of Transport’s website.</td>
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<td>7</td>
<td>Minister meeting on Auckland transport issues August 2019</td>
<td>Some material is withheld under section 9(2)(f)(iv)</td>
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<td>8</td>
<td>Auckland Transport Alignment Project (ATAP) Funding</td>
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<td>9</td>
<td>City Rail Link (CRL) Development Opportunities Sponsors Quarterly Meeting – August 2019</td>
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<td>10</td>
<td>Heavy rail to Huapai proposal</td>
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<td>11</td>
<td>Drury Transport Network Investment Programme</td>
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<td>12</td>
<td>Light Rail Announcement</td>
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<td>13</td>
<td>Light Rail Announcement - information for the Ministerial Oversight Group</td>
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<td>14</td>
<td>Future of the Land Transport Revenue System project - key decisions and next steps</td>
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<td>15</td>
<td>Let’s Get Wellington Moving - Proposed letter to NZTA board</td>
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<td>16</td>
<td>Ministry of Transport’s Feedback on the Productivity Commission’s draft report on Local Government Funding and Financing</td>
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<td>17</td>
<td>Transport Outcomes Framework</td>
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<td>Meeting with the New Zealand Transport Agency Chair - 7 August 2019</td>
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<td>Meeting with Chief Commissioner Transport Accident Investigation Commission</td>
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<td>Review of Organisational Culture at the Civil Aviation Authority</td>
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<td>21</td>
<td>Review of Organisational Culture at the Civil Aviation Authority - consultation and next steps</td>
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<td>22</td>
<td>New Zealand Transport Agency Regulatory Review - Draft Cabinet paper</td>
<td>Some material is withheld under section 9(2)(f)(iv)</td>
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<td>23</td>
<td>Meeting with Auckland Airport</td>
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<td>Options for Supporting Regional Air Connectivity</td>
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<td>25</td>
<td>Update on Drone Regulatory Programme - Engagement with key Stakeholders</td>
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<td>26</td>
<td>Reporting framework for the Government Policy Statement on Land Transport</td>
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<td>27</td>
<td>Meeting with Nick Leggett Road Transport Forum</td>
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<td>28</td>
<td>Living wage for public transport bus drivers</td>
<td>Some material is withheld under sections 9(2)(f)(iv) and 9(2)(g)(i)</td>
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<td>29</td>
<td>Review of the Public Transport Operating Model</td>
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<td>30</td>
<td>Auckland Ferry Services</td>
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<td>31</td>
<td>Gwynn Compton request for advice previously withheld from a Let's Get Wellington Moving briefing</td>
<td>Some material is withheld under sections 9(2)(b)(ii) and 9(2)(a)</td>
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<td>Upper North Island Supply Chain Strategy Meeting on second interim report</td>
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<td>33</td>
<td>Update on the development of the New Zealand Rail Plan</td>
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<td>Options to support coastal shipping and report back on EY externalities modelling</td>
<td>Some material is withheld under sections 9(2)(f)(iv), 9(2)(g)(i), 9(2)(b)(ii), 9(2)(i), 9(2)(f)(i), 9(2)(k) and 9(2)(a)</td>
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<td>Summary of the South Island Freight Study, June 2019</td>
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<td>36</td>
<td>South Island Transport Corridor Reinstatement project oversight Group's quarterly report (1 April - 30 June 2019)</td>
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<td>Update on the 'Green Freight' project</td>
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<td>Association of Consulting Engineers New Zealand Annual Conference - Briefing and Speech</td>
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<td>39</td>
<td>Resource Management Act Review - Letter to the Minister for the Environment</td>
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Upper North Island Supply Chain Strategy Preliminary Report

Proposal

1. This paper provides an update on the progress of the independent Working Group undertaking the Upper North Island Supply Chain Strategy and attaches the second interim report covering options and analysis.

Executive Summary

2. The Working Group’s second interim report is attached to this paper for your consideration. The report provides robust multi-factorial analysis of a range of supply chain scenarios and options, in line with the agreed strategic and investment approach the Working Group is taking.

3. Based on the multi-factorial analysis and evidence developed, the Working Group outline a preferred option for the future of the Upper North Island Supply Chain. This scenario consists of the managed closure of the Ports of Auckland (except for Cruise Liner operations), the development of Northport and continued operation of the Port of Tauranga.

4. The Working Group believe this configuration provides the greatest level of benefit to the upper North Island and New Zealand. The benefit-cost ratio for this option is 2:1.

5. The benefits to the liveability of the city and wellbeing of the people of Auckland, from the development of the existing port lands are also a key tenant of this strategy.

6. This scenario also includes development of land-side infrastructure consisting; a rejuvenated North Auckland Rail line and spur to Northport, a new inland freight hub in the Northwest of Auckland complementing transport in the South.


8. While the Working Group have signalled their preferred option, including the infrastructure likely required to support this scenario, their intention is to explore the priorities for investment in Northport, Port of Tauranga, rail, roads and other supporting infrastructure in their final report due in September 2019.

9. This report will make recommendations on the transition from the current state to the preferred solution, including potential for Crown, Local Government and commercial investment, alongside potential regulatory changes on which government and industry will need to work together. Once confirmed by Cabinet, it is intended the final report will act as a decision-making foundation for the Government of the future of ports in the upper north island.
Background

10. In December 2017, Cabinet agreed a working group be established to review New Zealand’s freight and logistics sector for the Upper North Island, including ports, and develop a proposed Upper North Island Supply Chain Strategy [CAB-17-MIN-0550 refers].

11. Cabinet agreed to the summary Terms of Reference which:

11.1. guide the development and delivery of a freight and logistics strategy for the Upper North Island, including ports;

11.2. advise on the priorities for investment in rail, roads and other supporting infrastructure;

11.3. advise on the feasibility on options for moving the location of the Ports of Auckland, including giving Northport serious consideration;

12. In April 2019, the independent Working Group provided an interim report to Cabinet and proposed an approach (including revised timeframes) for finalising work on the Upper North Island Supply Chain Strategy.

13. Cabinet agreed that the Working Group continue its work on the Upper North Island Supply Chain Strategy, taking a strategic and investment based approach supported by analysis of the supply chain [DEV-19-MIN-0057 refers].

14. Cabinet agreed that the Working Group deliver:

14.1. a preliminary report in June 2019, providing the results of the evaluation of different port locations (including Northport as an alternative location for all or part of the Ports of Auckland), freight flows and infrastructure options and scenarios;

14.2. a final report in September 2019, with the Working Group’s conclusions and recommended actions to be taken over the next five years and beyond.

15. This paper attaches the preliminary report on options and scenarios.

Working Group membership

16. The Working Group is made up of five members who report to the Ministers of Finance, Transport and Regional Development (Joint Ministers):

16.1. Warren Brown (Chair)

16.2. Susan Knezevic

16.3. Gregory Miller

16.4. Shane Wallis


17. The Working Group previously included a sixth member however Noel Coom tendered his resignation in June 2019 following his appointment to a new role.
18. An additional member was not appointed given the timeframes for the review coming to an end in September 2019. I consider that the broad mix of skills and experience of the remaining members allows the Working Group to continue its final stage having benefited from Mr Coon’s expertise in the earlier stages of the review.

Progress to date

19. The Working Group has continued to meet regularly throughout the second phase of its review and has since visited Port of Tauranga, ridden the North Auckland Line and continued to engage with stakeholders.

20. The Working Group also commissioned external support to assist in their development of strategic principles and a process for selecting and analysing different supply chain options.

Strategic principles for evaluation

21. The Working Group developed a number of strategic principles to help them evaluate the options for a future supply chain:

21.1. Cost efficiency in moving freight: Moving freight is crucial to the New Zealand economy and the Working Group believe that they must present a future supply chain that allows the costs of moving freight to be kept as low as possible. This is particularly important in considering any reconfiguration of the supply chain as freight will flow as cost efficiently as the market allows.

21.2. Maintaining the level of competition in the supply chain: The Working Group do not consider a strategy that promotes monopolies to be in the best interests of New Zealand. Healthy competition between ports and transport providers in the supply chain is a good driver of innovation and cost efficiency. The Working Group think that preserving the current level of competition in the Upper North Island Supply Chain, particularly in relation to the number of ports, is critical for the success of the supply chain.

21.3. Reducing the ‘friction’ between freight and passenger movements: It is important that the strategies reduce friction between freight and people as much as possible. The Working Group therefore considered a future supply chain that favours the provision of infrastructure that limits the degree to which freight activity impinges on public areas, and reduce the interaction between freight and passenger movements, particularly in congested areas. The Working Group have therefore prioritised freight modes such as rail, and coastal shipping where possible, and place particular emphasis on optimal land use.

21.4. Maintaining or improving the resilience of the supply chain: The Working Group believe their strategy must provide confidence that the Upper North Island supply chain has the ability to continue moving freight in the event of a natural disaster or other events that impact areas of the Upper North Island. The Working Group therefore think that as a minimum, a two-port system is needed for the Upper North Island. Given the significance of the Upper North Island supply chain to the rest of the country, they do not think that a strategy that relies on one port is in the best interests of New Zealand.
21.5. Contributing to overall government objectives: The Working Group are committed to developing a strategy that contributes to overall government objectives. They have therefore given priority to a future supply chain with focus on road safety, reducing CO2 emissions, and economic development of the regions (in particular Northland).

Options for the Upper North Island Supply Chain

22. The options the Working Group selected for analysis included:

22.1. Maintaining the current status-quo, whereby the Upper North Island is serviced by Port of Tauranga and Ports of Auckland, and Northport to a lesser extent;

22.2. Managed closure of the Ports of Auckland’s freight operations. Northport develops to capacity equivalent to the Ports of Auckland, including appropriate levels of landside infrastructure and capacity to grow as levels of freight increase. Port of Tauranga continues its planned development.

22.3. Managed closure of the Ports of Auckland’s freight operations, Port of Tauranga expands capacity to be able to accept the freight of the Ports of Auckland in addition to its own, including appropriate levels of landside infrastructure and capacity to grow as levels of freight increase. No major development at Northport.

22.4. Managed closure of the Ports of Auckland’s freight operations. Both Northport and Port of Tauranga expand capacity to be able to accept the freight of the Ports of Auckland, in addition to their own including appropriate levels of landside infrastructure and capacity to grow as levels of freight increase.

22.5. Managed closure of the Ports of Auckland’s freight operations, a new port in the Upper North Island is built that can handle the Ports of Auckland freight task, along with appropriate landside infrastructure and capacity to grow as levels of freight increase.

The Working Group’s preferred option

23. Based on the multi-regional analysis undertaken, the Working Group believe that option 2: the managed closure of the Ports of Auckland¹, the development of Northport and continued operation of the Port of Tauranga provides the greatest level of benefit to the Upper North Island and New Zealand. The benefit cost ratio for this option is 2:1. This scenario also includes development of landside infrastructure consisting: a rejuvenated the North Auckland Rail line and spur to Northport; a new inland freight hub in the Northwest of Auckland complementing Whenuapai in the South.

24. There are a number of reasons why the Working Group believe that a two-port solution is their preferred option:

24.1. It promotes resilience in the supply chain by providing two distinct North and South entry points for international freight originating in and destined for Auckland;

¹ With the exception of the cruise ship operation
24.2. It reduces levels of friction in the Auckland CBD which is currently a congested entry point for freight out of Ports of Auckland and provides two alternative entry points into the city.

24.3. Friction with urban personal transport and regional deliveries could be further reduced by a dedicated freight rail line through the Avondale corridor connecting the two main freight hubs;

24.4. It allows for alternative use of the Auckland waterfront land, and returns the harbour to the people which helps Auckland to achieve its ambition of becoming a more "liveable city". 62 percent of Aucklanders, polled on behalf of the working group, believe that moving the port would make Auckland a better place to live, work and visit;

24.5. It potentially improves road safety by increasing rail freight capacity;

24.6. It promotes opportunities for regional development and employment in Northland and supports further growth in the Bay of Plenty;

24.7. It maintains levels of competition in the Upper North Island Supply Chain, fostering innovation and cost effectiveness/efficiency of freight delivery; and,

24.8. It maximises the use of the existing port system and the availability of surrounding land at Northport, noting potential alignment. We consider the Upper North Island can be effectively serviced by the existing ports without the need for significant capital investment and development required to create a new port.

25. The full details of the methodology, analysis and results are presented in the Working Group's interim report, attached.

Alignment with North Auckland Line considerations

26. The Working Group has indicated its preference is to develop Northport and has previously reported they see no point making further investment in Northport without investment in, and development of, the North Auckland Line (NAL) and spur to Marsden Point (and Northport).

27. While the Working Group is yet to submit its final recommendations on the pathway to implementation for its preferred option, the direction from the Working Group at this point is consistent with the decision made by Labour to proceed with the Cabinet on 12 August to related recommendations in the Provincial Growth Fund (PGF) Investment Strategy for regional rail. Cabinet approved PGF Investment of $94.8m. The proposal relates to the Upper North Island includes essential repairs and maintenance to the NAL south of Whangarei-estimated at $94.8 million.


2 Research report: Aucklanders' sentiment to moving the Auckland Port.
28. The Working Group’s intention is to explore the potential and priorities for Crown, Local Government and commercial investment in Northport, Port of Tauranga, rail, roads and other supporting infrastructure in their final report.

Engagement with Auckland Council

29. The Working Group has continued to engage with stakeholders throughout its second stage of the review. In particular, the Working Group has continued to engage with Auckland Council as the shareholder of the Ports of Auckland.

30. In its latest meeting with the Working Group, Auckland Council were supportive of a move of the Ports of Auckland from its current location provided there is a viable alternative supported by robust analysis, and that such an alternative does not have a negative economic effect on Auckland.

31. The economic analysis the Working Group commissioned shows that Auckland would benefit from moving Ports of Auckland’s cargo operations from its current location and it would allow alternative use of the land it occupies.

32. The attached report provides potential alternative land uses and shows it has the potential to generate an estimated total income of $88 million per annum through rate and household income. This is a net benefit of $48 million based on the current dividend Ports of Auckland returns to Auckland Council of approximately $50 million per annum and does not include the potential value uplifts of surrounding areas from alternative use of the land.

33. The Working Group will continue to engage with Auckland Council and other key stakeholders throughout the remainder of its review.

Public opinion

34. The Working Group commissioned external support to conduct a short online survey of Aucklanders’ sentiment towards moving the Ports of Auckland. The research explored general support for moving the location of the port, perceived impact of moving the port, suggestions on alternative use of the waterfront, and preferred mode of transport for moving cargo if the port was moved to Whangarei.

35. The results show general support for moving the Ports of Auckland, with 62 percent believing that moving the port would make Auckland’s attractiveness as a place to live, work or visit better.

36. The full results are presented in the Working Group’s second interim report, attached.

Next Steps

37. The Working Group have signalled their preferred option, including the infrastructure likely required to support this scenario, their intention is to explore the priorities for investment in Northport, Port of Tauranga, rail, roads and other supporting infrastructure in their final report due in September 2019.
38. This report will make recommendations on the transition from the current state to the preferred solution, including potential for Crown, Local Government and commercial investment, alongside potential regulatory changes on which government and industry will need to work together. Once confirmed by Cabinet, it is intended the final report will act as a decision-making foundation for the Government of the future of ports in the upper north island.

39. The Working Group will deliver its final report in September 2019 with their conclusions and recommended actions to be taken over the next five years and beyond.

Consultation

40. The Treasury and Ministry of Transport have been consulted on this paper. Is there a copy from the joint Ministers? If so, those agencies are all authors rather than consultees. It would be good to share this with DPIC – Bryan Dunn is the PGE contact there – not sure who the transport contact is?

Financial Implications

41. Cabinet previously agreed to re-prioritise allocate $850,000 from the PGE to the Economic, Science and Innovation, Economic Development, Regional Growth Initiative – VTE Transport to fund this work. It does not impact on the Council’s operating balance.

42. As at the end of June 2019, $285,387 has been spent. This has covered the direct costs of running the Working Group and additional costs of travel, accommodation and expenses.


44. The Ministry of Transport has provided secretariat support to the Working Group which has been met within the existing Ministry of Transport budget.

Legislative Implications

44. There are no legislative implications associated with this paper.

Impact Analysis

45. Impact Analysis requirements do not apply to the proposals in this paper.

Human Rights, Gender Implications and Disability Perspective

46. There are no human rights, gender or disability implications associated with this paper.

Publicity

47. Progress updates are provided on the Ministry of Transport website.

Proactive Release

48. Following Cabinet consideration of this paper, I intend to release it and the accompanying preliminary report from the Working Group on the Ministry of Transport website.
Recommendations

49. note the Working Group’s preliminary report on the Upper North Island Supply Chain Strategy attached to this paper.

50. note that the Working Group has selected its preferred option to develop Northport and maintain Port of Tauranga such that these two ports can handle all of Ports of Auckland’s freight as well as their own including growth.

51. note that the Working Group will deliver a final report in September 2019 with their conclusions and recommended actions to be taken over the next five years and beyond. This will include priorities for investment in rail, roads and other supporting infrastructure, and future challenges in which government and industry will need to work together.

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982
Minister meeting on Auckland transport issues August 2019

Reason for this briefing
You are meeting Mayor Phil Goff and the Prime Minister on Friday 9 August to discuss Auckland transport and housing issues. This briefing provides background information on ATAP, Light Rail and CRL.

Speaking notes can be found in Appendix A.
An additional briefing on housing issues is being prepared by Ministry for Housing and Urban Development (HUD) officials.

Action required
To note the briefing and speaking notes.

Deadline
7 August 2019

Reason for deadline
Meeting with Mayor Phil Goff and the Prime Minister is due to take place on Friday 9 August.

Contact for telephone discussion (If required)

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<th>Name</th>
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<td>Karen Lyons</td>
<td>Director - Auckland</td>
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MINISTER'S COMMENTS:

Date:                   Briefing number: OC190753
Attention: Hon Phil Twyford Security level: 

Minister of Transport's office actions
☐ Notes  ☐ Seen  ☐ Approved
☐ Needs change ☐ Referred to
☐ Withdrawn ☐ Not seen by Minister ☐ Overtaken by events
Purpose of report

1. You are meeting with the Prime Minister and Mayor Phil Goff in your electorate office on Friday 9 August to discuss Auckland transport and housing issues.

2. This briefing sets out information on Auckland Transport Alignment Project (ATAP), Light Rail and City Rail Link (CRL). Speaking notes are included in Appendix A. A separate briefing is being prepared by Ministry of Housing and Urban Development officials to cover housing issues.

Comment ATAP

Background

3. In April 2018 the Government and Auckland Council agreed the Auckland Transport Alignment Project (ATAP) package of investment priorities for Auckland (ATAP 2018). The indicative package ($28 billion) was fully funded with funding sources including the National Land Transport Fund, Crown funding, rates and the Auckland region fuel tax. The ATAP package supports transformational change to Auckland’s transport with a focus on rapid transit, public transport, walking and cycling.

4. One year on from ATAP 2018, you requested that the Ministry of Transport work with the ATAP agencies on a report that provides a detailed update on progress and that the ATAP Governance Group oversee the report. It is envisaged that such a report will be produced six monthly for yourself and the Mayor of Auckland.

Highlights

5. There has been tangible progress across all categories of ATAP since 2018 with several project highlights.

6. Under the Rapid Transit category, highlights include:
   - Commencement of the construction contract for the Northern Busway Extension, all planning approvals confirmed and an expected completion date of early 2022
   - The second tranche of 15 EMUs has been ordered and these are due to be delivered in 2019/20
   - Works have commenced for the Panmure to Pakuranga phase of the Eastern Busway
   - A contract has been awarded for the design of the Puhinui Bus-Rail Interchange
   - The Albany Station Park and Ride extension programme is in construction
   - The Papakura Park and Ride business case is near completion
   - The Papakura-Pukekohe electrification project business case is being progressed, with a refined cost estimate expected Quarter 3 2019.

7. When looking at highlights under the Strategic and Local Road category, the Northern Corridor Improvements programme construction contract has commenced and all planning approvals have been confirmed. There are two strategic road projects which are due to be completed at the end of 2019. These are the Southern Corridor Improvements (SH1, upgraded Takanini interchange and additional motorway lanes) and the Lincoln to Westgate (SH16) project.
8. Under the Safety category, highlights include:
   
   - Construction underway on the Dome Valley Improvements (SH1)
   - Development of a Vision Zero Road Safety Strategy for Auckland, by Auckland Transport, including a Speed Limits bylaw
   - Funding has been approved for a Connected Communities Programme, which allows for bus priority, as well as enhanced safety, walking and cycling on 12 prioritised corridors

9. In the Walking, Cycling and Local Board Priorities category, the NZTA has approved funding for the Seapath business case and funding has been granted for the design and consenting phase of this project. The business case for the Auckland Harbour Bridge shared path is well advanced.

**Funding**

10. 

11. 

12. 

13. 

14. 

**Comment City Centre to Māngere (CC2M) Light Rail**

**Project Update**

15. Rapid transit forms the backbone of Auckland's public transport network. Only rapid transit can efficiently move large numbers of people through fast, frequent, and high-capacity services.

16. The City Centre to Māngere (CC2M) Project was prioritised through ATAP 2018 for the 2018-2028 decade. The CC2M Project is intended to improve access to labour markets, education and social activities. Improved commute times and reliability of journeys has the potential to enhance productivity over time.
17. The NZ Transport Agency (NZTA) commenced preparation of an indicative business case and conducted early stage market engagement for the CC2M Project in 2018. This process is consistent with NZTA's usual infrastructure investment approach.

18. During this period, NZ Infra (a joint venture of the New Zealand Superannuation Fund and Canadian institutional investors CDPQ) submitted a proposal for an alternative delivery and financing approach to the CC2M Project.

19. The significance of this infrastructure investment is such that the Government must consider alternative approaches to be confident of arriving at the best solution for Tamaki Makaurau. This is consistent with the intent outlined in ATAP 2018 that there is a substantial opportunity to explore third-party funding and financing arrangements.

20. The NZTA draft business case and the NZ Infra proposal both offer their own set of advantages and disadvantages, but neither are sufficiently developed for the Government to make a decision, especially given the scale of the project and the intention to be open to innovative approaches.

21. The Government has therefore asked that both proposals be further developed during August to Section 2(1)(c), 2(3)(a). This process aims to ensure that the Government has the information it needs to make a decision on its preferred delivery partner for light rail in early 2020.

22. You have asked the Ministry of Transport to run the proposal development process. The Ministry has set out specific requirements that NZTA and NZ Infra (the Respondents) must address. These include commercial and financial matters, the technical solution and service delivery response, and how the solution will address key outcomes for the CC2M Project (explained in more detail under Evaluation of proposals).

23. Sections 2(1)(c), 2(3)(a)

Project Governance

24. A Ministerial Oversight Group has been established to support a process which is as robust and impartial as possible, while also incorporating Ministers' roles with respect to key public policy issues. Members of the Oversight Group are: Minister of Finance; Minister of Transport; Urban Development (convener); Minister for the Environment; Minister for Infrastructure; and Associate Minister of Transport (Hon Julie Anne Genter).

25. An Auckland Light Rail Advisory Group1 has also been established whose membership includes the chief executives of Auckland Council and AT. This group is to provide advice to the Secretary for Transport, and ensure appropriate support and information is brought to the proposal development and evaluation phase.

CC2M Evaluation of proposals

26. Sections 2(1)(c), 2(3)(a)

---

1 Membership: Chief Executive, Ministry of Transport (Chair); Chief Executive, Auckland Council (Deputy Chair); Chief Executive, Ministry of Housing and Urban Development; Interim Chief Executive, NZ Transport Agency; Chief Executive, Auckland Transport; Group Chief Executive, KiwiRail; Chief Executive, Ministry for the Environment; Deputy Commissioner Auckland; State Services Commissioner; Deputy Chief Executive Finance and Commercial, NZ Treasury; Chief Executive, Infrastructure Commission; Deputy Chief Executive Strategy and Investment, Ministry of Transport.
Comment City Rail Link (CRL)

Project Update

29. On Friday 19 July the Project Alliance Agreement between CRL Ltd and the Link Alliance was signed. The alliance is a consortium of seven national and international companies, including CRL Ltd, Vinci Construction Grands Projets, Downer NZ Ltd, Soletanche Bachy International NZ Limited, WSP Opus (NZ) Limited, AECOM New Zealand Limited and Tonkin + Taylor Limited.

30. Known as the C3 contract, the works will include the construction of two inner-city underground stations - Aotea and Karangahape, redevelopment of the existing Mount Eden Stallion, as well as the twin-tunnels and rail systems to link them all. The works are due to be completed by 2024.

31. DSBJV, the contractors delivering C1 contract, have recently poured concrete for the first tunnel roof, meaning that the first tunnel section beneath the Chief Post Office (CPO) building has been completed. There are 15 more tunnel sections to be completed.

32. Construction of the City Rail Link (CRL) tunnel under the northern end of Albert Street has finished, marking a shift in focus towards enhancement work. These enhancements include wider footpaths, more open places for people to share, and tree plantings. Work will start from Wyndham Street and head north towards Customs Street.
33. The next programme of tunnel construction work on Albert Street is south of the Wyndham Street intersection. Planning by CRL Ltd and companies in the Link Alliance include strategies to manage the impact of those works when they start later this year.

Albert Street Disruption

34. Given the ongoing construction work, and the fact that completion of the work has been significantly delayed, local retailers have become increasingly concerned about the financial impact on their businesses, and are seeking financial assistance.

35. City Rail Link Limited (CRL) has listened to the issues raised and is investigating the feasibility of a 'hardship fund'. You have recently received a more detailed briefing on this matter (City Rail Link - Options to address businesses facing hardship, OC190723 refers).

Funding

38. In April 2019, City Rail Link Ltd (CRL), announced a revised cost envelope for completing the entire Auckland City Rail Link project totalling $4.419 billion.

39. The original budget for the project was $3.4 billion, shared equally between the Council and the Crown. The revised cost envelope reflects higher costs in four key areas:

   - Contingency and escalation costs ($310 million)
   - Construction costs ($327 million)
   - Non-direct cost ($152 million)
   - Future-proofing by accommodating longer, nine-car trains ($250 million).

40. Stations at Mt Eden, Karangahape Road and Aotea are being designed for longer, nine-car trains to allow up to 54,000 people to move in and out of Auckland’s CBD during the rush hours. The original scope allowed for 36,000 people at peak times.
Future Ownership and Operation

41.

42.

Development Opportunities

43. On March 1 2019, City Rail Link Limited (CRL) began drafting a CRL Development Opportunities work programme under the leadership of a Programme Director employed by CRL and governance by the CRL Board. The work programme is to be fully developed and presented to the CRL sponsors by March 2020.

44. Overall good progress is being made on developing the work programme. Updates on developing Precinct Plans and CRL Land Development Plans, as well as the CRL Value Capture Strategy, which will answer key questions around the benefits and value that CRL is likely to deliver, will all be on the agenda for the August Crown/Council meeting.

45. The Engagement Strategy, which will identify opportunities for yourself and the Mayor to actively participate in the engagement process, will also be discussed.

46. Aotea Station Development RfP is underway and will continue over the next few months, with CRL supporting Auckland Council in this.

47.

Recommendations

48. The recommendations are that you:

(a) Note the contents of this briefing

Yes/No

Karen Lyons
Director - Auckland
Appendix A – Speaking Notes

Auckland Transport Alignment Project (ATAP)

- There has been good progress on ATAP projects across all project categories over the last year.
- The Ministry of Transport will work with the ATAP agencies on a regular six-monthly report for yourself and the Mayor which will provide a detailed update on progress.

Light-Rail

- Rapid transit forms the backbone of Auckland's public transport network. Only rapid transit can efficiently move large numbers of people through fast, frequent, and high-capacity services. The City Centre to Mangere (CC2M) and North West light rail lines are priority rapid transit projects for Auckland.
- Last year the NZTA worked on an indicative business case and market engagement for the CC2M project. NZ Infra submitted an unsolicited proposal to deliver this project.
- As neither proposals were detailed enough for the Government to make a decision on its preferred delivery partner, NZTA and NZ Infra have been asked to further develop their proposals during August [9](74), [9](6)

- For projects of such scale it is important that the Government considers alternative approaches to arrive at the best solution for Auckland. Government intends to make decisions in early 2020.
- The Ministry of Transport is running the proposals development process and has set out specific requirements that NZTA and NZ Infra must address. These include commercial and financial matters, the technical solution and service delivery response, and how the solution will address key outcomes for the CC2M Project.
- A Ministerial Oversight Group has been established to support a robust and impartial process, while also incorporating Ministers' roles with respect to key public policy issues.
• An Auckland Light Rail Advisory Group has also been established. Membership includes the chief executives of Auckland Council and AT. This group is to provide advice to the Secretary for Transport, and ensure appropriate support for the proposal development and evaluation phase.

City Rail Link (CRL)

• The C3 contract was signed recently on 19th July, with the contract being awarded to the Link Alliance. This contract is for the construction of two inner-city underground stations - Aotea and Karangahape, redevelopment of the existing Mount Eden Station, as well as the twin-tunnels and rail systems.

• CRL are investigating the option of a ‘hardship fund’ for retailers/business owners experiencing significant financial losses as a result of the ongoing CRL construction works along Albert Street. §9(2)(iv).

• §9(2)(iv)

• §9(2)(iv)

• Overall good progress is being made on developing the work programme for the CRL development opportunities. Auckland Council is participating in this work. The final work programme is due to be delivered in March 2020 and an update will be provided at the upcoming August Crown/Council meeting.
To: Hon Phil Twyford, Minister of Transport

From: [Redacted] Senior Adviser
Karen Lyons, Auckland Director

Date: 16 August 2019

Subject: Heavy rail to Huapai proposal

OC Number: OC190762

Purpose of this aide memoire

1. This aide memoire memo is in response to your request for further detail on the heavy rail to Huapai proposal.

Background

2. We provided you with an aide memoire detailing the public campaign led by the Public Transport User Association (PTUA), NZ Transport 2050, Trains to Huapai and the Rail and Maritime Transport Union, on a heavy rail proposal to Huapai (OC 190598 refers).

3. Auckland Transport has previously investigated the heavy rail to Huapai proposal included in the 'Smart Plan', as part of the strategic transport planning for North West Auckland.

4. This aide memoire provides information on the previous investigation and findings of the heavy rail to Huapai proposal and outlines the current planning and preferred transport investment for North West Auckland.

Previous investigation of the heavy rail to Huapai proposal

5. In 2016, Auckland Transport (AT) commissioned work to assess options for operating a diesel rail shuttle between Swanson and Huapai, as proposed by the 'Train to Huapai' lobby group. This work informed further investigation and planning of the Indicative Strategic Transport Network by the Supporting Growth Alliance for North West Auckland.

6. The assessment included indicative capital and operating costs, patronage forecasts and indicative benefit/cost ratios.
The railway line from Swanson to Huapai forms part of the North Auckland Line and is a non-electrified single track line approximately 15km in length with an intermediate station at Waitakere (Figure 1).

A significant feature of the railway is the 275m long Waitakere Tunnel between Swanson and Waitakere Stations. The tunnel creates a significant challenge for this part of the line to be electrified. And, due to the small profile of the tunnel, emergency evacuation would be difficult, posing a potential fire safety risk to passengers. There is also a 50 kmph permanent speed restriction in place through the tunnel due to restricted clearance distances.

Figure 1. Swanson to Huapai section of the North Auckland Line

Source: Swanson – Huapai Rail Shuttle Service Options Summary Report, supplied by Auckland Transport

The two options assessed in 2016 were:

Option A) a 30 minute frequent service at peak times between Swansor and Huapai, reducing to 60 min intervals at off peak and weekends.

This is the maximum frequency possible with the current single track between Swanson and Huapai, with the addition of a passing loop at the Waitakere Tunnel.

Option B) a 10 minute frequent service at peak times between Swansor and Huapai reducing to 30 minute intervals at off peak and weekends.
10. The study assumed a journey time of 15 minutes between Swanson and Huapai, including an intermediate stop at Waitakere and 10 minute turn-around between services at both Swanson and Huapai.

11. Both options were found to perform poorly from an economic perspective due to high capital costs and low patronage forecasts. Therefore, as standalone investments the options appeared to offer poor value for money and no funding has since been allocated to investigate the proposal further.

Further details on the anticipated capital costs to reinstate heavy (passenger) rail between Swanson and Huapai

12. The 2016 assessment of the two diesel shuttle options (a 30 minute frequent service at peaks times vs a 10 minute frequent service at peaks) determined the following capital investments would be required for both options, at a minimum:
   - Track upgrading or renewals
   - Station and platform upgrades
   - New signalling
   - Diesel Multiple Units (DMUs) overhaul or life extension works
   - Provision of train stabling and servicing facility at Waitakere

13. In addition, the 10 minute option (Option B) would require full track duplication from Swanson to Huapai with one of the following tunnel options:
   - Double track bypass of the Waitakere Tunnel
   - Construction of a second tunnel, or
   - Enlargement of the existing tunnel to accommodate a double track

14. If the existing Waitakere Tunnel was retained for a single track (Option A – 30 minute frequent service), there would still be a need for a tunnel upgrade and/or train modifications to allow Diesel Multi Units (or DMUs) to operate through the tunnel due to the evacuation and fire safety risk.

15. A further consideration is the number of Diesel Multi Units required to operate each service option, as shown in table 1.

Table 1 shows the number of Diesel Multi Units required for each option.

<table>
<thead>
<tr>
<th>Number of DMUs</th>
<th>Option A - 30 min frequent service</th>
<th>Option B - 10 min frequent service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required to operate the timetable</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Spare sets to cover servicing and breakdowns</td>
<td>1</td>
<td>At least 1</td>
</tr>
<tr>
<td>Total DMUs required</td>
<td>3</td>
<td>6</td>
</tr>
</tbody>
</table>
16. A 10 minute frequent service would require the use of six of Auckland Transport's existing Diesel Multi Units. Availability of these units was not identified as part of this study.

17. In 2016, the indicative capital costs for a 10 minute service with a tunnel upgrade/replacement was estimated at approximately $264M.

Table 2 shows the estimated costs and Benefit-Cost Ratio (BCR) for the two options with or without a tunnel upgrade to address the fire safety risk:

<table>
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<tr>
<th>Option</th>
<th>Estimated costs</th>
<th>Estimated BCR</th>
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<tbody>
<tr>
<td>30 min - no tunnel upgrade</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30 min - with tunnel or rolling stock fire safety risk upgrade</td>
<td></td>
<td></td>
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<tr>
<td>10 min - with tunnel bypass</td>
<td></td>
<td></td>
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<tr>
<td>10 min - with tunnel upgrade/replacement</td>
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<td></td>
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</table>

Source: Swanson – Huapai Rail Shuttle Service Options Summary Report, supplied by Auckland Transport

18. There is currently no funding allocation in Auckland Transport’s Alignment Project (ATAP) or Auckland Transport’s Regional Land Transport Plan (RLTP) for heavy rail to Huapai. And, based on the indicative costing and BCR highlighted in Table 2, securing funding from the NZ Transport Agency through a standard business case process would appear to be low.

What investment is planned for Auckland’s North West transport network?

19. The 2018 Auckland Transport Alignment Project (ATAP) Package prioritised funding ($1.8 billion from the ‘rapid transit’ total of $6.4 billion) to complete two rapid transit corridors that provide fast and reliable connections from the City Centre to Ngaere and to Auckland’s North West. These projects are planned for the first decade of ATAP, 2018 – 2028.

20. ATAP’s investment priority for North West’s transport network has been informed by the investigation and planning work of the Supporting Growth Alliance. The Alliance are undertaking detailed investigation required for business cases to confirm the preferred transport networks that will support development of new communities, employment and industrial areas within Auckland’s future growth areas.

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3 Supporting Growth Alliance is led by the NZ Transport Agency and Auckland Transport. Further information about the Alliance is available on the Supporting Growth website www.supportinggrowth.co.nz

2 The four growth areas of the Supporting Growth Programme are Warkworth, North Auckland, North West Auckland and South Auckland.
21. In July 2019, the Alliance released Indicative Strategic Transport Network Plans for each growth area (Warkworth, North, North West and South Auckland), giving certainty to the community, stakeholders and developers about what transport networks are planned to support growth in these areas.

22. The Indicative Strategic Transport Network for North West Auckland is a 30-year plan for a well-connected system that will deliver improved safety, accessibility and liveability outcomes. The plan includes:

- Proposed public transport facilities, including rapid transit services
- Further development of a walking and cycling network
- Safety upgrades and improvements for the roading network
- State highway upgrades including an alternative route for SH16 to support greater growth in Kumeū-Huapai

Refer Appendix A.

23. The Indicative Business Case for the North West Strategic Transport Network notes that a rapid transit corridor is recommended to connect Kumeū-Huapai with the wider transport network. This will result in a step change in the people-moving capacity of the North West with a corridor that provides high-quality, frequent and reliable access, supporting a significant mode shift for the growth area.

24. The strategic rapid transit alignment seeks to balance the transport and urban development potential of the system and supports a key interchange at Westgate. The rapid transit proposal whether light rail or bus, provides the necessary access between Whenuapai and the proposed SH16 rapid transit corridor. The rapid transit corridor also provides improved access to the Redhills and Whenuapai communities and will connect with the proposed rapid transit corridor along SH18.

25. The indicative location of the rapid transit corridor has been selected so that it is suitable for light rail or buses and provides an opportunity to integrate with land uses, unlocking urban development potential and improving access to economic and social opportunities.

What consideration has been given to heavy rail to Huapai in the development of Supporting Growth’s Indicative Business Case?

26. As part of the Indicative Business Case, the Supporting Growth Alliance assessed the re-introduction of passenger rail services to Kumeū-Huapai for both short-term and long-term applications. The following highlights key factors that have influenced the development of the preferred option for rapid transit over a heavy rail solution:

- In the short-term, passenger rail services could provide an interim travel choice for Kumeū-Huapai, however significant capital investment would be needed to ensure the service meets today’s customer expectations for fast, frequent and reliable services.
• In the long-term, projected public transport ridership does not support both rail and another rapid transit mode. Modelling shows demand of approximately 2,000 passengers in the morning peak period for passenger rail services from Kumeū-Huapai to Swanson. This is reasonably lower than passenger demand for rapid transit, for which modelling shows approximately 3,300 passengers from Kumeū-Huapai to a Westgate interchange. It is estimated that provision of both modes would result in approximately 3,600 passengers, which is marginally more than rapid transit alone.

• In addition, the heavy rail alignment does not directly serve other North West destinations such as Westgate and Whenuapai, which the new rapid transit corridor will achieve.

• In terms of journey time, the heavy rail to Swanson and onwards journey to the city centre is expected to be approximately 25-30% slower than the planned rapid transit connection to the city centre via SH16 (just over one hour, compared with 45 minutes) even after the City Rail Link is operational.

• Another factor is the location of the existing heavy rail line, which bisects the Kumeū-Huapai growth area and divides the land uses to the north and south with very limited opportunities available to cross the rail line. This is undesirable for local connectivity and vibrancy, and causes safety implications that would need to be addressed if trains started running more frequently. Such as grade separation/level crossing safety improvements.

**Summary of the key considerations based on the current transport planning for North West Auckland and the previous investigation of the heavy rail to Huapai proposal.**

• Rapid transit is the recommended transport option for North West Auckland as it provides the necessary transport infrastructure that supports the planned growth for the wider area and will make a significant contribution to travel choice and access investment objectives.

• The heavy rail option does not appear to offer good value for money, particularly when the service would need to meet today's customer expectations, which would significant investment in service frequency and station infrastructure/facilities.

• Whilst a heavy rail shuttle from Swanson to Huapai is possible, further investigation would be needed to re-evaluate capital and operational costs, as well as any further costs that may not have been investigated as part of the 2016 option assessment, such as safety improvements for grade separation and/or level crossing safety improvements. A detailed safety assessment would also be required to confirm what modifications would be needed to the Diesel Multi Units and/or Waitakere Tunnel to meet current safety requirements. To date, there has not been a strong enough case to complete this work and no funding has been allocated through ATAP.
Section 9(2)(a)

Contact
Senior Adviser, Rail and Freight
Phone:
Drury Transport Network Investment Programme

<table>
<thead>
<tr>
<th>Reason for this briefing</th>
<th>To provide you with an outline of the Drury Transport Network Investment Programme</th>
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<tr>
<td>Action required</td>
<td>Note the contents of this briefing</td>
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<tr>
<td>Deadline</td>
<td>19 September 2019</td>
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<tr>
<td>Reason for deadline</td>
<td>You are attending a meeting of the Political Governance Group on the 20 September where the Drury Programme will be discussed</td>
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Contact for telephone discussion (if required)

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<tr>
<td>Karen Lyons</td>
<td>Director Auckland</td>
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MINISTER'S COMMENTS: section 9(2)(a)

Date: 30 August 2019  Briefing number: OC190808
Attention: Hon Phil Twyford  Security level: In-confidence

Minister of Transport's office actions

- Noted
- Seen
- Approved
- Needs change
- Referred to
- Withdrewn
- Not seen by Minister
- Overtaken by events
Purpose of report

1. This report provides you with an outline of the Drury Transport Network Investment programme of work which is underway, co-lead by the Ministry of Transport and Auckland Council.

2. You are attending a meeting of the Political Governance Group on the 20 September which will provide an opportunity for further discussion.

3. You will receive further updates on this work from the Ministry prior to the end of 2019 and in February 2020.

Background

4. The Opaheke-Drury area covers approximately 1900 hectares of land and could provide up to 22,000 new dwellings, providing housing for approximately 60,000 people and 12,000 jobs. Urbanisation of Drury West was in part enabled in 2016 with 83 hectares of land rezoned urban and in 2017 a further 80 hectares rezoned for residential use.

5. The main transport infrastructure investment projects to enable Drury urbanisation are not funded in the first decade (2018-28) of the Auckland Transport Alignment Project (ATAP) which is the agreed Cabinet and Auckland Council investment package for transport in Auckland.

6. The Supporting Growth Alliance (SGA) (an alliance of Auckland Council, Auckland Transport, the NZTA and consultants) were initially commissioned by Auckland Council to undertake modelling to investigate the transport implications of bringing forward live-zoning in Drury. The investigations concluded that significant transport infrastructure is required to address existing issues and growth already enabled, irrespective of rate or extent of future growth.

7. The SGA modelling found that the acceleration of Drury East would require lead infrastructure, such as rail electrification, rail stations and the first stage of State Highway 1 (Papakura to Bombay) to be in place prior to land being urbanised, and that significant planning time is needed for this key infrastructure.

8. As a result, the Drury Transport Network Investment Programme of work is underway.
The programme of work

11. The Drury Transport Network Investment Programme will consider:

11.1. The optimal staging, sequencing and timeframe for the package of transport projects required to support existing urban development in Drury West and rezoning of land in Drury East

11.2. Options for funding and financing the preferred transport network projects that are not funded or only partially funded, and the impacts of each option

11.3. Consideration of these options against other transport priorities across the transport network in Auckland

11.4. section 9(2)(f)(iv)

12. This work will progress actions under the Auckland Plan 2050 and will be cognisant of the Auckland Transport Alignment Project (ATAP). section 9(2)(f)(iv)

13. The work will provide advice and recommendations to:

13.1. section 9(2)(f)(iv)

13.2. Support existing enabled development capacity in Drury West

13.3. section 9(2)(f)(iv)

Deliverables

14. The work will deliver options for an integrated transport plan for efficient delivery of the critical transport infrastructure. The plan will provide a high-level indication of the recommended staging and sequencing of the projects, identify project dependencies, identify high-level risks and provide indicative construction timeframes for each project.

15. section 9(2)(f)(iv)

16. section 9(2)(f)(iv)
section 9(2)(f)(iv)

17. 

18. 

Timeframe

19. It is expected that the work will be completed by April 2020. Once complete, options will be presented to yourself and to the Mayor of Auckland for consideration and respective decision making (Cabinet and Auckland Council) where applicable.

20. The Supporting Growth Alliance (SGA) have been commissioned to work with officials from Auckland Council, the Ministry of Transport, Auckland Transport and the New Zealand Transport Agency (NZTA) to consider options development, scenario testing, logistics, construction and planning.

21. In September, a second workstream will begin which will focus on the funding and financing options to support the transport infrastructure programme. This work will be lead by the Treasury and the Auckland Council Finance team and will look to apply various funding and financing options to the accelerated transport options.

22. Final reporting will be with you in April 2020 which will include engineering, transport, planning, funding requirements, construction staging options and funding and financing options to enable accelerated delivery.

Governance

23. This programme of work sits under the umbrella of the Auckland Council and Crown Joint Work Programme on Housing and Urban Growth. The joint programme is supported by a political Governance Group of Ministers including yourself and Ministers Parker, Salesa and Mahuta and the Mayor and Deputy Mayor of Auckland and Councillors Darby and Hulse.

24. Senior officials from both the Crown and Auckland Council will provide oversight of the work as an Executive Steering Group and as options are developed, they will be socialised with the Auckland Transport Alignment Project (ATAP) Governance Group to ensure integration with any future ATAP programming.

Recommendations

25. The recommendations are that you:

(a) Note the contents of this briefing  

Yes/No
Karen Lyons
Director, Auckland

MINISTER'S SIGNATURE:

DATE:
Let's Get Wellington Moving - Proposed letter to NZTA Board

Reason for this briefing: As all programme partners have now endorsed or confirmed support for the Let's Get Wellington Moving (LGWM) indicative package, we consider there is an opportunity for you to signal your expectation to the NZ Transport Agency to ensure LGWM is delivered in a manner that is aligned with the Government’s vision.

Action required: Consider the attached draft letter and sign before sending to the NZTA Board.

Deadline: No deadline.

Reason for deadline: There are no time constraints on sending this letter.

Contact for telephone discussion (if required):

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Telephone</th>
<th>First contact</th>
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<tbody>
<tr>
<td>Marian Willberg</td>
<td>Manager, Demand Management and Revenue</td>
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<tr>
<td></td>
<td>Graduate Adviser, Demand Management and Revenue</td>
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MINISTER’S COMMENTS: Withheld under s2(2)(a)

Date: 8 August 2019
Briefing number: OC190659
Attention: Hon Phil Twyford
Security level: In-confidence

Minister of Transport’s office actions

☐ Noted  ☐ Seen  ☑ Approved

☐ Needs change  ☐ Referred to

☐ Withdrawn  ☐ Not seen by Minister  ☐ Overtaken by events
Purpose of briefing

1. We are providing a suggested draft letter from you to the NZ Transport Agency (NZTA) Board that signals your expectations for the delivery of Let's Get Wellington Moving (LGWM).

Background

2. You indicated in the LGWM Cabinet paper [CAB-MIN-0213 refers] that you would send a letter to the NZTA board after Cabinet had endorsed the indicative package. The purpose of this was to set your expectations for the delivery of LGWM and seek feedback on the implications of the indicative package for long-term management of the National Land Transport Fund (NLTF) given other competing requirements for land transport funding.

3. The NZTA Board will be responsible for approving funding from the NLTF for LGWM. To make sure the programme is delivered effectively, LGWM should have some priority when it is considered against other competing projects.

4. Since Cabinet’s endorsement of the LGWM indicative package, both councils (Wellington City Council [WCC] and Greater Wellington Regional Council [GWRc]) and the NZTA Board have voted to support the package and put forward funding to enable work to begin.

There is an opportunity to signal your expectations and ensure LGWM is delivered in a manner aligned with the Government’s vision

5. While the NZTA has a statutory independent role in approving project funding, you can set the level of priority to ensure that joint agreements are reflected in the decision making process.

6. LGWM was not identified as a priority in Government Policy Statement (GPS) on land transport 2018. In the interim, while GPS 2021 is developed, you can signal your expectations through a letter of expectations to the Board.

7. Expressing your expectations and the level of priority you wish LGWM to have is important in ensuring the effective delivery of the programme. The attached letter should outline the key aspirations you have of the programme.

8. Beyond this letter, you will need to signal LGWM as a priority for GPS 2021 and subsequent policy statements over the funding lifetime of LGWM. This is the best way to have assurance that LGWM will receive the required funding and be delivered as agreed by Cabinet.

9. Funding approved by the NZTA for the next phase of LGWM is $66.2 million ($21.2 million in the 2018-2021 National Land Transport Programme) of the estimated $109.3 million required. LGWM partners will need to consider the longer-term funding requirements for the programme through their normal funding approval processes, which will be informed by the detailed business cases.

We have attached a draft letter for your consideration

10. We have attached a draft letter to the NZTA Board which we would appreciate your feedback on.

11. This letter to the NZTA Board covers the following key topics:
11.1. the importance of LGWM and significant investment in Wellington's transport infrastructure

11.2. description of the indicative package, including project components that have been endorsed by Cabinet

11.3. the financial commitment required to deliver LGWM

11.4. alignment of LGWM with current GPS priorities and expectations for the early delivery programme in the short term

11.5. indication that LGWM will be signalled as a priority in the next GPS

11.6. expectations for the governance, reporting and management of LGWM

*The Ministry is developing GPS 2021 and considering how LGWM will be given priority through this document*

12. The Ministry is in the process of preparing GPS 2021 and will be considering how LGWM can be prioritised and delivered according to your expectations. You will be receiving advice throughout the remainder of this year regarding the development of GPS 2021 and how the Ministry can help you deliver according to your expectations.
Recommendations

13. The recommendations are that you:

(a) note the contents of this briefing
(b) review the attached proposed letter to the NZ Transport Agency Board Chair, setting your expectations and signalling priority for Let’s Get Wellington Moving
(c) discuss this paper with officials if needed

Marian Wilberg
Manager, Demand Management and Revenue

MINISTER’S SIGNATURE:

2.9.19

DATE:
Hon Phil Twyford
MP for Te Atatu
Minister for Economic Development
Minister of Transport
Minister for Urban Development

20 AUG 2019

Sir Brian Roche
Chair
New Zealand Transport Agency
c/o boardsecretariat@nzta.govt.nz

Dear Sir Brian

Let’s Get Wellington Moving

This letter sets out my expectations of the New Zealand Transport Agency (NZTA) with regards to Let’s Get Wellington Moving (LGWM). I am also seeking feedback on the implications of the LGWM indicative package for long-term management of the National Land Transport Fund (NLTF) given other competing requirements for land transport funding.

Wellington’s unique geography, compact city and small number of transport corridors means its transport challenges are complex to solve. However, with the right mix of improvements, big gains can be made for Wellington’s future. The key objectives of LGWM are:

- enhance the liveability of the central city
- provide more efficient and reliance access for all users
- reduce reliance on private vehicle travel
- improve safety for all users
- a transport system that is adaptable to disruptions and future uncertainty.

Cabinet has endorsed an indicative package of projects and funding arrangements for LGWM that have the support of Wellington City Council (WCC) and Greater Wellington Regional Council (GWRC). The indicative package proposes a significant investment for Wellington city’s transport system that will encourage mode shift and reduce the reliance on private vehicle use, supporting the Government’s direction for transport as set out in the Government Policy Statement (GPS) on land transport 2018. While LGWM is not explicitly referenced in GPS 2018, I consider the projects in the indicative package to align with GPS 2018 strategic priorities.

The indicative package includes the following programme components.

- A walkable city
- Connected cycleways
- Public transport (city and north)
- Smarter transport network
- Rapid transit
- Unblocking the Basin Reserve
- Mount Victoria tunnel and widening Ruahine Street/Wellington Road
LGWM is a significant investment, assuming that on average 10.5 percent of NLTF revenue is allocated annually to the Wellington region over the 20 year delivery timeframe and beyond. I anticipate that the Government’s 60 percent share of the package will be met out of the NLTF, with the exception of financing for mass transit. This includes a $4.4 billion (inflated) allowance for regional projects outside of LGWM in the second and third decades, recognising how important it is to not exclude Greater Wellington’s needs. This substantial commitment from the NLTF needs to be acknowledged in the wider context of transport investment and balanced against other projects that I would like to prioritise. I am currently considering how to make LGWM a priority as part of developing GPS 2021.

In the meantime, I am interested to hear how NZTA can support the delivery of LGWM with its current investment programme including the possibility of implementing early deliverables in the short-term while GPS 2021 is under development. As I understand, there are a number of early wins that could be achieved with funding set aside in the current National Land Transport Programme and council budgets. Given that WCC and GWRC have now fully supported the indicative package, I anticipate that the early delivery programme, as well as investigation and detailed business cases on the large project components, will begin. I am pleased that your Board has recently approved funding for the next phase of the LGWM programme.

It is essential that the governance structure for LGWM is able to evolve to support the programme and has the correct capabilities to work through relevant challenges. Clear roles and accountabilities between each of the delivery partners are needed to ensure the process of decision making is effective. I anticipate regular reporting will keep me updated on key milestones and general updates on the programme delivery. Reporting should include any risks that could have a material impact on the delivery of the programme.

I also expressed in the paper endorsed by Cabinet that I would like to seek feedback on the implications of the indicative package for long term management of the NLTF given other competing requirements. I appreciate that the indicative package will be a long term financial commitment for the NZTA Board and I anticipate that we will continue to discuss and manage the NLTF pressures and priorities for the 50-year funding lifetime of LGWM. Through future GPS documents, I expect the government will signal the funding requirements for LGWM and how other national investment needs will be negotiated in that context.

I look forward to seeing the benefits of this integrated transport plan realised.

Yours sincerely

[Signature]

Hon Phil Twyford
Minister of Transport
Transport Outcomes Framework

Reason for this briefing: To provide you with a summary of the work that the Ministry has completed so far on the Transport Outcomes Framework and its associated quantitative indicators. The briefing also provides you with a summary of the Ministry’s current plans for the future reporting of the indicators.

Action required: Advise whether you want to meet with us to discuss the refined set of indicators for the Transport Outcomes Framework.

Deadline: n/a

Contact for telephone discussion (if required):

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Telephone</th>
<th>First contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Richard Cross</td>
<td>Manager – Strategic Policy and Innovation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tim Herbert</td>
<td>Manager – Domain Strategy, Economics and Evaluation</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Principal Adviser – Strategic Policy and Innovation</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Adviser – Strategic Policy and Innovation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

MINISTER’S COMMENTS:

Date: 13 August 2019

Attention: Hon Phil Twyford (Minister of Transport)

Security level: In Confidence

Minister of Transport’s office actions

☐ Noted        ☐ Seen        ☐ Approved

☐ Needs change ☐ Referred to

☐ Withdrawn    ☐ Not seen by Minister ☐ Overtaken by events
Summary and purpose of this briefing

1. Until recently, there has not been a concise and widely accepted understanding of the role that transport plays in the wider economy and society, nor has there been an agreed framework for measuring the performance of the transport system as a whole.

2. In 2018, the Ministry developed the Transport Outcomes Framework (the Framework). The Ministry drew inspiration from the development of the Treasury’s Living Standards Framework (LSF), which recognised that it needed better tools to assess the impacts of Government policy, which should ultimately be contributing to improved intergenerational wellbeing. The Framework applies the concept of wellbeing in a transport context.

3. The Ministry is implementing the Framework throughout the transport sector, and has noted that it is widely supported by stakeholders. The Ministry has used the Framework to position its work in a broader context, and provided a frame of reference for key projects, such as the future of rail review. It helps the Ministry provide you with better advice on how you can achieve the outcomes you are looking for.

4. The next phase of implementing and embedding the framework is to report on a set of indicators. These indicators will add a quantitative element to the otherwise qualitative and narrative driven outcomes. Together, both sides will help the Ministry understand where interventions may be required in order to improve medium and long-term outcomes.

5. This briefing provides you with the final set of indicators. It explains how they can be used, and how the Ministry intends to report on them.

What is the Framework and what does it do?

6. The Framework gives direction to the transport sector to ensure transport decisions reflect the medium and long-term outcomes the Government is seeking to achieve through the transport system. Under the Framework, the goal of the transport system is to “improve wellbeing and liveability.” This goal is supported by five key outcomes: inclusive access, healthy and safe people, economic prosperity, environmental sustainability, and resilience and security.

7. The guiding principle in the Framework is that planning, regulation, and investment should be done in a mode-neutral way, to deliver on the outcomes above. All intervention tools, levers, and modes of transport are recognised as having their own benefits. This mind-set will help decision makers reduce reliance on incumbent options, and will encourage the use of new, fit-for-purpose, options.
8. The Ministry provided you with a briefing about the Framework and the process of designing it on 14 June 2018 (OC180477 refers).

**The Framework aligns with the Living Standards Framework**

9. The Framework aligns with the LSF. The LSF considers the collective impact of policies on intergenerational wellbeing. The LSF supplements the current income-based measures used in economic policy analysis, such as GDP per capita, with indicators of current and long-term wellbeing.

10. The following figure illustrates how each Outcome from the Framework contributes to each capital of the LSF.

![Diagram of Framework outcomes and capitals]

**The Framework is an important part of Ministry’s stewardship role in the transport sector**

11. The Framework helps the Ministry fulfill its stewardship role in the transport sector. Under the State Services Act 1988, stewardship means active planning and management of medium- and long-term interests, along with associated advice. In the context of a Chief Executive’s responsibilities, the definition extends to the “capacity to offer free and frank advice to successive governments.”

12. The Framework will help the Ministry plan and manage its medium- and long-term goals to improve wellbeing and livability, irrespective of short-term fluctuations in public sentiment or the political environment. The Framework was designed to maintain relevance and applicability across successive governments.

13. By helping transport agencies integrate the Framework into their strategic and performance documents, the Ministry ensures the entire sector gives attention to planning and management of medium and long-term outcomes, as well as the objectives of the current government.

14. The Framework also complements the work carried out by agencies outside of the transport sector. As an example, the Treasury sees the potential of the Framework as a new approach to how sectors, like transport, can identify, achieve, and monitor broader sector outcomes. As a result, the Treasury has approached the Ministry to pilot a new approach to strategic planning and reporting. The new approach will discontinue prescriptive planning requirements (e.g. four-year plans) to better support agencies in taking a longer-term approach in partnership with related sector organisations and in a supportive authorising environment. The Minister of Finance will outline the new approach in a Cabinet paper in late August 2019. Like the Treasury, the Ministry sees potential to pilot the new approach to take
its stewardship work even further. This initiative will elevate the importance of the work, allowing the Ministry to use the framework and indicators in strategic discussions to influence and integrate sector strategies, decision-making, and delivery.

The Framework is already in use across the transport sector

15. Ministry’s collaborative approach to designing the Framework means that it has been adopted relatively quickly by agencies in the transport sector.

16. So far, the Framework has been implemented by:

16.1. The New Zealand Transport Agency (NZTA), where work is underway to integrate the Framework measures into its benefits realisation framework. In the future, investment cases will need to demonstrate alignment to the Framework indicators. The NZTA has a reporting system that will be able to aggregate business case level benefits at a high level aligned to the Framework.

16.2. The Civil Aviation Authority, which has updated its Statement of Performance Expectations (SPE) and Statement of Intent (SOI). The SOI describes the Authority’s efforts to link its existing strategic framework to the Framework. The Authority’s SPE contains an intervention logic map which links to its strategic framework.

16.3. Maritime New Zealand, which will undertake, with our support, a review of its strategic framework to cover outcomes, impacts, outputs, and their measurement. This work would precede the development of their next SOI and SPE, which would foster greater levels of alignment with the Framework.

The Ministry is also implementing the Framework

17. The Ministry is implementing the Framework, and, so far, it has been:

17.1. integrated into Ministry’s SOI. The integration provides a clear signal that the long-term strategic plans of the Ministry will be set with an outcomes focus. This underscores Ministry’s intention to not only address the present-day situation and near-term problems, but also set long-term goals for the benefit of the sector as a whole.

17.2. presented publicly at the 2018 Transport Knowledge Conference. This was the first time that the Framework was presented to the wider public. It received an overwhelmingly positive response.

17.3. presented to local authorities throughout New Zealand as part of the roadshows undertaken by the Ministry in March 2019.

17.4. reflected in the Ministry’s work programme on improving transport assessment and appraisal by considering and developing tools that are specific to each of the transport outcomes.

17.5. added to the induction program undertaken by all new entrants to the Ministry.

18. The Ministry is also working to integrate the Framework into its policy work. As an example, the Framework was used to frame the work and benefits in the Future of Rail review, which
you are familiar with. By framing the project through the lens of the Framework, the Ministry is better able to demonstrate the long-term impacts of the project for New Zealanders.

19. The Framework will play a role in the design of GPS 2021, which will be aligned with the five outcomes of the Framework. You were informed of Ministry’s intentions for this on 29 June 2019 (OC190429 refers).

20. The Ministry is not aware of any other attempt to implement a transport-focussed framework with the same level of depth or scope in New Zealand or overseas. Due to the lack of comparable projects, the Ministry believes that implementing the Framework should be an iterative approach. The Ministry will evaluate its progress at each step and is actively looking at optimising the process ahead.

The Ministry is strengthening the Framework with quantitative indicators to track ongoing progress

21. In October 2018, the Ministry initiated a series of five half-day workshops to create a set of quantitative indicators for each of the outcomes in the Framework. The workshops were attended by representatives from the transport sector, local authorities, and other relevant government agencies.

22. As a result of the workshops, the Ministry compiled a list of over 365 potential indicators. These were evaluated based on feasibility, relevance, the modes they encompass, and their usability and explanatory power.

23. The Ministry has refined the list of indicators down to 87. The Ministry wants to keep the number of indicators to a manageable number so it can focus on the issues that are most important. Most indicators can be applied to multiple transport modes.

24. Some of the indicators require more work before they can be used for reporting. The list of indicators in Appendix 1 provides more details on when each indicator will be ready to be used. The Ministry will report on 32 of the indicators for at least one mode of travel for 2018/19. Where the Ministry has identified research needs (e.g. impact of transport system on biodiversity), it has incorporated them into the Transport Evidence Base Strategy and associated programmes of work to address these gaps.

25. The indicators will illustrate trends and movement over time, and will be used to track the ongoing progress of the transport sector against the five outcomes. However, the indicators are not intended to be used as a “scorecard” or to set performance targets as this could create perverse incentives. Governments may choose to set targets against individual indicators that are particularly important to them, as with the current proposal to introduce a target for road deaths and serious injuries.

26. Within each outcome, the indicators are grouped by the following broad themes:

<table>
<thead>
<tr>
<th>Healthy and Safe People</th>
<th>Economic Prosperity</th>
<th>Inclusive Access</th>
<th>Resilience and Security</th>
<th>Environmental Sustainability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Safety</td>
<td>Contribution to the economy</td>
<td>Access</td>
<td>Security incidents</td>
<td>Water quality</td>
</tr>
<tr>
<td>Workplace Safety</td>
<td>Movements in and out of New Zealand</td>
<td>Barriers to access</td>
<td>Risk assessment</td>
<td>Air quality/climate change</td>
</tr>
<tr>
<td>Active Travel</td>
<td></td>
<td>Perceptions</td>
<td>Readiness to respond</td>
<td></td>
</tr>
</tbody>
</table>
Ministry’s plans for the Framework dashboards and future reporting

27. From its onset, the Framework was designed to be reported on and released publicly. Based on internal discussions and engagement with external stakeholders, the Ministry intends to publish the indicators online (rather than a standalone written report).

28. The Ministry is working with the relevant agencies to access and collate the necessary data. Due to the overlap in the data required, these efforts will coincide with the efforts to collect data for the GPS measures. In some cases, the indicators and the GPS measures may be based on the same data source.

29. The Ministry anticipates that the initial set of indicator results will be published online in February 2020. This launch version will consist of a static webpage or visuals that shows the latest available results for each indicator and historical results to demonstrate time trends.

30. Future releases of the indicators will be published as an interactive dashboard. These dashboards will allow users to filter each indicator by region, mode, age, and other factors, as available. The raw data behind each indicator will also be available for download, enabling others to undertake their own analysis. This work will coincide with redevelopment and launch of Ministry’s new website.

31. As new relevant data and sources arise, the Ministry may replace, add, or amend some indicators to achieve better alignment with the Framework. The Ministry may also make updates based on feedback from external users.

32. Prior to the publication of the indicator results, the Ministry will provide them to you first on a “no surprises” principle.

Risks

33. As previously noted, there is a risk that the indicators could be misconstrued as a “scorecard.” The Ministry will attempt to mitigate this risk by not aggregating the results to a single “score” for any single outcome or for the Framework as a whole. Accompanying narrative or analysis will clarify that the indicators are influenced by a range of factors, and that the intention of the indicators is to provide transparent information to inform decision making.

34. Questions may be raised about how the indicators were chosen or why certain elements were omitted. The Ministry will mitigate these risks by providing an explanation of how the indicators were selected. The Ministry will also give clear indication that it will be refining the chosen set of indicators as new data arises.

35. The outputs may be used by a variety of audiences, ranging from people with extensive transport knowledge, researchers, and evaluators, to the general public. The first iteration of the outputs may not provide the right level of details to meet all the needs.
Recommendations

36. The recommendations are that you:

(a) note the finalised set of indicators in Appendix 1
(b) confirm whether you wish to discuss these measure

MINISTER'S SIGNATURE:

DATE:
Transport Outcomes Indicators

Version control
This document provides Version 4 of the Transport Outcomes Framework (TOF) proposed indicators.

<table>
<thead>
<tr>
<th>Version</th>
<th>Details</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Initial draft developed based on the workshops held in October/November 2016</td>
<td>December 2018</td>
</tr>
<tr>
<td>2.</td>
<td>Revised based on feedback received on the Version 1 indicators, as well as additional engagement with NZTA, CAA, MNZ, local governments, and relevant data owners (including MFE, Stats NZ, ACC and MoH)</td>
<td>8 April 2019</td>
</tr>
<tr>
<td>3.</td>
<td>Revised based on feedback received on the Version 2</td>
<td>21 May 2019</td>
</tr>
<tr>
<td>4.</td>
<td>Revised to reflect structure and phrasing of the GPS 2018 measures document</td>
<td>1 July 2019</td>
</tr>
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</table>

Introduction
There are a total of 37 proposed indicators with between 4 and 10 indicators for each of the five Transport Outcomes. The indicators are designed to be read together as a set.

The indicators have been developed based on engagement with internal and external stakeholders, and desk research of international and national research, technical papers, and reports.

Types of indicators
The following icons have been used to depict which modes the specific indicator is available to report on:

- Walking (includes other active modes such as scooters and skateboards)
- Cycling (includes e-bikes)
- Road transport (includes light vehicles, heavy vehicles, freight, buses etc.)
- Rail transport
- Maritime
- Aviation

Data availability
Given the existing data and research gaps, the indicators will be introduced in stages based on data availability. 31 of the indicators will be available to report on in 2018/19 (for at least some modes). The remaining 6 indicators will be able to be reported on in 2019/20 (for at least some modes). However, note that not all indicators will be able to be reported for all modes from this date, some require significant work and a likely reporting date is not yet available. More detail about what these 6 indicators will be available for reporting is provided in the tables on the next page.

Additional indicators
This list is based on the best available information as of June 2018. This is the first time the Ministry has attempted to report on the performance of the transport system as a whole, and as a result, this is a somewhat iterative process. While indicators will be largely kept the same year on year to allow for analysis of trends over time, there may be some changes to the indicators, for example, additional indicators may be added as new indicators are developed and as new data sources become available (e.g. through changes in technology).

Collated indicators
A summary of the indicators, and what mode/s they relate to is provided below. More detail about the indicators, including definitions and data sources, are provided in the rest of the document.

A tick (✓) indicates that that indicator is able to be reported on for the 2018/19 financial year. Where a date is listed, this is the likely first year that this indicator will be available for reporting. Note that in several cases, data for different modes will become available at different years. Indicators are colour coded in the table below to reflect this (noting that these colour codings have changed since earlier versions of the TOF Indicators).
### Research and data gaps

The table below summarises indicators in the table above that require further work (i.e., those colored red), plus other potential indicators that have been identified but where no data currently exists and/or has been identified. These data, information, and research gaps are identified as recommended initiatives in the Transport Evidence Base Strategy (as per the table below) and will be discussed on via the associated work program currently under development.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Associated outcome</th>
<th>Walking</th>
<th>Cycling</th>
<th>Road</th>
<th>Rail</th>
<th>Maritime</th>
<th>Aviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>% of household spending on transport</td>
<td>Inclusive access</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>2.</td>
<td>% of people able to make a beneficial transport journey</td>
<td>Inclusive access</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>3.</td>
<td>% of rural households without access to a motor vehicle</td>
<td>Inclusive access</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>4.</td>
<td>% of population with access to frequent public transport services</td>
<td>Inclusive access</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>5.</td>
<td>Access to jobs</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>6.</td>
<td>Availability of viable alternative routes</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>7.</td>
<td>Compliance with international security codes</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>8.</td>
<td>Contribution of transport, and freight to New Zealand GDP</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>9.</td>
<td>Fossil fuels consumption</td>
<td>Health and safe people</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>10.</td>
<td>Exposure to elevated concentrations of air pollution from the transport system</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>11.</td>
<td>Exposure to elevated levels of noise from the transport system</td>
<td>Environmental sustainability</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>12.</td>
<td>Form expenditure on freight</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>13.</td>
<td>Freight composition</td>
<td>Environmental sustainability</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>14.</td>
<td>Freight carried domestically (local and regional)</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>15.</td>
<td>Freight imports and exports</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>16.</td>
<td>Freight productivity/utilisation</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>17.</td>
<td>Freight travel time reliability</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>18.</td>
<td>Local efficiency</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>19.</td>
<td>Marine oil spills in NZ waters</td>
<td>Environmental sustainability</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>20.</td>
<td>Mode share of short journeys</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>21.</td>
<td>Operator risk profile</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>22.</td>
<td>Outages on routes with no viable alternative</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>23.</td>
<td>Passengers arriving and departing NZ</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>24.</td>
<td>Perceived personal safety while using the transport system</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>25.</td>
<td>Perceived safety of walking and cycling</td>
<td>Inclusive access</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>26.</td>
<td>Perception of public transport</td>
<td>Inclusive access</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>27.</td>
<td>Preparedness for loss of traditional transport options</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>28.</td>
<td>Response capability</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>29.</td>
<td>Security incidents</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>30.</td>
<td>Susceptibility to coastal inundation</td>
<td>Health and safe people</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>31.</td>
<td>Timetab and travelling by active mode</td>
<td>Resilience and security</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>32.</td>
<td>Tonnes of greenhouse gases emitted from the NZ transport system</td>
<td>Environmental sustainability</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>33.</td>
<td>Transport-related deaths</td>
<td>Health and safe people</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>34.</td>
<td>Transport-related serious injuries</td>
<td>Health and safe people</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>35.</td>
<td>Transport-sector work injuries</td>
<td>Health and safe people</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>36.</td>
<td>Travel time reliability on priority tourist routes</td>
<td>Economic prosperity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>37.</td>
<td>Unmet need for GP services due to a lack of transport</td>
<td>Inclusive access</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

More work is also required around the security indicators, although noting that some national-level security data is confidential and therefore inappropriate to include (and reported on) as part of the Transport Outcomes reporting.

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1. [https://www.transport.govt.nz/assets/Uploads/Research/Documents/78c567f64e/Transport-Domain-Plan-full-list-of-recommended-initiatives.pdf](https://www.transport.govt.nz/assets/Uploads/Research/Documents/78c567f64e/Transport-Domain-Plan-full-list-of-recommended-initiatives.pdf)

2. Noting that some of these indicators are already available for some modes. Modes listed in this column are those where there is currently a data/information gap.
<table>
<thead>
<tr>
<th>Theme</th>
<th>Proposed indicator</th>
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<th>Data source(s) and responsible agency</th>
<th>Notes / limitations</th>
</tr>
</thead>
</table>
| **Public safety** | 1.1 Transport-related deaths | - Road deaths are defined as when an injury/injuries resulted in death within 30 days of when the crash happened. The dataset includes 1) motor vehicle crashes that occur on a public road and are attributable directly or indirectly to a motor vehicle or its load, and 2) (from 2014 onwards) cyclist crashes including when a motor vehicle is not involved.  
- Rail deaths are defined as deaths that occurred on the rail corridor involving a rail vehicle. This includes suicides. Data can be segmented by road user type: motor vehicle at level crossing, pedestrians at level crossing, cyclists at level crossing, and others.  
- Deaths at sea are those that occurred in the marine environment. Data can be segmented by sectors, i.e. commercial and recreational.  
- Aviation deaths are injuries which result in death within 30 days of the incident and must involve an aviation aircraft. Data can be segmented by sectors: public air transport, other commercial operations, and non-commercial operations. | - Number of deaths to be reported as total, per accident, and per distance travelled (where available).  
- To be segmented by mode and user type/sector (if relevant / available).  
- To be reported by region where available. | Crash Analysis System (CAS) maintained by NZTA.  
- Rail Information System (RIS) maintained by NZTA.  
- Maritime safety statistics maintained by MNC.  
- Aviation safety statistics maintained by CAS. | CAS does not include:  
- Pedestrian deaths when a motor vehicle was not involved (although it is assumed there are few pedestrian deaths that do not include a motor vehicle)  
- Off-road activities. |
| | 1.2 Transport-related serious injuries | - Road serious injuries include fractures, concussions, internal injuries, crushing, severe cuts, lacerations, severe general shock necessitating medical treatment, and any other injury requiring admittance or detention in hospital.  
- Rail and maritime serious injuries are ‘notifiable injuries’ as defined in the Health and Safety at Work Act (HSWA) 2015. Rail serious injuries can include attempted suicides.  
- Aviation serious injuries are those that require hospitalisation for more than 48 hours, or results in a fracture of any bone, or any lacerations which cause severe haemorrhage, nerve, muscle, tendon or bone damage, or involves injury to an internal organ, or involves second or third degree burns, or any burns affecting more than 5% of the body surface, or involves verified exposure to ionising radiation. | As for transport-related deaths above. | As for transport-related deaths above. | As for transport-related deaths above. |
| **Workplace safety** | 1.3 Transport-sector work injuries | Work-related injury claims are those made to adverse work-related incidents. The injury can be either due to an accident or as a result of longterm process related to the person doing the work. Only accepted claims are included. Claims identified as self-harm are excluded. | To be reported by:  
- Mode (land transport, rail transport, water transport, air and space transport)  
- Severity (fatal, more than a week off work, less than a week off work) | ACC claims for work-related injuries for the transport industry (based on Australian and New Zealand Standard Industrial Classification 2006) | - |
| **Active travel** | 1.4 Time spent travelling by active mode | Cycling or walking on a public footpath or road (i.e. does not include walking/cycling off-road e.g. mountain biking). National estimates of number of hours spent walking and cycling are based on daily leg made during the survey period. A daily leg refers to a single leg of a journey, between any two stops, with no stops or changes in travel mode. | To be segmented by age, gender, ethnicity, and region where data are available. | Calculated based on the Household Travel Survey (HTS) managed by MTG. Data will be reported on a 3-year rolling average. | This is a sub-set of the mode share indicator being used for GFS 2018. Mode share by distance travelled is included in the environmental outcome, but a specific indicator of time spent engaged in active travel modes is included here because of the focus on public health benefits. |
### Air and noise pollution

- **1.5 Harmful emissions from fuel combustion**: National estimate of PM2.5, PM10, CO, NOx, and SO2 emissions (tonnes).

- **1.6 Exposure to elevated concentrations of air pollution**: Elevated concentrations of air pollution (and how this is attributed to road transport) needs to be further defined, but will likely be based on existing standards (e.g., national ambient air quality guidelines and standards, or those from the World Health Organisation). Currently this measure is limited to road transport but is expected to be extended over time to include rail. At this time, land transport related air pollution does not include dust from sealed roads.

- **1.7 Exposure to elevated levels of noise from the transport system**: "Elevated" is yet to be defined but will likely be based on existing standards (e.g., those provided by Standards NZ, or the World Health Organisation). Currently this measure is limited to road transport on national, regional and arterial roads.

### National air emission inventory managed by MTE (or be supplemented by MBIE datasets if necessary).

- NZTA is currently developing the vehicle emissions mapping tool which will be able to report on the number of people exposed to elevated concentrations of road transport-related air pollution by 2019/20. This model is expected to eventually be able to report on rail as well.

- Equivalent indicators for maritime and aviation would require significant effort to establish appropriate data capture/analytical capability.

### Outcome 2: Economic prosperity

**Supporting economic activity via local, regional, and international connections, with efficient movements of goods and products.**

<table>
<thead>
<tr>
<th>Theme</th>
<th>Proposed indicator</th>
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<th>Reporting requirements</th>
<th>Data source/s and responsible agency</th>
<th>Notes / limitations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contribution to the economy</td>
<td>2.1 Contribution of transport, and freight to New Zealand GDP</td>
<td>$ amount and % of total GDP</td>
<td>To be segmented by region and industry (road transport, rail, water, and other transport, and postal, courier transport support, and warehousing services)</td>
<td>National Accounts (Industry Production and Investment) managed by Stats NZ.</td>
<td></td>
</tr>
<tr>
<td>Movement of people within NZ</td>
<td>2.2 Passengers arriving and departing NZ</td>
<td>Number of people</td>
<td>To be segmented by mode (air and sea cruise) and location.</td>
<td>International Travel and Migration data managed by Stats NZ.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.3 Freight imports and exports</td>
<td>- Dollar amount and % of total GDP and Gross weight in tonnes</td>
<td>To be segmented by mode (air and sea) and (air) port.</td>
<td>Import and export statistics from Overseas Cargos Statistics (OSC) managed by Stats NZ.</td>
<td></td>
</tr>
<tr>
<td>Movement of goods within NZ</td>
<td>2.4 Travel time reliability on priority transport routes</td>
<td>NZTA is developing a measure of &quot;speed of travel times on priority routes for freight and tourism&quot; (as for 2.7 below).</td>
<td>To be segmented by region.</td>
<td>Road measure under development by NZTA, expected to be available for reporting in 2019/20. This measure is expected to eventually be able to report on rail as well.</td>
<td>Equivalent indicators for maritime and aviation not currently available.</td>
</tr>
<tr>
<td></td>
<td>2.5 Access to jobs</td>
<td>Measure will indicate % jobs accessible within a reasonable travel time (e.g., 45 minutes public transport, 90 minutes drive time) during the weekday morning peak.</td>
<td>To be reported by mode for each of the metropolitan and high growth urban areas.</td>
<td>Currently under development by NZTA. Should be able to report a high-level result for 2018/19 (excluding walking and cycling) and more detailed results (including regional breakdowns and all modes e.g., private vehicle, public transport, walking and cycling) by 2019/20.</td>
<td></td>
</tr>
</tbody>
</table>
### Movement of freight within NZ

<table>
<thead>
<tr>
<th>Movement of freight within NZ</th>
<th>Tonnage, dollar amount and distance travelled (where available).</th>
<th>To be segmented by mode:</th>
<th>Road measure based on the National Freight Demand Study managed by MOT. Rail and maritime data based on FIS data.</th>
<th>Does not capture aviation or light freight (e.g. courier) or bulk freight moved coastaly. The National Freight Demand Study is not updated every year.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.5 Freight carried domestically (local and regional)</td>
<td>Maritime freight to be measured as number of full containers moved coastally (reported in standardised twenty-foot equivalent units (TEUs)).</td>
<td>• Road</td>
<td>• Rail – to be segmented by movement. Maritime – to be segmented by port.</td>
<td>Rail data currently available and equivalent indicator for rail and aviation. Equivalent indicators for maritime and aviation not currently available.</td>
</tr>
<tr>
<td>2.7 Freight travel time reliability</td>
<td>• NZTA is developing a measure of “predictability of travel times on priority routes for freight and tourism” (as for 2.4 above).</td>
<td>To be segmented by mode and region.</td>
<td>Road measure under development by NZTA, expected to be available for reporting in 2019/20. Rail data maintained and reported by Kiwirail.</td>
<td>NZTA is currently developing an equivalent road indicator which should be available early 2020 (based on weightings that inform road efficiency of heavy vehicles). Equivalent indicators for rail and aviation would require significant effort to establish appropriate data capture/analytical capability.</td>
</tr>
<tr>
<td>2.8 Load efficiency</td>
<td>% empty containers discharged.</td>
<td>To be segmented by mode (where available).</td>
<td>Currently only available for maritime using FIS data.</td>
<td>N/A</td>
</tr>
<tr>
<td>2.9 Freight productivity / utilisation</td>
<td>• Road-based freight utilisation measured by vehicle kilometres travelled per heavy vehicle</td>
<td>To be segmented by mode and location (where available).</td>
<td>• Road data from NZTA. • Rail data from Kiwirail. • Maritime data available from FIS data managed by MOT.</td>
<td>No equivalent indicator available for aviation.</td>
</tr>
<tr>
<td>2.10 Farm expenditure on freight</td>
<td>% out of total operational cost spent on freight (including road, rail, maritime and aviation).</td>
<td>To be segmented by mode and region (where available).</td>
<td>Agriculture analysis, based on National Accounts (Industry Production and Investment) managed by Stats NZ.</td>
<td>This indicator is proposed as a proxy for freight cost in general.</td>
</tr>
</tbody>
</table>

### Outcome 3: Inclusive access

**Enabling all people to participate in society through access to social and economic opportunities, such as work, education, and healthcare.**

<table>
<thead>
<tr>
<th>Theme</th>
<th>Proposed indicator</th>
<th>Specifications / definitions</th>
<th>Reporting requirements</th>
<th>Data source /s and responsible agency</th>
<th>Notes / limitations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access</td>
<td>3.1 % of household spending on transport</td>
<td>Typical weekly expenditure on “private motoring expenses”, “vehicles purchase”, and “passenger transport services”.</td>
<td>To be segmented by equalised household income and ethnicity (where available).</td>
<td>The Household Living-Cost Price Indexes (HLCPI) generated by Stats NZ. Expenditure patterns are based on information from the Household Economic Survey, triangulated with other sources.</td>
<td>The purpose of this indicator is to track the affordability of transportation for people with highest levels of deprivation.</td>
</tr>
<tr>
<td></td>
<td>3.2 % of population with access to frequent public transport services</td>
<td>As per NZTA output class measure. Propensity of the population that is within 500 metres walking distance (electronic footpaths, rather than “as the crow flies”) of a frequent bus/rail/ferry terminal, or within 1 km of a frequent rapid transit stop (railway lines, but also includes grade-separated bus ways). Frequent means scheduled every 15 minutes (or 30 minutes for ferry) during the morning peak Monday to Friday (7am-9am).</td>
<td>As per NZTA output class measure. Currently only available for Auckland, Wellington and Christchurch but to be expanded to the other metropolitan and high growth urban areas.</td>
<td>Excluding NZTA output class reporting.</td>
<td></td>
</tr>
</tbody>
</table>
### Barriers to access

#### 3.3% of rural households without access to a motor vehicle
- Proportion of rural households without access to a motor vehicle, based on the Census question: “How many motor vehicles (not counting motorbikes) do the people who live here have available for their use?”
- To be segmented by region.
- NZ Census from Stats NZ.
- This is included as an indicator of access given the reduced access to public transport services in rural areas. Data are only collected every 5 years so the potential of using an alternative data source will be examined. Unclear at this stage when Census 2018 data will be available.

#### 3.4% of people unable to make a beneficial transport journey
- Proportion of people surveyed that reported they were unable to take a journey that would have been beneficial to them in the last week because:
  - journey would have been too expensive
  - journey would have taken too long
  - no suitable transport option available.
- To be segmented by age, gender, ethnicity, trip purpose and region (where available).
- NZTA’s Customer Experience and Behaviour Journey Monitor Survey.
- Currently only available for land transport.

#### 3.5 Limited need for GP services due to a lack of transport
- Proportion of children aged 0-14 years and adults aged 15+ years who had a medical problem but did not visit a GP due to a lack of transport in the past 12 months.
- To be reported as % of total population, per survey year (separately for adults and children, by region, age, gender, ethnicity, deprivation), using 5-year pooled figures.
- New Zealand Health Survey, managed by the Ministry of Health.

### Perceptions

#### 3.6 Perception of public transport
- Self-reported response to: “Thinking about public transport in your local area, based on your experiences or perceptions, do you strongly disagree, disagree, neither, agree, strongly agree with the following: public transport is:
  - affordable?
  - easy to get to?
  - frequent i.e. comes often?
  - reliable i.e. comes on time?
- To be segmented by age, gender, ethnicity and region (where available).
- Quality of Life Survey, funded by local governments.

#### 3.7 Perceived safety of walking and cycling
- As per survey questions:
  - % agreed they don’t feel safe walking in the dark
  - % agreed they don’t feel safe cycling in the dark
  - % agreed they don’t feel safe walking because of how people look
  - % agreed it has become more safe to cycle on the road
  - % agreed they don’t feel safe cycling because of how people drive
  - % agreed they don’t feel safe cycling in the dark
- To be segmented by mode and by age, gender, and region (where available).
- Understanding attitudes and perceptions of cycling and walking (annual survey commissioned by NZTA and run by The Research Agency).

### Outcome 4: Resilience and security

Minimising and managing the risks from natural and human-made hazards, anticipating and adapting to emerging threats, and recovering effectively from disruptive events.

<table>
<thead>
<tr>
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</tr>
</thead>
</table>
| Security    | 4.1 Security incidents | Number of incidents detected and reported. For maritime this includes incidents occurring at ports and offshore industry bodies, where the incident meets the threshold as defined in the Maritime Security Act. For aviation this includes three types of possible event:
  - In-flight security incidents involving offences against the Aviation Crimes Act 1972 for aircraft which have been screened by the Aviation Security Services
  - airside security incidents involving offences against the Aviation Crimes Act 1972 at security designed aerodromes where the Aviation Security Services operates
  - airside incidents involving the introduction of dangerous goods into aircraft screened by the Aviation Security Services. | To be segmented by location and incident type. | Maritime incidents are monitored and reported by MNZ. Aviation incidents are monitored and reported by CAA. | No equivalent indicators available for road or rail. |
### 4.2 Compliance with International security codes

For maritime this refers to the % of trading ports which are compliant with the International Ship and Port Facility Security (ISPS) Code which sets out minimum security arrangements for ships, ports, and government agencies. For aviation this refers to the number of non-compliances with civil aviation rules and/or exemptions by operators.

| To be segmented by mode. | Maritime data collected by MNZ. | No equivalent indicator available for road or rail. |

### 4.3 Perceived personal safety while using the transport system

For land transport and ferries, this refers to the % of respondents who self-reported feeling ‘fairly safe’ or ‘very safe’ on their most recent journey: journey is defined as travelling from one place to another at least in part along the road or rail network, and using any forms of land based transport (e.g. car, bus, train, walk, cycle or ferries). Now thinking about any risks to your personal safety (such as attacks or threats) during this journey, did you feel: 1 (very unsafe), 2 (fairly unsafe), 3 (neutral), 4 (fairly safe), 5 (very safe). For aviation, this refers to % of respondents who self-reported feeling ‘safe and secure’ or ‘very safe and secure’ or ‘extremely safe and secure’ to the question: ‘Overall how safe and secure did you feel on your most recent flight?’ Note that this only includes travellers who live in New Zealand.

| For land transport, to be segmented by mode (bus, train, ferry, taxi/hide-share passenger). | Land transport and ferries: NZTA’s Customer Experience and Behaviour Journey Monitor Survey. Aversion: Safe survey, managed by CAA & Air NZ. Note that this is not an annual survey and it is unclear when the next survey will be available. | No equivalent indicator available for maritime. |

### 4.4 Operator risk profile

Average risk score, and proportion of operators deemed to be high risk (i.e. scored 40% or more on their risk profile).

For maritime operators, a risk profile score is given after an audit is undertaken on the following aspects:
- Safety culture
- Compliance history
- Operating practice
- Experience and capability
- Organisational factors.

| To be segmented by mode. | The Maritime Operator Safety System (MOSS) is maintained by MNZ. It is based on Maritime Rules made under the Maritime Transport Act 1994. Equivalent aviation data is maintained by CAA. | No equivalent indicators available for road or rail. |

### 4.5 Readiness to respond

The assessment and reporting matrix are different for road and maritime:
- Road: National average score, based on the National Capability Assessment which assesses whether its database of public and private transportation resources is kept and maintained. This indicator signals whether critical resources can be sourced rapidly in response to an emergency.

| To be segmented by mode. | Road: National Capability Assessment, conducted periodically (i.e. in 2012 and 2015) by Ministry of Civil Defence & Emergency Management. Note that this is not conducted annually and it is unclear when the next dataset will be available. | No equivalent indicators available for rail or aviation. |

### 4.6 Availibility of viable alternative routes

NZTA are currently developing a measure of routes of national economic and social importance that have viable alternative route. Viable alternative routes are currently defined by NZTA as one where:
- It is unlikely to be affected by the same type of event that disrupts the availability of the original route, and
- Is available to all vehicle types daily to be diverted to the alternative route, and
- Has the capacity to carry the volume of traffic diverted from the original route, and
- The additional travel time for 85% of disrupted trips is no more than:
  - 20 minutes where original trip time is up to 40 minutes;
  - 50% of original trip time where original trip time is 40-300 minutes;
  - 2.5 hours where original trip time is less than 5 hours.

| To be developed. | Currently under development by NZTA and should be available for 2019/20 (roads only). | - |

### 4.7 Preparation for loss of traditional transport options

Proportion of people that report they are prepared for loss of traditional transport options to access social and economic opportunities.

Segmentation to be developed but likely to require a locational modifier to take into account livelihood disruption and response options.

A new survey to be undertaken by NZTA. Originally this was planned for 2018/19 but may not be available until 2020/21.
### Outcome 5: Environmental sustainability

**Transitioning to net zero carbon emissions, and maintaining or improving biodiversity, water quality, and air quality.**

<table>
<thead>
<tr>
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</tr>
</thead>
</table>
| **Water quality** | 5.1 Marine oil spills in NZ waters | Number and volume of spills. Oil spills are categorised into a three-tier response system:  
- Tier 1: Oil spills respond to and resolved by the operator. The level of response is expected to consist of a timely 'first strike' and includes the capacity for MNZ to assist if there is an escalation to a Tier 2 or Tier 3 response.  
- Tier 2: Oil spills beyond the capability of the operator acting alone. Response is led and resolved by the local regional council.  
- Tier 3: Oil spills are generally more complex, of longer duration and impact, and beyond the response capability of the regional council. | To be segmented across the three-tier response system | NZTA are reported directly by operators or via regional councils. Data is maintained by MNZ. | |
| **Air quality / climate change** | 5.2 Greenhouse gases emitted from the NZ transport system | National estimate of CO₂, CH₄, and N₂O emissions (Gigatonnes) | TO BE COUNTED | New Zealand's Greenhouse Gas Inventory, managed by MNZ (to be supplemented by MBIE datasets if necessary). | Note there are limitations associated with this indicator. For example, the complexity of the method (2011 results were published in 2018). Emissions from international transport have been excluded since this is outside of NZ jurisdiction. | |
| | 5.3 Fleet composition | % of (1) light vehicles and (2) heavy vehicles by fuel:  
- Petrol  
- Diesel  
- Other – including EVs, hybrids, LPG vehicles | To be reported as total number of vehicles, and as % of total vehicle fleet. In future this is expected to also be reported as % of distance travelled (i.e. VMT). | Based on Motor Vehicle Register managed by MNZ. | In future this is also expected to include equivalent indicators for rail, maritime and aviation. | |
| | 5.4 Mode share of short journeys | % of travel using a particular mode, to be reported by distance travelled for short trips, that is:  
- Less than 2km distance  
- 2-5 kms distance | To be segmented by age, gender, ethnicity, and region where data are available. | Calculated based on the Household Travel Survey (HTS) managed by MOT. Data will be reported on a 3-year rolling average. | This is a sub-set of the mode share measure being used for GPS 2018. It is these short trips that we are hoping to see a move away from using a motor vehicle to using more active modes (which has positive environmental outcomes as well as public health benefits). |
To: Hon Phil Twyford, Minister of Transport

From: Ngaire Best, Manager: Governance and Commercial

Date: 2 August 2019

Subject: Meeting with the New Zealand Transport Agency Chair on 7 August 2019

OC Number: OC190739

Purpose of this aide memoire

1. This aide memoire provides you with background information and suggested questions for your meeting with the New Zealand Transport Agency (NZTA) Chair on 7 August 2019. The following items are on the agenda:
   - Future of Rail
   - Auckland Transport Alignment Project
   - Let's Get Wellington Moving
   - Regulatory performance
   - Mode shift implementation
   - Organisational Change.

2. Sir Brian Roche (Chair) and Mark Ratcliffe (Interim Chief Executive) will be attending from the NZTA, Nick Brown (Deputy Chief Executive, Governance and Engagement), Ngaire Best (Manager, Governance and Commercial), and Robert Anderson (Principal Advisor, Governance and Commercial) will be attending from the Ministry of Transport (the Ministry).

Future of Rail

3. The Future of Rail project continues to make steady progress. In May 2019, Cabinet agreed in principle to Scenario 2 – a resilient and reliable rail network. This scenario covers $5.6 billion in investments in assets above and below the track in order to rehabilitate the rail freight network. This is a necessary step to take rail out of a state of managed decline and realise the broader benefits of rail in the land transport system.

4. Budget 2019 included the first instalment of this funding of $1.2 billion for the 2019/20 and 2020/21 financial years. The commitment to above-the-rail projects is $0.8 billion
and below-the-rail commitment is $0.4 billion. Existing funding of $815 million has been committed under the Government Policy Statement (GPS) on land transport to metropolitan rail networks in Auckland and Wellington and long-distance passenger rail.

5. The Ministry is in the process of finalising the second Cabinet paper on the new planning and funding framework, with the intention to get this paper to Cabinet Economic Development Committee in August 2019.

6. [Redacted]

7. The NZTA is involved with the development of the Future of Rail project. Its CEO is on the project Steering Group and representatives are part of the cross-agency project team. As part of moving into implementation, it has also hosted a workshop on its planning and funding processes for KiwiRail and the Ministry. It has also begun to investigate the development of rail evaluation procedures for assessing future rail improvement projects under the National Land Transport Fund (NLTF).

8. The New Zealand Rail Plan is under development as a collaboration between the Ministry and KiwiRail, with input from NZTA, before it comes to you for consideration. The Rail Plan will complement the GPS and provides a 10-year investment horizon for rail. The initial Rail Plan is expected to be ready in September 2019 for review and to receive feedback as part of the draft GPS consultation process in June 2020 alongside the rail GPS (GPS 2021).

9. The transition from policy development to implementation has begun. The Ministry has appointed a Director, Rail Transformation, to lead the implementation of the changes through the three Future of Rail Cabinet papers discussed above. Two joint workshops have already been held between the Ministry, KiwiRail, and NZTA.

10. You may wish to ask/discuss the following with the Chair:

   - **How** the Crown will provide funding to the NLTF to support rail, recognising that any track user charges will only make a modest contribution to funding. You may want to reassure the Chair that you recognise the importance of Crown funding channelled through the NLTF to allow for the integration of rail.

   - **You** may want to signal that there is a two-year lead-in period to implement the changes and there will be significant work required across NZTA, the Ministry, and KiwiRail to incorporate rail funding into the NLTF. This will not just be about bringing rail into the existing system, but will require consideration of changes to the way all three agencies work across the land transport investment system.

   - **Have** you any initial thoughts on how the system needs to adjust to support the integration of rail, including changes to any NZTA systems and processes?
Auckland Transport Alignment Project

11. The Auckland Transport Alignment Project (ATAP) is an aligned strategic approach between the Government and Auckland Council to address Auckland's critical transport challenges over the next 30 years. The ATAP partner agencies include the Ministry, Auckland Transport, Auckland Council, KiwiRail, and the NZTA. ATAP includes a number of projects including the Auckland mode-shift plan, work on congestion pricing, and the investment package for the next decade (2018 – 2028).

12. The investment package completed in April 2018 marked a significant milestone, with Cabinet and Auckland Council agreeing indicative priority investments for the next decade. It is a transformational programme with an emphasis on rapid transit, public transport, walking and cycling, and safety.

13. The NZTA has a critical role to play in the delivery of ATAP. It is responsible for delivering some of the projects and has a role in supporting Auckland Transport in the co-funded projects. At an officer level, NZTA is expected to be an active participant in the ATAP Governance Group (Chief Executives of the ATAP agencies) and the various ATAP working groups. The NZTA Board should have oversight of the ATAP programme.

14. [Withheld under s9(2)(f)(iv)]

15. This commitment was part of the ATAP agreement between Cabinet and Auckland Council. Auckland Council has agreed to the Regional Fuel Tax and budgeted for their share of the ATAP package in their Long-Term Plan. [Withheld under s9(2)(f)(iv)]

16. The Ministry is also leading six-monthly monitoring reports on the ATAP programme, with intervening quarterly reports that will update the Mayor and yourself on the programme's progress, key priorities, and any emerging risks and issues. The NZTA, Auckland Transport, KiwiRail, and Auckland Council are part of this work.

17. You may wish to ask the Chair the following:

- What is the Board's view on the progress that the NZTA is making to support the delivery of the commitments in ATAP?
- What governance and capability has the NZTA put in place to ensure the effective delivery of the ATAP programme?
- [Withheld under s9(2)(f)(iv)]
Let's Get Wellington Moving

18. As you are aware, the Let's Get Wellington Moving (LGWM) indicative package was publicly announced in May 2019, following endorsement from Cabinet.

19. The LGWM partners, Wellington City Council (WCC) and Greater Wellington Regional Council (GWRC), have unanimously supported the indicative package at full council meetings in June 2019. The NZTA has approved funding for the next phase of LGWM programme, including detailed businesses cases and development of an early delivery programme, at its board meeting on 25 July 2019.

20. LGWM is now in the development and delivery phase where you can expect to see more detailed planning of the programme of work, the investigation of large projects such as mass transit, business cases developed, and early improvements implemented. We recently provided you with more detailed advice (OC190473 refers) on the next steps for LGWM.

21. The key priority for LGWM is to investigate and determine the best solutions for various programme elements. You have also expressed the need for assurance that the indicative package, as endorsed by Cabinet and supported by WCC and GWRC, proceeds as expected and with pace.

22. You may wish to ask/discuss with the Chair the following:

- Are you confident in the progress that the NZTA is making, working with local stakeholders, to progress LGWM?
- Are there any significant capability and delivery risks within the NZTA that may impact the delivery of the LGWM programme?

Regulatory Performance

23. The NZTA continues to work on building core capability across its regulatory function. The NZTA’s immediate focus is on ensuring that its base regulatory function is operating effectively, alongside defining the agency’s future capability requirements for the function. Resourcing pressures and workload remain an ongoing issue that the NZTA is having to manage across its regulatory function.

24. The NZTA is progressing reviews of heavy vehicles certified by non-compliant Heavy Vehicle Specialist Certifiers (HVSC), which remains a group of concern. The NZTA continues to undertake further testing of vehicles assessed by non-compliant HVSCs. The NZTA is working to address a backlog of rectification cases in this area, alongside new issues that are being identified.

25. [Redacted information]

26. The NZTA is having to manage a backlog of HVSC and repair certifier cases, which means there is potentially some unknown risks within the broader group of affected vehicles. The NZTA will continue to undertake further testing of affected vehicles to determine if there are wider compliance and safety issues.
27. An effective assurance regime is needed so that the NZTA can have confidence in the delivery of its regulatory roles and functions. The NZTA does not have a comprehensive framework in place yet for assessing the delivery and performance of its regulatory function. The NZTA acknowledges this as an issue and recognises that it needs to be a central focus of its future state work.

28. The NZTA has incurred costs of $19 million to date in responding to the regulatory non-compliance issues. The NZTA is experiencing increasing costs in the regulatory space. These costs relate to supporting the ongoing operation of the function and in meeting the costs of rectification associated with responding to the backlog of regulatory compliance cases. The Ministry is working with the Treasury on an approach for addressing these cost pressures, which will be reflected in the Cabinet paper for the NZTA regulatory review. Work is also continuing on a funding review for the NZTA's regulatory function.

29. There has been recent media coverage of regulatory compliance issues in the land transport sector, particularly relating to the ongoing action that the NZTA is taking. Specific issues noted include:

- reports of significant shortages and pressures on certifiers to re-inspect and recertify heavy vehicles as a result of increased regulatory action being undertaken by the NZTA. Some concerns have been raised about vehicles falling inspections for perceived minor matters
- there is anecdotal evidence from the sector suggesting that an increasing number of transport operators are getting their vehicles tested to ensure compliance, which is creating significant demand for specialist certifiers. An additional concern is that inspecting organisations may be referring vehicles to certifiers more often rather than making calls on compliance themselves, which is adding to the pressure on the certifiers sector.
- a group of mechanics and a courier operator taking legal action against the NZTA over the agency's action to suspend or revoke their licences – some concerns have been raised around the capability and practices of NZTA compliance staff.

30. In the context of the recent issues raised, the Ministry is not making any specific judgements on reported cases. However, it is important that the NZTA is ensuring an appropriate and balanced approach is taken to the delivery of its regulatory roles and functions. This includes ensuring that its compliance staff are well supported to make effective and consistent regulatory decisions. You may want to raise these issues with the Chair.

31. You may wish to ask the Chair the following:

- How does the NZTA consider the regulatory function is currently performing? What are the current risks in relation to capability and performance in the function?
- What concerns does the NZTA have over the growing demand on specialist certifiers? How is the NZTA working with the certifier sector to manage any impacts of regulatory activity on the capacity of the sector?
- Does the NZTA have concerns that there may be an over correction in how inspecting organisations and certifiers are operating (i.e. over regulating)?
- How is the NZTA working to ensure that a balanced and proportionate regulatory approach is being taken across the land transport sector?
Mode shift Implementation

32. The NZTA has recently completed the development of its mode shift strategy and the development of a draft mode shift action plan for Auckland. You have signalled that you would like further detail on how the NZTA plans to support the implementation of its mode shift strategy and the supporting action plans.

33. The NZTA has advised that they are continuing to use the mode shift programme team that delivered the mode shift plan to manage its implementation and to monitor progress over the next year. Each of the 35 key interventions in the plan will have a delivery schedule against which the workstream lead will report regularly. A number of the interventions are already underway, with some expected to be completed this quarter (e.g. launch the Innovating Streets programme, review and update fare policy guidance, complete travel demand management business case).

34. Work has begun on creating mode shift plans for Hamilton, Tauranga, Wellington, Christchurch, and Queenstown to provide input into the upcoming Regional Land Transport Programmes.

35. Work undertaken by the NZTA in the last six months has helped identify capability and capacity requirements and gaps in its ability to deliver mode shift. This work is being shared with the team leading the agency’s Revitalisation programme so that it can help form the new size and shape of teams. Responses are expected to include hiring of some specialist staff, exploring seconments, investing in training and development, and engaging specialist external support as required.

36. The NZTA will provide you a more fulsome update on the implementation of the mode shift plan as part of its quarterly reporting to you.

37. You may wish to ask the Chair the following:

- Does the NZTA have sufficient internal capacity and capability to support the delivery of the mode shift strategy and supporting action plans?
- What steps is the NZTA Board taking to support the implementation of the mode shift strategy and supporting action plans?

Organisational Change

38. The NZTA has recently announced a proposal to change the agency’s organisational structure. The changes are intended to better support the delivery of its core roles and functions, as well as deliver on the Government’s transport priorities. The changes also look to better align the role of the NZTA with the Ministry’s role in setting the direction and policy settings for the transport system.

39. Key changes through the NZTA’s proposed organisational change include establishing new groups for rail and public transport, technology, corporate support, and engagement and partnerships. Some groups are being disestablished, with their functions allocated into the proposed new structure (e.g. Strategy, Planning and Performance; Operations Group; and Corporate Services). Other functions, such as regulatory, roading investment and development, and road safety, will broadly remain unchanged.
40. The NZTA will be moving from having a dedicated investment and planning function to most of these roles being transferred into a corporate support function within the agency. These functions will be grouped with procurement, risk and assurance, and business planning. You may want to test whether the Board is confident that the proposed new structure will retain a sufficient focus on the NZTA’s investment and planning roles, particularly as they are combined with the agency’s other corporate support functions. It is critical that the NZTA has a clear lifecycle approach to managing investment development and delivery across the transport system.

41. The Ministry considers that the stronger focus on public transport, rail, and regional partnerships prioritised through the proposed structure will help support your priorities and focus for the NZTA. The proposed changes will also strengthen the focus on technology for the transport system and corporate technology, which are identified as key risk areas given the ageing nature of some of the agency’s technology platforms and systems.

42. The proposed changes are relatively high-level. There is a level of detail that needs to be worked through, particularly around how the various functions within the NZTA work together both internally and externally with other stakeholders. The proposed changes are likely to be unsettling for the NZTA over the short-term as they come off the back of significant changes in leadership within the agency. The NZTA needs to ensure there is appropriate change management in place to manage the effects of further organisational change on the agency and its staff.

43. Stakeholders have previously raised concerns about understanding who and how to best engage with the NZTA post its transformation programme in 2017. It is important that the NZTA consider any changes on the impact and relationships it has with its external stakeholders, particularly as the structure of the agency evolves.

44. You may wish to ask the Chair the following:

- Does the NZTA Board have confidence that the proposed changes to the NZTA’s structure will position the agency to effectively deliver the Government’s transport priorities?
- How does the NZTA intend to manage the impact of the proposed changes, if progressed, on the ongoing delivery of the agency’s functions and staff wellbeing?
- Does the NZTA Board have any concerns about the proposed changes being made in advance of putting in place permanent leadership capability for the NZTA?

Other matters

45. There are some other matter you should be aware of and may want to consider in your discussion with the Chair, which include the following:

- **Connected Journeys Solutions (CJS) review** – the report into the operation of the NZTA’s CJS function has now been publically released. The report has highlighted a number of issues around the management, governance, and activities of the CJS function. The NZTA is undertaking additional reviews on the agency’s integrated ticketing programme, Zero Harm application, and information management.
You may want to ask the Chair:

- Has any work been undertaken to assess if the issues identified through the CJS review could be more widely spread in the NZTA, including any changes that may be made to prevent further issues in the future?

- **Technology risks** – the Ministry has continued to engage with the NZTA on key risks around its technology platforms (both corporate and the transport network). Some of the NZTA’s systems are no longer supported by vendors or will soon become unsupported. These include systems that support the NZTA’s investment and network operation functions. The current state of the NZTA’s technology systems presents some risks around the potential for data and privacy breaches, technology failure, lack of technology flexibility, and the siloed operation of technology systems. There is a high potential for these issues to impact the performance of the transport network and the security of the information held by the NZTA.

The NZTA has a work programme in place to ensure its technology platforms and systems are fit-for-purpose. The NZTA has noted that this is focusing its effort on strengthening IT capability and systems where there is a direct impact on safety and network outcomes (e.g. Tunnel Management Systems, Advanced Traffic Management Systems). Work is also in the early stages on strengthening the NZTA’s corporate technology systems. The Ministry understands that the NZTA Board will be considering a plan in August 2019 to address the immediate requirements across its technology systems and platforms.

You may want to ask the Chair:

- Are you confident about how the NZTA is managing risks across its technology systems and platforms?
- What assurance does the NZTA have in place to oversee risk and manage the upgrade of its technology capability?

- **Capital programmes and NLTF management** – The NLTF continues to face challenges and pressures from managing the existing National Land Transport Programme (NLTP). Funding in all activity classes (except for rapid transit) is largely now fully allocated including some over-programming to account for “optimism bias”, so there is limited capacity to fund further projects. Funding allocation could be increased with the transfer of funds from Rapid Transit to activity classes under the most pressure (State Highway Improvements, Public Transport, Local Road Improvements) and those with upside expenditure risk (e.g. State Highway and Local Road Maintenance, Road Policing).

The pressure to restrict further funding and avoid over commitment is set against significant uncertainties over project delivery and funding requirements in the current NLTP period. The NZTA has a number of key capital programmes underway that create significant funding and cash flow pressures and uncertainty for the NLTF, with the effects of these projects likely to materialise over this and the next two NLTPs. There are also uncertainties in the cash flow requirements of projects which are co-funded with approved organisations, such as the Auckland Transport Alignment Programme.
Based on current forecasts, and as the present cash surplus in the fund is utilised, it is expected that for the end of financial years 2019/20 and 2020/21 the existing overdraft facilities will be required to manage cash flow requirements.

You may want to ask the Chair:

- How is the NZTA managing pressures and uncertainty across the NLTP, including what impact these pressures might have on the delivery of your priorities?

Contact:

Ngaire Best, Manager, Governance and Commercial
Phone: [Redacted] Withhold under s9(2)(a)
Ministry of Transport: Aide Memoire

To: Hon Phil Twyford, Minister of Transport
Copied to: Hon Julie Anne Genter, Associate Minister of Transport
From: [Redacted], Senior Adviser, Governance and Commercial
       Ngaire Best, Manager, Governance and Commercial
Date: 12 August 2019
Subject: Meeting with Chief Commissioner, Transport Accident Investigation
        Commission, 19 August 2019 4.30pm – 5.00pm
OC Number: OC190752

Purpose of this aide memoire

1. You are meeting with Jane Meares, Chief Commissioner, Transport Accident
   Investigation Commission (TAIC) from 4.30pm – 5.00pm on 19 August 2019.

2. Jane will be accompanied by Stephen Davies Howard, Deputy Chief Commissioner,
   Lois Hutchinson, Chief Executive and the recently appointed Chief Investigator of
   Accidents, Aaron Holman.

3. The Ministry of Transport (the Ministry) will be represented by Nick Brown, Deputy
   Chief Executive, Governance and Commercial, Ngaire Best, Manager, Governance
   and Commercial and [Redacted]. Senior Adviser, Governance and Commercial.

4. We prepared an aide memoire (OC190433) for when you last met with Jane Meares
   on 27 May 2019. Key areas of discussion included TAIC’s Budget 2019 proposal,
   TAIC’s performance and two cases of interest (Fox Glacier helicopter collision and
   the impact of the use of a helicopter on the fire in Port Hills, Christchurch helicopter).

5. The agenda for this meeting is as follows:

   Item 1 – impact of the 2019 Budget bid decision on TAIC

   Item 2 – Cases of interest

      • 17-009 Boeing 787 to Narita – engine abnormality

      • 17-010 Boeing 787-9 to Buenos Aires – engine abnormality.
Item 3 – Chief Executive’s meeting with [redacted], Air investigation, Port Hills, Christchurch

Item 4 – International Relations

- International Transport Safety Association (ITSA) 2019, Quebec City, Canada – update

- Meeting with Australian Transport Safety Bureau (ATSB) in Canberra, September 2019.

Item 5 – TAIC performance: Overview

Item 1 – Impact of the 2019 Budget bid decision on TAIC

6. TAIC’s bid for Budget 2019/20\(^1\) was not successful due to other more pressing Government priorities. As a matter of context, this is the third of three consecutive bids that was unsuccessful. Of particular note, TAIC’s critical IT system is coming to its end of life by January 2020. Without additional funding, TAIC faces a number of challenges in performing its role effectively, including:

   - delay in implementing its workforce and ICT strategies
   - ability to operate effectively
   - a lack of data analytics capability at a system level
   - ability to undertake increasingly technology-driven investigations.

7. TAIC currently has contingency plans and is exploring options to move to the cloud as a programmed move to manage server risk. TAIC will put in a Budget bid for 2020/21. The Ministry supports TAIC intention to acquire Crown funding to replace its aging IT system.

8. You may wish to ask/discuss the following with Ms Meares:

Item 2 – Cases of interest – Out of update by Jane Meares

- 17-009 Boeing 787 to Narita – Engine abnormality

- 17-010 Boeing 787-9 to Buenos Aires engine abnormality

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\(^{1}\) The Crown funding sought was $9.27m over six years (2019–2025), $6.87m for ‘knowledge transfer system’ and $2.4m for non-discretionary cost pressures.
Item 3 – Chief Executive’s meeting with [redacted], Air investigation, Port Hills, Christchurch

9. You were provided a copy of the letter written by [redacted] to TAIC’s Chief Executive on 26 March 2019. [redacted] raised concerns about TAIC’s investigation process, in particular its communications with the family, regarding TAIC’s care for the well-being of grieving families, report preparation process, and media engagement. We understand that on receiving this letter, Lois Hutchinson, Chief Executive, contacted [redacted] and met with him to address [redacted] concerns.

10. Lois Hutchinson will provide an update on the outcome of her meeting with the [redacted]. You may wish to ask:

Item 4 - International Relations – Oral update by Jane Meares

- ITSA 2019, Quebec City, Canada
- upcoming meeting with ATSB in Canberra September 2019

Item 5 – TAIC performance: Overview

12. In August, we provided a briefing to Minister Carter, copied to you (OC190724), on TAIC’s half yearly performance report to 30 June 2019. The following, are key points of interest from the half-yearly report:

13. Financial – TAIC’s reliance on Crown funding makes it vulnerable to cost pressures. TAIC’s financial result for the six months ending 30 June 2019 shows a full year net deficit of $76k against a budget deficit of $75k. TAIC’s cash balance of $1,409k shows a favourable variance of $163k (13%) due to timing of computer purchases. The average cost of inquiries closed of $400,000 is higher than for the same period last year at $331,000, mainly due to the single Fox glacier air investigation costing significantly higher at $833k.

14. Performance on core activity – During the six months to June 2019, TAIC continued to focus on its core activity of opening and closing inquiries. TAIC has not met some of its performance targets (outputs), in particular, the timeliness target. The proportion of closed domestic inquiries completed within 440 working days was 64%, short of a 70% target. The Ministry has suggested that there is opportunity for TAIC to review:

- the timeliness for completing inquiries to improve efficiency
- the timeliness measure in its accountability documents to improve readability.

15. This view is also reflected in the stakeholder survey 2018/19 and the feedback the Ministry receives from stakeholders. TAIC’s stakeholder survey shows positive feedback in the way TAIC staff conduct investigations. However, the timeliness of completing investigations and findings remains an ongoing concern for stakeholders. The Ministry and TAIC will work closely to explore how these concerns may be addressed.

16. Recommendations reporting - As at June 2019, 207 recommendations were open, with an average age of 1,519 working days. One quarter (54) of the 207 recommendations are over 10 years old. This runs the risk of, for example,
recommendations becoming no longer relevant. Currently, all recommendations remain open until they are fully addressed and closed. This is an area of common agency frustration. The Ministry considers there is scope for TAIC to improve its recommendations reporting, which is provided under paragraph 17.

17. Tracking recommendations – As at June 2019, 207 recommendations were open, with an average age of four years. One quarter (54) of those are over 10 years old. This runs the risk of, for example, recommendations becoming no longer relevant. The Ministry considers there is scope for TAIC to consider other models for tracking recommendations, for example applying TAIC’s peer, the ATSB. The ATSB provides six layers in its classification, which may be more suitable to provide greater transparency and confidence in the process. These are:

- Adequately addressed
- Partially addressed
- Not addressed
- No longer relevant
- Safety action pending
- Withdrawn

18. This break-down recognises efforts made by recipients in responding to recommendations before they are closed. It will also assist TAIC to conduct its data analytics on status and trends of its recommendations in progress. The Ministry shared its view with TAIC staff, including the acting Chief Executive and Chief Investigator, who indicated that TAIC will consider the Ministry’s view. The Ministry will continue to engage with TAIC on this matter.

19. Emerging issue – The helicopter sector continues to represent high risk, which TAIC continues to monitor. As at 30 June, 18 out of the 14 open aviation inquiries involved a helicopter.

20. The Ministry’s monitoring approach – The Ministry has rolled out its revised approach for monitoring transport Crown entity performance from early 2019. We will commence the risk and assurance focus with TAIC in Quarter One 2019/20. Following completion of the risk and assurance focus, the subsequent focus will be on people and ICT capability, agency strategy and performance, and collaboration and stakeholder management.

Contact:
Ngaire Best, Manager, Governance and Commercial
Phone: 022 014 3242
Review of organisational culture at the Civil Aviation Authority

Reason for this briefing
In light of recent allegations of bullying and harassment at the Civil Aviation Authority, you have directed the Ministry to conduct a review of the organisational culture at the Civil Aviation Authority.

This briefing provides advice about the nature of the commissioning of the review, the options for scope and methodology, and the next steps for ensuring external expertise informs the draft Terms of Reference before those Terms are finalised.

Action required
You will need to make a decision about the nature of the commissioning of the review. We seek your feedback as soon as possible.

Deadline
14 August 2019

Reason for deadline
To assist the Ministry to quickly take next steps to establish the teams of expertise necessary, and consult with them to ensure a quality final Terms of Reference.

Contact for telephone discussion (if required)

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MINISTER’S COMMENTS:

Date: 12 August 2019

Attention: Hon Phil Twyford (Minister of Transport)

Briefing number: OC190770

Security level: In-confidence

Minister of Transport’s office actions

☐ Noted          ☐ Seen          ☐ Approved
☐ Needs change   ☐ Referred to ☐ Overtaken by events
☐ Withdrawn      ☐ Not seen by Minister
Purpose of briefing

1. This briefing provides advice on the:
   (a) commissioning of the review of the Civil Aviation Authority’s organisational culture
   (b) proposed scope and methodology for the review
   (c) engagement of specialist advisers and a governance group to assist and support the review
   (d) process for developing and finalising the Terms of Reference
   (e) likely timing and costs of the review
   (f) related streams of work.

Background

2. In June 2019 an anonymous person, who stated they were a staff member of the Civil Aviation Authority, (CAA), made public allegations about bullying and a “toxic atmosphere” at the CAA. You referred that person on to the Chief Executive at the Ministry of Transport (Ministry) to determine what the appropriate next steps would be.

3. That same month Aviation New Zealand CEO, John Nicholson, also publicly raised concerns about staff turnover at CAA “and the impact that has on the organisation’s ability to do its job properly”.

4. As part of its response to these matters, on 17 July 2019 the Ministry established two new channels of communication with the public – an “issues” email address, and a “protected disclosures” email address, for staff members at Crown entities to use where appropriate.

5. On 4 August 2019 four other anonymous individuals (current and ex-staff) made public allegations about complaints, including relating to bullying and harassment, which they had raised at CAA but which they allege were “swept under the carpet” and for which they “felt targeted after raising issues”.

6. On that same day you directed the Ministry of Transport to carry out a review of organisational culture at the CAA, and agreed high-level Terms of Reference.

There are different ways to the review can be commissioned

7. There are, in broad terms, two potential ways to commission a review. The first is under section 132 of the Crown Entities Act. The second is through a letter of agreement with the CAA.

Section 132 Crown Entities Act (Recommended)

8. Section 132 provides a responsible Minister with the power to review the operations and performance of a Crown entity at any time. Before any such review is undertaken, the section provides that the responsible Minister must consult with the entity on the purpose and nature of the review, and consider any submissions made by the entity on the proposed review.
9. Under section 132, the entity must take all reasonable steps to co-operate with the review. This obligation ensures that the reviewer is able to access information it needs from the entity in order to carry out an effective review.

Letter of Agreement

10. If a review was not carried out under the authority of section 132, consideration would need to be given as to how to create an agreed framework and obligations between the parties (the reviewer, on behalf of the Minister, and the Crown entity). This could be achieved through a letter of agreement, but would be likely to rely on a certain element of goodwill.

11. The letter of agreement could be supported, as needed as matters progressed, by specific requests from the Minister to the Crown entity. Under section 133 of the Crown Entities Act, the board of a Crown entity must supply to its responsible Minister, any information relating to the operations and performance of the Crown entity that the Minister requests. This power is however limited – requests can be declined to protect privacy. It would also be likely to be impractical to manage a system where these kinds of requests were necessary to ensure information was provided.

The choices about fundamental scope will impact on the complexity and timeframes

12. There are three potential focus areas for the review – with a graduated level from a focus on general culture, through to an assessment CAA’s responses to allegations of bullying and harassment.

Focus Area One: Open and supportive culture

13. At its most general scope, the review could assess the extent to which the CAA has an open and supportive culture, in which staff are encouraged to ‘speak up’. This could include assessing whether staff consider they are treated with dignity and respect, and the organisational culture is diverse and inclusive; or whether, as has been alleged, there is culture of bullying and harassment.

Focus Area Two: Bullying and harassment – Policies, procedures, prevention and controls

14. The second area of focus could also look at CAA’s existing policies and procedures relating to bullying and harassment and to complaints about behaviour, comparing them to best practice, with a view to making any recommendations for improvement in any way in which such complaints are handled or will be handled in the future.

15. This focus area could also examine whether the CAA has appropriate and effective prevention and other control measures in place to deal with any risks arising from bullying and harassment (in accordance with best practice).

Focus Area Three: Assessment of incidences of bullying and harassment

16. The final focus area would be the most granular, and most resource intensive and complex area to manage. This would focus on identifying any themes and patterns regarding how previous reports of incidents and complaints of bullying and harassment were handled and how those reporting incidents or raising complaints were treated.

17. This would also establish whether the prevention and other control measures CAA has in place are effectively managing the risks from bullying and harassment with a view to making recommendations as to how, if at all, such measures can be improved.

18. We do not propose that the review seek to establish whether, or the extent to which, bullying and harassment of individual staff employed or engaged by the CAA may have occurred.
The review would not be an avenue to reopen or relitigate past complaints of alleged or uphold bullying and harassment, or investigate new reports of incidents or complaints against specific individuals. This would not be an appropriate focus of the review – these matters are operational and the relationship between employer and employee contractual – and could not be resolved by way of an external review making findings.

19. The Ministry will however need to ensure those who take the opportunity to share their experiences will be given details of any existing avenues, which may be taken, and of available support or counselling services or other pathways for the resolution of such complaints. The Ministry will need to ensure support options are made available to those participating in the review, should exposure to this subject matter in itself create or revive trauma.

Proposed approach

20. Our proposed approach is that all three focus areas are covered by the review.

21. An open and supporting culture (Focus Area One) is essential for an effective and high-performing organization. It is important to assess how open and supportive CAA culture is.

22. Having the right tools – policies, procedures, prevention and controls to address bullying and harassment (Focus Area Two) – is fundamental.

23. The third Focus Area is necessary given the recent allegations. We need an understanding of events and the CAA’s response in order to fully address any concerns and help ensure a ‘speak up’ culture.

And to support this kind of scope, clarity, channels and supports are important

24. Given this kind of scope, it will be important to ensure:

24.1. the employees and ex-employees (those offering to share information) have complete trust and confidence that the ‘rules of engagement’ (for example such as a promise of complete confidentiality) will be maintained, and a highly skilled engagement between those sharing information and those receiving it

24.2. multiple channels of communication

24.3. clear and available support channels for those during the process, and following it, ensuring that information is provided regarding appropriate support and any specialist assistance a person may need

24.4. no existing avenue of complaint open to current or ex-CAA staff would be affected by the review, and that people are encouraged to raise any such matters with the appropriate agency

24.5. clear protocols are in place to ensure CAA provides information to assist in the review process as needed.

Other matters of scope also need to be considered

25. It will be important to determine the time period the review will cover. We will consider what time period may be appropriate as we further develop the Terms of Reference.

26. We will also need to consider whether to accept views and evidence from stakeholders outside the CAA or ex-CAA staff. While it is clear that it will be important to be open to
receiving information from ex-CAA staff members, we will need to consider the extent to which other external stakeholders may have views which could usefully inform the review. It may be that opening the review up in this way clouds the focus of the review, and may result in stakeholders offering commentary which may be ‘third-hand’.

27. We note the issue of the behaviour of CAA as a regulator is outside the scope of the review, but will be assessed as part of our regulatory review and ongoing monitoring work. More detail is provided about these connected workstreams at the end of this briefing.

Managing privacy and confidentiality will be fundamental

28. It is important that the review receives free and frank information and open discussion from those participating. In order to facilitate this and protect individuals’ privacy, all aspects of the review, including transcripts of conversation and any documentation produced will need to be treated as confidential.

29. A further aspect to consider is the impact of any non-disclosure agreements that may already exist between ex-staff and the CAA. We suggest that it may be appropriate to seek that the parties to any such arrangements consent to waive that confidentiality for the purposes of contributing to the review. The best way to go about this may be to firstly request a general waiver from the CAA. If they agree, we could share this as part of public messaging about the review, which would give those who were party to such a waiver the opportunity to consider whether they wished to also offer a waiver as part of coming forward to provide information to the review.

We are engaging specialist advisers and establishing governance oversight

30. Given the nature of the review, we will need to obtain the services of specialist advisers.

Review Advisory Team

31. We consider we will need advisers with two different skill sets:

31.1. An advisor to focus on Focus Areas One and Two. This advisor will have experience at assessing organisational culture and an understanding of best practice policies and procedures in relation to bullying and harassment.

31.2. An advisor to focus on Focus Area Three. This advisor will have experience at managing sensitive employment matters, have strong empathy and interviewing skills, and have expertise in understanding the particular nature of this type of review.

32. To co-ordinate the combination of advisers, and to ensure appropriate project management methodologies are applied, we will also seek the expertise of an experienced project management specialist.

33. We are making initial contact with advisers to determine their capacity to assist. We aim to appoint the Review Advisory Team by 16 August.

External Reference Group

34. We will also establish a Reference Group. The Group would provide a source of external perspective and strategic thinking with a view to supporting, monitoring progress, and providing direction and alignment with industry best practice and advice on the management of risk.
35. It is proposed that this Group be made up of the Chief Executive of the Ministry, and senior representatives from the State Services Commission and Fire and Emergency New Zealand (FENZ). We have had early discussions with SSC who have agreed to be part of the External Reference Group. Our desire to involve FENZ is to benefit from their experience in carrying out the FENZ Positive Workplace Culture Review in 2018, which had a similar focus to the proposed review.

We will further develop the Terms of Reference with support from the Review Advisory Team and External Reference Group

36. We need input from both our Review Advisory Team and our External Reference Group into the Terms of Reference. This input is necessary to:

36.1. consider what kind of approach would be most effective to carry out Focus Area One, and how to clearly signal this in the Terms of Reference.

36.2. in relation to Focus Area Two, to consider what the sources of best practice may be, and ensure this is referenced, where appropriate, in the Terms of Reference.

36.3. to ensure that Focus Area Three is focused enough to be able to make some clear findings, without it reopening or relitigating past complaints or alleged or upheld bullying and harassment or investigating new reports of incidents or complaints against specific individuals.

37. Without the input from these experts, there is a risk that the Terms of Reference will unintentionally overcommit in scope or fail to clearly articulate the outcome of the review. There is also the possibility that the way the Terms of Reference is framed could unintentionally impact on processes which could follow the review — such as how information is treated or the expectations which may have been created for those contributing to the review.

38. We do not recommend the Terms of Reference are finalised without input from the Review Advisory Team and our External Reference Group.

39. We have developed an initial draft Terms of Reference, attached as an Appendix. We are working towards engaging both the Review Advisory Team and the External Reference Group by 16 August, then testing and developing the Terms of Reference and providing a proposed Terms of Reference by 23 August.

Consulting the Civil Aviation Authority

40. You will need to consult with the CAA on the purpose and nature of the review, and consider any submissions made by the CAA in response. Our recommendation is to share the proposed Terms of Reference with them, given the clarity the Terms will provide as to the purpose and nature of the review. There is no prescribed time period for this consultation process.

We have established a process for managing responses in the interim

41. We recognise that there will be a need to respond to individuals who may come forward prior to the finalisation of the Terms of Reference. We have established a pathway into the Ministry, where individuals can choose to have their contact details recorded for future follow up once the Review Advisory Team is established.

42. We have considered the appropriate response to the emails your office received on 6 August and 7 August, and are in discussions with your Office about the most appropriate approach.
The Manager Governance and Commercial and the Chief Legal Adviser will advise your Office on any further correspondence you of your Office may receive prior to the establishment of the Review Advisory Team.

The exact timing for the completion of the review, and costs, are uncertain

43. It is difficult to determine an appropriate timeframe. Reviews of this nature often require large numbers of interviews, careful consideration of information, assessment of documentation and analysis. There may be issues triangulating information, and it is quite uncertain the volume of information that could be provided into the review.

44. To help estimate timing, we have compared the timeframes for broadly comparable reviews completed recently. By way of example, the Independent External Review of Bullying and Harassment of Staff in New Zealand's Parliamentary Workplace took 6 months to complete, and the Independent Review of Russell McVeagh took 9 months to complete.

45. We believe the review is likely to take until mid-December at the earliest. This would be a very tight timeframe. We will consult with both the Review Advisory Team and the External Reference Group to determine what an appropriate timeframe would be.

46. The potential costs would be approximately $300,000 although this is an indicative figure only and would need to be firmed up once the Terms of Reference are finalised, initial processes established and estimates are possible about the likely numbers of contributors. If it is over $300,000 this could not be met within the Ministry of Transport baseline, and new funding would likely to be needed to be sought.

You should be aware of the connections with other Ministry workstreams

47. As you are aware, there are a number of other workstreams the Ministry is progressing which connect with this review.

This review will input into our monitoring focus on organisational capability and performance

48. The review will provide a significant input into the monitoring work the Ministry will carry out on organisational capability and performance. This monitoring stream of work will focus on assessing the people capability across CAA, including how the CAA Board gains confidence that the CAA has a clear workforce strategy which is effective in ensuring capability and performance across its workforce.

49. We had been working to begin this shortly but instead we now propose that we delay this until the review is complete, and once it is we consider what aspects of the review we can carry forward into our monitoring workstreams.

We are already working to assess the regulatory system governing helicopters and small aircraft

50. Alongside the review we are carrying out an assessment the performance of the regulatory system governing helicopter and small aircraft operating under Civil Aviation Rule Part 135. This is the first step in a broader programme of work focusing on the strength of regulatory systems across the transport sector. This assessment has been prompted by a number of safety concerns and regulatory system performance issues raised by industry, in the media, and by the Transport Accident Investigation Commission, regarding these types of aircraft operations.

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1 The scope of the assessment will also captures CAR Part 133 helicopter external load operations, and where a CAR Part 135 operator is also conducting other operations (for example, agricultural work).
51. The assessment will look at the effectiveness of the regulatory system and its durability. The assessment will also engage and seek views of staff in a number of organisations involved in the system, including CAA and aviation industry participants.

52. We have begun progressing this work, including finalising the terms of reference, determining appropriate membership of the assessment Panel, and preparing a systems map which outlines the relevant legislative framework (civil aviation and health and safety), key players involved and their roles and responsibilities, and associated documentation. We are aiming to provide your Office with the proposed final Terms of Reference by 23 August. It is likely that this work would conclude in a similar timeframe to the review.

Once this is complete, we will progress with a monitoring focus on regulatory performance.

53. The assessment of the performance of the regulatory system governing helicopters and small aircraft will be used as an input into a monitoring focus on CAA’s regulatory performance.

54. This work will look at how the CAA Board ensures CAA’s regulatory function is performing effectively and efficiently across all areas of regulatory activity (i.e. beyond Part 135 operators), including understanding what some of the regulatory challenges are, how CAA manages those challenges, and how CAA works with key stakeholders. The Ministry will report to you through your regular quarterly performance report highlighting any risks/concerns on completing the work.
55. We recommend that you, in relation to the review of organisational culture at the Civil Aviation Authority:

(a) agree that the review be commissioned under section 132 of the Crown Entities Act 2004

(b) note that the choices about fundamental scope of the review will impact on the complexity and timeframes

(c) note that you will need to consult with the Civil Aviation Authority on the proposed purpose and nature of the review, and consider any submissions made by the Authority in response

(d) note that the Ministry proposes to consult with the Review Advisory Team and the External Reference Group on the proposed Terms of Reference, and provide proposed final Terms of Reference to you by 23 August

(e) note that we have established a process for managing responses in the interim

(f) provide feedback by 14 August

Nick Brown
Deputy Chief Executive, Ministry of Transport

MINISTER’S SIGNATURE:

DATE
Draft Terms of Reference
Review into organisational culture
at the Civil Aviation Authority

Purpose
In this document, Hon Phil Twyford, Minister of Transport sets out the Terms of Reference in respect of an investigation (Review) to be carried out by the Ministry of Transport (Ministry), with support from other specialists as appropriate, into the organisational culture at the Civil Aviation Authority (CAA). The Review is carried out under section 132 of the Crown Entities Act 2004.

In carrying out this Review, the Ministry may appoint external specialists to assist. These specialists will have access to information necessary to carry out their role.

Background
In light of recent allegations of bullying and harassment at the CAA, Phil Twyford, Minister of Transport directed the Ministry to conduct a Review of the organisational culture at the CAA. The Ministry will lead the investigation, and will appoint external specialists to assist in the relevant focus areas.

[more to come]

Objectives
The objectives of this Review are:

(a) to consider and comment upon the CAA as a place of work with regard to ensuring the treatment of CAA staff with dignity and respect and maintaining an open and supportive culture

(b) to assess CAA’s existing policies and procedures relating to bullying and harassment and to complaints about behaviour, comparing them to best practice, with a view to making any recommendations for improvement in any way in which such complaints are handled or will be handled in the future

(c) to establish whether the CAA has appropriate prevention and other control measures in place to deal with any risks arising from bullying and harassment, in accordance with the guidance issued to date by WorkSafe NZ²

(d) to identify any themes and patterns regarding how previous reports of incidents and complaints of bullying and harassment were handled and how those reporting incidents or raising complainant were treated and any barriers to reporting or making complaints

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² See WorkSafe guidance for businesses and workers on preventing and responding to sexual harassment at work, issued October 2018, and WorkSafe NZ guidance: “Preventing and responding to bullying at work” issued March 2017.
(e) to establish whether the prevention and other control measures in place are effectively managing the risks from bullying and harassment with a view to making recommendations as to how, if at all, such measures can be improved, and

(f) any other matters the Ministry needs to consider as part of this Review

Scope

All current CAA staff will be offered the opportunity to participate in this Review. In addition, channels of communication will be established to offer ex CAA staff an opportunity to participate in this Review.

The Review will focus on the time period since [tbc]

Out of scope

The Review will not reopen past complaints of alleged or upheld bullying and harassment, or investigate new reports of incidents or complaints against specific individuals. Instead it will assess whether the processes in place to manage such cases were appropriate and were followed, and whether more generally the cumulative effect of cases suggests a culture of bullying and harassment.

The Review is also not focused on the regulatory performance of the CAA, including the general behaviour of CAA as a regulator. This will be assessed separately by the Ministry has part of its monitoring role under section 27A of the Crown Entities Act 2004 and as part its regulatory stewardship responsibilities under section 32 of the State Sector Act 1988.

Governance

Sponsor

The Ministry sponsor is Nick Brown, Deputy Chief Executive.

Review Reference Group

A Review Reference Group, made up of the following representatives from the Ministry, State Services Commission, and Fire and Emergency New Zealand:

(a) Peter Mersi, Chief Executive

(b) Heather Baggott, Assistant Commissioner, SSC, and

(c) TBC, Fire and Emergency New Zealand

An important aspect of the Group’s purpose is its dual role to provide both support and challenge to the Ministry during the investigation process. The Group will:

(a) Support and monitor progress on the Review’s Objectives,
(b) Providing direction and alignment with industry best practice, and
(c) Provide advice on the management of risk.

Approach and methodology

(a) The Ministry will utilise an approach to gather a point in time snapshot of matters in scope for the Review. This will include a mix of interviews, focus groups, and survey techniques.

(b) The Review will provide current and ex-CAA staff [and others with relevant perspectives TBC] the opportunity to share their relevant perspectives by outlining in person or in writing their experiences of perceived bullying and harassment, including sexual harassment.

(c) All information collected from CAA staff and ex-staff will be treated in strict confidence and will not be published or liable to release. Any references to such information in any report resulting from the Review will be anonymised and no individual will be identifiable or identifiable.

(d) No existing avenue of complaint open to current or ex-CAA staff will be affected by this Review and those who take the opportunity to share their experiences will be given details of any existing avenues, which may be taken, and of available support or counselling services or other pathways for the resolution of such complaints.

(e) The Ministry will ensure support options are made available to those participating in the Review, should exposure to the subject matter in itself create or revive trauma.

(f) For the avoidance of doubt, no CAA staff can, or will, be compelled to participate in this Review.

Protection of Privacy

(a) It is desired that the Review will be carried out with the benefit of free and frank disclosures and open discussion by those participating. In order to facilitate this and protect individuals' privacy, all aspects of the Review including documentation produced will be treated as confidential.

(b) However, at an appropriate time the Ministry's findings and any recommendations on the matters which are in scope of this Review will be made public.
Deliverables/Reporting

The Ministry will consult on a draft report of its findings with the CAA before the final Review Report is submitted to you.

The Ministry will provide a draft, and ultimately a final, written report to you which:

(a) outlines the Review process

(b) sets out any matters of concern

(c) includes a summary of the information collated (with such information to be presented in a manner and which does not disclose the identity of those who have been interviewed by the Ministry), and

(d) sets out the Ministry’s findings and any recommendations on the matters which are in scope of this Review.

Timing

The Review is intended to produce its final report by [date].
Review of organisational culture at the Civil Aviation Authority – consultation and next steps

Reason for this briefing: This briefing provides you with updated draft Terms of Reference for the review of the organisational culture of the Civil Aviation Authority (CAA) under section 132 of the Crown Entities Act 2004.

We ask that you agree to formally consult with the CAA on the Terms of Reference, inviting the CAA to share their feedback with Ministry officials.

Action required: Sign the attached letter to the Interim Chair of the CAA, and, in relation to the Review, delegate to the Ministry your power to request information from CAA.

Deadline: 3 September 2019.

Reason for deadline: To progress consultation with the CAA on the purpose and nature of the review, as required by section 132 of the Crown Entities Act.

Contact for telephone discussion (if required):

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Telephone</th>
<th>First contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brendan Booth</td>
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<td>027 574 4391</td>
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<tr>
<td>Ngaire Best</td>
<td>Manager, Governance and Commercial</td>
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</tbody>
</table>

MINISTER’S COMMENTS: Withheld under section 9(2)(a)

Date: 2 September 2019

Attention: Hon Phil Twyford (Minister of Transport)

Briefing number: OC190830

Security level: In-confidence

Minister of Transport’s office actions

☐ Noted
☐ Needs change
☐ Withdrawn
☐ Seen
☐ Referred to
☐ Not seen by Minister
☐ Approved
☐ Overtaken by events
Purpose of briefing

1. This briefing provides you with updated draft Terms of Reference for the review of the organisational culture of the Civil Aviation Authority (CAA) under section 132 of the Crown Entities Act 2004 (the Review).

2. We ask that you agree to formally consult with the CAA on the Terms of Reference, inviting the CAA to share their feedback with Ministry officials. A letter is attached to this briefing for you to send the Interim Chair of the CAA.

Background

3. On 4 August 2019, you directed the Ministry of Transport to carry out a review of organisational culture at the CAA and agreed high-level Terms of Reference.

4. On 19 August 2019, you agreed that the Review be commissioned under section 132 of the Crown Entities Act 2004 (OC190770 refers). The proposed components of the Review are:

4.1. **Focus Area One: Assessment of incidences of bullying and harassment** – a review of how previous reports and complaints of incidents of bullying and harassment were handled and responded to by the CAA, including considering how staff and complainants were treated by the CAA.

4.2. **Focus Area Two: Open and supportive culture** – examines the CAA as a place of work with regard to ensuring the treatment of CAA staff with dignity and respect and maintaining an open and supportive culture.

4.3. **Focus Area Three: Bullying and harassment – Policies, procedures, preventions and controls** – assesses the CAA’s existing policies and procedures relating to bullying and harassment, comparing them to best practice and identifying any actual or perceived barriers to reporting or making complaints about bullying or harassment. It will also establish whether the CAA has appropriate prevention and other control measures in place to deal with any risks arising from bullying and harassment, and whether those control measures are effective.

We have appointed our Review Advisory Team

**Focus Area One: Assessment of incidences of bullying and harassment**

5. We have appointed Barrister Rachael Schmidt-McCleave to provide services in support of Focus Area One.

6. Ms Schmidt-McCleave is an experienced litigator has over two decades of experience working in public and private practice in New Zealand and the United Kingdom. She has extensive expertise in public law (around 10 years at the Crown Law Office). Ms Schmidt-McCleave joined the Independent Bar from Minter Ellison Rudd Watts in 2014. Examples of her previous experience include culture focused work at Crown entities – a review, focused on allegations of bullying and harassment, at Fire and Emergency New Zealand, and a similar review in the past year for the Environmental Protection Agency.

7. While at Crown Law, Ms Schmidt-McCleave represented the CAA, but not in relation to employment matters. She provided counsel in relation to a tort claim (in 2001) and a judicial review proceeding and District Court appeal (both in 2008).
8. The specialist expertise Ms Schmidt-McCleave would bring is critical in supporting the Terms of Reference in relation to assessing appropriate organisational responses to bullying and harassment, while not making specific findings as to whether bullying and harassment has occurred. Making judgements in this area is highly complex and requires an individual that has the skills and track record in making well informed assessments and handling sensitive cases.

**Focus Areas Two and Three: Open and supportive culture and bullying and harassment – Policies, procedures, preventions and controls**

9. We have appointed the RDC Group (a supplier on the All of Government (AoG) panel for consultancy services) for this role.

10. RDC has undertaken a number of reviews for government agencies, with a focus on organisational capability and performance. RDC also has specific experience in leading sensitive inquiries and investigations.

11. A key example of RDC’s previous work is their role in carrying out an independent review of the Royal New Zealand Ballet complaints policies and procedures. This involved assessing how complaints were handled, providing guidance on best practice processes, and recommending improvements to policies and processes. As part of the Review, RDC worked alongside lawyers and communications advisors, and directed their activities where necessary to maintain the integrity of the Review.

**Project Oversight**

12. RDC will provide overarching project oversight of the Review. Doug Craig, RDC Director, will take the lead role.

13. As a former Deputy Commissioner of SSC and Deputy Chief Executive of the Ministry of Social Development, Mr Craig brings a high degree of specialist capability and skills which are necessary to support the successful delivery of the Review.

14. Mr Craig has strong experience in providing oversight and management of reviews of the complexity and sensitivity of the CAA review. This experience is critical in ensuring that all the components required to complete the Review are undertaken in a timely, organised and considered approach.

**We have further developed the draft Terms of Reference**

15. The updated Terms of Reference are attached as Appendix One.

16. We have consulted with Mr Craig at RDC and Ms Schmidt-McCleave on the draft Terms of Reference. We have also consulted with the State Services Commission and the Department of Prime Minister and Cabinet on the proposed approach.

17. The enhancements to the Terms of Reference include:

   17.1. clearer sequencing of the different focus areas

   17.2. clarification of a number of matters of scope

   17.3. a more flexible approach to governance.
The right sequencing is important

18. Advice from the RDC is that the first focus area should be a review of how previous reports and complaints of incidents of bullying and harassment were handled and responded to by the CAA.

19. Focusing on this first would not only give an early indication of how well previous reports and complaints have been responded to, but would also provide an "applied" look at the effectiveness of policies and procedures relating to bullying and harassment. At the same time, this approach would begin to build an insight of the culture of the CAA at the time the complaints were made.

20. Work on focus areas two and three, focused on more general assessment of culture, and bullying and harassment policies, procedures, preventions and controls, would follow.

We have clarified some important matters of scope

We recommend being clear that the CAA management, staff and Board members will have the opportunity to talk to the reviewers.

21. The previous draft Terms of Reference only referred to the CAA staff and ex-staff. We consider it appropriate and important that we are clear that this includes management and staff. In addition we have included Board members, who we consider should also have the opportunity to contribute as part of the Review.

22. We note this would include the previous Chair of the CAA, Nigel Gould.

We recommended the Review also covers the Aviation Security Service

23. We have considered whether the scope of the Review should include the Aviation Security Service (AvSec). As provided in the Civil Aviation Act 1990, AvSec is part of CAA, though it operates as a clearly distinct and separate business unit. This separation is underpinned by the CAA Board appointing the General Manager of AvSec, which is a statutory position in legislation. The General Manager is, however, responsible to the Chief Executive of CAA to the extent that the Chief Executive oversees AvSec as a CAA business unit.

24. Given the above, and the fact that the CAA Board appoints both the General Manager of AvSec, as well as the Chief Executive of the CAA, we do not consider it would be appropriate to exclude AvSec from the scope of the Review.

We recommend having a five year window (starting 1 January 2015) for looking at the historical treatment of allegations

25. The value in looking at how previous reports and complaints of incidents of bullying and harassment were handled and responded to by the CAA is the insights this may give into present-day practice and culture. It also provides a response to some individuals who have come forward and made public allegations about bullying and a "toxic atmosphere" at the CAA.

26. We consider that a five year window starting from 1 January 2015 would be an appropriate timeframe for considering historical allegations. By way of comparison, the recent Independent External Review of Bullying and Harassment of Staff in New Zealand’s Parliamentary Workplace had a four-year window.

27. Limiting the period to an almost five year period also means those sharing information are more likely to have a greater and more detailed recollection of events, and be able to access documents to support the information they provide.
We have clarified that the Review will not examine current allegations or complaints.

28. We have added clarification that the Review will not investigate new reports of incidents or complaints against specific individuals, and that those wishing to raise or discuss any new complaints will be advised of the pathways for the resolution of such complaints.

29. We do not consider it would be appropriate to offer any view on such complaints, nor to create any expectations of those individuals about the potential outcome of the complaints.

We have clarified the confidentiality and privacy provisions.

30. SSC provided advice on the nature of the confidentiality and privacy provisions. This section of the Terms of Reference has been clarified to state the position that:

- all information collected from CAA staff is subject to an obligation of confidence
- notwithstanding this, the Ministry’s report, its findings and recommendations are intended to be released by the Minister in due course
- findings will not identify any individual or make reference to facts that could reasonably lead to the identification of any complainant or the person about whom a complaint has been made.

We are further considering governance.

31. In the previous draft Terms of Reference, we had suggested establishing a Reference Group providing strategic and risk support.

32. We are further considering this as we establish the setup of the Review. Our view is that a steering group, rather than an advisory group, is needed, and we should determine the more detailed functioning of that group as the Review gets underway. We have amended the Terms of Reference to reflect this, noting that the Review will engage with any relevant external agencies and experts as the Ministry considers necessary, and that this may include the State Services Commissioner.

Before finalising the Terms of Reference you need to consult with the CAA.

33. Section 132 of the Act provides before any review is undertaken, you must consult with the entity on the purpose and nature of the Review, and consider any submissions made by the entity on the proposed review.

34. We recommend that you consult with the CAA, through its interim Chair, on the draft Terms of Reference. We have attached a letter (Appendix Two) which provides for this consultation. The Act does not prescribe the timeframe for this process.

Consultation offers an opportunity for the Ministry to engage with the CAA.

35. We recommend that, by way of the letter of consultation, you ask the CAA to share their views on Terms of Reference with officials from the Ministry.

36. We have also suggested including additional messaging in the letter of consultation, emphasising the importance of CAA supporting the Review by:

36.1. establishing contact points with the CAA to provide the reviewers with information, and assisting the reviewers to contact staff to obtain further information as required.
36.2. messaging designed to ensure current staff CAA understand the nature and purpose of the Review

36.3. reinforcing the confidential nature of the process, and the supports available to staff both within CAA and by way of the Review.

We recommend including messaging about other processes which may impact on the Review

37. On 18 August 2019, Graeme Harris, Chief Executive of the CAA, wrote to your Office advising that he was commissioning an investigation into specific allegations of bullying and inappropriate behaviour from staff members of AvSec's Explosive Detector Dog Unit (EDDU). He also advised he was commissioning an external review of management and leadership of the EDDU and the Wellington base. The review will focus on all aspects of management decision-making and staff treatment, including appointment processes, procurement practices, sourcing of dogs, and inconsistent treatment of staff.

38. While the scope of the EDDU review is broader than the Review we will carry out, it is likely to have some crossover, particularly around whether there is an open and supportive culture. We have therefore included text in the consultation letter requesting that the CAA consider how the EDDU review may impact on your review, and how best to avoid confusion by staff about the nature of the two reviews.

We also recommend identifying the importance of a 'waiver' of confidentiality for settlement agreements

39. We noted in the previous briefing the impact of any non-disclosure agreements that may already exist between ex-staff and the CAA.

40. We have included text in the consultation letter suggesting that the CAA offer a waiver of these non-disclosure obligations in any cases where the other party also wishes to waive these obligations. CAA will need to consider how best to formalise this waiver, as they may wish to apply the waiver just to information relevant to the Review process. Any such agreement would be between the CAA and the relevant party, not the Ministry.

41. If CAA agreed, we could share this as part of public messaging about the Review.

We request that you delegate the Ministry authority to request information

42. Under the Crown Entities Act, you have the power to request information from Crown entities (section 123). This power can be delegated under section 27(4). We recommend, for the sake of clarity, that you delegate your power to the Ministry specifically for the purposes of the Review.

We have revised our timing and milestones

43. If you begin consultation with the CAA by 3 September 2019, we consider that the Review could then commence on 9 September 2019. We propose the following indicative timeframes:
   - Commencement of review – 9 September 2019
   - Interviews and research – commencing from 9 September 2019
   - Delivery of draft report – 8 November 2019
   - Delivery of final report – 13 December 2019
44. We will provide you with an update report in early October which will firm up the timeframes based on the level of participation and engagement.

We are engaging with your Office on communications needed to support the launch of the Review

45. In light of continued public and media interest in the Review and to ensure transparent dialogue, we recommend that you release the Terms of Reference proactively.

46. We are working with your Office on a media release and how best to proactively engage with targeted stakeholders, including unions and industry groups.

47. You may also wish to contact Michael Morrah of NewsHub, advising him of your intention to release the Terms of Reference.

You may want to consider what information you could share about the Ministry’s other workstreams, which will be in three phases

(Current) Phase One: Assessing the regulatory system governing helicopters and small aircraft

48. As we identified in our previous briefing (“GC190770”), alongside the Review, we are also carrying out an assessment the performance of the regulatory system governing helicopter and small aircraft operating under Civil Aviation Rule Part 1351. This is the first step in a broader programme of work focusing on the strength of regulatory systems across the transport sector.

49. This assessment has been prompted by a number of safety concerns and regulatory system performance issues raised by industry, in the media, and by the Transport Accident Investigation Commission regarding these types of aircraft operations. The assessment will look at the effectiveness, efficiency, durability, fairness and accountabilities of the regulatory system.

50. We have now completed the draft Terms of Reference, and are currently preparing a systems map of the regulatory framework. The map will outline the relevant legislative framework, key players involved and their roles and responsibilities, and an overview of industry participants. We expect to finalise the systems map within the next four weeks.

51. We are looking to appoint up to two independent experts to sit on the Assessment Panel. The Panel, once established, will be responsible for conducting a range of targeted engagement and interviews with key actors and industry participants to understand how the system is currently operating. We expect that the Panel will be in place by October 2019.

52. We will provide you with updates through the Weekly Report as appropriate, and will brief you on any key issues by the end of 2019. We will then provide you a more detailed report and series of recommendations in early 2020.

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1 The scope of the assessment will also captures CAR Part 133 helicopter external load operations, and where a CAR Part 135 operator is also conducting other operations (for example, agricultural work).
Phase Two: A monitoring focus on people capability

53. The outcome of the Review will be an input into a people capability focus monitoring workstream. By assessing the people capability across CAA, the Ministry seeks to:

53.1. determine how the CAA Board gains confidence that the CAA has a clear workforce strategy which is effective in building capability and performance across its workforce

53.2. understand to what extent the CAA Board and management assess impact and adapt its people capability needs in the context of its operating environment

53.3. understand how the CAA Board forms confidence in the CAA's approach for building (and investing in) the required people capability needed for the agency to deliver its strategy and core functions effectively.

Phase Three: A monitoring focus on regulatory performance

54. Once Phase Two is complete, we will then have a monitoring focus on CAA’s regulatory performance (for which the work on the regulatory system governing helicopters and small aircraft will be an input). Under this workstream the Ministry broadly seeks to understand:

54.1. how the CAA Board ensures CAA’s regulatory function is performing effectively and efficiently across all areas of its regulatory activity

54.2. what some of the regulatory challenges are and how CAA manages those challenges

54.3. how CAA works with regulated parties and key stakeholders

54.4. whether the CAA has effective risk and assurance capability and systems to assessing delivery and performance risks across its regulatory activity.

With the support of the Review Advisory Team, we are now determining the more detailed logistics to get the Review underway

55. Together with the Review Advisory Team, we are now focusing on a number of logistical matters, including:

55.1. channels of communication

55.2. ensuring we put in place appropriate support so that all staff can feel safe and confident in coming forward to the Review Advisory Team (including the Ministry extending its EAP service to any CAA staff that want to access this service as part of the Review process)

55.3. working through how to ensure protection of confidentiality and privacy

55.4. working through how to manage any inputs to the Review that are made, or are sought to be made, under the Protected Disclosures Act 2000. The Act has its own definitions and procedures so any information that is received as a protected disclosure needs to be carefully managed. While confidentiality is a core element of this regime, it could be difficult to resolve the substance of the protected disclosure, while completely protecting the anonymity of the person and the confidentiality of the information.
Recommendations

56. We recommend that you:

(a) note we have appointed our Review Advisory Team

(b) note that we have enhanced the Terms of Reference to include:
   i. clearer sequencing of the different focus areas
   ii. clarification of a number of matters of scope
   iii. a more flexible approach to governance

(c) note that you need to consult with the Civil Aviation Authority on the proposed purpose and nature of the Review, and consider any submissions made by the Authority in response

(d) note that we recommend that your consultation letter to the CAA:
   i. asks the CAA to share their views on the Terms of Reference for the Review with officials from the Ministry
   ii. emphasise the importance of CAA supporting the Review
   iii. request the CAA consider how the EDDU review may impact on your review, and how best to avoid confusion by staff about the nature of the two reviews
   iv. suggest that the CAA offer a waiver of non-disclosure obligations in any cases where the other party also wishes to waive these obligations and where doing so would be relevant for individuals to participate in the Review process

(e) sign the attached letter to the interim Chair of the Civil Aviation Authority

(f) in relation to the Review, delegate to the Ministry your power to request information from CAA

Brendan Booth
Acting Deputy Chief Executive, Ministry of Transport

MINISTER'S SIGNATURE:

DATE
Appendix One: Draft Terms of Reference

Draft Terms of Reference
Independent Review into the
Organisational Culture of the Civil Aviation Authority

Background and purpose
Allegations have been made by a number of people of bullying and sexual harassment at the Civil Aviation Authority (CAA).

The Minister of Transport, the Hon Phil Twyford (the Minister) is reviewing whether the CAA has appropriate polices, systems and practices in place to deal with allegations of sexual harassment and bullying and that the CAA has responded appropriately to the complaints and allegations made to it (Review).

The Minister has directed the Ministry of Transport (the Ministry) to conduct the Review on the Minister’s behalf with the assistance of independent external specialists.

The review is to be carried out under section 132 of the Crown Entities Act 2004.

Objectives
The objectives of this Review are:

(a) to review how previous reports and complaints of incidents of bullying and harassment were handled and to consider how those complaints were responded to by the CAA

(b) to consider and report on how staff and complainants were treated by the CAA

(c) to assess the CAA’s existing policies and procedures relating to bullying and harassment, comparing them to best practice and identifying any actual or perceived barriers to reporting or making complaints about bullying or harassment

(d) to establish whether the CAA has appropriate prevention and other control measures in place to deal with any risks arising from bullying and harassment, in accordance with the guidance issued to date by WorkSafe New Zealand2 and any other relevant examples of best practice guidance, policies or practice.

(e) to establish whether the prevention and other control measures in place are effectively managing the risks from bullying and harassment with a view to making recommendations as to how, if at all, such measures can be improved.

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2 See WorkSafe guidance for businesses and workers on preventing and responding to sexual harassment at work, issued October 2018, and WorkSafe New Zealand guidance: “Preventing and responding to bullying at work” issued March 2017.
(f) to consider and comment on the CAA as a place of work with regard to ensuring the
treatment of CAA staff with dignity and respect and maintaining an open and supportive
culture

(g) to make recommendations for improvements to how CAA handles complaints or how it could
shift the culture of the organisation, including how staff and management are trained and
improvements to CAA policies systems and procedures for dealing with bullying and
harassment

(h) any other matters the Ministry considers are directly related to the purpose of this Review.

Scope

(a) References to CAA in this Terms of Reference include staff in the Aviation Security business
line within the Civil Aviation Authority.

(b) The period to which this Review applies from 1 January 2015.

(c) All current CAA staff will be offered the opportunity to participate in this Review. Former staff
may participate if they wish to do so.

Out of scope

(a) No existing avenue of complaint open to current or ex-CAA staff will be affected by this
Review. Those who take the opportunity to share their experiences will be given details of
any existing avenues of available support or counselling services or other pathways for the
resolution of such complaints.

(b) The Review will not reopen past complaints of alleged or upheld bullying and harassment, or
investigate new reports of incidents or complaints against specific individuals. Those
wishing to raise or discuss any new complaints will be advised of the pathways for the
resolution of such complaints.

(c) The Review will not make any findings nor make any comment on the conduct, performance
or competence of any individual who is a complainant or the subject of a complaint.

(d) The Review will not consider nor advise on the regulatory performance of the CAA, or how it
has discharged its role as a regulator. This is being separately assessed by the Ministry as
part of its monitoring role under section 27A of the Crown Entities Act 2004 and as part its
regulatory stewardship responsibilities under section 32 of the State Sector Act 1988.

Approach and methodology

(a) The Review will examine all relevant policies and any other material relevant to the terms of
the Review, including reviewing documentation relating to previous complaints which are
within the scope of this Review.
(b) Relevant current and former staff, management and Board members will be interviewed and provided with the opportunity to share their relevant perspectives by outlining in person or in writing their experiences of perceived bullying and harassment, including sexual harassment.

(c) Channels of communication will be established to ensure former CAA staff know how to participate in this Review if they wish to do so.

(d) The Review will engage with any relevant external agencies and experts as the Ministry considers necessary. Without limiting who the Ministry may wish to engage with, this may include the State Services Commission.

(e) The Ministry will ensure that appropriate support options are available to those participating in the Review and that these are explained, as appropriate, to participants in the Review.

(f) For the avoidance of doubt, no CAA staff (current or past) can, or will, be compelled to participate in this Review.

Confidentiality and Protection of Privacy

(a) All information collected from CAA staff and ex-staff is subject to an obligation of confidence.

(b) All people interviewed or spoken to as part of this Review will be advised that notwithstanding the above commitment to confidentiality, the Ministry’s report, its findings and recommendations are intended to be released by the Minister in due course. However, findings will not identify any individual or make reference to facts that could reasonably lead to the identification of any complainant or the person about whom a complaint has been made.

Deliverables/Reporting

The Ministry will keep the Minister updated on the progress of the Review including providing one or more drafts of the report on the Review. The Ministry will consult with the CAA before the report is finalised.

Timing

The indicative dates (subject to change) for the Review are:

- Commencement of Review – 4 September 2019
- Delivery of final report – 13 December 2019
Appendix Two: Draft Letter to the Interim Chair of the Civil Aviation Authority

Don Huse
Interim Chair
Civil Aviation Authority
PO Box 3555
WELLINGTON 6140

Dear Don

Review into the culture of the Civil Aviation Authority

In light of recent allegations of bullying and harassment at the Civil Aviation Authority (the Authority), on 4 August 2019, I directed the Ministry of Transport (the Ministry) to carry out a review of organisational culture at the Authority on my behalf.

Terms of Reference for the Review

I am undertaking the Review under section 132 of the Crown Entities Act 2004, which provides me with the power to review the operations and performance of a Crown entity at any time.

I have attached draft Terms of Reference setting out the nature of purpose of this Review. I ask that you consider the Terms of Reference and provide any feedback you may have.

As set out in the Terms of Reference, the objectives of the Review are to:

- review how previous reports and complaints of incidents of bullying and harassment were handled and to consider how those complaints were responded to by the Authority
- consider and report on how staff and complainants were treated by the Authority
- assess the Authority’s existing policies and procedures relating to bullying and harassment, comparing them to best practice and identifying any actual or perceived barriers to reporting or making complaints about bullying or harassment
- establish whether the Authority has appropriate prevention and other control measures in place to deal with any risks arising from bullying and harassment, in accordance with the guidance issued to date by WorkSafe New Zealand and any other relevant examples of best practice guidance, policies or practice
- establish whether the prevention and other control measures in place are effectively managing the risks from bullying and harassment with a view to making recommendations as to how, if at all, such measures can be improved
- consider and comment on the Authority as a place of work with regard to ensuring the treatment of Authority staff with dignity and respect and maintaining an open and supportive culture
make recommendations for improvements to how the Authority handles complaints or how it could shift the culture of the organisation, including how staff and management are trained and improvements to Authority policies systems and procedures for dealing with bullying and harassment.

Providing your feedback on the draft Terms of Reference to the Review team

The Ministry has established a team to oversee the Review process. The Review will be overseen by Brendan Booth, Acting Deputy Chief Executive, Governance and Engagement at the Ministry. The Ministry has also appointed external advisers to assist in the Review process. These advisers are Doug Craig, Ruth Stokes and barrister Rachael Schmidt-McCleave. They will be responsible for gathering the necessary information and evidence to support the Ministry in forming conclusions against the Terms of Reference.

The State Services Commission will provide support and advice to assist the Ministry in undertaking the Review process.

I ask that you meet with officials from the Ministry by 5 September 2019 to provide feedback on the Terms of Reference. That meeting will also be a good opportunity to discuss the logistics of the Review and for you to consider how best to assist the Ministry.

The Terms of Reference will be finalised once I have considered any comments from the Authority. At this point, I will make the final Terms of Reference publicly available. I anticipate that the Review will be concluded before the end of this year.

Logistics for the Authority to provide support to the Review team

I would like the Authority to appoint a staff member who will be responsible for managing any requests for information that the Ministry may require to support the Review process. Robert Anderson, Principal Adviser, at the Ministry of Transport will be the key liaison point for the appointed Authority staff member to engage with on the Review.

I want to ensure all Authority staff have clarity about the purpose of the Review, including the process in which they can have their say. Ministry officials will be able to discuss with you the type of communication which will assist in early, clear and encouraging engagement with staff, including specific details on the process by which Authority staff can confidentially engage with the Review team.

Engagement with current and former staff

I request that you and the Authority provide full support to the Ministry as it undertakes the Review. This includes encouraging staff to come forward, and reinforcing the confidential nature of the process. I also expect that the Authority to make available any information that my officials deem necessary to effectively undertake the Review.

It is my expectation that all current Authority staff will be offered the opportunity to participate in this Review. Former staff of the Authority may participate if they wish to do so, provided they come within the timeframe set out in the Terms of Reference. I also expect that any employee representatives will likewise be provided with an opportunity to provide input into the Review.

It is important that all staff, both current and former, feel safe to come forward to contribute to the Review process. I understand that the Authority may have confidentiality or non-disclosure agreements with some staff that could limit their ability to fully participate in the Review. To ensure full access to key information for the Review, I also ask that the Authority consider a limited waiver
of those confidentiality agreements that it may have with individuals seeking to be heard as part of the Review.

My key priority is ensuring the safety and wellbeing of all current and former Authority staff through the Review process. I have asked the Ministry to ensure appropriate support is in place for people who come forward. The Ministry has advised me that it will be extending its Employee Assistance Programme (EAP) to any current or former staff who may require support through the Review process. I have also asked that appropriate steps are taken to protect the confidentiality of information and persons.

Industry engagement

I expect that some sector representatives and bodies may have an interest in participating in the Review process. My officials will engage with and consider any views or feedback from the sector, alongside information and evidence provided by current and former staff of the Authority and Board members.

Possible cross-over

I note that on 18 August 2019 the Chief Executive of the CAA wrote to my Office advising of an investigation into specific allegations of bullying and inappropriate behaviour from staff members of AvSec’s Explosive Detector Dog Unit (EDDU). He also advised he was commissioning an external review of management and leadership of the EDDU and the Wellington base. Given it is likely there may some crossover with the Review, I ask that CAA consider how to best avoid confusion by staff about this review.

I appreciate that this is a challenging time for the Board, senior management, and staff. I look forward to your support throughout the Review process.

Yours sincerely

Hon Phil Twyford
Minister of Transport
REVIEW OF THE NEW ZEALAND TRANSPORT AGENCY’S REGULATORY CAPABILITY AND PERFORMANCE

Proposal

1. This paper sets out the findings from the Ministry of Transport’s (the Ministry) review that I requested into the capability and performance of the New Zealand Transport Agency’s (NZTA) regulatory function. The paper seeks agreement to a series of changes to strengthen the NZTA’s regulatory capability and performance, in response to the review findings.

2. The paper also outlines the outcome of the independent review of the monitoring function within the Ministry, commissioned by the Secretary for Transport.

Executive summary

3. The NZTA exercises regulatory functions to promote a safe, efficient, and effective land transport system. These functions include, for example, the issuing of driver licences, overseeing the vehicle inspection and certification regime, registration and licensing of transport services, issuing heavy vehicle permits, speed management, rail safety and a range of other land regulatory functions.

4. In October 2018, the NZTA Board announced that the Agency had not been performing its regulatory function effectively, and in particular, that it was too focused on education and self-regulation. In response to these concerns, I instructed the Ministry to undertake a review into the capability and performance of the NZTA’s regulatory function (the review).

5. The Ministry commissioned Martin Jenkins to assist in completing the review. The review involved an extensive assessment of documentation and correspondence provided by NZTA and interested persons, alongside interviews with industry stakeholders, regulated parties, NZTA Board members, senior leaders, and staff (both current and former). Through this process, Martin Jenkins interviewed around 70 people and reviewed 250 documents.

6. The review found the following:

   6.1. the NZTA has not been performing as an effective risk-based regulator based on good regulatory practice, and as intended by the legislation. Martin Jenkins identified no single cause for the regulatory failure at the NZTA, but rather a series of underlying factors that evolved over time, including an overshadowing of regulatory functions, weak regulatory leadership and expertise, a lack of a clear regulatory strategy and approach, a lack of regulatory capability and
resourcing challenges, the absence of a regulatory culture, structural constraints, lack of accountability, inadequate audit and risk management

6.2. there has been a weak focus on NZTA’s regulatory role and functions. Regulatory responsibilities were overshadowed by priorities within its other roles and preoccupations, in particular the powerful focus on customer service embedded in the agency over many years. Being a responsive and efficient regulator in itself is not an issue. However, a strong focus on customer service, imbalanced against having a clear regulatory approach, as was the case at the NZTA, resulted in poor regulatory outcomes

6.3. there are conflicts of interest amongst the three functions of regulator, infrastructure deliverer, and investor that need careful management, particularly regarding efficiency, cost and regulatory effectiveness considerations. It is not clear the NZTA identified the potential for these conflicts and put in place systems to manage them

6.4. the dispersed nature of the NZTA’s regulatory model, with some functions carried out by other agencies, has contributed to NZTA not being able to operate as an effective end-to-end regulator for the land transport system. There could also be better leadership and coordination with regulators in the system

6.5. there have been issues with regulatory accountability and decision making within the NZTA over many years. That since the establishment of the NZTA, there was no single and clear accountability for regulatory decision-making as is present in many other regulatory agencies.

7. Since October 2018, the NZTA has undertaken work to build its capability and systems to deliver its core regulatory functions, including strengthening governance, decision making, people capability, and operational delivery. The organisation has also restructured and focussed, more broadly as an organisation, on better risk management and strengthening organisational culture. However, even with these improvements, more significant changes are required in order to effectively respond to the significant issues identified through the review.

8. In response to the review findings, I intend to:

8.1. set expectations that the NZTA Board develop a new regulatory strategy to strengthen the NZTA’s regulatory approach and delivery (by December 2019)

8.2. set expectations that the Board establish a new regulatory operating model that defines the capability, processes, and systems to implement the NZTA’s enhanced regulatory strategy and approach (by December 2019). This will be supported by a funding review to enable NZTA to build the capability it needs to deliver as an effective regulator

8.3. establish a statutory Director of Land Transport that would be responsible for exercising the NZTA’s regulatory functions and powers
8.4. instruct the Ministry to undertake work to make other changes to the regulatory objectives, functions and powers of the NZTA that are thought necessary to strengthen and clarify the NZTA’s regulatory role and focus.

8.5. [Redacted]

8.6. in consultation with the Minister for Workplace Relations and Safety, seek advice from the Ministry and the Ministry of Business, Innovation and Employment (MBIE) on exploring the merits of designating the NZTA as a health and safety regulator under the Health and Safety at Work Act 2015 (HSWA) by November 2019.

8.7. review membership of the NZTA Board to ensure there is a strong presence of regulatory expertise and capability.

9. Together, the recommendations provide a strong basis for building a capable, confident, risk-based regulator to deliver improved compliance and safety outcomes across the land transport system.

10. In addition to these recommendations, I propose a short-term approach to address the immediate cost pressures in the NZTA’s regulatory function. As part of this approach, I seek delegation to endorse the recovery of actual and reasonable costs required to support the operation of the NZTA’s regulatory function. I also seek agreement for a non-repayable equity injection to the NZTA in the form of a tagged contingency of up to $20 million that would be used to meet rectification costs of addressing the regulatory non-compliance cases.

11. I believe that further institutional change would destabilise the NZTA at a time when it needs to deliver a capable regulator and implement regulatory priorities of the Government. However, I will, with the Ministry, continue to monitor the capability and performance of the NZTA, and the implementation of the review findings, to see whether further change may be needed in the future.

12. In addition to the review of the NZTA’s capability and performance, the Secretary for Transport commissioned a review to assess whether the Ministry of Transport, through its monitoring role, should have identified the performance issues within the NZTA’s regulatory function earlier. This review also considered whether the Ministry’s past, and revised, approach to monitoring Crown entity performance is fit-for-purpose.

13. The review has broadly found that the Ministry’s historic approach was light touch, which reduced the probability of identifying the performance issues within the NZTA’s regulatory function. However, in recent times, the Ministry has supported a step change in its approach to Crown entity monitoring. The review concluded that the Ministry’s new monitoring approach is robust and reflects best practice. In light of these findings, I expect the Secretary of Transport will continue to refine the Ministry’s monitoring capability and approach so it is well placed to drive capability and performance across the transport entities.
Background

14. The NZTA exercises regulatory functions to promote a safe, efficient, and effective land transport system. These functions include, for example, the issuing of driver licences, overseeing the vehicle inspection and certification regime, registration and licensing of transport services, issuing heavy vehicle permits, speed management, rail safety and other land transport regulatory functions.

15. In October 2018, the NZTA Board announced that the NZTA had not performed its regulatory function effectively, in particular that it was too focused on education and self-regulation. The NZTA Board appointed law firm Meredith Connell to provide assistance, with a specific focus on managing the backlog of 1250 regulatory non-compliance cases.

16. Following the identified issues, the NZTA announced that it would take immediate enforcement action to address non-compliance issues, which was a shift from the Agency's previous high-trust, education-focused approach. These actions included the review, suspension and revocation of transport service providers (e.g. vehicle inspecting organisations, vehicle inspectors, repair and specialist certifiers) and transport operators (e.g. Transport Service Licence holders).

17. In November 2018, the NZTA confirmed that William Ball of Dargaville had been killed in a vehicle certified by an inspecting organisation that the NZTA had significant concerns with over several years, but had failed to take appropriate action.

18. The NZTA Board commissioned Kristy McDonald QC to undertake a review to determine whether the NZTA’s performance was a contributing factor in the death of Mr Ball. The McDonald review found that the NZTA had failed to prioritise public safety and noted that the case was an example of wider systemic failures.

19. The McDonald review also found that the NZTA’s approach of viewing regulated parties as customers and prioritising information and education at the expense of strong regulatory oversight and effective enforcement led the NZTA away from its statutory objective and is not consistent with public safety. The NZTA has since been taking action to address the recommendations in the McDonald review.

20. Following the case involving the death of Mr Ball, I instructed the Ministry of Transport to review the performance of the NZTA’s regulatory function. The scope of the review included assessing whether the NZTA was performing its regulatory function as intended by the relevant legislation and in line with good regulatory practice.

21. At the same time, the Secretary for Transport also commissioned an independent review of the Ministry’s monitoring function to assess whether the Ministry of Transport should have identified the performance issues in the NZTA earlier through its monitoring role. This review also considered whether the Ministry’s past, and revised, approach to monitoring Crown entity performance is fit-for-purpose.
Review into regulatory capability and performance of the NZTA

22. The Ministry commissioned consultancy firm Martin Jenkins to assist it in the development of findings against the terms of reference I set for the review. Martin Jenkins was assisted by a regulatory expert from WorkSafe New Zealand. The reviewers interviewed around 70 people and evaluated around 250 documents to inform their findings and insights.

23. The review found that there were significant deficiencies in the NZTA’s regulatory capability and approach that, over time, have led to regulatory failure within the Agency. The review found that there was no single cause for the regulatory failure at the NZTA, but rather a series of underlying factors that evolved over time. These included the following:

23.1. overshadowing of regulatory responsibilities by higher-priority roles and conflicts of interest between NZTA’s functions as regulator, infrastructure deliverer, and investor

23.2. structural constraints, with three separate functions (infrastructure, investment, and regulation) bolted together when the NZTA was established, resulting in disparate functions with different ways of working and cultures

23.3. weak regulatory leadership and expertise and a lack of awareness of regulatory issues at senior leadership and board levels

23.4. lack of a clear, end-to-end regulatory strategy and operating model to enable the NZTA to effectively discharge its regulatory roles and functions

23.5. underinvestment in regulatory capability and resourcing

23.6. absence of a regulatory culture, with the taking of regulatory action seen as a failure and a pervasive culture of bad news being unacceptable

23.7. no single accountability for regulatory decision-making as in many other regulatory agencies and a lack of robust, practical guidance for frontline staff to make effective regulatory decisions

23.8. flaws in the internal audit process and a lack of continuous risk management across the regulatory function.

24. The review identified positive signs of progress in recent times, with NZTA starting work to define its regulatory approach and putting in place enhanced capability and systems to support the delivery of its regulatory functions. This includes strengthening governance, decision making, people capability, and operational delivery. However, even with the progress made so far, significant work is still needed to build the elements of a well functioning, risk-based regulator, which are currently absent within the NZTA.
Analysis of the issues within the NZTA's regulatory function

25. Below I provide the Ministry of Transport findings of the review against the key elements of the Terms of Reference, including Ministry recommendations to respond to the review which I have accepted.

Was the NZTA performing as an effective, risk-based regulator based on good regulatory practice?

26. There is an extensive body of evidence that sets out the foundations of good governance and modern regulatory practice\(^1\). To be successful, regulators need to have:

26.1. an approach to regulatory practice that is based on a sophisticated understanding of the nature of the risk, the nature of regulated parties and changes in the regulated environment

26.2. an understanding of how they use their regulatory levers and tools in a balanced, proportionate and risk-targeted way to achieve compliance

26.3. leaders who foster a culture that values operational flexibility and adaptation to changes in the regulatory environment, continuous learning and a culture of challenge and “speaking up”

26.4. comprehensive processes and systems to enable robust, consistent and evidence-based decision-making

26.5. capability across all levels of the organisation and a purposeful, structured and integrated approach to achieving a professional workforce

26.6. communication and engagement processes that promote the legitimacy of the regulatory regime

26.7. an ability to fulfil their regulatory objectives within constitutional and statutory requirements.

27. The review has found that many of the key features of an effective regulator, including those noted above, are missing within the NZTA. For many years, the NZTA has lacked a comprehensive, end-to-end regulatory strategy for overseeing the delivery of its regulatory roles and functions. The review also found that the NZTA as an organisation has not had a clear view of the risk and parties it is regulating in the land transport system. It has also lacked a clear understanding of its regulatory roles, including how it works across these roles to effectively target risk.

28. The review also found significant deficiencies in how the NZTA delivers its regulatory functions. This resulted from the absence of a clear operating model to translate the NZTA’s regulatory functions and responsibilities into practice. This was not just limited to the delivery of its frontline capability. The review noted that the NZTA did

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not have a full appreciation of the wider capability it required to operate as a well functioning, risk-based regulator (e.g. regulatory intelligence, research and evaluation, operational policy and practice, risk and assurance).

**Was the NZTA performing its regulatory functions as intended by the outcomes and provisions of the relevant legislation?**

29. The review found that there was regulatory failure at the point of entry (and renewal of entry) into the land transport regulatory system. This resulted from where the NZTA treated the issuing of licences as a service for payment, rather than regulated parties qualifying for a privilege to operate. There was regulatory failure within the system when operators were allowed to continue with non-compliant behaviours over extended periods of time.

30. The review concluded that the most significant aspect of regulatory failure has been the combined failure of NZTA to provide oversight and leadership over the regulatory system and deliver on its role and functions within this system. The review found that the NZTA has not had an overarching strategy or regulatory practice framework for leading, planning and operating as an effective regulator across the entire land transport system.

31. More work is required to ensure that recent improvements across the NZTA’s regulatory function are fit-for-purpose to fully support the Agency’s regulatory role across road, rail and safety management (including speed). This includes ensuring that the NZTA has strong engagement with others in the sector who also have responsibility for regulatory activity, such as New Zealand Police, Road Controlling Authorities, Key Service Delivery Partners and others with delegated responsibility for regulatory work.

**Did the NZTA’s investment, delivery and regulatory roles result in any conflicts and impacts on the performance of the Agency’s regulatory services function?**

32. The review highlighted that within NZTA, there has been a strong preoccupation with other its other functions and that the focus of the Board and senior management was on infrastructure and investment responsibilities. The review found that the regulatory function was a small area of activity by comparison and was not a focus in the reasons for establishing the NZTA.

33. There was also a strong focus on embedding a customer service ethos throughout the NZTA. The review found that this powerful focus on customer service, at the expense of good regulatory practice, adversely influenced regulatory decision-making and activity. The role of the regulator was perceived through a customer service lens, which encouraged communication with customers, understanding and responding to their needs and making transactions as efficient as possible. Taking enforcement action was seen as a failure by senior management within the NZTA. However, a strong focus on customer service, imbalanced against having a clear regulatory approach, as was the case at the NZTA, resulted in poor regulatory outcomes.

34. The review concluded that there are potential for conflicts of interest amongst the three functions of regulator, infrastructure deliverer and investor that need careful
management, particularly regarding efficiency, cost and regulatory effectiveness considerations. There was no clear evidence that the NZTA understood that there could have been an actual, or perceived, conflict or tension between its different roles, or had processes and systems in place for managing these.

Did the NZTA work effectively with other regulators to carry out its regulatory functions and responsibilities?

35. The review highlighted challenges in how the NZTA worked with other agencies, regulators and stakeholders in the delivery of its regulatory functions and responsibilities. The review highlighted a specific challenge with the dispersed nature of the NZTA’s regulatory model, with some functions carried out by other agencies within the regulatory function. This impeded the NZTA to see itself, and operate as, an effective end-to-end regulator for the land transport system.

36. The review found that the NZTA has made progress on its relationships with other transport regulators. However, this has not reached a mature state yet. The NZTA’s relationship with other regulators has tended to be one-directional, with the NZTA seeking advice from other transport regulators, rather than having a group that is sharing learnings across regulators.

37. A large part of the enforcement function for the land transport system is undertaken by the New Zealand Police. As well as its road policing role, the New Zealand Police also carries out functions closely associated with the NZTA’s regulatory roles in relation to transport licensing and vehicle standards in a subgroup of the New Zealand Police’s Road Policing function, the Commercial Vehicle Safety Team (CVST). The CVST has responsibility for the monitoring and enforcement of the land transport regulatory framework across the commercial vehicle sector.

38. The review heard from both the NZTA and the New Zealand Police that the relationship had been challenging but had improved in the last few years, particularly given the NZTA’s renewed focus on safety and the New Zealand Police’s focus on the relationship. A key factor behind these challenges was a poor alignment of purpose and priorities between both organisations.

39. With some of the enforcement model for commercial vehicle safety being outside the NZTA, the review has found that it makes it more difficult for the agency to establish a coherent, end-to-end regulatory approach.

40. Consideration of the interface of the land transport regulator with the health and safety at work regulator is also required. Currently the Civil Aviation Authority and Maritime New Zealand are designated as the Health and Safety at Work Act (HSWA) regulators within a scope of designation specified in a document issued by the Prime Minister under HSWA.

41. These designations recognise the significant mutually reinforcing overlap between the objectives of HSWA and the transport regulatory system, and that it is much more efficient and effective for regulators to think holistically about safety issues under transport legislation and HSWA. For example, Maritime New Zealand, when
looking at safety issues on a ship, considers maritime safety legislation obligations and HSWA obligations and determines how best to deliver safety outcomes.

42. It also means that the regulated parties do not have to deal with multiple safety regulators, which can be inefficient and confusing. Without designation, there is also a risk that the regulators will defer to the other regulator in the overlap, thereby creating unintended gaps between their activities and focus.

43. In order to achieve good safety outcomes for the transport regulatory system (both land and rail), it is critical for the NZTA to be able to look from the start to the end of the supply chain for transport operators and determine how best to deliver safety outcomes using both HSWA and transport regulation.

Was the regulatory function set up to drive home appropriate accountability and transparency?

44. The review concluded that there have been issues with regulatory accountability and decision-making within the NZTA over many years. The review found that since the establishment of the NZTA, there was no clear identifiable single accountability for regulatory decision-making as in many other regulatory agencies (e.g. a Director/Chief Executive).

45. The NZTA Board delegated its regulatory functions and powers and associated decision-making responsibilities to the Chief Executive of the NZTA. However, there was not a clear understanding of the range of regulatory functions and how accountabilities were delivered, and the Chief Executive also had other larger functions which had significant focus and prioritisation. This created challenges around the responsibility for regulatory decision-making within the NZTA. As a result, there was limited focus and accountability for the performance of the regulatory function.

46. Currently, there is no single role within the NZTA that is accountable for leading the regulatory functions across the Agency and to ensure high-quality regulatory decisions are made. This creates a significant constraint in the NZTA being able to achieve and maintain regulatory focus within the Agency. It also creates challenges in strengthening the accountability and independence of regulatory decision-making in the land transport system.

Response to the review

47. In response to the findings of the review, I recommend the following recommendations set out below. Together, I consider that the proposed recommendations will provide a firm basis for building an effective, high performing, risk-based regulator for the land transport system.

Recommendation one: Developing a new regulatory strategy and operating model

48. The findings from the review have made it clear that NZTA needs to develop a comprehensive regulatory strategy that articulates a proportionate and balanced risk-based approach to regulating the land transport system. This strategy needs to set out how the NZTA works across its regulatory roles and functions to target risk across the land transport system. This means setting out both internally and
externally what its regulatory roles are, the risk it regulates in the system, how it targets its focus and the parties that it regulates.

49. The regulatory strategy will:
49.1. be comprehensive, identifying and covering all of the NZTA’s regulatory functions
49.2. define how the NZTA will identify risk across the land transport system, including how it will use its regulatory tools and interventions to target risk
49.3. include the development of an enforcement strategy that states how and when it will carry out its different regulatory roles, in a way that is transparent and public, so NZTA’s regulated community can understand its regulatory approach
49.4. outline how the NZTA will manage any potential for conflict between its roles of investor, infrastructure builder and regulator
49.5. establish clear accountabilities for regulatory decision-making within the NZTA
49.6. provide for a good regulatory culture where people are encouraged to raise risks and are able to exercise regulatory judgment within clear regulatory practices and approaches
49.7. define how the NZTA will assess the performance of its regulatory function.

50. The strategy is critical in providing industry, regulated parties and the NZTA’s own staff with clarity on the NZTA’s regulatory roles and functions, including how the Agency goes about exercising its regulatory mandate within the transport system. The Ministry of Transport would have a role in providing feedback on the NZTA’s regulatory strategy to ensure it is reflective of the broader system context.

51. Sitting alongside the regulatory strategy, the NZTA will develop a new operating model, setting out the core capabilities that the Agency needs to give effect to its regulatory strategy. This includes considering what effective capabilities would look like around operational policy, practice and design, education and engagement, assurance, regulatory intelligence, research and evaluation, and proportionate enforcement. A specific focus on supporting effective decision-making and building a strong regulatory culture needs to be at the centre of the capability build.

52. I intend to set expectations for the NZTA Board to develop the regulatory strategy and the operating model by December 2019. It is important that this work happens at pace, but it also needs to be balanced with the NZTA having sufficient time to respond.

 Recommendation two: Establishment of a Statutory Director of Land Transport

53. It is clear that there has been a lack of clear focus and accountability within the NZTA around the leadership of the regulatory functions, and in particular ensuring that high-quality regulatory decisions are made.
54. I consider that significant change is required to strengthen the leadership and focus of the land transport regulator. The NZTA requires a single accountable decision maker with the credibility and expertise to exercise the Agency’s regulatory functions and powers.

55. To achieve this step change, I seek agreement to establish a statutory Director of Land Transport role. The purpose of this role would be to provide a greater level of accountability, independence and focus in how the NZTA exercises its regulatory powers, functions and decision-making. The Director of Land Transport role would have statutory independence for exercising the powers and functions of the land transport regulator, which currently sit with the NZTA Board.

56. The key benefits of establishing the statutory director role include the following:

56.1. provides a single point of accountability for how the powers and functions of the regulator are exercised

56.2. reduces the potential for the NZTA’s regulatory function to become diluted or lost over time by having a statutory officer with accountability for exercising the regulatory function

56.3. provides greater clarity and transparency to industry, regulated parties and the NZTA’s own workforce about where accountability for regulatory decision-making exists

56.4. provides the public with increased confidence that a dedicated, regulatory expert will be appointed to focus on making well considered regulatory decisions that are in the interest of public safety.

57. This is the approach taken in many jurisdictions, including New Zealand, in relation to the design and governance of regulators. Regulatory operational decision-making is often found in a statutory role with an appointee who has good regulatory decision-making experience, as in the case of the Directors of Civil Aviation and of Maritime New Zealand. This approach is also evidenced in a range of other countries’ land transport regulators.

58. Under this proposed change, the NZTA Board would be responsible for setting the strategic direction and focus of the Agency’s regulatory function, including funding and setting resourcing for the function. However, day-to-day delivery and operations of the regulatory function would sit with the Director of Land Transport. The Chief Executive of the NZTA would be responsible for the appointment of the Director of Land Transport. However, accountability for regulatory decision making would sit solely with the Director of Land Transport.

59. Decision making for exercising the powers and functions of the regulator should sit with a single accountable person that has deep regulatory grounding. There is a high risk that, without a statutory role, over time the regulatory voice and focus of the land transport regulator could be lost or traded off against other priorities.
60. I recommend that any agreed legislative changes to enact the statutory Director of Land Transport role be progressed through the Regulatory Stewardship (Transport) Amendment Bill, which is due for introduction in the House by the end of 2019.

Recommendation three: Refreshing the NZTA’s regulatory objectives, functions, power

61. The land transport system is complex, with multiple agencies and roles. The regulatory framework for land transport sits primarily in the Land Transport Act 1998, supported by a series of land transport regulations and rules. The Railways Act sets out parts of the role of the rail regulator. The Land Transport Management Act 2003 (LTMA) defines the overarching scope, objectives and functions for the NZTA.

62. The current legislative framework does not set out the NZTA’s regulatory objectives, functions and powers in a comprehensive, consolidated or clear way. Each of these components exists within different parts of the land transport regulatory framework, resulting in a lack of clarity about the NZTA’s roles and functions within the land transport system.

63. I consider that changes are needed to better define the NZTA’s regulatory objectives, functions and powers. This is an important step in providing the NZTA with greater direction and focus on its regulatory roles and functions. It will also assist in providing the wider transport system, including regulated parties and other regulators, with more clarity over the NZTA’s regulatory roles and functions. At the same time, I also intend to review and, where relevant, make minor amendments to clarify the NZTA’s planning, investment and delivery roles.

64. I propose to direct the Ministry of Transport to progress work to review and strengthen the NZTA’s regulatory objectives, functions and powers. This work should also consider whether the NZTA has all of the legislative powers and tools it requires to carry out the role of an effective regulator. These changes could be progressed alongside the statutory director role through the Regulatory Stewardship (Transport) Amendment Bill.

Recommendation four: Strengthening regulatory capability on the Board

65. The review noted concerns about the mix of regulatory capability and experience amongst the NZTA’s Board and Senior Leadership Team. In the context of the NZTA Board, the review concluded that members were highly capable and respected individuals and at various times there were Board members with some awareness of regulatory issues through their experience or training.

66. Generally, however, the review highlighted there had not been any in-depth regulatory experience among Board members. The review found that the NZTA Board did not appear to proactively question the performance of the regulatory function.

67. All of the current board members terms end in 2019 and I am working with the Ministry of Transport to complete an appointment process. I will be recommending to Cabinet that deep regulatory expertise and capability on the NZTA Board will be a key priority as I consider recommendations for appointments.
Recommendation five: Reviewing regulator coordination and cohesiveness

68. Strengthening the co-ordination and engagement needs to be a priority in improving the performance of the land transport regulatory system. The review has made clear that there are opportunities to strengthen compliance and enforcement across the land transport system. I would like to see a greater level of coherence and alignment in how enforcement is undertaken across the land transport system.

69. 

70. 

71. In order to provide greater clarity between the land transport regulator and the workplace health safety regulator, and to ensure there is coherence and minimisation of overlap, I propose that officials at the Ministry of Transport and the Ministry of Business, Innovation and Employment undertake work to assess the merits of designating the NZTA as the health and safety regulator for the land transport system. I propose that officials from the agencies report back to me, and the Minister of Workplace Relations, on the merits of designation by November 2019. A decision in this timeframe is critical. If the NZTA is to take on HSWA functions, it needs to build these into its regulatory strategy and operating model to enable seamless implementation.

Addressing short-term cost pressures in the NZTA’s regulatory function

72. The sustainability of funding for the NZTA’s regulatory function was identified as a key issue in the Ministry’s review of the Agency’s regulatory performance. Work is underway to address this issue through a full review of the funding settings for the NZTA’s regulatory function, expected to be brought to Cabinet in the first half of 2020. However, while this review is progressing, the NZTA will need to manage increasing cost pressures across its regulatory function.

73. The NZTA estimates that it needs to incur around $14 million in additional regulatory costs to support the core operation of its regulatory function that cannot be met within existing funding settings in 2019/20. These costs are in addition to a budgeted deficit of around $18 million in 2019/20 against the memorandum accounts for the regulatory functions of the NZTA.

74. The NZTA also anticipates that it may incur further rectification costs associated with regulatory non-compliance cases. These costs are associated with certifying vehicles that were assessed by non-compliant inspecting organisations and certifiers. Total costs incurred to date are estimated at around $9 million, but are likely to increase, particularly if further cases of regulatory non-compliance are
identified. The NZTA estimates that following these rectification costs, it will have negative retained earnings of around $11 million.

75. The NZTA Board has taken a decision to limit the payment of rectification costs to only those vehicles affected as part of the backlog of regulatory non-compliance cases identified in October 2018. The NZTA has signalled that it will be strengthening the insurance requirements on inspecting organisations and certifiers to avoid further costs to the Crown if significant regulatory non-compliance is identified in the future.

76. It is unusual for government agencies to be able to incur funding in advance of completing a funding review process. However, at the same time, it is important that a practical approach is taken to ensure that agencies are able to address significant deficiencies, such as the case in the NZTA’s regulatory function. In doing so, a high benchmark must be applied in considering decisions to both incur additional expenditure and to then recover that expenditure through a funding review process. It is important that appropriate consultation is undertaken with stakeholders and the public. There are also risks of making decisions on funding settings where the NZTA is yet to establish a clear strategy and approach for how it will perform its regulatory functions.

77. Taking into account this context, I propose the following approach for managing cost pressures in the NZTA’s regulatory function in the short-term, and in advance of the funding review being completed:

77.1. additional costs that are reasonable and necessary to support the operation of the NZTA’s regulatory function, but are beyond current regulatory fee settings, can be recovered through the funding review for the NZTA’s regulatory function. In considering these costs, I will assess the urgency, quantum and public interest in determining whether there is a case to incur through the funding review process. It is important that an appropriate balance is struck between ensuring that the NZTA has the necessary resources to operate its regulatory function, while maintaining appropriate accountability over the use of public funds in advance of a full funding review being completed.

77.2. I seek delegated authority to endorse the recovery of costs, through the NZTA’s funding review underway, to support the operation of the NZTA’s core regulatory function. I propose that these costs be capped at $10 million to manage the risk of incurring significant costs before the funding review is considered, while providing the NZTA with some flexibility to address immediate capability gaps and to progress the development of the Agency’s regulatory strategy and operating model. I expect that further Cabinet agreement would be sought if the NZTA requires additional funding above $10 million that would need to be recovered through the funding review process, or if I have significant concerns with the NZTA’s approach.

77.3. the ability for the NZTA to incur and recover costs in advance of a funding review should not be unfettered. Therefore, I also seek Cabinet’s agreement to a process whereby the NZTA Board will seek my endorsement before costs are incurred by the NZTA that it intends to recover through future increases in fees and charges. This includes the deficits the NZTA has incurred against its
memorandum accounts to keep its regulatory function operating (estimated at $18 million). The Ministry will provide me with advice on the reasonableness of those costs, in consultation with the Treasury as appropriate. I expect any costs incurred would be prioritised on developing the NZTA’s regulatory strategy and operating model, funding functions critical in maintaining public safety, and supporting the implementation of recent and upcoming land transport policy changes.

77.4. costs associated with rectification relating to regulatory non-compliance cases are proposed to be met through a non-repayable equity injection from the Crown once the NZTA has utilised its retained earnings. I propose that the equity injection be for up to $20 million, which would cover the $11.1 million of estimated rectification costs, with the remainder of the equity injection to be drawn down, as required, to cover the costs of additional rectification cases that may be identified. The drawdown would be provided through a tagged contingency. I therefore seek agreement that the Minister of Transport and Minister of Finance receive delegated authority to approve drawdowns of the equity injection to meet the NZTA’s rectification costs, as required.

Creating a sustainable funding pathway for the land transport regulator

78. Under well-established transport funding principles, the NZTA’s regulatory activities should principally be cost recovered through charges in the nature of levies imposed on identifiable groups of land transport system participants according to the benefits and risks they contribute to the system. In line with the funding principles charges can be supplemented by fees charged for specific products and services and some limited Crown funding.

79. Road users are one of the groups of system participants in the land transport regulatory systems who benefit from, and exacerbate risks, within the system. Therefore, road users should be required to fund a portion (but not all) of the cost of the regulatory activities of the NZTA.

80. Road users contribute to land transport revenue under the LTMA in a manner proportionate to their use and impact in the system, through Fuel Excise Duty (FED), Road User Charges (RUC) and vehicle registration.

81. Currently, there is no clear or established charging mechanism in place to recover the costs of operating the land transport regulator from road users who benefit from having a well-resourced and effective regulator. The primary funding sources available are those provided for the provision of regulatory services, such as fees for driver licences and testing, Transport Services Licences and vehicle registration. These current funding arrangements create a situation where the costs of operating the regulator are not as fairly distributed across all regulated parties in the transport system.

82. I propose that a new charging mechanism be established in legislation to enable a more balanced and equitable approach to the funding of the NZTA’s regulatory activity and the Ministry’s associated monitoring function. This recognises there are wider public benefits of having an effective regulator to the land transport system, including a strong monitoring department to drive accountability and performance. To
support this approach, I propose that a proportion of the cost of operating the regulator and the Ministry's monitoring function could be met through FED and RUC prior to inclusion in the NLTF.

83. Implementing the proposal would require an amendment to section 9 of the LTMA which sets out provisions for the Crown to incur certain costs from land transport revenue, such as for search and rescue activities, recreational boating safety maritime safety services, road policing. The amendment would enable a proportion of land transport revenue to be 'top sliced' to fund:

83.1. the land transport regulator, as is the cases for other regulatory and safety functions performed in the transport sector

83.2. some of the costs of operating the Ministry's monitoring function

84. The benefits of this approach include the following:

84.1. a fairer proportion of costs for operating the land transport regulator can be recovered from a wider group of road users that benefit from having a well resourced and effective regulator. This means the costs of operating the land transport regulator would be more equitably shared by all participants in the land transport system

84.2. the proposal supports a risk-based approach to allocating the cost of operating the regulator. Road users' contribution to the operation of the land transport regulator would be proportionate to the level of travel and therefore risk exposure they have in the land transport system

84.3. a charging mechanism is already in place through FED and RUC. There would be relatively limited administrative changes required to implement a funding source to support the operation of the land transport regulator

84.4. establishing a more broad based charging mechanism could present an opportunity to reduce, rebalance or consolidate individual fees and charges within the land transport system. Individual charges and fees would still be required to ensure those who derive a direct benefit from a service provided by the regulator pay for the benefit of that service

84.5. the proposal also ensures that the Ministry has access to an appropriate level of resource to effectively perform its monitoring role of the transport entities. A well resourced monitoring function is integral in ensuring appropriate accountability and a strong focus on performance improvement across the transport entities.

85. Progressing with the proposal now means that the use of land transport revenue can be considered as part of the NZTA funding review. If the proposed change is delayed, it could affect land transport revenue being considered as a funding source through the NZTA funding review process. A delay could subsequently affect the timeliness in progressing the funding review and therefore prolong the funding challenges in the NZTA's regulatory function.
86. I consider there is a case for progressing legislative change now to establish a mechanism for using land transport revenue to funding a portion of the operating costs for the NZTA’s regulatory function and the Ministry’s monitoring function. I therefore seek agreement to amend the LTMA to provide for a portion of the NZTA’s regulatory activities and the Ministry’s monitoring function to be top-sliced from land transport revenue prior to inclusion in the NLTF. I seek agreement to do this by providing that:

86.1. the Crown may, without further appropriation, fund the NZTA’s regulatory activities, including the Ministry’s monitoring capability, up to an amount agreed by the Minister of Transport and the Minister of Finance

86.2. the amount of the NZTA regulatory activities funded is paid from land transport revenue inflows prior to their inclusion in the National Land Transport Fund (NLTF).

87. As noted above, the funding model for NZTA regulatory activities, including the amount of any top-slice and charges for other groups of participants, is expected be consulted on and considered by Cabinet in the first half of 2020.

Strengthening the transport regulatory system

88. I recognise there will be strong interest from the public in the performance issues identified within the NZTA, including whether these issues could be more systemic within the wider transport system and other regulatory systems. There are some special features relating to the NZTA and its regulatory failure, the combination of which are less likely to be present in most other regulators. These include that:

88.1. the NZTA had two other significant non-regulatory functions that have overshadowed its regulatory function

88.2. that there have not been clear accountabilities relating to the operation of its regulatory function, which were critical given the extent of its other roles

88.3. for some of its regulatory function, the NZTA only carries out part of the enforcement role, which has made it harder for the Agency to see itself as a lead end-to-end regulator and enforcer.

89. The review has highlighted the need for government agencies, including regulators, and their monitors, to be vigilant around the delivery of their regulatory functions. The findings from the review will provide important insights for other regulators to assess their capability and approach.

90. The State Services Commission will be undertaking work to assess the impact of the broader review findings on the capability and performance of regulators, regulatory agencies and monitoring departments across the wider public sector.

91. The institutional framework that the NZTA operates within has created some challenges in building capability and focus on the Agency’s regulatory function. This is primarily as a result of the NZTA having multiple functions, the absence of a clear and accountable regulatory decision maker, along with part of the enforcement
component of the Agency’s regulatory approach being delivered outside of the Agency.

92. The recommendations I have put forward in response to the review will provide a strong platform to rebuild capability and confidence in the land transport regulator. It will be important that work is undertaken to assess the NZTA’s progress in response to the review findings. I will be instructing my officials to monitor and report to me on the progress that the NZTA is making to build capability and performance in its regulatory function.

Enhancing the NZTA’s organisational performance

93. The performance of the NZTA has a significant and direct impact on all New Zealanders who rely on having an accessible and efficient transport system to travel. The NZTA also fulfills a key role as the Government’s primary agent for delivering its transport strategy and priorities. For these reasons, it is fundamental that the NZTA is performing effectively.

94. The review of the NZTA’s regulatory performance has highlighted broader challenges around the NZTA’s organisational leadership, capability, and culture. The success of the NZTA relies on having effective leadership, supported by a strong culture and the right capability to deliver its core functions well.

95. I am confident that with Sir Brian Roche in place as the new Chair of the NZTA will have strong leadership and a clear direction. I will be asking the NZTA Board to prioritize work to strengthen the leadership, culture and organisational performance of the NZTA, alongside responding to the findings from the review of the NZTA’s regulatory performance. I will be directing my officials to closely monitor the NZTA Board’s progress in this area.

Review of the Ministry of Transport’s monitoring role

96. In addition to the review of the NZTA, the Secretary for Transport commissioned an independent review to assess whether the Ministry of Transport, through its monitoring role, should have identified the significant performance issues within the NZTA earlier and provided advice to Ministers sooner. The review considered the Ministry’s performance of its monitoring function against its own expectations, and best practice monitoring expectations in the public service. The review was also required to deliver any recommendations for change.


Findings from 2007 to 2015

98. The key findings of the monitoring review for period from 2007 – 2015 were:

98.1. the Ministry monitoring approach was a light touch, desktop exercise, reviewing NZTA accountability reporting and often summarising NZTA views on its own
performance. It focussed on monitoring reporting and insights on operational, rather than strategic, issues, and was not considered to offer value to NZTA and held in low regard

98.2. the NZTA board and senior leadership levels had limited visibility of issues and risks with the regulatory function, and the Ministry had significantly less information than the NZTA

98.3. the Ministry’s approach to monitoring of the NZTA performance was not fit for the purpose of identifying significant performance issues within the regulatory function at this time. However, the Ministry’s approach was not too dissimilar to the approach taken in the rest of the public sector over this time period. The dynamic would have contributed to a lack of awareness of the need for in depth regulatory experience on the board.

Findings from 2015 to 2017

99. There was a Performance Improvement Framework (PIF) review in 2013, and a follow up in 2014. These reviews found that the Ministry’s monitoring focus was transactional and too low level, and the relationships with the NZTA needed to be improved. It also noted the challenge for the Ministry of being a small agency with limited resources.

100. In response the Ministry set up a new transport agency Crown Entity Monitoring Framework (the CEAF). Key findings in relation to this period were:

100.1. the framework reflected the kinds of approaches that were emerging from central agencies as good practice

100.2. it was accompanied by the build of a stronger more experienced monitoring team with commercial, investment and financial management backgrounds, including Crown company monitoring experience

100.3. it was a step up from earlier less strategic, less focused approaches and aimed to add value to the NZTA through insights gained. It was still largely based on assessing NZTA reporting, but applied a more critical lens

100.4. the CEAF led to some more testing conclusions to be drawn on NZTA performance. The first assessment (2016) raised some issues including with the regulatory function and rated the NZTA as needing improvement. This included signalling some areas where there was a need for more effective integrity of regulatory delivery and performance (e.g. driver licensing)

100.5. the approach and findings from the CEAF reports challenged the NZTA in ways it had not been before, and produced a reaction at senior leadership levels, with relationships between the NZTA and the Ministry becoming more fraught. The NZTA was perceived to be withholding information, or burying the monitor in too much information, and challenged any assessments vigorously. This is consistent with the MartinJenkins review of NZTA’s regulatory capability and performance which found that that bad news was unacceptable to the NZTA’s
leadership team at that time

100.6. by 2017, final monitoring report was less strong, and less challenging to the NZTA for improving its regulatory function, given the relationship issues between the agencies.

101. In summary, at this time, the Ministry had an assessment framework for monitoring which was becoming more fit-for-purpose, but the quality of the relationships between Ministry personnel and NZTA leadership did not support an effective monitoring dynamic. This had a significant impact on the effectiveness of the monitoring approach, both for the Ministry gaining critical insights on the NZTA’s performance, and the Agency taking notice of messaging in reporting.

Findings for 2017 to 2019

102. The current Chief Executive, Peter Mersi, was appointed to the Ministry in July 2016. The review of the Ministry’s monitoring performance found that from early 2017, he instigated changes to the organisation and improvements in the Ministry’s operating approach. This involved moving the Ministry’s monitoring approach to be more constructive, proactive, and collaborative, working closely with the boards and senior leadership of the transport Crown entities. This approach was aimed at providing greater insights on entity capability and performance, including supporting entities to better identify and manage risk. This approach was supported by the PIF as being a step in the right direction in 2017.

103. The key findings of the monitoring review for period from 2017 – 2019 were:

103.1. there has been a step change in the approach to Crown entity monitoring within the Ministry commencing from early/mid 2017 with the reorganisation of the Ministry and the focus on building and maintaining constructive, collaborative, and respectful relationships with the transport Crown entities. Regarding the NZTA, this developed from early 2018, and at the present time there are effective relationships, good information sharing and more appreciation of the value that effective monitoring can bring to assisting the entity board and leadership manage critical risks

103.2. the CEAF monitoring framework was refreshed through 2018 and tested with the NZTA. By and large, the refresh maintained the focus of the earlier framework, but significantly improved the approach to the assessments to enable more insightful analysis, more strategic focus on critical risk and trend analysis. There has been a significant improvement in the relationships with the board and leadership of the NZTA, particularly in recent times, with high levels of collaboration on the monitoring approach that will be taken, the areas to focus on, and the risks to address

103.3. in this regard, the framework from mid to late 2018 appears fit-for-purpose to provide insights on risk and assurance to the Ministry, the NZTA Board and leadership, and the Minister

103.4. regarding the appointment of board members, the Ministry monitoring team has added capability to the team for supporting the appointment process and advice
to the Minister for NZTA Board appointments. The capability matrix has been revised to reflect the range of governance and regulatory skills that are required in each of the transport Crown entities, including a focus for in-depth regulatory experience on the board of the NZTA.

103.5. the new monitoring approach reflects the key elements of monitoring best practice. The new approach has involved adding to the capability of the monitoring team by hiring people that understand and have had experience in regulatory agencies. For specific lines of enquiry expert skills are also brought into assist the monitoring team with their work (for example construction and procurement expertise).

103.6. there is increased collaboration across Ministry functional groups, and, in particular, better linkages between regulatory stewardship and monitoring functions which have provided additional opportunities for highlighting risks and ways of communicating these to the entity board.

104. By way of caution, the review of the Ministry's monitoring performance makes the point that it is not the role of the monitor to assume the responsibility the board or to undertake an audit approach to the monitoring work. However, the monitoring process needs to enable the sharing of sufficient evidence to demonstrate there is effective oversight and management of key risks and priority areas within the agency. In this regard, the review notes that the monitor needs to guard against the risk of delving into too much detail and gaining the perception and reputation for out of place 'micro-management' of the entity.

105. I am satisfied that while early on the Ministry's monitoring approach was historically light touch, work has since been undertaken to significantly improve how the Ministry is undertaking its monitoring role. The uplift in approach in 2015 - 2017 was making some headway in taking a more strategic approach and starting to identify some issues in the regulatory area, but was hampered by the relationship between the Ministry and the NZTA. This is in addition to an aversion on the part of the NZTA senior leadership at the time to hear about bad news stories or risk and a desire to discount any suggestions for performance improvement.

106. Since then the Ministry has continued to further improve its monitoring approach and is working better with the transport Crown entities. Changes in leadership have also meant the Agency is more willing to share information and work with the Ministry to identify performance improvements. I believe the approach the Ministry is now taking is consistent with public sector good practice and would be more likely to have found regulatory issues. This is because the Ministry was beginning to identify these in early 2018 and since then has supported identification of other risks in the NZTA.

107. There are some key lessons learnt from this review which are applicable more broadly to the public service. For example, that monitoring approaches:

107.1. need to be based on good relationships and good information sharing between the Ministry and Agency (Board and senior leadership) being monitored, and there needs to be respect and appreciation of the value that effective monitoring can bring.
107.2. monitoring needs to have a strategic focus on critical risk and trend analysis and be rigorous

107.3. monitoring teams should have effective commercial and governance skills, but also people who understand regulators. Monitors also need to understand the agency they are monitoring and its functions, and when to bring in specialist support to help monitoring in some areas

107.4. there needs to be a good capability mix on boards, including regulatory expertise, where the board has regulatory functions

107.5. monitoring teams within Ministries need to work closely with other functions working with the Agency being monitored (e.g. policy and stewardship functions) to share information and identify risks

107.6. monitors need to be careful not to take on the role of boards by delving too much in the detail.

108. The review of the monitoring function has also been provided to the State Services Commissioner. The Commissioner, and the Secretary for Transport will work to ensure the lessons learnt from this review are disseminated more broadly to other public sector monitoring agencies.

Consultation

109. The State Services Commission, the Treasury, the New Zealand Transport Agency, the New Zealand Police, and the Ministry of Business, Innovation and Employment have been consulted. The Department of the Prime Minister and Cabinet has been informed of this paper.

Financial Implications

110. I have set out a proposed approach for addressing the cost pressures facing the NZTA’s regulatory function in the short-term. The proposed response to address these cost pressures, set out in paragraph 77, will provide the NZTA with the resources needed to continue to operate its regulatory function while a full funding review process is completed. This approach is supported by the Treasury.

111. I will bring a paper back to Cabinet setting out the longer-term requirements for funding the NZTA’s regulatory function, expected in the first half of 2020. This paper will set out proposals to ensure that the NZTA has sufficient resourcing to build an effective and high performing regulator for the land transport system.

112. The recommendations will take account of the capability build required to respond to the findings of the Ministry’s review into the capability and performance of the NZTA’s regulatory function.

113. Through the funding review process, specific consideration will be given to the mix of funding sources (e.g. fees, charges, and land transport revenue) that are needed to support the effective operation of the NZTA’s regulatory function.
Legislative Implications

114. The proposal to establish the Director of Land Transport role, revise the NZTA's objectives, functions and powers, and establish a new funding source for the regulator from the land transport revenue, will require legislative change. I am proposing to progress these proposals through the Regulatory Stewardship (Transport) Amendment Bill, which seeks to modernise and strengthen the land transport regulatory framework.

Impact Analysis

115. Regulatory impact analysis has been undertaken for the recommendations in this paper that require legislative changes. A Regulatory Impact Statement (RIS) is attached. The Ministry's Regulatory Impact Analysis (RIA) panel has assessed the RIS and considers that it partially meets the relevant quality assurance criteria.

Human Rights

116. There are no implications.

Gender implications

117. There are no implications.

Disability perspective

118. There are no implications.

Publicity

119. I propose to hold a press conference following Cabinet consideration of this paper. At the press conference, I will provide an overview of the findings from the review, including the recommendations in response to the findings. The Chair of the NZTA will also be present to discuss how the Agency will take the findings forward. I also expect that the Secretary of Transport will outline the findings of the review into the Ministry of Transport's monitoring performance.

Proactive release

120. I intend to proactively release this paper within 30 days of the Cabinet decision.

Recommendations

I recommend that the Committee:

1. note that in October 2018, the NZTA Board announced that the Agency had not been performing its regulatory function effectively, and in particular that it was too focussed on education and self-regulation

2. note that, in response to concerns raised by the NZTA Board, I commissioned a review into the regulatory capability and performance of the NZTA, with the review
finding significant deficiencies in the Agency’s regulatory capability, that over a number of years, resulted in regulatory failure

3. note that the underlying causes of regulatory failure at the NZTA included a lack of regulatory expertise and practice, inadequate systems and processes, variable frontline capability and capacity, poor culture, weak governance and leadership, and critical flaws in risk and assurance

Response to review findings

4. note that I intend to set expectations for the Board to develop a new strategy to strengthen the NZTA’s regulatory delivery (by December 2019) and that the Board establish a new regulatory operating model that defines the capability, processes, and systems to implement the NZTA’s operating model (by December 2019)

5. agree to the establishment of a statutory Director of Land Transport to lead the regulatory function and regulatory decision-making in the NZTA and that this be included in the Regulatory Stewardship (Transport) Amendment Bill

6. agree that the Director of Land Transport will be accountable for the delivery of the independent regulatory functions and powers currently held by the NZTA Board under the Land Transport Management Act 2003

7. authorise me to refresh the independent regulatory functions and powers in the Land Transport Management Act 2003 to ensure they are fit for purpose and consistent with the overall policy intent of this paper without further reference to Cabinet

8. authorise me to refresh of NZTA’s regulatory objectives, and remaining functions and powers in the Land Transport Management Act 2003 to provide greater focus on the Agency’s regulatory role and to ensure that its existing land transport planning, investment and delivery functions are adequately described and that this be included in the Regulatory Stewardship (Transport) Amendment Bill

9. [Redacted]

10. note that the Ministry of Transport will work with the Ministry of Business, Innovation, and Employment to assess the merits of designating the NZTA as the health and safety regulator for the land transport system by November 2019

11. note that I am in the process of reviewing the membership of the NZTA Board to ensure it has an appropriate balance of regulatory expertise and capability
Short term cost treatment

12. note that the NZTA has estimated that the additional costs associated with supporting the ongoing operation of the Agency’s core regulatory function are estimated to be $14 million

13. note that the NZTA is continuing to incur costs to rectify and recertify vehicles affected by the backlog of regulatory non-compliance cases, and as a result of growing cost pressures the Agency’s ability to fund these costs from its retained earnings is limited

14. note that the Ministry of Transport considers there are risks of incurring the full amount of costs proposed by the NZTA in advance of a funding review process and before the Agency has developed a clear regulatory strategy and operating model

15. agree that the following approach is taken for managing cost pressures in the NZTA’s regulatory function until the full funding review is completed:

15.1. additional costs that are reasonable and necessary to support the operation of the NZTA’s regulatory function may be recovered through the funding review for the NZTA’s regulatory function, subject to recommendation 16

15.2. any additional costs above $10 million would need to be considered and approved by Cabinet

15.3. costs associated with rectification or recertification relating to regulatory non-compliance cases will be met through a non-repayable equity injection, which would be in the form of a tagged contingency of up to $20 million, subject to recommendation 17

16. authorise the Minister of Transport to approve any operating costs for the NZTA’s regulatory function, with the expectation that it can recover these through future increases in fees and charges

17. authorise the Minister of Transport and the Minister of Finance to approve any drawdowns against the non-repayable equity injection for the purpose of meeting rectification costs

Creating a sustainable funding pathway

18. note that the NZTA has commenced a broader review of its regulatory funding and a paper will be brought to Cabinet outlining the outcome of the review, including any proposals to the current funding arrangements, in the first half of 2020

19. note that under well-established transport funding principles, NZTA’s regulatory activities should principally be cost recovered through a charges in the nature of levies imposed on identifiable groups of land transport system participants according to the benefits and risks they contribute to the system, supplemented by fees charged for specific products and services and some limited Crown funding
20. note that road users are one of the groups of system participants in the land transport regulatory systems who benefit from, and exacerbate risks within, the land transport regulatory system, and so should be required to fund a portion (but not all) of the cost of the regulatory activities of NZTA.

21. note that currently there is no clear or established charging mechanism in place to recover the costs of operating the land transport regulator from road users who benefit from having a well resourced and effective regulator.

22. agree to amend the Land Transport Management Act 2003 to provide for a more balanced and equitable approach to funding the NZTA’s regulatory function by providing that:

22.1. the Crown may, without further appropriation, fund the NZTA regulatory activities and the Ministry’s associated monitoring activity up to an amount agreed by the Minister of Transport and the Minister of Finance from land transport revenue; and

22.2. the amount of NZTA regulatory activities funded is paid from land transport revenue inflows prior to inclusion in the National Land Transport Fund.

23. note that the funding model for NZTA regulatory activities and the Ministry’s monitoring function, including the amount of any top-slice and charges for other groups of participants, will be consulted on and considered by Cabinet.

Ministry of Transport monitoring performance

24. note that in addition to the review of the NZTA’s capability and performance, the Secretary for Transport commissioned a review to assess whether the Ministry of Transport, through its monitoring role, should have identified the performance issues within the NZTA’s regulatory function earlier.

25. note that the review has found that while the Ministry’s historic approach to monitoring was light touch, the Ministry has made significant improvements in how it undertakes its monitoring function which is now considered more constructive, proactive, collaborative and representative of best practice.

Legislative implications

26. note that the recommendations in response to the NZTA review that have legislative implications will be given effect to in the Regulatory Stewardship (Transport) Amendment Bill, which is due for introduction in the House by the end of 2019.

27. invite the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions in the recommendations above.

28. authorise the Minister of Transport to make final decisions, consistent with the overall policy intent, on details that arise during the drafting of the Regulatory Stewardship (Transport) Amendment Bill without reference to Cabinet.
Communications and engagement

29. **note** that I intend to publically release the review into the NZTA’s regulatory capability and performance, along with the review into the Ministry of Transport’s monitoring performance, following Cabinet consideration of this paper.

Authorised for lodgement

Hon Phil Twyford
Minister of Transport
Meeting with Auckland Airport

Reason for this briefing
You are meeting with Auckland Airport, at its request, to discuss, in particular, various infrastructure developments.

Action required
Note the attached briefing.

Deadline
Tuesday, 13 August 2019.

Reason for deadline
That is the day of the meeting.

Contact for telephone discussion (if required)

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<th>Name</th>
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MINISTER'S COMMENTS:

Date: 9 August 2019

Minister of Transport’s office actions

- Noted
- Seen
- Approved
- Needs change
- Referred to
- Withdrawn
- Not seen by Minister
- Overtaken by events

Security level: Restricted

Briefing number: OC190764
Purpose of report

1. You have agreed to meet with Adrian Littlewood, Chief Executive of Auckland Airport (the Airport), at the Airport’s offices on Tuesday, 13 August 2019.

2. The Airport has indicated it would like to discuss:
   - substantial transport upgrades that will kick off shortly at the Airport (which include enabling better public transport access)
   - the proposed Civil Aviation Bill.

3. This briefing also includes an [highlighted text: ss. 6(a) and 9(2)(f)(iv)]

Key information on Auckland Airport

4. The Airport is the second largest airport in Australasia for international passengers, second only to Sydney Airport.

5. In the six months to December 2018, the Airport reported an underlying profit of $136.9 million (compared with $133.1 million for the six months to December 2017). Total passenger numbers in 2018 were 10.6 million (made up of 5.3 million international passengers, 0.5 million international transit passengers and 4.8 million domestic passengers).

6. The Airport is a 24.99 percent shareholder in Queenstown Airport.

Updates on key Auckland transport projects

State Highway 20/20B road corridor capacity

7. This project encompasses:
   - priority lanes between Pukaki Creek Bridge and SH20 which will allow new frequent bus services between the Airport, Puhinui Station Interchange and Manukau, and
   - two improved signalised intersections at Campana Road and Manukau Memorial Gardens which will improve safety, access and allow for future developments south of the state highway including the Airport’s Park & Ride.

8. In May 2019, the NZ Transport Agency issued a Request for Tender (RFT) to the market for physical works procurement, which closed on 11 July 2019 with 5 bids received. The NZ Transport Agency is evaluating the bids, and funding for construction has been approved by the NZ Transport Agency Board.

9. Consent applications have been lodged with Auckland Council. If a hearing is required or if appeals are received, this could delay the anticipated construction start date (September/October 2019) by approximately 3 months.

Puhinui bus-rail interchange

10. This project commences construction in September 2019 and is partly funded by the Regional Fuel Tax. The planned works to the station will allow for the future rapid transit overbridge across the rail line to provide a direct connection with Puhinui Station Interchange and forms part of the Airport to Botany Rapid Transit programme. The indicative completion date for the new station is the first quarter of 2021.
Auckland Light Rail

11. The Airport is a key interested party in the City Centre to Mangere Light Rail Project.

12. The Response Requirements Document for Auckland Light Rail has been released to both the NZ Transport Agency and NZ Infra. They will each complete their responses to this document by [redacted]. The responses will then be evaluated and recommendations made by the Minister to Cabinet for a decision on the preferred delivery partner. ss. 9(2)(f)(iv) and 9(2)(j).

13. At the Ministers’ oversight meeting held on 25 July, officials briefed Ministers on the need for there to be some distance between Ministers and the relevant parties to ensure the integrity of the process and avoid any criticism that the process was not conducted in a fair and transparent way.

14. As the commercial process has now commenced, we advise you not to engage with the Airport on Auckland Light Rail.

15. The Ministry has spoken to the Airport and provided it with a high-level overview of the process in confidence.

16. The Airport has signalled its willingness to engage with parties as part of the Response Requirements process.

Civil Aviation Bill

17. Consultation on an exposure draft of the Civil Aviation Bill closed on 22 July 2019. The Ministry received over 70 submissions on the draft Bill.

18. The Airport’s submission focused mainly on areas relating to economic regulation. In particular, the Airport is concerned about the removal of section 4A from the Airport Authorities Act, which states that an airport may set charges as it thinks fit.

19. Airports are concerned that removing section 4A will drastically disrupt the light-handed regulatory regime that they argue is working well, and risks a return to protracted litigation between airlines and airports regarding charges. The Airport asserts that the change creates material risk at the time when its major investment plans require certainty and stability.

20. The airports state that unlike other commercial relationships, where a provider can refuse to provide a service if agreement is not reached, airports provide essential infrastructure and cannot practically refuse service if airlines refuse to pay their set price. Given this unique relationship, airports consider they need a statutory power to set charges.

21. The consultation document that went out with the exposure draft put forward that the Companies Act provides an adequate basis for airport companies to set charges. The risk of retaining section 4A is that it may be interpreted as giving airport companies greater discretion when setting charges than they would otherwise have under the Companies Act. This is not the intent of the provision. Repeal of this provision would also reinforce the threat of more heavy-handed regulation that underpins the information disclosure regime that applies to Auckland, Wellington and Christchurch airports.
22. The Airport also strongly opposes the proposal to remove the statutory right to terminate leases without compensation. The Airport has approximately 140 leases within the current airfield and terminal boundaries. Some airport leases extend for several decades.

23. The Airport argues that the provision is needed to manage the large number of leases while undertaking substantial investment at a working airport (including in response to unexpected regulatory change).

24. We intend to do further policy thinking regarding these provisions, based on submissions received on the exposure draft of the Bill from a range of stakeholders including airlines and airports.

25. The other contentious issue between airports and airlines is the process for approving airline alliances. The Airport has submitted that it believes the alliances should be subject to the same process as that for cooperative arrangements in other sectors – namely, consideration by the Commerce Commission. All redactions below - ss. 6(a) and 9(2)(i)(iv)
32. [Redacted]

33. [Redacted]

Tom Forster
Manager, International Connections

MINISTER’S SIGNATURE:

DATE: ___/___/2019