

Proactive Release

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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"> (i) the Government of any other country or any agency of such a Government; or (ii) any international organisation
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)



19 February 2025

OC250097

Hon Chris Bishop

Action required by:

Minister of Transport

Monday, 24 February 2025

DRAFT CABINET PAPER: REVISED OPTIONS FOR ADDRESSING ANTI-SOCIAL ROAD USE

Purpose

This briefing updates you on work to strengthen offences and penalties to better deter anti-social road user behaviour and seeks your direction on next steps.

Key points

- The Government's first quarterly action plan for 2025 includes taking Cabinet decisions on legislation to crack down on street racing and other anti-social road user behaviour. You and the Minister of Police are jointly responsible for delivering this programme.
- In January 2025, Ministers Mitchell and Brown consulted on a draft Cabinet paper that would:
 - establish a presumptive court sentence of destruction or forfeiture of vehicles involved in street racing, fleeing Police, or intimidating convoys (unless it would be manifestly unjust or cause extreme hardship to issue the penalty)
 - establish a presumptive sentence of vehicle destruction or forfeiture for vehicle owners who do not provide all the information they have to help identify the offender
 - give Police more powers to manage illegal vehicle gatherings by closing roads or public areas and issuing infringements, and
 - increase the infringement fee for making excessive noise from or within a vehicle from \$50 to \$1,000 and enable the future use of noise cameras to issue infringement offences.
- In general, feedback following departmental consultation is that there is a limited evidence base underpinning these proposals, and implementation details and costs are incomplete.¹ Three proposals are particularly contentious:

¹ No feedback was received through ministerial consultation on the draft Cabinet paper.

- **Enabling noise camera technologies as an automated infringement system** - as there is no commercially viable technology, it is difficult to assess and manage the privacy risks. The Privacy Commissioner has requested a comment in the Cabinet paper outlining his concerns. We recommend you do not progress this proposal and reconsider when the technology is available.
- **Courts must order offending vehicles be destroyed or forfeited.** This removes judicial discretion in sentencing ^{s 9(2)(f)(iv)}
- **Raising the infringement penalty for making excessive noise within or on a vehicle** - (e.g. by playing a stereo too loud) from \$50 to \$1,000 may be seen as disproportionate (for comparison driving drunk has a maximum infringement penalty of \$700). We and the Ministry of Justice recommend lowering this fee to \$300.
- We have attached an updated Cabinet paper (refer to Annex 1). This is the same as the one Minister Brown approved, with some minor amendments to clarify proposals in response to comments from departments. If you wish to make the changes suggested above, or others, these will need to be agreed with the Minister of Police.

Recommendations

We recommend you:

- 1 **indicate your preference to:**

remove proposals related to noise camera technologies from the Cabinet paper before lodging due to New Zealand Bill of Rights Act 1990 (NZBORA) and privacy risks (recommended)	Yes / No
AND/OR	
replace proposals requiring that courts must order offending vehicles destroyed or forfeited except in special circumstances with a proposal to remove the 'three strikes' rule so that vehicle destruction is available as a court penalty after the first offence, but not required (recommended)	Yes / No
AND/OR	
replace the proposal to raise the infringement penalty from \$50 to \$1000 to a more proportionate fine of \$300 (recommended)	Yes / No
- 2 **agree to subject to any feedback, lodge the attached Cabinet paper on 5 March for consideration at ECO on 12 March 2025** Yes / No
- 3 **refer this briefing to Hon Mark Mitchell, Minister of Police** Yes / No



Chris Nees
Acting Deputy Chief Executive – Sector
Strategy
19/02/2025

Hon Chris Bishop
Minister of Transport
..... / /

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

Contacts

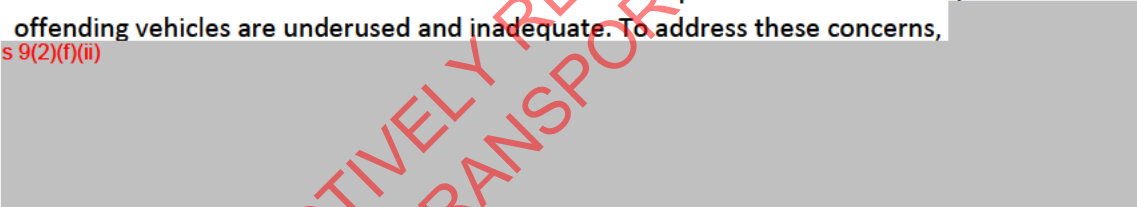
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Katrina Quickenden, Manager – Regulatory Reform		✓

DRAFT CABINET PAPER: REVISED OPTIONS FOR ADDRESSING ANTI SOCIAL ROAD USE

You and the Minister of Police are responsible for work to deter anti-social road users

- 1 Anti-social road user activities include fleeing drivers, illegal street racing, intimidating convoys, unlawful dirt bike gatherings and siren battles. These activities can create public safety risks and cause harm to communities. Police reporting suggests that some types of events are growing in frequency and sophistication, spurred on in part by social media coverage and planning.
- 2 A priority for the previous Minister of Transport (Hon Brown) alongside the Minister of Police (Hon Mitchell) was to strengthen offences and penalties to better deter the anti-social road user behaviour. This would deliver on the National – New Zealand First Coalition Agreement action to reform the law to reduce fleeing driver incidents. The Government has since included an action to take Cabinet decisions on legislation to crack down on street racing and other anti-social road user behaviour as part of its first quarterly action plan for 2025.

We developed a suite of proposals intended to better deter anti-social road users

- 3 Ministers Brown and Mitchell consider that the current powers to seize and dispose of offending vehicles are underused and inadequate. To address these concerns, s 9(2)(f)(ii)

- 4 Since then, the previous Minister of Transport and the Minister of Police have agreed to updated proposals. Current proposals are detailed in Annex 1 of the attached draft Cabinet paper. At a high level, they propose to:
 - establish a presumptive court sentence of destruction or forfeiture of vehicles involved in street racing, fleeing Police, or intimidating convoys (removing judicial discretion except where it would be manifestly unjust or cause extreme hardship to issue the penalty)
 - establish a presumptive sentence of vehicle destruction or forfeiture for vehicle owners who do not provide all the information they have to help identify the offender
 - give Police more powers to manage illegal vehicle gatherings by closing roads or public areas and issuing infringements, and
 - increase the infringement fee for making excessive noise from or within a vehicle from \$50 to \$1,000 and enable the future use of noise cameras to issue infringement offences.
- 5 A key change is that the paper now seeks agreement to limit the initial impoundment of a vehicle involved in an offence from 6 months to 28 days. Under the Land Transport Act 1998,

the vehicle owner is responsible for paying for impoundment to get their vehicle back, however, with the new approach to vehicle destruction/forfeiture, we would be removing the incentive for offenders to pay (given the increased likelihood of forfeiture). These costs would need to be met by the storage operator or the Crown. This is an issue for the current 6-month impoundment regime due to the storage cost.

- 6 Replacing the 6-month impoundment for fleeing drivers (introduced under the previous Government) reduces costs to the Crown and means these changes can be met within the baseline spending of Police and the Ministry of Justice. However, any significant change in the level of demand or ability to recover costs will likely create fiscal/cost pressures for agencies (Police and Justice).

Departmental consultation highlights potential NZBORA and privacy risks

- 7 The draft Cabinet paper including these proposals underwent ministerial and departmental consultation in late January 2025.² The paper attached in Annex 1 now includes minor amendments to clarify proposals in response to departmental feedback, and comments requested to be included from the Office of the Privacy Commissioner (OPC).³
- 8 In general, feedback from departments is that there is a limited evidence base underpinning these proposals, and implementation details and costs are incomplete.⁴ There are three key areas of contention:

Table 1: Issues raised through departmental consultation and suggested response

Proposal	Feedback	Ministry of Transport suggested response
Enabling noise camera technologies as an automated infringement system	<p>The Department of the Prime Minister and Cabinet (DPMC), OPC, and Justice suggest that as there is no commercially viable technology, it is difficult to understand the privacy risks and impacts and that further analysis is needed.</p> <p>OPC note that this proposal raises different and potentially more serious privacy risks than those posed by existing camera systems such as overcollection of sounds which are not related to vehicle noise offences (for instance conversations of people passing on the street).</p>	<p>We agree with the comments and recommend removing related proposals from the Cabinet paper prior to lodgement.</p> <p>There is currently no commercially viable technology to enable the implementation of this legislative change, meaning there is no immediate value from progressing this legislative change now.</p> <p>If you prefer to progress this proposal now, we have included a comment in the 'implementation' section of the draft Cabinet paper noting privacy risks will be considered at the time of implementation.</p>

² Consulted departments are listed in the relevant section of the draft Cabinet paper.

³ Any changes applied following ministerial/departmental consultation are highlighted.

⁴ Regulatory impact analysis has been undertaken. We have provided this to your office separately for your information, if preferred.

Establishing presumptive court sentences by requiring that courts must order offending vehicles destroyed or forfeited except in special circumstances	<p>Justice supports some judicial discretion in sentencing, as it ensures the circumstances of a case can be considered in sentencing and safeguards against grossly disproportionate sentences. Justice notes that the proposal does retain some discretion but sets a very high threshold for not applying the sentence, which may result in outcomes perceived to be unfair.</p> <p>DPMC and the Ministry for Regulation are unconvinced this the best regulatory option, noting there is a lack of supporting analysis and impacts and costs have not been quantified. They note broad powers without judicial oversight will strongly affect the rights of people, particularly those that rely on vehicles for employment.</p>	<p>We recommend that you retain judicial discretion by instead progressing a relatively straight-forward proposal to remove the 'three strikes' rule so that vehicle destruction is available as a court penalty after the first offence rather than the third, but not require courts to order this.</p> <p>s 9(2)(g)(i)</p> <p>This approach would, however, be a departure from proposals previously agreed by Minister Brown and Mitchell.</p>
Raising the infringement penalty for making excessive noise within or on a vehicle	<p>Justice have previously advised that the proposal to raise the infringement penalty from \$50 to \$1000 may be seen as disproportionate. (e.g. driving drunk has a maximum infringement penalty of \$700). Justice have previously recommended a \$300 fine.</p>	<p>We recommend a \$300 fine.</p>

- 9 Police has separately engaged the Treasury on the draft Cabinet paper. Treasury suggested Police consider clarifying the current level of demand that can be managed withing agency baselines. We understand Police are working through this detail to provide to Minister Mitchell ahead of ECO.
- 10 Additionally, the proposals affect human rights in several ways. For example, by providing for seizure of property and stronger offences and penalties. While officials have worked to mitigate the risk of NZBORA inconsistency and will continue to do so through the drafting process, there remains potential for the draft Bill to be found inconsistent with NZBORA.

Reducing the scope of proposals within the Cabinet paper would minimise risks

- 11 Our advice has previously been that the current legislative settings are, for the most part, enabling Police to take the actions they need to reduce offending. Police advise that the strongest lever to reduce offending across all four categories is the level of Police enforcement and other operational activity. The Government is supporting this through the recent Road Policing Investment Programme which includes over \$1.3 billion for enforcement activity, including targeting anti-social road users.
- 12 We recommend the changes set out in Table 1 because they reduce the most significant risks identified with the current proposals. If you agree to progress any of these, we recommend you discuss this with Minister Mitchell ahead of officials providing an updated Cabinet paper. Subject to both of your agreement, we will amend the draft Cabinet paper prior to lodgement. We and Police are also assessing the need for new powers to manage the selling

or disposal of a vehicle at risk of destruction or forfeiture until the conclusion of the relevant proceedings. We will advise you ahead of lodgement if this is necessary.

- 13 Public consultation has not been undertaken on the proposals in the draft Cabinet paper, and we do not have a clear insight into the operational implications of the proposals. For example, the effect impounding vehicles will have on towage and storage providers whose services face increasing costs. While we have designed current proposals to reduce costs (including that offenders are liable for towage and storage fees and charges on conviction), we anticipate negative feedback from the sector.⁵ We also anticipate concerns because the proposals are likely to disproportionately impact young male and/or Māori offenders.⁶

Following your decision, we propose the following timeline toward introduction

- 14 Subject to your agreement and any alterations required to the draft Cabinet paper, we propose the timing set out in Table 2. This would enable you to deliver on the action in the Government's quarterly plan. An announcement of the policy decisions could follow, and we will work with your office on any supporting communications material required.

- 15 s 9(2)(f)(iv)

Table 2. Proposed timeline for the Anti-Social Road Use Bill

Milestone/Activity	Due/Timeframe
Decision on this paper	24 February
Lodgement	5 March
ECO considers	12 March
Cabinet considers	17 March
Drafting instructions issued to the Parliamentary Counsel Office	April
Possible announcement	Late March
s 9(2)(f)(iv)	

⁵ Towage and storage fees are set by the Government who recently increased these fees. While the increase was generally welcomed, the sector raised concerns that increased fees are not reflective of the true cost for towing companies. Proposals included in this Bill could revive concerns.

⁶ For example, Māori made up approximately 50% of the people charged with fleeing Police in 2023. In 2023, approximately 36% of people charged with one of the road safety offences covered in the Cabinet paper were under 25, and 83% were male.

s 18(d)



PROACTIVELY RELEASED BY
THE MINISTRY OF TRANSPORT TE MANATU WAKA

In Confidence

Office of the Ministers of Transport and Police

Cabinet Economic Policy Committee

Revised options for addressing anti-social road use

Proposal

- 1 This paper seeks agreement to strengthen offences and penalties to better deter fleeing drivers, illegal street racing, intimidating convoys, unlawful dirt bike gatherings, and siren battles.

Relation to government priorities

- 2 These proposals deliver on the National – New Zealand First Coalition Agreement action to reform the law to reduce fleeing driver incidents and an action in the Government's first quarterly action plan for 2025.

Executive Summary

- 3 Gatherings of vehicles for unlawful and anti-social activities create public safety risks. We need to act to deter offenders and prevent reoffending.
- 4 Following the Cabinet Economic Policy Committee's consideration of this issue in September 2024 (ECO-24-MIN-0218), we propose to:
 - 4.1 establish a presumptive court sentence of destruction or forfeiture of vehicles involved in street racing, fleeing Police or intimidating convoys
 - 4.2 establish a presumptive court sentence of vehicle destruction or forfeiture for vehicle owners who fail to identify offending drivers
 - 4.3 give Police more powers to manage illegal vehicle gatherings by closing roads or public areas and issuing infringements
 - 4.4 increase the infringement fee for making excessive noise from or within a vehicle from \$50 to \$300.
- 5 The need for strong deterrence reflected in these proposals engages several rights in the New Zealand Bill of Rights Act 1990. We consider this necessary to meet our objectives and have proposed protective measures to mitigate the risks of inconsistency. We note that consistency with the Bill of Rights will be considered by the Attorney-General.
- 6 Subject to Cabinet agreement, we will introduce the legislation in July 2025.

Background

Existing penalties and powers are insufficient to deter offenders

- 7 Following direction from the Cabinet Economic Policy Committee in September 2024, we have updated our proposals to reduce legal risk. A summary of existing powers and proposed changes is in Appendix One.
- 8 Anti-social road user events cause harm to communities. Police reporting suggests that some types of events are growing in frequency and sophistication, spurred on in part, by social media coverage and planning.
- 9 This paper focuses on five types of anti-social road use: illegal street racing (including drifting and burnouts), unlawful dirt bike gatherings, intimidating convoys, fleeing drivers, and siren/noise battles.
- 10 We consider that shortcomings in the current offences and penalties regime are contributing to the increase in the above behaviours. Specifically:
 - 10.1 current penalties are not a sufficient deterrent
 - 10.2 current enforcement tools are insufficient to manage large groups
 - 10.3 a risk of loss of public trust and confidence if Police are unable to effectively hold offenders to account.
- 11 New offences and penalties will broaden and strengthen the tools available to respond to anti-social road use. Below, we outline each proposed change.

Establish a presumptive court-ordered sentence of vehicle destruction or forfeiture

- 12 On conviction, a court must order the associated vehicle be destroyed or forfeited to the Crown (to sell), except when one of the following apply:
 - 12.1 the vehicle is owned by someone other than the offender
 - 12.2 it would be manifestly (i.e. clearly) unjust to do so
 - 12.3 it would cause extreme hardship to the offender or undue hardship to any other person (this provision is already in legislation).¹
- 13 This penalty would apply to the following offences:
 - 13.1 failing to stop for Police while exceeding the speed limit or driving dangerously (i.e. a fleeing driver)
 - 13.2 driving in a race or exhibition of speed or acceleration

¹ Undue hardship requires more than the hardship that would normally be expected to be experienced because of the penalty. For example, financial loss that would normally arise from the forced sale of a vehicle used for business purposes are unlikely to meet this threshold

- 13.3 intentional sustained loss of traction (drifting or burnouts)
- 13.4 participating in an intimidating convoy.
- 14 Participating in intimidating convoys is a new offence in which the person operating the vehicle, while travelling in a group of two or more vehicles, has committed one or more of the following offences:
 - 14.1 reckless or dangerous driving
 - 14.2 street racing or sustained loss of traction
 - 14.3 aggravated careless use of a vehicle causing injury or death
- AND
- 14.4 used the vehicle in a manner that could constitute intimidation.²

To reduce the costs of these changes, we will need to reduce Police ordered impoundment length for fleeing driver offences

- 15 Police can order the impoundment of vehicles involved in the above offences for 28-days, except fleeing drivers when they may seize and impound the vehicle for 6 months. Once the impoundment period is over, the vehicles can be returned to the owner, pending final court decisions on the case.
- 16 Under the Land Transport Act 1998, the vehicle owner is responsible for paying for impoundment to get their vehicle back, however, with the new approach to vehicle destruction/forfeiture, we would be removing the incentive for offenders to pay (given the increased likelihood of forfeiture). These costs would need to be met by the storage operator or the Crown. This is an issue for the current 6-month impoundment regime due to the storage cost.
- 17 We propose to replace the 6-month impoundment for fleeing drivers with a 28-day impoundment, in alignment with other anti-social road use offences. We also propose that this 28-day impoundment penalty apply to the convoy offence. This reduces costs to the Crown and means these changes can be met within the baseline spending of Police and the Ministry of Justice. This change is balanced by the proposals to strengthen overall penalties against fleeing drivers, particularly the presumptive court sentence of vehicle destruction or forfeiture.

Require vehicle owners to provide information on the offender

- 18 Police often cannot apprehend an offender at the time of the offence and instead records the vehicle registration details to investigate later. However, some offenders are not identifiable (e.g. if they wear a face covering), and the vehicle owner may refuse to identify them.

² Intimidation requires a level of intent to intimidate someone. For example, tailgating to frighten another driver, deliberately crashing into or boxing in another vehicle or forcing it off the road.

- 19 There is an existing offence for a vehicle owner not immediately providing information about a driver who used that vehicle to flee Police. However, the scope of the offence is limited, and the scale of penalties imposed creates an incentive for offending owners to refuse to confirm who was driving and face a lesser penalty than if they were facing prosecution for the original offence. We propose to extend this offence to street racing, loss of traction, and intimidating convoys.
- 20 We also propose to strengthen the penalty for this offence, so that a court:
- 20.1 must order the vehicle destroyed or forfeited unless it would be manifestly unjust, or cause extreme hardship to the offender or undue hardship to any other person
- AND
- 20.2 may issue a fine not exceeding \$10,000.

Strengthen Police road closure powers and penalise those who do not leave

- 21 Illegal street racing, siren battles, and unlawful dirt bike gatherings often involve large groups and Police have limited tools to manage these events.
- 22 The Policing Act 2008 allows Police to temporarily close a road where there is reasonable cause to believe public disorder will occur or is occurring.
- 23 We propose broader and stronger Police powers to:
- 23.1 expand the existing road closure power to include all public and private areas accessible to the public by vehicle (e.g. parks and car parks)
- 23.2 establish an offence for a person who, without reasonable excuse, fails to comply with a direction to leave or not enter a closed area
- 23.3 establish an associated penalty of a \$1,000 infringement fee and a maximum \$3,000 court fine.

Strengthen penalties against those making excessive noise

- 24 To deter siren battles and other noise-related offences, we propose increasing the infringement fee for making excessive noise from or within a vehicle from \$50 to \$300 and the maximum court fine from \$1,000 to \$3,000.

Implementation

- 25 In addition to progressing relevant legislative changes, Police and the Ministry of Transport will develop any necessary system changes and training to support frontline staff. To ensure effective implementation of proposals, agencies will also engage with key stakeholders, including the towage and storage sector. We can provide more detailed implementation plans when we report back in due course to seek approval to introduce legislation.

- 26 The Ministry of Justice has not identified implementation costs at this stage, though minimal effort is required to implement the changes proposed.

Cost-of-living Implications

- 27 People whose vehicles are seized and impounded, forfeited, or destroyed may see transport-related cost of living impacts, if there is no alternative transport available and/or if they rely on their vehicle for employment. Others in their household may also face negative consequences. We have not quantified these impacts.

Financial Implications

- 28 The costs to the Crown will depend on the frequency with which these new and strengthened powers are used and the extent to which costs can be recovered from offenders.
- 29 The Ministry of Justice expects that any costs incurred because of the 28-day impoundment period policy proposal will likely be recoverable through the proceeds of the sale of vehicles forfeited and the court fines being issued.
- 30 Subject to no significant increase in level of demand, we expect Police and the Ministry of Justice to continue to manage these costs and deliver proposals within baselines. However, we acknowledge in the current fiscally constrained environment that a significant increase in demand in future could lead to cost pressures for agencies. We will advise of any change in financial settings when we report back in due course to seek approval to introduce legislation.

Legislative Implications

- 31 The proposals in this paper will require changes to the Land Transport Act 1998, Sentencing Act 2002, Policing Act 2008, and Land Transport (Offences and Penalties) Regulations 1999.
- 32 To progress these changes, we have sought that an omnibus bill (the Anti-Social Road Users Bill) s 9(2)(g)(i) [REDACTED] The proposals in this paper will bind the Crown.

Impact Analysis

Regulatory Impact Statement

- 33 A quality assurance panel with members from the Ministry of Transport has considered the attached Regulatory Impact Statement and concluded, in the light of identified limitations, that it "partially meets" quality assurance criteria.
- 34 Ministers have instructed officials to consider a limited set of policy options. Within the scope of these directions, the panel considers that the Ministers' objectives and assessment criteria have been considered and applied. Where appropriate and feasible, use has been made of available evidence to make a

logical case based on common assumptions. Likely implications have been noted, including the legal risks associated with some proposals.

Climate Implications of Policy Assessment

- 35 The Climate Implications of Policy Assessment (CIPA) team confirms that the CIPA requirements do not apply to this proposal.

Population Implications

- 36 The proposals within this paper will likely disproportionately affect Māori. For example, Māori made up about 50 percent of the people charged with fleeing Police in 2023, and so are likely to be disproportionately affected by the stronger powers.
- 37 Offenders are also disproportionately young males. In 2023, about 36 per cent of people charged with one of the road safety offences covered in this paper were under 25, and 83% were male. Police has noted higher levels of offending and enforcement activity in Central and Counties Manukau, Canterbury, and Bay of Plenty districts.

Human Rights

- 38 The proposals in this paper engage human rights and freedoms recognised in and protected by the New Zealand Bill of Rights Act 1990 (BORA):
- 38.1 The proposed broader Police powers to impound vehicles is likely to constitute search and seizure for the purposes of section 21 of BORA.
- 38.2 The compulsion of information from owners of vehicles present at an event, with significant penalties for non-compliance, is likely to limit:
- 38.2.1 Freedom of expression (section 14 of BORA)
- 38.2.2 The rights of persons arrested or detained (section 23(4) of BORA)
- 38.3 Proposals to strengthen road closure powers and the proposed new convoy offence may limit rights to freedom of movement and association (sections 18 and 17 of BORA).
- 39 We consider these limits on rights are necessary to take meaningful action against anti-social road users. When possible, we have sought to mitigate unintended harm through checks and balances in the design of the legislation. This includes preventing certain penalties when it would be 'manifestly unjust' and when it would cause extreme or undue hardship. The Bill's consistency with the BORA will ultimately be considered by the Attorney-General.

Consultation

- 40 The Ministry of Transport and New Zealand Police developed this paper.

- 41 The paper has been consulted with the Department of Prime Minister and Cabinet, Treasury, Ministry for Regulation, Ministry of Justice, Office of the Privacy Commissioner, Te Puni Kōkiri, Department of Internal Affairs (Local Government), Crown Law, Parliamentary Counsel Office, and the Department of Corrections.
- 42 Treasury and the Ministry for Regulation have raised concerns about the limited evidence and impact analysis underpinning the proposals, and that implementation details and costs are incomplete. It is not clear how costs will be met or what trade-offs will be made.

Communications and Proactive Release

- 43 We intend to issue a media release and proactively release this paper following Cabinet's approval of the recommendations.

Recommendations

The Ministers of Transport and Police recommend that the Committee:

Illegal street racing and related activities and fleeing driver offences

- 1 **agree** to amend the Sentencing Act 2002 to require that a court must order a vehicle to be destroyed or forfeited on conviction for the following offences, unless the exceptions in recommendation 2 apply:
- 1.1 failing to stop or remain stopped when signalled or requested to stop by an enforcement officer while exceeding the speed limit or operating the vehicle in an otherwise dangerous manner (i.e. a fleeing driver)
 - 1.2 operating a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road
 - 1.3 without reasonable excuse, operating a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction
 - 1.4 operating a motor vehicle as part of an intimidating convoy (this is a new offence outlined in recommendation 3).
- 2 **agree** to amend the Sentencing Act 2002 to state that a court must not order the destruction or forfeiture of a vehicle for the offences in recommendation 1 if:
- 2.1 it would be manifestly unjust
 - 2.2 it would cause extreme hardship to the offender, or undue hardship to any other person (this is an existing provision that would be retained)
 - 2.3 the vehicle was stolen
 - 2.4 the offender is not the owner (registered person) of the vehicle

- 3 **agree** to amend the Land Transport Act 1998 to establish a new offence for operating a motor vehicle as part of an intimidating convoy where a person:
 - 3.1 used a motor vehicle to commit one of these offences: dangerous or reckless driving, street racing or sustained loss of traction, aggravated careless use of a vehicle causing injury or death; and
 - 3.2 this offending occurred while the vehicle was travelling in a group of two or more vehicles; and
 - 3.3 the vehicle was being operated in a manner that could constitute intimidation (i.e. an intent to intimidate or knowing that their conduct is likely to cause another person reasonably to be intimidated).
- 4 **agree** to amend the Land Transport Act 1998 to remove the 6-month impoundment for failure to stop offences and replace that with a 28-day impoundment to align with Police powers to seize and impound for illegal street racing, sustained loss of traction, and reckless or dangerous driving.
- 5 **agree** amend the Sentencing Act 2002 so that on conviction, the offender is liable to pay any fees and charges associated with vehicle towage and storage.
- 6 **note** any fees and charges will be sought to be recovered from the offender on conviction under section 138A of the Sentencing Act 2002, the storage provider will contract directly with Police and/or Justice for their services.

Identification of offenders after the event

- 7 **agree** to amend the Land Transport Act 1998 including section 118 so that a registered person or hirer must immediately provide all information in their possession or obtainable by them about the identity of a driver who used their vehicle to commit one of the following offences:
 - 7.1 operating a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road
 - 7.2 without reasonable excuse, operating a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction, and
 - 7.3 operating a motor vehicle as part of an intimidating convoy.
- 8 **agree** to amend the Sentencing Act 2002 and Land Transport Act 1998 to establish the following penalties for the offence in recommendation 7:
 - 8.1 a court must, on conviction, order the forfeiture or destruction of the vehicle, and may sentence the offender to a fine not exceeding \$10,000

8.2 a court must not make an order of vehicle forfeiture or destruction if it would be manifestly unjust or would result in extreme hardship to the offender or undue hardship to any other person.

- 9 **agree** for the offence in recommendation 7 to amend the Sentencing Act 2002 to provide that a court may, on conviction, order an offender to pay any costs of towage and storage associated with impounding the vehicle.

Police road closure

- 10 **agree** to amend the Policing Act 2008 to provide that Police have the power to temporarily close to traffic all public and private areas to which the public has vehicle access.
- 11 **agree** to amend the Policing Act 2008 to create a new offence for a person failing to leave an area temporarily closed by Police.
- 12 **agree** to amend the Policing Act 2008 so that Police may issue a \$1,000 infringement fee for this offence, and a court may issue a fine of up to \$3,000.

Excessive noise offence

- 13 **agree** to amend the Land Transport (Offences and Penalties) Regulations 1999 to raise the infringement penalty for creating excessive noise within or on a vehicle from \$50 to \$300 and the court fine from \$1,000 to \$3,000.

Legislative amendments relating to anti-social road use

- 14 **note** that we intend for these proposals to be progressed through the Anti-Social Road Use Bill s 9(2)(g)(i)
- 15 **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to these decisions, including any necessary consequential amendments, and savings and transitional provisions.
- 16 **authorise** the Minister of Transport, Minister of Justice, and Minister of Police to make any further policy decisions, relating to these recommendations, provided they are consistent with the direction agreed to by Cabinet.
- 17 **authorise** the Minister of Transport, Minister of Justice and Minister of Police to make any minor or technical amendments that arise during the drafting of the legislative amendments to give effect to these decisions.

Communications

- 18 **note** that the Ministers of Transport and Police intend to issue a media release and proactively release this paper, following Cabinet's approval of the recommendations in this paper.

IN CONFIDENCE

Authorised for lodgement

Hon Chris Bishop
Minister of Transport

Hon Mark Mitchell
Minister of Police

PROACTIVELY RELEASED BY
THE MINISTRY OF TRANSPORT TE MANATU WAKA

IN CONFIDENCE

Appendix One: Summary of existing penalties and proposed new penalties

Offence (new offences <u>underlined</u>)	Existing penalty	New penalty (changed penalties <u>underlined</u>)
<i>Illegal street racing offences:</i> Operating a vehicle in an illegal race, or in an unnecessary exhibition of speed or acceleration, or in a manner that causes the vehicle to undergo sustained loss of traction (burnout). Land Transport Act (LTA) s22A	Police may impound the vehicle for 28 days. Courts may issue a \$4,500 fine, 3 months prison, and/or suspend a licence for 6 months. They may confiscate vehicles after first offence and may destroy vehicles after the third offence. Note strong penalties apply for offences causing injury or death.	Police may impound the vehicle for 28 days. Courts may issue a \$4,500 fine, 3 months prison, suspend a licence for 6 months, and <u>must forfeit or destroy the vehicle unless it would be manifestly unjust</u> , or cause extreme hardship to the offender or undue hardship to any other person.
<i>Fleeing drivers:</i> Fails to stop when signalled to stop by Police. Not specific to illegal vehicle event. LTA s52A	Police may impound vehicle for 6 months Courts may issue a \$10,000 fine, 3 months in prison for 3rd offence, and/or confiscate or forfeit vehicle. Additionally must disqualify from driving for at least 1 year for 2nd offence.	Police may impound the vehicle <u>for 28 days</u> . Courts may issue a \$10,000 fine, 3 months in prison for 3rd offence, and <u>must forfeit or destroy the vehicle unless it would be manifestly unjust</u> or cause extreme hardship to the offender or undue hardship to any other person. Additionally must disqualify from driving for at least 1 year for 2nd offence.
<u>Convoy offender:</u> A group of two or more vehicles, driving in an intimidating way, committing a reckless/dangerous driving offence, an illegal street racing offence or aggravated careless use of a vehicle causing injury or death offence.	Police must impound the vehicle for 28 days for reckless/dangerous driving. For reckless/dangerous driving courts may: Issue a \$4,500 fine, or \$20,000 if caused injury/death 3 months prison, or 5 years for injury, or 10 years for death. Must suspend licence for 6 months or more May confiscate vehicle and prevent purchasing of new vehicle for 12 months.	Police may impound the vehicle for 28 days. For reckless/dangerous driving courts may: Issue a \$4,500 fine, or \$20,000 if caused injury/death 3 months prison, or 5 years for injury, or 10 years for death. Must suspend licence for 6 months or more <u>Courts must forfeit or destroy the vehicle unless it would be manifestly unjust</u> or cause extreme hardship to the offender or undue hardship to any other person.
<i>Failing to provide information about an offender:</i> The registered person of the vehicle used in an offence fails to give information on the identity of the driver of that vehicle. LTA s118	Police may impound vehicle for 28 days for fleeing driver offence. Courts may issue a \$20,000 fine, and/or confiscate the vehicle.	Police may impound the vehicle for 28 days for fleeing driver and <u>illegal street racing, loss of traction, and intimidating offences where the owner fails to provide information</u> . Courts may issue a <u>\$10,000 fine</u> and <u>must forfeit or destroy the vehicle unless it would be manifestly unjust</u> or cause extreme hardship to the offender or undue hardship to any other person.
<i>Police road closure power and <u>associated offence</u></i> Policing Act s35	Police can close roads, but do not have a specific associated penalty they can issue.	<u>Police may issue a \$1,000 infringement fee.</u> <u>Courts may issue a \$3,000 fine.</u>
<i>Creating excessive noise within or on vehicle.</i> Land Transport (Offences and Penalties) Regulations.	Police may issue an infringement fee of \$50 and 25 demerit points. Courts may issue a \$1,000 fine.	Police may issue an infringement fee of <u>\$300</u> and 25 demerit points. Courts may issue a <u>\$3,000 fine</u> .

Regulatory Impact Statement: Powers, offences and penalties to address anti-social road users

Coversheet

Purpose of Document	
Decision sought:	Analysis produced to inform Ministers' final policy decisions on improving the offences and penalties relating to anti-social road users
Advising agencies:	Ministry of Transport
Proposing Ministers:	Minister of Transport, Hon Chris Bishop Minister of Police, Hon Mark Mitchell
Date finalised:	26/11/2024
Problem Definition	
<p>Gatherings of vehicles for unlawful and anti-social activities like street racing, dirt bike rallies, intimidating convoys and siren battles are increasing, and negatively affect road and community safety in New Zealand.</p> <p>The Ministers of Transport and Police are concerned that Police does not have sufficient powers to respond to these anti-social events, and that penalties need to be stronger to better deter offending and support public confidence.</p>	
Executive Summary	
<p>To respond to these concerns, Ministers have instructed officials to:</p> <ul style="list-style-type: none">• create a presumptive sentence of vehicle destruction or forfeiture for vehicles used in certain anti-social road user offences, and enable Police to seek approval from the courts to require vehicles to be impounded until an offender is convicted• give Police more effective powers to close roads or public areas to address public disorder or safety risks, and to issue penalties to those who refuse to remove their vehicles from these areas• target excessive noise from or within a vehicle by increasing the infringement fee• enable the use of noise cameras to issue infringement fees• compel the owners of vehicles used to flee Police to identify the driver or face a presumptive sentence of vehicle destruction or forfeiture. <p>With careful implementation, the above powers could reduce offending, improve safety, and increase public confidence in the justice system. However, the overall benefits and costs of this proposal will depend on difficult-to-predict factors. These factors include implementation and enforcement issues, and the extent to which new offences and penalties change behaviour. There will be implementation costs. While some storage costs may be recovered from offenders through fines (or through the sale of forfeited vehicles), they will otherwise fall to the Crown.</p>	

Limitations and Constraints on Analysis

The Ministers of Transport and Police directed officials to develop legislative proposals for stronger penalties for anti-social drivers by the end of 2024. The options considered are the status quo and Ministers' preferred options, with some variations to aspects of the preferred option to align with standard principles of criminal procedure and rights protected under NZBORA. The analysis has significant limitations:

- we have not consulted the public, although the Automobile Association recently expressed support for impoundment over destruction of vehicles
- we have not consulted with towage and storage providers (who will play an important operational role)
- we have limited data on the frequency and trends of intimidating convoys
- cost predictions (eg, impact of the proposals on court costs, towage and storage costs, and the wider Justice system) are based on multiple assumptions, including frequency of impoundment decisions by Police, application of penalties by the courts, and the ability of offenders to pay.

Responsible Manager(s) (completed by relevant manager)

Paul O'Connell
Deputy Chief Executive
Sector Strategy
Ministry of Transport
22 November 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Transport
Panel Assessment & Comment:	<p>A quality assurance panel with members from the Ministry of Transport has considered the attached Regulatory Impact Statement and concluded, in the light of identified limitations, that it "partially meets" quality assurance criteria.</p> <p>Ministers have instructed officials to consider a limited set of policy options. Within the scope of these directions, the panel considers that the Ministers' objectives and assessment criteria have been considered and applied. Where appropriate and feasible, use has been made of available evidence to make a logical case based on common assumptions. Likely implications have been noted, including the legal risks associated with some proposals.</p>

Section 1: Diagnosing the policy problem

What are anti-social road user events?

1. This Regulatory Impact Statement (RIS) covers five related activities (collectively, anti-social road use or ASRU), outlined below. The table includes our best estimate of the scale and effects of these offences.

Activity	Description	Scale	Effects
Illegal street racing	<p>Involves groups of vehicles engaging in unauthorised racing on public roads.</p> <p>Common characteristics:</p> <ul style="list-style-type: none"> participants commit a range of driving offences (eg, speeding, burnouts, excessive acceleration) pre-planning different locations over the course of the event. 	<p>From 1 July 2019 to 30 June 2024 the Police Emergency Communications Centres (ECC) received 65,738 calls about illegal street racing.</p> <p>The number of people charged with unauthorised street racing has decreased over the past 10 years, from 1,324 in 2013 to 1,020 in 2023. However, there has been a 34 percent increase in the number charged since 2019.</p> <p>Events can attract high numbers of vehicles (averaging 50 participating vehicles, with 100 to 1,000 spectators).</p>	<ul style="list-style-type: none"> High speeds and reckless behaviour pose serious risks to other road users. Events often damage roads and public spaces. Groups often block off public roads. Can escalate to other criminal offences (eg, assault).¹
Dirt bike gatherings	<p>Involves groups of people riding dirt bikes in public spaces where the vehicles are prohibited (eg, public parks, schools). Participants rely on supporters to provide fuel and record the events.</p>	<p>From 1 July 2019 to 30 June 2024, ECC received 25,230 calls about dirt bike gatherings. Most of the call volume has occurred over the past three years, with between 6,000 and 9,000 calls per year compared with under 1,000 per year in the previous two years.²</p>	<ul style="list-style-type: none"> High speeds and reckless behaviour pose serious risks to other road users. Groups can often block off public roads, including intersections.
Intimidating convoys	<p>Involves groups of motor vehicles driving together, with one or more driving dangerously or recklessly. Their behaviour may be intentionally intimidating to other road users. Often associated with gang member gatherings.</p>	<p>Police reports the events are not frequent but are serious.³</p>	<ul style="list-style-type: none"> High speeds and reckless behaviour pose serious risks to other road users. Events often damage roads and public spaces. Groups often block off public roads. Can escalate to other criminal offences (eg, assault).
Siren battles	<p>Involves groups of people competing to make as much noise as possible using</p>	<p>Police does not hold specific data on siren battles, however, the number of people charged</p>	<ul style="list-style-type: none"> Noise disturbance for communities, especially late at night.

¹ For example, Waikato District reported an instance where a large group blocked an intersection, and a member of the public was caught in the process. When the member of the public tried to move their vehicle, it was severely damaged, and he was assaulted. The victim's car was then stolen by the group engaging in ASRU activity.

² Counties Manukau accounted for most dirt bike related calls (25% of the total) compared with the next highest district, Bay of Plenty, which accounted for 14% of the total.

³ For example, the violent assault of a motorist on the Waikato Expressway received significant media attention. Three members of the Tribesmen were arrested and charged with wounding with intent to cause grievous bodily harm.

Activity	Description	Scale	Effects
	vehicle-mounted sirens or other sound systems.	with having noisy equipment in a vehicle has increased from 38 in 2013 to 59 in 2023.	
Fleeing drivers	Involves drivers attempting to evade Police, at high speeds, after being required to stop. Drivers frequently flee from the events outlined above. Most fleeing drivers are either disqualified or unlicensed. ⁴	<p>Police reports an increase in fleeing driver events in the period 1 July 2019 to 30 June 2024. Between July 2023 and June 2024 there were 9,517 events reported to ECC.⁵</p> <p>The number of people charged with fleeing driver offences has steadily increased over time, from 1,546 in 2013 to 3,016 in 2023.</p>	<ul style="list-style-type: none"> Police reports 2 or 3 deaths, and 400 to 600 crashes caused by fleeing drivers each year between 2020 and 2022.⁶

⁴ [Fleeing Drivers in New Zealand - IPCA](#)

⁵ There is variability across districts with four districts each accounting for 12% (ie, Canterbury, Bay of Plenty, Central and Counties Manukau).

⁶ [Road traffic injury mortality - ehinz.ac.nz](#)

The events are evolving and increasingly difficult to police

2. Police has a range of powers under the Land Transport Act, Land Transport (Offences and Penalties) Regulations and the Policing Act to respond to ASRU. These include powers to impound vehicles for 28 days (for reckless driving) or six months (for fleeing drivers), issue infringements (for excessive noise), and close roads.⁷ These existing offences are summarised in more detail in the Annex.
3. However, Police faces significant challenges in utilising these enforcement tools in a timely and effective way. These challenges are the core of the problem.

Large numbers of participants and attendees mean Police cannot always intervene immediately or effectively

4. Police may struggle to intervene in large events due to safety concerns (risk of violence towards officers from attendees), resource constraints (insufficient officers to handle/manage up to 1,000 attendees), or logistics (eg, blocked roads).
5. Intervening during a convoy can be especially risky. These events involve multiple vehicles that are speeding or driving recklessly, and intervening can cause risks to other road users.
6. When Police cannot shut these events down in a timely manner, the likelihood of injury to communities, participants, Police, and/or damage to property increases.

There are challenges with charging offenders after the event

7. When Police cannot intervene effectively during an event, enforcement must happen later. This often requires significant resource and evidence-gathering (eg, capturing and reviewing video footage from drones).
8. Police often struggles to successfully identify and prosecute drivers because:
 - drivers may not be identifiable in evidence (eg, due to helmets and face coverings)
 - participants flee, either when the officers arrive at the event or on receiving information that Police plan to intervene
 - participants and attendees are increasingly using technology (eg, social media) to share information and evade Police operations
 - it is challenging to accurately identify offenders among large groups of people who may not all be offending.
9. Police can seize vehicles after events to support their inquiries, but if the offender is unidentifiable and cannot be charged, they must return the vehicle. A summary of the current offences and penalties is in the Annex.
10. When Police is unable to break up large groups, and/or unable to identify and penalise those involved, it diminishes the timeliness and certainty of punishment. This can result in reoffending and emboldened supporters.

What is the policy problem or opportunity?

11. For the reasons set out above, Ministers are concerned that Police does not have sufficient powers to respond to anti-social road user events, and that the available penalties are insufficient to deter offending, improve road and community safety, and help prevent reoffending.

⁷ Courts may also issue fines, suspend licences, imprison offenders and confiscate and/or order forfeiture of vehicles. On the third conviction for illegal street racing, courts may order the destruction of a vehicle.

12. Reforming the fleeing driver laws is also included in the coalition agreement between the National Party and the New Zealand First party.

What objectives are sought in relation to the policy problem?

13. The objective is to reduce offending and the harm it causes (eg, to community safety, property and amenity damage), through:
- providing Police with a range of tools to respond to anti-social road users and events both during and after the offence
 - creating a stronger deterrent for offending by increasing the likelihood that a strong penalty will be applied
 - preventing vehicles from being used in multiple offences.

Section 2: Deciding on an option to address the policy problem

What criteria will be used to compare options to the status quo?

14. The following criteria will be used to analyse each proposal:
- **Effectiveness:** how effective will an option be in responding and preventing ASRU? This criterion considers whether the option prevents or disrupts behaviour that is harmful to the public, their sense of safety and their ability to go about their communities without disruption, and confidence that law and order will be maintained.
 - **Cost efficiency:** how much will an option cost the Crown to implement and run? These costs will in part be subject to the actual use of the new powers and the ability of offenders to pay court fines, which are difficult to predict.
 - **Proportionality:** does the option impose a penalty that is proportionate to the policy objective (eg, responding and preventing ASRU) and the nature of a person's conduct? Is the option otherwise consistent with standard principles of criminal procedure and rights protected under NZBORA?

What is the scope of options being considered?

15. Ministers determined the scope as: create new offences to criminalise certain behaviours, create new or strengthened penalties, and broaden Police powers.

What options are being considered?

Option one – status quo

16. If no change is made, Police can manage ASRU through existing offences and penalties. However, the challenges identified above will hinder the ability to prevent and respond to ASRU. There would be little deterrent for people to undertake ASRU and Police will lack effective tools to monitor and enforce the law and prevent reoffending. There will be continued safety risks and harm to communities.

Option two – more tools for deterring and penalising anti-social road users

17. Option 2 provides a package of stronger offences and penalties for ASRU-related activities to support enforcement, deter offending and enhance community safety. Within each proposal there is a range of variations as set out below. Options and the variations are not always mutually exclusive.

Options analysis

Proposal 1: Greater use of vehicle destruction and forfeiture

18. This option expands the offences that are subject to a presumptive sentence of vehicle destruction or forfeiture, except where it would:
- cause extreme hardship to the offender, or
 - cause undue hardship to any other person.
19. Three variations of this option are analysed:
- 1A: Vehicle destruction or forfeiture is a presumptive sentence for serious ASRU convictions – that is, all ASRU convictions *except* those where there is no speeding or dangerous driving involved (which would remain subject to a \$10,000 fine or six months impoundment),
 - 1B: Vehicle destruction or forfeiture is a presumptive sentence for all ASRU convictions no matter their seriousness, and/or
 - 1C: Before a *defendant is convicted* of an ASRU offence, Police may apply to the Court for an order that the vehicle be destroyed or forfeit. The Court must grant the order unless it would cause extreme hardship to the defendant or undue hardship to any other person (ie, the owner of the vehicle if they are different to the defendant).
20. Upon conviction, the offender would be liable for the cost of destruction. A court would generate a fine to cover this cost. If not paid, a court can seize an offender's assets and/or deduct from wages.

	1A: Vehicle destruction or forfeiture is a presumptive sentence for serious ASRU convictions	1B: Vehicle destruction or forfeiture is a presumptive sentence for all ASRU convictions no matter their seriousness	1C: Pre-conviction destruction or forfeiture
Effectiveness	Positive This new presumptive sentence means offenders' vehicles are likely to be destroyed or forfeited. This is likely to have a deterrent effect while preventing the same vehicle being used for further offending.	Positive As for 1A, but slightly stronger effect as the new presumptive sentence applies to a wider range of offences.	Strongly positive This option applies a penalty swiftly, which is likely to have a strong deterrent effect. Theory supports the idea that penalties which emphasise

	1A: Vehicle destruction or forfeiture is a presumptive sentence for serious ASRU convictions	1B Vehicle destruction or forfeiture is a presumptive sentence for all ASRU convictions no matter their seriousness	1C: Pre-conviction destruction or forfeiture
			loss (of a licence/vehicle) could be effective at changing behaviour. ⁸
Costs	Moderately negative There is moderate risk that costs would fall to the Crown if they cannot be recovered from the offender.	Negative As for 1A, but the quantum of costs borne by the Crown could be slightly higher as more offenders will be sentenced and thus more may be unable to pay costs.	Strongly negative As for 1B, but the Crown could face much higher costs if a defendant is found not guilty and the Crown found liable for compensation for the destroyed vehicle.
Proportionality	Positive Relative to the status quo, this option ensures relatively serious criminal penalties can be imposed for serious criminal offending following conviction. It is thus generally proportionate and consistent with the NZBORA's protections around rights to natural justice and its minimum standards of criminal procedure. Proportionality is further ensured by providing for judicial discretion and flexibility about whether to impose a forfeiture or destruction order for hardship reasons or whether it would be manifestly unjust.	Neutral By applying a new and relatively serious criminal penalty to some less serious offending, this option could be seen as disproportionate in those cases. However, this option mitigates the risk by providing for judicial discretion on whether applying the penalty will cause undue or extreme hardship or be manifestly unjust.	Negative This option empowers Police to impose a relatively serious and irreversible punitive penalty on a person, with little judicial discretion before they are convicted of an offence. There are more proportionate options available to realise the policy objective, such as impoundment.

Proposal 2: Greater use of impoundment or alternatives

21. This option expands the scenarios where Police can impound a vehicle following the commission of an offence. These proposals expand the ability for Police to impound a vehicle (pre-conviction) to offences related to fleeing drivers, illegal street races, or intimidating convoys. Upon conviction, the offender would be liable for the cost of the impoundment. A court would generate a fine to cover this cost. If not paid, a court can seize an offender's assets and/or deduct from wages.
22. Four options were considered:

⁸ Evidence Based Policing Centre, *Understanding the motivations of fleeing drivers – Interventions to reduce fleeing driver events* (December 2020) p.16. See also Kahneman, D., & Tversky, A. (1979). *Prospect theory: An analysis of decision under risk*. *Econometrica*, 47, 263-291.

- 2A: Police can impound the relevant vehicle for 28 days, with an option to apply to the Court to extend this where Police believe the vehicle will be used for further offences
- 2B: Police can impound the vehicle until the court reaches a verdict on the substantive offence
- 2C: Police have greater flexibility to impound a defendant's vehicle in a variety of lower-cost ways (such as clamped at the defendant's residence or digitally via GPS monitoring)
- 2D: Police can suspend a driver's licence as an alternative to impounding the relevant vehicle.

	2A: 28-day impoundment, with ability to apply to extend	2B: Impoundment until verdict	2C: Lower-cost impoundment	2D: Licence suspensions
<i>Effectiveness</i>	Positive Removing vehicles during or after the event would reduce the likelihood of reoffending and provide immediate safety benefits through vehicles being removed from the roads. The timelier penalty (impoundment) may strengthen the deterrent effect and improve public confidence in law enforcement.	Strongly positive As for 2A but stronger effects as the penalty is longer.	Positive As for 2A. There is a marginal risk that offenders remove clamp, sticker, or GPS monitoring that could compromise safety.	Positive Relative to the status quo, public safety will be improved as the offender will not be able to reoffend. In theory the impact on public safety will be greater than 2B but it is unlikely there will be 100% compliance as the defendant will still have access to their vehicle.
<i>Costs</i>	Moderately negative The risk that costs fall to the Crown will increase in proportion to the number of additional impoundments (assuming a constant rate of offenders being unable to pay their fines or found not guilty).	Negative As for 2A, but the cost would be higher overall as the impoundment will be longer, increasing storage costs.	Moderately negative Relative to the status quo, costs to the Crown would increase but would be minimised by adopting a lower-cost version of impoundment (ie, there would be no storage costs). As such there would be a lower risk that the sale of the offender's assets would be insufficient to cover the cost of impoundment, and a lower likelihood that costs would fall to the Crown.	Neutral. This option has very little cost to the Crown beyond minor administrative costs.
<i>Proportionality</i>	Neutral / Moderately negative While difficult to predict, this option's impact on safety may be disproportionate to the negative practical impact on the defendant (such as inability to get to work) and rights such as natural justice. However, negative impacts are mitigated by limiting impoundment for 28 days, subject to judicial discretion to extend only if the likelihood of reoffending is high.	Negative As for 2A but the new adverse consequences on the defendant are increased irrespective of their risk of reoffending.	Negative As for 2B.	Negative As for 2B but negative impacts are greater as a licence suspension has more negative effects on the defendant as they cannot drive at all.

Proposal 3: Create a new offence for being part of an intimidating vehicle convoy

23. This option creates a new offence for people participating in an intimidating convoy. There are two options relating to the penalty:
- 3A: Vehicle destruction or forfeiture as the presumptive sentence
 - 3B: As for 3A but before a defendant is convicted of a convoy offence the Police may apply to the Court for an order that the vehicle be destroyed or forfeit. The Court must grant the order unless it would cause extreme hardship to the defendant or undue hardship to any other person (ie, the owner of the vehicle if they are different to the defendant).
24. Upon conviction, the offender would be liable for the cost of destruction. A court would generate a fine to cover this cost. If not paid, a court can seize an offender's assets and/or deduct from wages.
25. Either of these options could be combined with any of the options for impoundment or suspension as noted in proposal 2. They are not factored into the analysis below.

	3A: New offence, with presumption of destruction or forfeiture	3B: As for 3A plus pre-conviction destruction or forfeiture
<i>Effectiveness</i>	Positive This new offence and presumptive sentence mean those participating in intimidating convoys face consequences for their actions. This is likely to have a deterrent effect while preventing the same vehicle being used for further offending which will increase safety.	Strongly positive As for 3A, but there would be immediate consequences for the offender and the relevant vehicle would be taken off the streets. All else equal this would increase public safety relative to the status quo and more so than option 3A.
<i>Costs</i>	Neutral There is moderate risk that costs would fall to the Crown if they cannot be recovered from the offender.	Negative As for 3A, but the Crown could face much higher costs if a defendant is found not guilty and the Crown found liable for compensation for the destroyed vehicle.
<i>Proportionality</i>	Positive Relative to the status quo, this option ensures relatively serious criminal penalties can be imposed for serious criminal offending following conviction. Proportionality is ensured further by providing for judicial discretion and flexibility about whether to impose a forfeiture or destruction order for hardship reasons or whether it would be manifestly unjust.	Negative This option empowers Police to impose a relatively serious and irreversible punitive penalty on a person, with little judicial discretion to ensure proportionality before they are convicted of an offence. While this would achieve the policy objective of keeping people safe and preventing reoffending, there are more proportionate options available to realise the policy objective, such as impoundment. Further, this option could result in the destruction of an innocent party's property which is inconsistent with several NZBORA principles.

Proposal 4: Expanded power for Police to temporarily close roads in cases of disorder or public danger and introduce a new penalty for failing to leave a closed road when requested

26. Police's current power to temporarily close roads would be expanded to include cases where there is existing or imminent public disorder or danger to the public. Police would be able to:
- close all publicly accessible areas (eg, parks, reserves, carparks) to traffic
 - direct persons to leave or not to enter a closed area
 - charge those who fail to comply with this direction without reasonable excuse.
27. Failing to leave a closed road could come with an infringement fee of either:
- 4A: \$300
 - 4B \$1,000.

	4A: Expanded power to close roads with \$300 penalty	4B: Expanded power to close roads with \$1,000 penalty
<i>Effectiveness</i>	Positive This option ensures Police have powers to shut down unsafe events, that will support public safety.	Positive As for 4A, with the larger penalty potentially having a stronger deterrent effect at the margins, although the extent to which the difference changes behaviour is probably likely to be small.
<i>Costs</i>	Neutral Police would likely already attend such disorderly events. Costs may reduce at the margins as the Police have more effective enforcement tools enabling them to shut down events more quickly.	Neutral As for 4A.
<i>Proportionality</i>	Neutral This option may infringe on innocent parties' liberty of movement, which is protected by NZBORA. However, the new power and infringement fee is appropriately limited and reasonable considering the significant risk to the public.	Moderately negative As for 4A, except the higher penalty is inconsistent with offences of a similar nature and may thus be deemed disproportionate to the nature of the offending.

Proposal 5: Stronger penalties for and greater powers to detect excessive noise within or on a motor vehicle

28. This option would enable the future use of noise cameras (when the technology becomes available) and the infringement penalty for making excessive noise within or on a vehicle would increase from \$50 to:

- (5A) \$300, or
- (5B) \$1000.

	5A: Enable future use of noise cameras, with \$300 fine	5B: Enable future use of noise cameras, with \$1,000 dollar fine
<i>Effectiveness</i>	Positive This option ensures Police has the powers to monitor and enforce noise-related offences. Increasing the fine from \$50 could have some deterrent effect although this will be difficult to predict.	Positive As for 5A, with the larger penalty potentially having a stronger deterrent effect at the margins, although the extent to which the difference changes behaviour is probably likely to be small.
<i>Costs</i>	Neutral This option would not be expected to increase enforcement costs in any material way.	Neutral As for 5A, however, the greater the fine, the greater the likelihood an offender may appeal, which could increase costs at the margins.
<i>Proportionality</i>	Neutral This option provides standard powers to monitor offending and raises the fine to be proportionate to the nature of the offending.	Moderately negative As for 4A, except the higher penalty is inconsistent with offences of a similar nature and may thus be deemed disproportionate to the nature of the offending.

Proposal 6: Stronger tools to manage vehicle owners who fail to provide relevant information

29. Currently, those who fail to provide Police with information relating to a fleeing driver can be charged and if convicted would pay a maximum fine of \$10,000, and Police may impound the vehicle for 28 days. Proposal 6 involves two options to expand and enhance these enforcement tools:
- 6A: Extend the offence to those who fail to provide information on similar offences to fleeing drivers – that is, a vehicle involved in street racing, loss of traction, and intimidating convoy; and/or
 - 6B: Provides for a stronger penalty for failing to provide information relevant to the offence (expanded as per 6A) by including a presumptive sentence of vehicle forfeiture or destruction.

	6A: Extend the offence for failing to provide information to new scenarios	6B: Failing to provide information has a presumptive sentence of destruction or forfeiture
<i>Effectiveness</i>	Moderately positive This option ensures Police have the powers necessary to investigate and enforce criminal offending by ensuring those who hold relevant information have an incentive to provide it. By increasing the consequences, it may deter some vehicle owners from letting others use their car if they suspect it may be used for ASRU.	Positive As for 6A, but the stronger penalty can generally be expected to result in a stronger deterrent effect.
<i>Costs</i>	Moderately negative This would increase the number of offenders identified and prosecuted, and cars impounded. There is moderate risk that costs would fall to the Crown if they cannot be recovered from the offender.	Moderately negative As for 6A.
<i>Proportionality</i>	Moderately positive On balance, this option makes the criminal law more consistent than the status quo because it ensures similar offending is treated the same.	Moderately negative As for 4A, except the penalty is inconsistent with offences of a similar nature and may thus be deemed disproportionate to the nature of the offending.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

30. Of the two options, Option Two would likely better address the problem and the policy objectives. Within Option Two, the sub-options for each proposal that best meet the criteria are outlined in the table below.

Table 1: Sub options for each proposal that best meet the criteria

Proposals	Preferred	Rationale
Proposal 1: Greater use of vehicle destruction and forfeiture	1A Vehicle destruction or forfeiture is a presumptive sentence for serious ASRU convictions – that is, all ASRU convictions except those where there is no speeding or dangerous driving involved (which would remain subject to a \$10,000 fine or six months impoundment).	Lower costs. Forfeiture would have fewer costs to the Crown, as vehicles, while low value, would be able to be sold to recover some costs. Proposal 1A would ensure low level offenders are treated less harshly than more serious offenders, increasing proportionality.
<p><u>Constraints:</u> Potential for Police incurring costs for cases that are dismissed may inhibit full use of the powers. Courts may also consider forfeiture/destruction a sufficient penalty and may use their discretion to waive impoundment costs or fines. This could reduce the effectiveness of the policy. It would also place liability for impoundment costs on the courts.</p>		
Proposal 2: Greater use of impoundment (or alternatives)	2A: 28-day impoundment with option to seek court order to extend.	Judicial discretion to extend impoundment past 28 days is consistent with natural justice rights, while impounding only high-risk vehicles would decrease costs to the Crown. Impoundment at an offender’s residence has significant workability issues, while licence suspension could be considered more disproportionate and read down by courts.
<p><u>Constraints:</u> Potential for Police incurring costs for cases that are dismissed may inhibit full use of the powers. The towage and storage sector has previously raised concerns about financial losses arising from Police impoundment. Impounded vehicles are often low value and are frequently abandoned by owners, or the owners refuse to pay for them, resulting in financial losses for operators. Abandonment rates prior to the recent six-month impoundment laws ranged from 10 to 15 percent (about 2500 vehicles per year). Due to the constrained timeframes for these proposals, there has been no targeted consultation with the sector to verify its ability and willingness to participate in expanded impoundment.</p> <p>Anecdotally, operators are refusing Police impoundments due to the risk of vehicle owners not paying fees and abandoning vehicles especially where the total storage cost exceeds the vehicle’s value. Operators raised concerns about these issues prior to the extension of impoundment periods for fleeing driver offences from 28 days to 6 months.⁹ Further</p>		

⁹ 1News “Towies raise cost concerns of impounding cars under new policy.” (17 February 2024). <https://www.1news.co.nz/2024/02/17/towies-raise-cost-concerns-of-impounding-cars-under-new-policy/>

Proposals	Preferred	Rationale
increases in impoundment periods are, therefore, likely to attract interest and similar concerns.		
Proposal 3 Create a new offence for being part of an intimidating vehicle convoy	Preferred 3A: New intimidating convoy offence. Presumptive sentence of vehicle destruction or forfeiture unless driver was not the owner.	Lower costs. While option 3A could have a greater deterrent effect, there are more proportionate ways to largely achieve the policy objective in a less intrusive manner.
<u>Constraints:</u> Potential for Police incurring costs for cases that are dismissed may inhibit full use of the powers. Limits on the capacity of the towage and storage sector may apply.		
Proposal 4 Expanded power for Police to temporarily close roads in cases of disorder or public danger and associated penalty	Preferred: 4A: Power to close roads and infringe people who do not leave (\$300).	A \$300 fee is more proportionate to the harm than a \$1000 fee.
<u>Constraints:</u> None identified		
Proposal 5: Stronger penalties for and greater powers to detect excessive noise within or on a motor vehicle	Preferred: 5A: Enable noise cameras. Infringement fee for excessive noise (\$300).	A \$300 fee is more proportionate to the harm than a \$1000 fee. For comparison, \$1000 is \$370 more than the current fee for exceeding the speed limit by 45-50 km/hr.
<u>Constraints:</u> While the technology for noise cameras is not developed yet, there are no other constraints identified.		
Proposal 6: Stronger tools to manage vehicle owners who fail to provide relevant information	6A: Extend the offence for failing to provide information to new scenarios	This option achieves the policy objective in a more proportionate manner.
<u>Constraints:</u> Potential for Police incurring costs for cases that are dismissed may inhibit full use of the powers. Judges may also consider impoundment sufficient penalty and may use their discretion to waive impoundment costs or a fine. This could reduce the effectiveness of the policy.		

Other general constraints

31. All the proposals are likely to generate more appeals and/or more hearings, which could affect civil court proceedings' timeliness and/or draw court resources away from other areas. However, we expect that this would be a small impact overall.
32. Care would be needed when drafting the new offences to ensure the powers could only be used in the context for which they were designed (disrupting or reducing anti-social road user events). This would be required to avoid the use of these powers in other contexts such as political protests where the presence of vehicles may be incidental.

What are the marginal costs and benefits of the preferred option (Proposals 1A, 2A, 3A, 4A, 5A, 6A)?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Courts	<ul style="list-style-type: none"> Cost of storing and destroying vehicles. Court time for the increased number of people convicted for anti-social road user offences. Any impoundment/destruction costs that cannot be recovered as a fine (eg, not repayable within five years). 	<ul style="list-style-type: none"> Depending on the length of impoundment, net gain of \$2 million (28 days) to costs of \$20.3 million (16 months). These numbers assume a 90:10 vehicle forfeiture to destruction ratio and some recovery from the sale of vehicles. Recovery from fines is not included. 	<p>All evidence is of low certainty (limited evidence, we have not consulted affected groups apart from Police and Ministry of Justice). The AA proactively submitted its views but were not consulted on specific proposals. A key driver of costs and impact will be the extent to which the powers are</p>
New Zealand Police	<ul style="list-style-type: none"> Initial cost of establishing the functions and operations, including training to use the new powers, ICT costs and new forms. Costs of vehicle storage and destruction. This will vary widely depending on the extent of enforcement acquittal rates in the courts. Without new funding or reprioritising other work, it will not be possible to implement longer impoundment periods. Costs are assumed to tail off after the 2028/9 financial year as the deterrent effect increases. 	<ul style="list-style-type: none"> Implementation costs of \$1.480 million. Depending on the length of impoundment, costs of \$0.706 million (28 days) to \$10.577 million (16 months). These numbers assume Police liability for costs where proceedings do not result in a conviction (30% of cases). 	
New Zealand Transport Agency (NZTA)	<ul style="list-style-type: none"> Initial cost of setting up new agreements with third-party operators. Setting standards for operations and potential national contract for regulated operators. 	Low.	
Third-party operators (ie, towage, storage and wreckage service providers)	<ul style="list-style-type: none"> Initial cost of setting up new agreements. Ongoing operation costs. Ongoing risk of limited capacity. Possible investment in vehicles and facilities for greater volume of vehicles. Safety risks for operators attending an event or post-event enforcement. 	<p>Unknown – we have not consulted operators about the proposals.</p> <p>We understand operators incur significant costs for unclaimed vehicles within the six-month impoundment system. The abandonment rate of vehicles is currently 10 – 15%.</p> <p>A recent survey of 8 members by the Motor Trade Association, which represents towage and</p>	

	<ul style="list-style-type: none">These costs may be acceptable to operators if there is a Crown guarantee their costs will be met.	storage operators, found that \$500,000 in towage and storage fees was owed across the operators, with one operator being owed as much as \$175,000.	used, and the extent to which they act as a deterrent, which is difficult to assess at this point.
Affected parties	<ul style="list-style-type: none">The penalties could affect human rights and freedoms recognised and promoted in the NZBORA.The new penalties may create income stress and act as a pathway into the justice system. People who are less able to pay will likely face unpaid fees and escalation to the courts.The proposals will likely disproportionately affect Māori. For example, Māori made up about 50% of the people charged with fleeing Police in 2023, and so are likely to be disproportionately affected by the stronger powers.Many Māori live and work in areas that have limited public transport. The proposals could exacerbate this exclusion.¹⁰Offenders are also disproportionately young males: nationally in 2023, about 36% of people charged with one of the offences covered in this paper were under 25, and 83% were male.	Medium.	
Total monetised costs		\$0.186 million to \$32.357 million.	
Non-monetised costs		Medium.	
Additional benefits of the preferred option compared to taking no action			
Road controlling authorities	<ul style="list-style-type: none">Reduced cost of repairs to roads and public property.	Unknown – we have not consulted Road Controlling Authorities about the proposals.	All evidence is of low certainty (limited evidence, we have not consulted affected groups apart from the Ministry of Justice).
New Zealand Police	<ul style="list-style-type: none">Improved identification of offenders after the offence.Decreased rates of offending, from deterrent effects.	Low – Medium.	
Public	<ul style="list-style-type: none">Improved sense of safety and confidence in the justice system.	Low.	
Total benefits		Low – Medium.	

¹⁰ New Zealand Institute for Economic Research (NZIER). The driver licensing challenge: NZIER report to the Ministry of Business, Innovation and Employment (2016), (Wellington, New Zealand: NZIER, April 2016), 6-8

Section 3: Delivering an option

How will the new arrangements be implemented?

33. Police will provide further advice ahead of introduction on the required changes and their associated costs. Costs would likely need to be met within Police baselines, with associated trade-offs for other activity.

How will the new arrangements be monitored, evaluated, and reviewed?

34. The effectiveness of any amendments will be monitored by Police. Police will track:
- reductions in the number of fleeing driver and illegal street racing events and prosecutions
 - reductions in crashes, injuries and deaths from these events
 - the number of vehicle seizures and court-ordered destructions.
35. Monitoring this data will enable Police to understand whether the changes are having a deterrent effect.

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Annex: Summary of the existing penalties and proposed new penalties

Offence	Existing penalties (maximum)	Recommended alternative penalties (maximum)
Court ordered penalty for illegal street racing and fleeing driver*	Street racing: Courts may confiscate vehicle after first offence and destroy after third offence with exceptions for extreme hardship Fleeing driver: Courts can forfeit vehicle	1A: Court presumptive sentence of destruction or forfeiture with exceptions for extreme hardship to the offender and undue hardship to any other person. Retain existing penalties for the lower-level offence of failing to stop for Police but not also speeding or driving dangerously.
Impoundment penalty for illegal street race, fleeing driver, intimidating convoy	Illegal street racing and reckless driving: Police may impound vehicle for 28 days Fleeing driver: Police may impound vehicle for 6 months	2A: Police may impound vehicle for 28 days and may seek an extension from the court to impound the vehicle further where they believe it may be used again for another offence. There would be provisions to review or appeal a decision to extend impoundment.
Court-ordered penalty for convoy offence*	For reckless driving court may confiscate for first offence, must for second offence	3A: Presumptive sentence of destruction or forfeiture if driver is owner with exceptions for extreme hardship to the accused and undue hardship to any other person. If driver is not owner Court may issue a notice that the vehicle may be subject to confiscation if it is used again for offending
Police road closure	No current penalties	4A: \$300 infringement fee for failing to leave a road closed by Police. Court may issue fine of up to \$3000.
Excessive noise from within or on vehicle	\$50 infringement fee Court may issue fine	5A: \$300 infringement fee. Court may issue fine of up to \$3000.
Enabling noise cameras	Not currently available	5 A: Enable

Offence	Existing penalties (maximum)	Recommended alternative penalties (maximum)
Vehicle owner fails to provide information they have on driver*	For fleeing driver, courts may confiscate for first offence, must confiscate for 2 nd offence. Police may impound vehicle for 28 days.	6A: Courts may confiscate vehicle if owner is found not to have provided the information they know on the driver, with exceptions for extreme hardship to the accused and undue hardship to any other person, and a maximum fine of \$10,000. Police may impound vehicle for 28 days.

Financial, licence, and prison penalties for existing offences

Offence	Existing penalties
Illegal street racing (Sections 22A, 35, 36A, 96 Land Transport Act 1998 (LTA); Sections 128 and 129A Sentencing Act 2002 (SA))	Courts may confiscate vehicle owned by the offender or a substitute after first offence and destroy after third offence with exceptions for extreme hardship to the offender / substitute or undue hardship to any other person. Police may impound vehicle for 28 days Must disqualify for 6 months or more, or 1 year or more if caused injury or death Impose up to 3 months prison or a fine up to \$4,500 up to 5 years prison or a fine up to \$20,000 if caused injury, up to 10 years in prison or a fine up to \$20,000 if caused death
Fleeing driver (Sections 52A, 114 LTA; section 142AAB SA)	Courts can forfeit vehicle Police may impound vehicle for 6 months Fine of up to \$10,000 Must disqualify from driving for 6 months if also exceeding the speed limit or otherwise driving dangerously. Must disqualify for at between 1 and two years for 2 nd offence. Must disqualify for 2 years for 3 rd offence. Up to 3 months prison for 3 rd offence
Reckless/ dangerous driving, or careless driving causing injury or death (whether or not part of a convoy) (sections 7, 36 LTA)	For reckless driving court may confiscate for first offence, must for second offence For reckless driving Police may impound for 28 days Fine of \$4,500 fine, or \$20,000 if caused injury or death Must disqualify from driving for 6 months or more, 1 year if caused injury or death. After second offence must prevent offender from purchasing new vehicle for 12 months. 3 months prison, 5 years if caused injury, 10 years if caused death

Offence	Existing penalties
Vehicle owner fails to provide information they have on driver	<p>For fleeing driver courts may confiscate for first offence, must confiscate for 2nd offence</p> <p>For fleeing driver Police may impound vehicle for 28 days</p> <p>Court may issue \$20,000 fine</p> <p>Court must prevent offender from purchasing a new vehicle for 1 year</p>

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Cabinet Expenditure and Regulatory Review Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Revised Options for Addressing Anti-Social Road Use

Portfolio Transport / Police

On 11 March 2025, the Cabinet Expenditure and Regulatory Review Committee:

Illegal street racing and related activities and fleeing driver offences

- 1 **agreed** to amend the Sentencing Act 2002 to require that a court must order a vehicle to be destroyed or forfeited on conviction for the following offences, unless the exceptions in paragraph [2](#) below apply:
 - 1.1 failing to stop or remain stopped when signalled or requested to stop by an enforcement officer while exceeding the speed limit or operating the vehicle in an otherwise dangerous manner (i.e. a fleeing driver);
 - 1.2 operating a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road;
 - 1.3 without reasonable excuse, operating a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction;
 - 1.4 operating a motor vehicle as part of an intimidating convoy (a new offence outlined in paragraph 3 below);
- 2 **agreed** to amend the Sentencing Act 2002 to state that a court must not order the destruction or forfeiture of a vehicle for the offences in paragraph [1](#) above if:
 - 2.1 it would be manifestly unjust;
 - 2.2 it would cause extreme hardship to the offender, or undue hardship to any other person (this is an existing provision that would be retained);
 - 2.3 the vehicle was stolen;
 - 2.4 the offender is not the owner (registered person) of the vehicle;
- 3 **agreed** to amend the Land Transport Act 1998 to establish a new offence for operating a motor vehicle as part of an intimidating convoy where a person:

- 3.1 used a motor vehicle to commit one of these offences: dangerous or reckless driving, street racing or sustained loss of traction, aggravated careless use of a vehicle causing injury or death; and
 - 3.2 this offending occurred while the vehicle was travelling in a group of two or more vehicles; and
 - 3.3 the vehicle was being operated in a manner that could constitute intimidation (i.e. an intent to intimidate or knowing that their conduct is likely to cause another person reasonably to be intimidated);
- 4 **agreed** to amend the Land Transport Act 1998 to remove the 6-month impoundment for failure to stop offences and replace that with a 28-day impoundment to align with Police powers to seize and impound for illegal street racing, sustained loss of traction, and reckless or dangerous driving;
- 5 **agreed** to amend the Sentencing Act 2002 so that on conviction, the offender is liable to pay any fees and charges associated with vehicle towage and storage;
- 6 **noted** that any fees and charges will be sought to be recovered from the offender on conviction under section 138A of the Sentencing Act 2002, and the storage provider will contract directly with Police and/or Justice for their services;

Identification of offenders after the event

- 7 **agreed** to amend the Land Transport Act 1998, including section 118, so that a registered person or hirer must immediately provide all information in their possession or obtainable by them about the identity of a driver who used their vehicle to commit one of the following offences:
- 7.1 operating a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road;
 - 7.2 without reasonable excuse, operating a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction;
 - 7.3 operating a motor vehicle as part of an intimidating convoy;
- 8 **agreed** to amend the Sentencing Act 2002 and Land Transport Act 1998 to establish the following penalties for the offence in paragraph 7 above:
- 8.1 a court must, on conviction, order the forfeiture or destruction of the vehicle, and may sentence the offender to a fine not exceeding \$10,000;
 - 8.2 a court must not make an order of vehicle forfeiture or destruction if it would be manifestly unjust or would result in extreme hardship to the offender or undue hardship to any other person;
- 9 **agreed**, for the offence in paragraph 7 above, to amend the Sentencing Act 2002 to provide that a court may, on conviction, order an offender to pay any costs of towage and storage associated with impounding the vehicle;

Police road closure

- 10 **agreed** to amend the Policing Act 2008 to provide that Police have the power to temporarily close to traffic all public and private areas to which the public has vehicle access;
- 11 **agreed** to amend the Policing Act 2008 to create a new offence for a person failing to leave an area temporarily closed by Police;
- 12 **agreed** to amend the Policing Act 2008 so that Police may issue a \$1,000 infringement fee for the above offence, and a court may issue a fine of up to \$3,000;

Excessive noise offence

- 13 **agreed** to amend the Land Transport (Offences and Penalties) Regulations 1999 to raise the infringement penalty for creating excessive noise within or on a vehicle from \$50 to \$300 and the court fine from \$1,000 to \$3,000;

Legislative amendments relating to anti-social road use

- 14 **noted** the intention for the above proposals to be progressed through the Anti-Social Road Users Bill, s 9(2)(g)(i)
- 15 **invited** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions, including any necessary consequential amendments, and savings and transitional provisions;
- 16 **authorised** the Minister of Transport, Minister of Justice, and Minister of Police to make any further policy decisions relating to the above matters, provided they are consistent with Cabinet's decisions;
- 17 **authorised** the Minister of Transport, Minister of Justice and Minister of Police to make any minor or technical amendments that arise during the drafting of the legislative amendments to give effect to the above decisions;
- 18 **noted** that the Ministry of Transport, Ministry of Justice and Police will work with the Crown Law Office on the rights implications of the proposals in paragraph 7 above.

Sam Moffett
Committee Secretary

Present:

Rt Hon Winston Peters
Hon David Seymour (Chair)
Hon Nicola Willis
Hon Chris Bishop
Hon Paul Goldsmith
Hon Louise Upston
Hon Judith Collins KC
Hon Mark Mitchell
Hon Simon Watts
Hon Brooke van Velden
Hon Shane Jones
Hon Casey Costello
Hon Chris Penk
Hon Andrew Hoggard

Officials present from:

Office of the Prime Minister
Office of the Minister of Transport
Officials Committee for EXP
Ministry of Transport
New Zealand Police



Cabinet

Minute of Decision

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Report of the Cabinet Expenditure and Regulatory Review Committee: Period Ended 14 March 2025

On 17 March 2025, Cabinet made the following decisions on the work of the Cabinet Expenditure and Regulatory Review Committee for the period ended 14 March 2025:

EXP-25-MIN-0009 **Revised Options for Addressing Anti-Social Road Use** CONFIRMED
Portfolios: Transport / Police

Out of Scope

Rachel Hayward
Secretary of the Cabinet