

## Proactive Release

This document is proactively released by Te Manatū Waka the Ministry of Transport.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

Listed below are the most commonly used grounds from the OIA.

<u>Section</u>	<u>Description of ground</u>
6(a)	as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government
6(b)	as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by <ul style="list-style-type: none"> <li>(i) the Government of any other country or any agency of such a Government; or</li> <li>(ii) any international organisation</li> </ul>
6(c)	prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
9(2)(a)	to protect the privacy of natural persons
9(2)(b)(ii)	to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
9(2)(ba)(i)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public
9(2)(ba)(ii)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest
9(2)(f)(ii)	to maintain the constitutional conventions for the time being which protect collective and individual ministerial responsibility
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain 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 public service agency or organisation in the course of their duty
9(2)(h)	to maintain legal professional privilege
9(2)(i)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities
9(2)(j)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)



12 November 2021

OC210914

**Hon Michael Wood**  
**Minister of Transport**

**Action required by:**  
Monday, 15 November 2021

## **CLEAN VEHICLES BILL – KEY THEMES FOR DEPARTMENTAL REPORT**

### **Purpose**

Update you on key themes emerging on the Land Transport (Clean Vehicles) Amendment Bill (the Bill) and ask you to confirm your position on these matters to enable our positioning in the Departmental Report.

### **Key points**

- On Thursday the Transport and Infrastructure Select Committee heard the initial briefing of the Clean Vehicles Bill from both yourself and officials. Oral submissions also began and will continue Monday, 15 November and Thursday 18 November 2021.
- Written submissions on the Bill closed on Thursday, 4 November and officials are advancing at pace the Departmental Report, which is due to the Clerk of the Select Committee close of play Monday 22 November. Your office is due to receive this on Friday 19 November for review.
- We will provide a cover briefing with the Departmental Report, laying out any further issues which have arisen over the next week, which we need your advice on.
- Select Committee guidance makes it clear that officials appearing as advisers on a bill should be clear from the outset about the Minister's position on the bill. We also must be clear on the extent to which there may be latitude in this position, so that we can work constructively with the committee.
- In keeping with this guidance, we are seeking your clarification or confirmation on a number of issues listed in Annex 1. This will allow us to be clear on how we position issues in the Departmental Report.
- Please note that any comments you may have around your recommendations in Annex 1 will provide helpful insight.

**Recommendations**

We recommend you:

- 1 **note** that this content will form part of the Departmental Report that the Ministry of Transport needs to finalise by Monday 22 November 2021
- 2 **indicate** your position in Annex 1, on a number of clarifications or confirmations of issues, raised through submissions on the Land Transport (Clean Vehicles) Amendment Bill (the Bill). Yes / No



Jemima de Lacey  
Programme Manager

Hon Michael Wood  
Minister of Transport

12 / 11 / 2021

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**Minister's office to complete:**

- Approved
  Declined  
 Seen by Minister
  Not seen by Minister  
 Overtaken by events

**Comments**

**Contacts**

Name	Telephone	First contact
Jemima de Lacey, Programme Manager, Environment, Emissions and Adaption	s 9(2)(a)	✓
Sigurd Magnusson, Senior Adviser, Environment, Emissions and Adaptation	s 9(2)(a)	

ANNEX 1

Issue	Description	Recommendation	<i>Minister please indicate preference below and any comments where necessary</i>
<p><b>Targets</b></p>	<p>Many submitters commented on the CO<sub>2</sub> targets for the Clean Car Standard. Thirteen submitters called for more ambitious targets, or to not compromise the targets under pressure from industry and the public. Or they called for a total ban on internal combustion vehicles.</p> <p>Some submitters have asked for targets in 2028 onwards to be provided. The Clerk of the Select Committee has queried targets for 2028 onwards and when they might be set, as the Bill is silent on this. Cabinet had agreed to set provisional long term targets as part of finalising the ERP, which would indicate they would be set by mid-2022.</p> <p>Seventeen submitters (mainly from the vehicle industry) stated that the CO<sub>2</sub> targets were unachievable, and many emphasised the 2026 and 2027 targets were particularly hard to meet. Submitters have concerns that the proposed targets are simply unworkable and will result in increased costs to consumers. They submit that the supply of zero emission vehicles to meet the targets just cannot happen in this timeframe. Some asked that targets be moved from primary to secondary legislation to make them easier to change.</p> <p><b>Ministry Comment:</b> Most submitters on this issue either thought the targets were unachievable or not ambitious enough. We consider that while they are tougher than Europe's enacted targets, the targets proposed by the Bill are similar to the EU's recent proposal, and are more relaxed than what some countries have achieved or are targeting. While we agree that the targets are challenging for the industry to meet we do not recommend change to the current proposed targets in the Bill. We plan to note that you will set long term targets as part of finalising the Emissions Reduction Plan in the Departmental Report. Cabinet has agreed to review the targets in 2024.</p>	<p>Reaffirm the current targets as proposed in the Clean Vehicles Bill.</p>	<p>Yes / No</p>
<p><b>Flexibility of target mechanisms</b></p>	<p>Distributors of new motor vehicles and other parts of the vehicle industry have asked for a number of changes to flexibility mechanisms to make it easier to achieve the CO<sub>2</sub> targets. This includes receiving additional benefit when selling very low emission cars or features such as stop-start technology.</p> <p>Other submitters requested that these provisions remain as they are, or are made tougher. These types of provisions do exist in other regimes, known as 'super credits'. Submitters also provided views on widening or narrowing an importer's ability to bank or borrow credits over time.</p> <p><b>Ministry Comment:</b> The test procedures performed on cars already take into account features such as good fuel economy and stop-start features. Providing extra or 'super' credit is double counting. If this were desired, it would be more transparent and simpler to relax the headline targets. We consider the settings for banking and borrowing are fit for purpose.</p>	<p>Reaffirm the flexibility measures proposed in the Bill</p>	<p>Yes / No</p>

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<p><b>Level of charges on importers for not meeting targets</b></p>	<p>The Bill introduces charges on importers under the Clean Car Standard in 2023. These charges rise in 2025 and they vary between \$18 and \$67.50 per gram. The charges as proposed in the Bill are lower than what was originally consulted on (\$100) or in Europe (~ \$150).</p> <p>Several industry submitters have asked they be lowered, whereas others suggest they should be raised. Cabinet has agreed to review the deterrent effect of the charges in 2024.</p> <p><b>Ministry Comment:</b> We recommend keeping the proposed figures and reviewing them in 2024.</p>	<p>Reaffirm the current charges as proposed in the Clean Vehicles Bill</p>	<p>Yes / No</p>
<p><b>Categorisation of passenger and commercial vehicles</b></p>	<p>Importers are given different targets for their passenger and commercial vehicles, known as Type A and B vehicles in the Bill. The industry seeks that 4WD passenger vehicles be treated as Type B to benefit from a higher target.</p> <p><b>Ministry Comment:</b> We recommend that body type be the distinguishing factor, as laid out by the Bill. (Cars and SUVs in Type A; Vans and utes in Type B). Several vehicle models are available in 2WD or 4WD option, and this should not give them a relaxed target to meet. The intent is that Type B is provided a higher target only where it is needed to handle the additional weight or size of carrying goods or a large number (over 9) passengers.</p>	<p>Reaffirm to retain current definitions for Type A and B proposed in the Clean Vehicles Bill.</p>	<p>Yes / No</p>
<p><b>Vehicle exclusions</b></p>	<p>Vehicle exclusions are set out in regulations and not the Bill. However, submitters raised that certain types of vehicles be excluded:</p> <ul style="list-style-type: none"> <li>• Vehicles modified for disabled drivers and passengers (currently around 500 per year)</li> <li>• Motorsport vehicles (only driven in races and between race stages; currently around 10 to 20 per year)</li> <li>• Motorhomes</li> </ul> <p><b>Ministry Comment:</b> We suggest noting in the Department Report that in developing regulations will we give consideration to excluding disability and motorsport vehicles. We do not propose to give further consideration to excluding motorhomes, as they are generally based upon a van chassis and thus will be increasingly able to reduce emissions.</p>	<p>Agree that officials should review excluding disability vehicles and motorsport vehicles from charges when drafting regulations for the Clean Car Discount.</p>	<p>Yes / No</p>
<p><b>Consultation and review</b></p>	<p>Motor industry submitters have asked that the Bill include a requirement for the Minister to consult before making or amending regulations, and that Cabinet's decision to review the settings of the policy in 2024 be reflected in the Bill.</p> <p><b>Ministry Comment:</b> The Ministry's view is that consultation on regulations is routine good practice and forms part of government regulatory impact analysis requirements. While including a requirement to consult may reaffirm the importance of this to the sector, it is unlikely to impact what would otherwise incur in practice. It would, however, create an additional avenue for legal challenge should such a requirement not be met. There is not time to consult on the Discount Scheme regulations however there is time for limited consultation on Standard regulations.</p>	<p>Recommend no change.</p>	<p>Yes / No</p>

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<p><b>Financial year versus calendar year</b></p>	<p>Targets are currently based on calendar years, as is the case in Europe and USA. One submitter suggested they should instead align to financial years because they will be reflected on company's balance sheet.</p> <p><b>Ministry Comment:</b> The Waka Kotahi system will enable an importer to login and see their position as at any given date, therefore there is not a significant advantage in having targets align to a date. Changing targets on (for example) the first of April could be seen as delaying ambition. Calendar years is easier to communicate.</p>	<p>Reaffirm the current year basis as proposed in the Clean Vehicles Bill</p>	<p>Yes / No</p>
<p><b>Zero emission mandate</b></p>	<p>Cabinet has agreed that in 2024 it would review the potential for requiring an increasing minimum percentage of vehicle imports be zero emissions. This is provided for in the Bill. Such a tool allows the government to apply pressure on the market to more uniformly lower emissions, rather than, for example, a subset selling the majority of electric vehicles and others not. The UK is introducing this provision in 2024 and California and China operate this today. A number of importers have argued the CO<sub>2</sub> standard is sufficient and that this part of the Bill be removed.</p> <p><b>Ministry Comment:</b> The review in 2024 provides an opportunity to confirm whether the CO<sub>2</sub> targets are sufficient, and if they are not, having the zero emission mandate provides a valuable tool to apply further pressure or to accelerate progress.</p>	<p>Reaffirm that the zero emission vehicle mandate remain in the Clean Vehicles Bill.</p>	<p>Yes / No</p>

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