

In Confidence

Office of the Minister of Transport

Cabinet Economic Development Committee

Release of consultation documents: Regulatory Systems (Transport) Amendment – Land Proposals and Maritime Proposals

Proposal

- 1 This paper seeks approval to consult on the attached draft documents: '*Regulatory Systems (Transport) Amendment - Land Proposals*' (**Appendix One**) and '*Regulatory Systems (Transport) Amendment – Maritime Proposals*' (**Appendix Two**).
- 2 The land consultation document sets out a package of assorted proposed regulatory changes to primary legislation for road and rail transport, to improve the overall transport regulatory system.
- 3 The maritime consultation document sets out a package of proposed regulatory changes to primary legislation for maritime transport, to both improve the regulatory system and ensure compliance with the Maritime Labour Convention 2006 (the MLC).

Relation to government priorities

- 4 Significant investment into transport was signalled by the Government in the Speech from the Throne. In Budget 2021 we saw substantial investment to accelerate our recovery and rebuild, which must be matched with an effective and efficient transport regulatory framework to ensure successful outcomes for this investment. Regulation and investment are two key levers for Government. Regulatory stewardship activities, such as these proposed regulatory changes, help to support the effectiveness of the Government's vision and expectations for the transport system.
- 5 The maintenance and improvement of the transport legislative framework through regulatory systems Bills is a core regulatory stewardship activity. The Ministry of Transport maintains and administers the transport regulatory system. Like all government departments, it is required under the Public Service Act 2020 to proactively promote stewardship of the legislation it administers. This is also a key part of the Government Expectations for Good Regulatory Practice.

Executive Summary

- 6 Our legislative framework is an often-overlooked asset and we tend to notice it most when it underperforms or fails, as opposed to when it works. If legislation is not maintained and improved regularly and consistently, the

consequences are not just a loss of productivity and opportunity, but the real danger of injury and loss of life.

- 7 The Ministry of Transport (the Ministry) has a responsibility to monitor and care for our regulatory systems, with a regulatory stewardship approach that encompasses a system-wide view across the legislation and transport system. An effectively functioning regulatory system uses appropriate mechanisms and tools to ensure that it is consistent, fit-for-purpose and up-to-date.
- 8 Regular maintenance and renewal of our legislation makes investment and policy direction more effective and helps the Government deliver on the outcomes that are important for New Zealanders. There are about 11,000km of state highway network, 83,000km of local roads, and 3,938km of rail network. Transport and freight movements along these networks contributes to 4.9% of New Zealand's gross domestic product. In 2018/19, 44,000,000 tonnes of freight, valued at \$64 billion, was exported.
- 9 The legislative framework for the transport sector is therefore significant: there are 26 transport-related Acts, 15 Regulations, and 151 Rules across the three modes of transport (land, aviation, and maritime). I propose releasing for public consultation the attached draft consultation documents titled '*Regulatory Systems (Transport) Amendment – Land Proposals*' and '*Regulatory Systems (Transport) Amendment – Maritime Proposals*'. The proposals make technical, moderate impact, but crucial improvements to the transport legislative framework.
- 10 The proposals have been split into two separate consultation documents for land and maritime respectively to better enable targeted consultation with specific stakeholders to occur.
- 11 I consider that seeking the views of industry and the public on this package of proposals will result in legislative changes that will have positive outcomes for safety and ensure our legislation is fit-for-purpose. Through public consultation and engagement with the proposals, the evidence base can be strengthened and broadened, the proposals can be refined to decrease the risk of unintended consequences, and the practice and aims of regulatory stewardship embedded more fully through the transport sector. The release of the consultation documents will invite feedback on the proposals to consider the real-world implications, and lead to better outcomes for the transport sector.
- 12 Together, the changes to land and maritime transport legislation will form the second in a series of regulatory systems bills that will over time maintain and improve the legislative framework. This approach is a commitment under the Ministry of Transport's Regulatory Stewardship Plan 2019-2022.
- 13 I am also proposing to release the Ministry from the annual requirement of presenting a consolidated list of secondary legislative change projects [STR (99) 19/7 refers]. The Ministry will instead release quarterly work programmes updated on their website.

Background: the importance of regular maintenance and renewal of the transport regulatory system

- 14 Legislation is a key lever for the transport system, along with monitoring and oversight, influencing the international environment, economic and educational tools and investment and revenue. Without effective and efficient legislation, investment into the system is unlikely to deliver on the objectives and the vision that the Government has set.
- 15 The focus on regulatory stewardship responds to the problems created through the previously ad-hoc and isolated nature of maintaining transport legislation. Over time, this has contributed to inefficiencies and ineffectiveness. This has real-world consequences for businesses, transport users, and the wider economy.
- 16 Following on from Waka Kotahi NZ Transport Agency's (Waka Kotahi's) regulatory failure, there has been a renewed focus on ensuring that transport regulatory agencies (Civil Aviation Authority, Maritime New Zealand and Waka Kotahi) have the necessary objectives, functions and powers to carry out the roles of being effective transport regulators.
- 17 In March 2021, the House of Representatives passed the first Regulatory Systems (Transport) Amendment Act 2021 (RSTA No. 1). This legislation was the first of its kind for transport. These regulatory systems Bills are legislative vehicles for making changes to primary legislation, in an omnibus Bill, to maintain and improve the transport regulatory system to ensure that it remains up-to-date and fit for purpose.
- 18 While the RSTA No. 1 was being progressed through the House under my charge, the Ministry of Transport began developing the policy work for further regulatory systems improvements, to provide for a series of bills that will be introduced every couple of years. These bills form a core part of the regulatory stewardship work programme for the transport legislative framework.

Analysis

- 19 This package of regulatory proposals relates to land transport (both road and rail) and maritime transport. In total the consultation document seeks views on 39 proposals across these transport modes.
- 20 No changes to civil aviation legislation are proposed as part of this legislative amendment package. The Civil Aviation Bill is currently being considered by the Transport and Infrastructure Select Committee and that legislation will replace and repeal the Civil Aviation Act 1990 and the Airport Authorities Act 1966. Accordingly, no civil aviation-related legislative changes are currently required.
- 21 The individual proposals are numbered, summarised, and the proposed solutions outlined, in the table attached at **Appendix Three**. The policy development process for the proposals was a collaborative process with

Waka Kotahi and Maritime New Zealand, identifying regulatory gaps, opportunities for efficiencies and improvements, creating consistent powers to perform the same functions, and proposing options that are feasible, effective, and proportional.

22 In developing the proposals for public consultation, I am seeking the transport sector's views on a package of proposals that together seek to achieve five objectives:

- 22.1 **Improving the effective use of technology.** Legislation needs to be flexible enough to enable the use of technology. Proposals under this objective future-proof the regulatory framework and enable cost savings for the regulators.
- 22.2 **Clarifying the regulatory roles, responsibilities and requirements in the regulatory system.** The effective application of legislation can be hindered when the underlying purpose of a regulatory role responsibility or compliance requirement has not been effectively determined, or no longer reflects the current situation. Proposals under this objective support coherence of the regulatory framework by better clarifying the intent.
- 22.3 **Maintaining safety through responsive regulatory action.** Legislation needs to provide regulators with responsive regulatory powers that are flexible enough to a low maintenance of safety standards, while minimising unnecessary compliance costs for operators.
- 22.4 **Addressing inconsistencies, improving system efficiencies and removing duplication.** Over time, as legislation is amended to reflect different legislative frameworks and approaches to compliance, these changes have created inconsistencies and errors. Proposals under this objective address minor drafting errors and technical amendments.
- 22.5 **Modernising transport legislation to ensure it is fit-for-purpose.** Legislation is an asset that requires maintenance and care over time to ensure it is effective, fit-for-purpose and accessible. Proposals under this objective support legislative coherence.

There are a number of key land focused proposals being consulted on

23 The key land proposals that I seek approval to consult on are:

- 23.1 modernising the use of technology in the transport system, through enabling average speed camera use, enabling automated infringement processing, and electronic service of regulatory notices
- 23.2 clarifying regulatory roles and responsibilities through introducing proactive road closure powers for Waka Kotahi on the State highway network, consideration of the cost recovery provision for residents

parking permits and clarifying pedestrian access to approved areas of the motorway network

- 23.3 introducing reactive accident and incident investigation powers for the rail safety regulator (Waka Kotahi), and modernising the enforcement regime for Transport Service Licences
 - 23.4 improvements to legislation, including modernising roading provisions, incorporating the name 'Waka Kotahi' in transport legislation, and improvements to the emergency powers for the Director of Land Transport.
- 24 The consultation document also includes a package of minor matters to address inconsistencies, remove duplication and increase overall system efficiencies. These proposals include addressing time constraints in the applications process, clarifying the ability of Waka Kotahi to declare State highways, and simplifying the Rule consultation process to increase consistency across transport legislation.

There are several key maritime transport proposals

- 25 The key maritime proposals that I seek approval to consult on are:
- 25.1 addressing inconsistencies, improving system efficiencies and aligning with international requirements through minor, technical changes that enable New Zealand to meet its Maritime Labour Convention obligations
 - 25.2 maintaining safe and responsive regulatory action through refining Maritime New Zealand's powers of investigation and introducing a provision for the Minister of Conservation to more effectively manage maritime safety in the Subantarctic and Kermadec Islands
 - 25.3 improvements to the legislation, including modernising the penalties for safety offences in the Maritime Transport Act 1994, updating the maximum level of fines and infringement fees for navigation bylaw offences, and amendments to the Maritime (Offences) Regulations 1998, and the Marine Protection (Offences) Regulations 1998.
- 26 There are a number of minor legislative matters being addressed through the maritime proposals, to correct technical issues, standardise requirements, and ensure New Zealand is fully meeting its Maritime Labour Convention obligations.

Changes are also proposed to modernise the approach to offences and penalties

- 27 Both consultation documents also include proposed changes to the empowering provisions for regulations in the Maritime Transport Act 1994, the Land Transport Act 1998, and the Government Roding Powers Act 1989. These changes support alignment with the Ministry's Effective Financial Penalties Framework (the Framework) and the associated Categorisation

Tool (the Tool)¹, which specifically recognises persons deemed to be 'special regulated individuals' (SRIs).

- 28 SRIs are persons who have additional or specific transport responsibilities, above and beyond 'ordinary' individuals, such as masters of ships or holders of a Transport Service Licence. The Framework provides for higher fines and fees for SRIs than for 'ordinary' individuals, to recognise the extra expectation that we have of their behaviour.
- 29 This change alone will not adjust the penalty levels for each offence as set out in regulations made under these Acts but supports the Ministry to implement the Framework and Tool.
- 30 Therefore, I propose publishing the Framework and the Tool on the Ministry of Transport's website at the same time as the land and maritime consultation documents. This will help the wider transport sector, government agencies, and interested members of the public understand the rationale behind this change.
- 31 The draft maritime consultation paper also contains proposed changes to the penalty amounts for offences in the Maritime (Offences) Regulations 1998, and the Marine Protection (Offences) Regulation 1998 (maritime proposals 5.4.1 and 5.4.2). These changes may progress through RSTA 2 as consequential changes or via a aligned Regulation change process, which will be determined at the policy approval stage

Options for public consultation

- 32 I propose to release for public consultation the attached draft consultation documents: *Regulatory Systems (Transport) Amendment- Land Proposals* and *'Regulatory Systems (Transport) Amendment – Maritime Proposals'*.
- 33 The proposed changes are relatively technical in nature and concern unrelated proposals across regimes in the transport regulatory system. However, I consider giving the public, and especially the transport sector, the opportunity to assess and provide comment on the package of proposals, will improve the final policy decisions.
- 34 There are a number of proposals I anticipate will attract a level of public or media interest. Some are due to the proposal introducing or amending fees and fines, whereas others are proposing changes to the powers of different actors in the land transport system.
- 35 Officials are planning a series of stakeholder meetings with key industry groups to discuss the proposals. A consultation strategy is also being prepared, which includes consideration of any feedback or media interest these proposals may receive.

¹ The Framework and the Tool are internal Ministry documents that (when a financial penalty has been identified as an appropriate policy option) guide the setting of fair and consistent financial penalties across the transport sector.

Consultation would run for six weeks between May and June 2022

- 36 I propose a public consultation process for six weeks between mid May and late June 2022. Given the broad scope of the consultation documents and the technical nature of the proposals, I consider that a six week period is appropriate. I will report back to Cabinet with the outcomes of the consultation and seek policy decisions for proposed legislation in August 2022.

Regulatory work programme

- 37 Historically, the Minister of Transport has taken a paper to Cabinet each year that provided a long list of secondary legislation change projects. The last paper of this kind was presented on 12 June 2019 [DEV 19-MIN-0165 refers]. No paper was prepared in 2020 due to the uncertainty the COVID-19 outbreaks created for resourcing.
- 38 The reporting requirement was made by the Cabinet Strategy Committee in 1999 to address specific concerns relating to the development of some transport Rules [STR (99) 19/7 refers]. However, there have since been significant improvements in the oversight and management of the transport Rules programme.
- 39 Understandably, the focus of Cabinet feedback has recently been on matters that involve significant policy changes and/or are high public interest.
- 40 Given the high-level nature of information provided in such papers, as further detail is provided for in further project specific Cabinet papers, the provision of this type of paper is no longer necessary or the best use of Cabinet's time.
- 41 I am proposing to release the Ministry from this historical requirement in favour of quarterly updates to be published on the Ministry's website.
- 42 Where necessary, specific information and redactions would be made in line with the Official Information Act 1982.
- 43 Publishing work programmes for the three modes of transport will help to maintain transparency and accountability that would have occurred with a Cabinet process, while also making the work programme accessible to the public.

Implementation

- 44 Following Ministerial decisions in 2022 and ensuing policy work, proposed changes will be made through an omnibus amendment Bill, the 'Regulatory Systems (Transport) Amendment Bill No. 2'.
- 45 The table below sets out the proposed timeframe from public consultation through to introduction of the Bill to the House, to implement the changes to primary legislation:

| Milestone/Activity | Timeframe |
|---------------------------------------|--------------------------|
| Consultation documents to be released | Mid May 2022 |
| Public consultation period | Mid May – late June 2022 |
| s 9(2)(f)(iv) | s 9(2)(f)(iv) |
| s 9(2)(f)(iv) | s 9(2)(f)(iv) |
| s 9(2)(f)(iv) | s 9(2)(f)(iv) |
| s 9(2)(f)(iv) | s 9(2)(f)(iv) |

Financial Implications

- 46 There are no financial implications in releasing the consultation documents. Whether there are financial implications for the individual proposals depends on the detailed design of the final proposals for regulatory change.

Costs for the land transport regulator: Waka Kotahi NZ Transport Agency

- 47 Preliminary analysis of each of the proposals suggests that there will be no financial implications for Waka Kotahi. The implementation of the proposals is overwhelmingly able to be met thorough agency baselines. Where a proposal may require additional resource to meet an expanded function (such as the additional regulatory powers for rail), these are able to be funded through reallocations without additional Crown funding.
- 48 Following public consultation, more detailed work will be undertaken to design the improvements in the regulatory functions in the transport agencies.

Costs for the maritime transport regulator: Maritime New Zealand

- 49 Preliminary analysis of the each of the proposals suggests that there will be no, or minimal, financial implications for Maritime New Zealand. The implementation of the proposals is overwhelmingly able to be met thorough agency baselines.
- 50 Following public consultation, more detailed work will be undertaken to design the improvements in the regulatory functions in the transport agencies.

Costs for businesses and individuals

- 51 Preliminary analysis also suggest that individuals and businesses will bear no additional financial impacts. But the public consultation process will provide greater insight into the nature and extent of the financial implications the proposals may have on businesses and individuals. The proposals have the

intent of removing *unnecessary* compliance burden on businesses and individuals.

- 52 Improving regulatory powers may have the flow-on effect of increasing the *necessary* compliance burden for businesses or individuals. Where this is the case, this compliance burden is to ensure that the public is being safeguarded.

Legislative Implications

- 53 The release of the consultation documents does not directly raise legislative implications.
- 54 To give effect to the proposals an omnibus style Bill will be required to make changes to the Land Transport Act 1998, Railways Act 2005, Land Transport Management Act 2003, Government Rounding Powers Act 1989 and Maritime Transport Act 1994. Consequential amendments will also be made to the Land Transport (Offences and Penalties) Regulations 1999, Maritime (Offences) Regulations 1998 and Marine Protection (Offences) Regulations 1998
- 55 A Bill to make the proposed legislative changes has been placed on the Legislation Programme and given the priority category 5 (drafting instructions to be provided to the Parliamentary Counsel Office in the year).

Impact Analysis

- 56 The table attached at **Appendix Three** outlines which proposals from both the land and maritime consultation documents require regulatory impact analysis (RIA), and which have been exempt

Regulatory Impact Analyses for land proposals

- 57 For four land transport proposals, the impact analysis requirements apply because the consultation documents include government regulatory proposals. Therefore, three Regulatory Impact Statements (RISs) are required, and two are attached to this Cabinet paper for consideration (**Appendix Four**).
- 58 The first RIS covers State highway closure powers (proposal 2.2), limited access roads (proposal 3.3), and Transport Service Licence enforcement powers (proposal 3.2). The second RIS relates to the proposal to provide reactive investigatory powers for the rail regulator, Waka Kotahi (proposal 3.1).
- 59 A third RIS will cover improvements to emergency powers for the Director of Land Transport (proposal 4.3) and will be provided when final policy decisions are sought in August 2022. This will enable the Ministry to take a broad approach to consultation to better understand what improvements could look like, with options being refined following consultation.

- 60 The RISs were reviewed by the Ministry's RIA Panel and both given a 'meets' rating under the quality assurance criteria as interim RISs for the purpose of seeking approval to consult. Any gaps will likely be mitigated by public consultation..

Regulatory Impact Analysis for maritime proposals

- 61 RIA for the Maritime proposals is included in the maritime consultation document in relation to: modernising the penalties for the safety offences in the Maritime Transport Act 1994 (proposal 5.2), updating the maximum level of fines and infringement fees for navigation bylaw offences (proposal 5.3), and amending the Maritime (Offences) Regulations and the Marine Protection (Offences) 1998 (proposal 5.4).
- 62 The consultation document was reviewed by the Ministry's RIA Panel (with a member from New Zealand Search and Rescue) and given a 'meets' rating under the quality assurance criteria as interim impact analysis for the purpose of seeking approval to consult. Any gaps will likely be mitigated by public consultation.

Proposals exempt from Regulatory Impact Analysis requirements

- 63 The Treasury's RIA team has determined that the remaining land and maritime transport proposals are exempt from the requirement to provide a RIS on the basis that they either:
- 63.1 have no or only minor impacts on businesses, individuals, and not-for-profit entities
 - 63.2 are suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2019), or
 - 63.3 the Government has limited statutory decision-making discretion or responsibility for the content of proposed delegated legislation.

Climate Implications of Policy Assessment

- 64 The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment has been consulted and confirms that the CIPA requirements do not apply to the proposals as the threshold for significance is not met.

Population Implications

- 65 There are no population implications.

Human Rights

- 66 The proposals contained in the attached consultation documents are aimed at improving the safety and security of the land and maritime transport regulatory systems. This includes ensuring appropriate and consistent recognition and protection of public safety under various pieces of transport legislation. As

such, proposals contained in the attached consultation documents may have positive implications for human rights.

- 67 Where proposals are enabling the use of technology, there will be an ongoing ability to opt for the traditional route of being sent a notice via mail. This recognises that while technology can be enabling for many people and organisations, it can act as a barrier for others.
- 68 There are a number of maritime proposals that seek to ensure New Zealand is meeting its international Maritime Labour Convention obligations. These obligations are specifically aimed at ensuring the safety and wellbeing of persons working onboard ships, and would likely have a positive impact on the seafarer employment conditions.

Consultation

- 69 The Ministry has engaged transport regulatory agencies in the development of proposals for consultation. This process has included working closely with Waka Kotahi and Maritime New Zealand to understand implementation issues, impacts and interdependencies.
- 70 Officials have also consulted New Zealand Police, Land Information New Zealand, Ministry of Justice, the Department of Internal Affairs, and the Department of Conservation on the contents of this paper, and the attached consultation document and Regulatory Impact Statements. The Treasury and Department of Prime Minister and Cabinet have been informed.

Proactive Release

- 71 I intend to proactively release this Cabinet paper and associated minute at the same time as the consultation documents are launched. This will support engagement and an understanding of the proposals in the consultation documents.

Recommendations

The Minister of Transport recommends that Cabinet Economic Development Committee:

- 1 **note** that regulatory stewardship is a public service principle under the Public Service Act 2020, a statutory responsibility for all government departments and is also a key part of the Government Expectations for Good Regulatory Practice;
- 2 **note** that there is a renewed focus on ensuring that transport regulatory agencies (Civil Aviation Authority, Maritime New Zealand, and Waka Kotahi NZ Transport Agency) have the objectives, functions and powers to carry out the roles of being effective transport regulators;
- 3 **note** that proposals are organised under five objectives, aimed at ensuring the transport legislative framework supports the key levers of regulation and

investment, and meets the Government's vision and expectation for the transport system;

- 4 **note** that initial assessments suggest that no additional Crown funding will be required to implement final policy changes, but that costs will be further explored based on consultation feedback;
- 5 **note** public consultation on the attached consultation documents will run for a six-week period;
- 6 **note** that the Ministry of Transport's Effective Financial Penalties Framework and Categorisation Tool will be published alongside the consultation documents for the land and maritime proposals;
- 7 **agree** to public consultation on the attached draft consultation documents entitled: '*Regulatory Systems (Transport) Amendment- Land Proposals*' and '*Regulatory Systems (Transport) Amendment – Maritime Proposals*';
- 8 **authorise** the Minister of Transport to approve any final changes to the attached consultation documents;
- 9 **invite** the Minister of Transport to report back to the Cabinet Economic Development Committee in August 2022 with the outcome of consultation and final policy proposals;
- 10 **note** that the Ministry of Transport will publish a copy of this Cabinet paper, the Cabinet Committee minute, the consultation documents and Impact Statements on its website;
- 11 **agree** to release the Ministry of Transport from the requirement to present an annual secondary legislation change work programme to Cabinet (STR (99) 19/7 refers) ;
- 12 **note** that the Ministry of Transport will publish quarterly work programmes on its website.

Authorised for lodgement

Hon Michael Wood

Minister of Transport

Appendices

Appendix One: Regulatory Systems (Transport) Amendment Bill – Land Proposals.

Appendix Two: Regulatory Systems (Transport) Amendment Bill – Maritime Proposals.

Appendix Three: Table summarising individual proposals and status of proposals for Regulatory Impact Analyses requirements.

Appendix Four: Regulatory Impact Analyses (Impact Summary for three land related proposals, and Regulatory Impact Statement for rail investigation powers).

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TE MANATŪ WAKA
MINISTRY OF TRANSPORT

Appendix Three – Table of individual proposals and status of the proposals for Regulatory Impact Analyses requirements

| Proposal | Description | Exemption grounds |
|--|---|--|
| Road and rail proposals | | |
| 1.1 Electronic service of documents and electronic signatures | Expressly allows for electronic alongside traditional service of documents. | <p><u>Exempt – technical & minor impacts:</u> Suitable for Revision Bill (as provided for in the Legislation Act 2012).</p> <p>No or only minor impacts on businesses, individuals, and not-for-profit entities</p> |
| 1.2 Clarifying the enforcement of average (point-to-point camera) speeding offences | Clarifies and/or enables average speed cameras on network (inclusion of multiples of images and speed calculation formula). | <p><u>Exempt – technical, discretionary & minor impacts:</u> Suitable for Revision Bill (as provided for in the Legislation Act 2012).</p> <p>Relevant issue has already been adequately addressed in Road-to-Zero consultation. This simply improves enforceability.</p> <p>No or only minor impacts on businesses, individuals, and not-for-profit entities.</p> |
| 1.3 Provision to allow future use of automated infringement offences | <p>Expressly allows for automated decision-making as a process (modelled on Tax Administration Act).</p> <p>This provision would add a clarifying provision that automated infringements are the same as human issued infringement notices. The defences and rights of challenge and appeal against the notices remain unchanged.</p> | <p><u>Exempt – technical:</u> Suitable for Revision Bill (as provided for in the Legislation Act 2012).</p> <p><u>Exempt – minor impacts:</u> Simply adds to existing process of infringement processing. No or only minor impacts on businesses, individuals, and not-for-profit entities.</p> |

| Proposal | Description | Exemption grounds |
|---|--|--|
| 2.1 Removing the restriction of cost recovery charging for residents parking by road controlling authorities under the Land Transport Act 1998 | <p>There is a double restriction in the amount of money that Councils can charge for a resident permit scheme. One is in the Land Transport Act, which restricts the Councils to charge the amount to operate a grant a permit; while section 150 Local Government Act 2002 restricts Councils to a "reasonable amount".</p> <p>This proposal would remove the first restriction allowing Councils more flexibility in what they can charge for residents parking.</p> | <p><u>Exempt:</u> Government has limited statutory decision-making discretion or responsibility for the content of proposed delegated legislation.</p> |
| 2.2 Ability for Waka Kotahi to proactively close roads for safety concerns | Provides for clearer powers for WK to proactively close roads for safety and traffic management. | Summary impact statement required. |
| 2.3 Clarifying pedestrian access to approved areas and infrastructure within motorway corridor | Clarifies that where pedestrians have access to approved areas of motorway (e.g. to access bus stops), they are not committing an offence | <p><u>Exempt – minor impacts:</u> Clarifies an area of the existing law between motorway design and offences regime. No or only minor impacts on businesses, individuals, and not-for-profit entities.</p> |
| 3.1 Reactive investigation powers under the Railways Act 2005 | <p>Aligns regulator powers for Waka Kotahi with other regulators over accidents/incidents. Uses Civil Aviation Bill and Health and Safety at Work Act.</p> <p>This broadens Waka Kotahi's powers from an existing co-regulatory model towards a more risk-based and responsive regulator. Aligns regulator powers with other similar transport regulators</p> | Full impact statement required. |

| Proposal | Description | Exemption grounds |
|--|--|--|
| 3.2 Modernising the enforcement of Transport Service Licences | Suite of proposals to improve the TSL system (includes offences, audits of purported service providers, extending suspension powers for health and safety reasons). | Summary impact statement required. |
| 3.3 Limited Access Roads | Suite of proposals to clarify LAR in legislation and strengthen regulatory powers, e.g. mandatory registration of crossing places, better provision enforcement of offences, and improving the administration of crossing places notices | Summary impact statement required. |
| 4.1 Time constraints in application process under Railways Act 2005 | <p>This would include a “stop-the-clock” provision that allows for applications to continue beyond the legislative timeframe when information is requested from Waka Kotahi.</p> <p>This would allow more time for information to be provided by applicants, instead of the current requirement to decline the process and restart from the beginning.</p> | <p><u>Exempt – minor impacts:</u> Proposal has beneficial impact on individual or businesses.</p> |
| 4.2 Simplifying the Rule consultation process to create consistency | <p>This would create a consistent process for public consultation between proposals for regulatory funding and Rules proposals.</p> <p>This would streamline the requirements and remove an inconsistency for what is essentially an identical process</p> | <p><u>Exempt – technical & minor impacts:</u> Suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2012).</p> <p>Proposal has no impact on individual or businesses. Consultation requirements still in place</p> |

| Proposal | Description | Exemption grounds |
|---|--|--|
| 4.3 Emergency powers in the land transport system | The COVID-19 pandemic has prompted re-consideration as to whether the scope of the Director's emergency powers are sufficient to deal with any future emergency or reactive situations, such as a natural, pandemic or cyber emergency or the need for an urgent product recall. The current Director's powers are limited by legislation, as demonstrated by the 2020 and 2021 nationwide lockdowns. In these situations, the Director's inability to effectively and efficiently waive regulatory requirements without amending legislation was highlighted. There are no other options for consideration associated with this proposal, with consultation instead seeking feedback on whether the Director's powers should be extended, and to what extent. | Full impact statement required. Supplementary Analysis Report will be provided when final policy decisions taken in August 2022. |
| 5.1 Modernising roading provisions and consequential drafting improvements | Lifts and shifts sections 315-362 LGA74 into GRPA. | <u>Exempt – technical:</u> Suitable for inclusion in Revision Bill (as provided for in the Legislation Act 2012). |
| 5.2 Options for the inclusion of Waka Kotahi in the New Zealand Transport Agency's name in legislation | Would codify the te reo Maori component "Waka Kotahi" into legislation | <u>Exempt – technical & minor impacts:</u> Suitable for inclusion in Revision Bill or Statutes Amendment Bill (as provided for in the Legislation Act 2012). Would only change the legislative name, no impacts on the public or government. No or only minor impacts on businesses, individuals, and not-for-profit entities. |

| Proposal | Description | Exemption grounds |
|---|---|---|
| 5.3 Emergency powers in the land transport system | The COVID-19 pandemic has prompted re-consideration as to whether the scope of the Director's emergency powers are sufficient to deal with any future emergency or reactive situations, such as a natural, pandemic or cyber emergency or the need for an urgent product recall. The current Director's powers are limited by legislation, as demonstrated by the 2020 and 2021 nationwide lockdowns. In these situations, the Director's inability to effectively and efficiently waive regulatory requirements without amending legislation was highlighted. There are no specific options for consideration associated with this proposal, with consultation instead seeking feedback on whether the Director's powers should be extended, and to what extent. | Full impact statement required. Supplementary Analysis Report will be provided when final policy decisions taken in August 2022. |
| 5.4 Update the maximum level of fines and infringement fees that can be set through regulations in the Land Transport Act 1998 | This change supports alignment with the Ministry's Effective Financial Penalties Framework, which specifically recognises persons deemed to be 'special regulated individuals' (SRIs). SRIs are persons who have additional or specific responsibilities, above and beyond 'ordinary' individuals, such as holders of a Transport Service Licence. The Framework provides for higher fines and fees for SRIs than for 'ordinary' individuals, to recognise the extra expectation that we have of their behaviour. | <u>Technical – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities. |
| Maritime proposals | | |

| Proposal | Description | Exemption grounds |
|--|---|--|
| 1.1 Electronic service of documents and electronic signatures | Expressly allows for electronic alongside traditional service of documents. | <u>Exempt – technical & minor impacts:</u> Suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2012). No or only minor impacts on businesses, individuals, and not-for-profit entities |
| 2.1.1 Inconsistency with prohibiting charges for placing seafarers in employment | Clarify section 27 to make it more explicit that seafarer recruitment and placement services cannot charge seafarers for their services | <u>Exempt – technical & minor impacts:</u> Suitable for inclusion in Revision Bill (as provided for in the Legislation Act 2012). No or only minor impacts on businesses, individuals, and not-for-profit entities. |
| 2.1.2 Defining “articles of agreement” to include Seafarer Employment Agreements | This definition requires amendment to ensure that terms used in the MTA are in line with international conventions and common use. | <u>Exempt – technical:</u> Suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2012). |
| 2.1.3 Inconsistency with the Maritime Labour Convention requirement that a seafarer’s record of employment not include any statement as to the quality of the seafarer’s work | The requirement that the certificate comment on the seafarer’s work is in direct contravention of Standard A2.1 of the Maritime Labour Convention, adopted by NZ in 2017. That standard requires NZ to ensure “seafarers shall be given a document containing a record of their employment on board the ship” It goes on to say that this document “shall not contain any statement as to the quality of the seafarers’ work or as to their wages.” It is understood that the exclusion of comment on the quality of the seafarer’s work is a recognition that those comments could be used to disadvantage those seafarers who advocate for the rights of themselves and other seafarers | <u>Exempt – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities. |
| 2.1.4 Aligning with the Maritime Labour | Section 26(4) of the MTA allows the Director to approve the employment of school-aged persons to | <u>Exempt – technical:</u> This is an essential (and minimum necessary) to |

| Proposal | Description | Exemption grounds |
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| Convention to prohibit people younger than 16 years old from working on a ship | <p>carry out work on a ship. This directly conflicts with the MLC, which strictly prohibits the employment of people under 16 years of age to work on a ship.</p> <p>We propose repealing section 26(4) entirely to remove this conflict. This will ensure our domestic legislation remains aligned and consistent with international convention obligations. This change is also consistent with the Education and Training Act 2020, which prohibits the employment of children under the age of 16 years within school hours.</p> | comply with international obligations that are already binding on New Zealand. |
| 2.1.5 Clarifying rule-making powers to support the implementation of Maritime Labour Convention requirements | <p>Section 36(1)(b) of the MTA enables the use of rules to implement requirements set out in conventions. This section limits the scope for what these rules may cover. It does not reflect the much more comprehensive scope of the modern MLC, which has expanded on the earlier treaties to include standards around engagement and working conditions of seafarers, repatriation of seafarers, and financial security requirements.</p> <p>We propose amending section 36 to clarify the scope of the rule-making powers to cover the relevant aspects of the modernised MLC.</p> | <p><u>Exempt – technical:</u> This proposal only clarifies existing powers to ensure our regulator can comply with international obligations already binding on New Zealand.</p> |
| 2.2 Standardise the requirements to notify incidents and accidents | <p>This would replace wording in section 31(3) with equivalent wording in section 31(1) for clarity – is simply a reordering of defined terms.</p> | <p><u>Exempt – technical:</u> Suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2012).</p> |
| 2.3 Correct a technical issue regarding the definition of “unit of account” | <p>This would clarify and extend the application of the definition of unit of account in Parts 1, 7 and 25 of the MTA.</p> | <p><u>Exempt - technical:</u> Suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2012).</p> |

| Proposal | Description | Exemption grounds |
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| 2.4 Bring floating production and storage and offloading units (FPSO) within scope of the maritime levy | FPSO fall outside the clear definition of a ship in the MTA, but are subject to regulation under that Act, in particular they have some of the characteristics of a ship when in transit between offshore installations. A change is needed to specify they are liable for the Maritime Levy | <u>Exempt – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities. |
| 3.1 Update the definition of “convention” | Sections 2 and 22 of the MTA require that international maritime conventions adopted by New Zealand be declared by way of order in council and that any amendments to adopted conventions also be declared in an order in council. The requirement to ‘re-declare’ amended conventions for the purposes of the MTA adds what appears to be an unnecessary layer of complexity to the implementation process. | <u>Exempt – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities. |
| 4.1 Confer powers on the Minister of Conservation to effectively manage maritime safety in the Subantarctic and Kermadec Islands | <p>Under the Resource Management Act 1991, the Minister of Conservation has certain powers akin to a local authority in respect of the Islands. However, these powers do not extend to the MTA. This means that no-one has the authority to exercise the powers provided under Part 3A of the MTA to regulate maritime safety around the Islands.</p> <p>We propose extending the functions, duties, responsibilities and powers of a regional council relating to maritime safety provided for under Part 3A of the MTA to the Minister of Conservation. This will allow the Minister of Conservation to manage maritime safety at the islands, with access to a</p> | <u>Exempt – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities. |

| Proposal | Description | Exemption grounds |
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| | system of powers in line with the rest of New Zealand. | |
| 4.2.1 Clarify the threshold for starting an investigation | It is proposed to amend section 54A(1)(b)(i) to replace the word “believes” with “has reasonable cause to suspect”. to better align the section with the original policy intent. | <u>Exempt – technical & minor impacts:</u> Suitable for inclusion in a revision Bill (as provided for in the Legislation Act 2012). No or only minor impacts on businesses, individuals, and not-for-profit entities |
| 4.2.2 Provide certainty that breaches of maritime document holders’ duties are grounds for investigation | It is proposed to amend section 54A to provide certainty that breaches of a document holder’s duties are a ground for investigation. Non compliance as grounds for investigation is already in place indirectly through the requirement that maritime document holders be ‘fit and proper persons’ | <u>Exempt – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities |
| 5.1 Update the maximum level of fines and infringement fees that can be set through regulations in the Maritime Transport Act 1994 | This change supports alignment with the Ministry’s Effective Financial Penalties Framework, which specifically recognises persons deemed to be ‘special regulated individuals’ (SRIs). SRIs are persons who have additional or specific responsibilities, above and beyond ‘ordinary’ individuals, such as masters of ships. The Framework provides for higher fines and fees for SRIs than for ‘ordinary’ individuals, to recognise the extra expectation that we have of their behaviour. This amendment supports parallel proposals to amend the Maritime (Offences) Regulations 1998 | <u>Exempt – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities. |

| Proposal | Description | Exemption grounds |
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| | and the Marine Protection (Offences) Regulations 1998. | |
| 5.2 Modernise the penalties for the safety offences in the MTA | The safety offences in Part 6 of the Maritime Transport Act 1994 address acts or omissions that can cause unnecessary danger or risk to people and property, or that have caused actual harm or damage. The financial penalties that apply to these offences have generally not been updated since the 1990s, do not reflect to potential or actual severity and likelihood of harm, and are well below penalty levels applied for similar offending in more modern legislation such as the Health and Safety at Work Act 2015. We propose increasing the maximum financial penalties possible for these offences, as assessed using the Ministry's Effective Financial Penalties Framework and Categorisation Tool. | <u>Exempt – minor impacts:</u> No or only minor impacts on businesses, individuals, and not-for-profit entities. |
| 5.3.1 Amend the Maritime (Offences) Regulations 1998 | This includes a number of minor and technical changes to the wording of offences to clarify requirements and ensure they align with international maritime agreements New Zealand is a party to. Some penalty amounts have also been adjusted, reflecting application of the Ministry's Effective Financial Penalties Framework and Categorisation Tool. | Summary impact statement required. |
| 5.3.2 Amend the Marine Protection (Offences) Regulations 1998 | changes to the wording of offences to clarify requirements and ensure they align with international maritime agreements New Zealand is a party to. Some penalty amounts have also been adjusted, reflecting application of the Ministry's | Summary impact statement required. |

| Proposal | Description | Exemption grounds |
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| | Effective Financial Penalties Framework and Categorisation Tool. | |

PROACTIVELY RELEASED BY
TE MANATŪ WAKA
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