



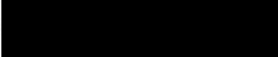
OC210420

28 June 2021



Withheld to protect personal privacy

Tēnā koe



Withheld to protect personal privacy

I refer to your request dated 19 May 2021, pursuant to the Official Information Act 1982 (OIA), seeking copies of the following documents.

- *Wood cc: Robertson Waka Kotahi 3/02/21 Quarterly Report on Borrowing Facilities and Public Private Partnerships*
- *Wood, Robertson, All an MoT 3/02/21 Funding Transfers To Implement Search And Rescue Initiatives In Department Of Conservation*
- *Wood cc: Robertson MoT 4/02/21 Update - Funding arrangements for New Zealand Search and Rescue training*
- *Wood MoT 4/02/21 Auckland Transport Alignment Project (ATAP) 2021-31 Package Of Investment*
- *33 | Wood | Waka Kotahi | 11/02/21 | Greater Christchurch Mass Rapid Transit*
- *38 | Wood | MoT | 11/02/21 | Timeline on upcoming advice for the transport component of the New Zealand Upgrade Programme (NZUP)*
- *43 | Wood | MoT | 12/02/21 | Proposed amendments to the Road User Charges legislation to improve the Road User Charges System*
- *44 | Wood | MoT | 12/02/21 | Proposed amendments to the Road User Charges legislation to increase the uptake of low emission vehicles*
- *45 | Wood | CAA | 12/02/21 | Pacific Aerospace Limited*
- *46 | Wood | MoT | 15/02/21 | Enabling Drone Integration-final draft Cabinet paper and Discussion Document*
- *47 | Mahuta cc: Robertson Woods Wood | DIA | 15/02/21 | Release of two infrastructure finding and financing resources: implementation pilots*
- *48 | Wood | Waka Kotahi | 16/02/21 | Traffic condition in Auckland*
- *49 | Wood | Waka Kotahi | 16/02/21 | Regional Fuel Tax Second Quarter Report – from 1 October – 31 December 2020*
- *54 | Wood | Waka Kotahi | 17/02/21 | Update on Kennedy Good Bridge/Kelson Interchange*
- *55 | Wood | MoT | 17/02/21 | Oil Pollution Advisory Committee: Member Appointments*
- *56 | Woods, Wood | KiwiRail | 17/02/21 | NZ Upgrade Programme – Southern stations update*
- *57 | Twyford, Lees-Galloway cc: Nash | MoT/MBIE | 17/02/21 | Designation of Waka Kotahi NZ Transport Agency as a work health and safety regulator*

- 58 | Wood | Waka Kotahi | 18/02/21 | Vehicle Ownership Dispute
- 62 | Wood | MoT | 18/02/21 | Cover note on Waka Kotahi Regional Fuel Tax quarterly report
- 63 | Wood, Robertson | Waka Kotahi | 18/02/21 | Northern Pathway Project Update
- 67 | Wood | CAA | 19/02/21 | Briefing for 2 March Meeting with Civil Aviation Authority Officials
- 68 | Wood cc: Robertson | MoT | 19/02/21 | Update on upcoming advice for the New Zealand Upgrade Programme
- 87 | O'Conner, Wood, Robertson | LINZ | 25/02/21 | Satellite-Based Augmentation System: Drawdown of tagged-contingency funding

On 14 June 2021 we extended the time period for responding to your request, as consultations necessary to make a decision on the request were such that a proper response to the request could not reasonably be made within the original time limit. We have now completed the necessary consultations and our response is detailed below.

Twenty three documents fall within the scope of your request, of which twelve have been transferred to other agencies. Table 1 outlines how the 23 documents you have requested have been treated under the OIA, including six that we enclose (along with attachments) and five that we are withholding in full.

You will see that certain information and/or documents have been withheld under the following sections:

- Section 9(2)(a), to protect the privacy of natural persons
- Section 9(2)(f)(iv), to maintain the constitutional convention for the time being which protects the confidentiality of advice tendered by Ministers of the Crown and officials
- Section 18(d), as the information requested is or will soon be publicly available.

In regard to the information that has been withheld under Section 9 of the OIA, I am satisfied that the public interest in releasing withheld information does not outweigh the reasons for withholding it at this time.

You have the right under Section 28(3) of the OIA to make a complaint about the withholding of information to the Ombudsman, who can be contacted at:

info@ombudsman.parliament.nz

The Ministry publishes our OIA responses and the information contained in our reply to you may be published on the Ministry website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā


Hilary Penman
Manager, Ministerial Services

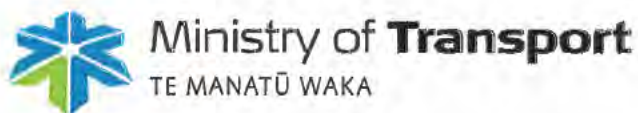
Withheld to protect personal privacy

Table 1

Doc #	Document	Description of information withheld
1	Quarterly Report on Borrowing Facilities and Public Private Partnerships	Transferred to Waka Kotahi, 21 May 2021.
2	OC200578 – Funding Transfers to Implement Search and Rescue Initiatives in Department of Conservation	Some information withheld under Section 9(2)(a). Memorandum of Understanding attachment to briefing withheld under Section 18(d), it is available online at: www.nzsar.govt.nz/assets/Downloadable-Files/2020-23-DOC-MOU-SIGNED-ALL-PARTIES-DECEMBER-2020.pdf
3	OC201016 – Update - Funding arrangements for New Zealand Search and Rescue training Plus attachments as follows: <ul style="list-style-type: none"> • Attachment A • Signed copy of Ministry of Transport MoU (MoT) 	Some information withheld under Section 9(2)(a).
4	OC210065 – Auckland Transport Alignment Project (ATAP) 2021-31 Investment Package Plus attachments as follows: <ul style="list-style-type: none"> • Appendix A • Appendix B 	Some information withheld from briefing and Appendix A under Sections 9(2)(a) and 9(2)(f)(iv). Cabinet paper attachment to briefing withheld under Section 18(d), as it is available online at: www.transport.govt.nz/assets/Uploads/ATAP-2021-31-Cabinet-Paper.pdf
5	MINO-0176 – Greater Christchurch Mass Rapid Transit	Transferred to Waka Kotahi, 21 May 2021.
6	OC210090 – Timeline on upcoming advice for the transport component of the New Zealand Upgrade Programme (NZUP)	Withheld in full under Section 18(d) as it will soon be publicly available.
7	OC210080 – Proposed amendments to the Road User Charges legislation to improve the Road User Charges system	Withheld in full under Section 9(2)(f)(iv).
8	OC201018 – Proposed amendments to the Road User Charges legislation to increase the uptake of low emission vehicles	Withheld in full under Section 9(2)(f)(iv).
9	Pacific Aerospace Limited	Transferred to Civil Aviation Authority, 21 May 2021.

Doc #	Document	Description of information withheld
10	OC210083 – Enabling Drone Integration-final draft Cabinet paper and Discussion Document	Withheld in full under Section 18(d). The document and its attachment can both be found online through: www.transport.govt.nz/area-of-interest/technology-and-innovation/drones-in-new-zealand/
11	Release of two infrastructure funding and financing resources: implementation pilots	Transferred to Department of Internal Affairs, 26 May 2021.
12	MINO-0180 – Traffic condition in Auckland	Transferred to Waka Kotahi, 21 May 2021.
13	Regional Fuel Tax Second Quarter Report - from 1 October - 31 December 2020	Transferred to Waka Kotahi, 21 May 2021.
14	MINO-0181 - Update on Kennedy Good Bridge/Kelson Interchange	Transferred to Waka Kotahi, 21 May 2021.
15	OC210037 - Oil Pollution Advisory Committee: Member Appointments Plus attachments as follows: <ul style="list-style-type: none"> • Appendix One Draft appointment letter to Mr Clifford • Appendix Two APH pack approved by Cabinet, comprising: <ul style="list-style-type: none"> - APH Cabinet papers - Organisation and Candidate CV Forms - Talking Points • Appendix Three <ul style="list-style-type: none"> - Gazette notice - Letters of appointment Please note with regard to the attachments provided, we are releasing the approved documents rather than the original APH pack.	Some information withheld under Section 9(2)(a).
16	NZ Upgrade Programme - Southern stations update	Transferred to KiwiRail, 27 May 2021.
17	OC191262 - Designation of Waka Kotahi NZ Transport Agency as a work health and safety regulator	Some information withheld under Section 9(2)(a).
18	MIN-3540 – Vehicle Ownership Dispute	Transferred to Waka Kotahi, 21 May 2021.
19	OC210087 - Cover note for Waka Kotahi Regional Fuel Tax Quarterly Report	Some information withheld under Section 9(2)(a).
20	BRI-2107 - Northern Pathway Project Update	Transferred to Waka Kotahi, 21 May 2021.

Doc #	Document	Description of information withheld
21	Briefing for 2 March Meeting with Civil Aviation Authority Officials	Transferred to Civil Aviation Authority, 21 May 2021.
22	OC210108 - Update on upcoming advice for the New Zealand Upgrade Programme	Withheld in full under Section 18(d) as it will soon be publicly available.
23	BRF 21-236 - Satellite-Based Augmentation System: Drawdown of tagged-contingency funding	Transferred to Land Information New Zealand, 24 May 2021.

**BRIEFING**

3 February 2021

OC200578

**Hon Michael Wood
Minister of Transport****Action required by:**

Friday, 12 February 2021

**Hon Grant Robertson
Minister of Finance****Hon Kiritapu Allan
Minister of Conservation****FUNDING TRANSFERS TO IMPLEMENT SEARCH AND RESCUE
INITIATIVES IN DEPARTMENT OF CONSERVATION****Purpose**

To seek your approval for funding transfers from Vote Transport to Vote Conservation to implement search and rescue initiatives.

Key points

- In April 2020, the Minister of Transport and the Minister of Finance approved funding for the Department of Conservation (DoC) to provide a number of search and rescue (SAR) activities (OC200128 refers). This funding is provided under Section 9(1) of the Land Transport Management Act 2003 and is sourced from fuel excise duty (FED) paid by recreational boating users.
- In order for DoC to implement these initiatives, funding needs to be transferred from Vote Transport to Vote Conservation. As this will be the first time DoC is receiving funding through Section 9(1), a new appropriation will need to be established in Vote Conservation to facilitate this transfer.
- Funding will be governed by a memorandum of understanding (MoU) between New Zealand Search and Rescue (NZSAR) and DoC to ensure funds are appropriately spent (attachment 1).

Recommendations

We recommend you:

1 **note** that in April 2020 the Minister of Transport and the Minister of Finance, under section 9(1) of the Land Transport Management Act 2003, approved funding for the Department of Conservation to provide a number of search and rescue activities

2 **agree** to establish the following new appropriation in Vote Conservation, to give effect to the policy recommendation at 1 above:

Yes/No

Vote	Appropriation Minister	Title	Type	Scope
Conservation	Minister of Conservation	Search and Rescue Activities PLA	Departmental output expense	This appropriation is limited to search and rescue activities and services as authorised under Section 9(1) of the Land Transport Management Act 2003.

3 **approve** the following changes to appropriations, as authorised by section 9(1) of the Land Transport Management Act 2003, reflecting the changed expenses described in recommendation 1 above, with no impact on the operating balance or net core Crown debt:

Yes/No

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & outyears
Vote Transport Minister of Transport Non-departmental Output Expense: Search and Rescue and Recreational Boating Safety Activities PLA	(0.465)	(0.359)	(0.463)	(0.066)	(0.066)
Vote Conservation Minister of Conservation Departmental Output Expense: Search and Rescue Activities PLA	0.465	0.359	0.463	0.066	0.066

4 **agree** that spending from this new appropriation will be governed by a Memorandum of Understanding between the Department of Conservation and New Zealand Search and Rescue

Yes/No

5 agree to the following condition on use of the new appropriation

Yes/No

Appropriation	Condition on use
Search and Rescue Activities PLA	The funding can be spent only in accordance with the Memorandum of Understanding between the Department of Conservation and the New Zealand Search and Rescue Council.

6 agree that the proposed changes to appropriations for 2020/21 above will be reported and disclosed in the 2020/21 Supplementary Estimates

Yes/No

Tim Herbert
Manager, Investment

..... / /

Hon Michael Wood
Minister of Transport

..... / /

Hon Grant Robertson
Minister of Finance

..... / /

Hon Kiritapu Allan
Minister of Conservation

..... / /

Minister's office to complete:

Approved

Declined

Seen by Minister

Not seen by Minister

Overtaken by events

Comments

Contacts

Withheld under section 9(2)(a) of the Official Information Act 1982

Name	Telephone	First contact
Tim Herbert, Manager, Investment, Ministry of Transport	██████████	✓
Jonathan Luo, Senior Advisor, Investment, Ministry of Transport	██████████	
Kiana Iva, Graduate Advisor, Investment, Ministry of Transport	██████████	
Meryl Jupp, Senior Service Designer, Department of Conservation	██████████	

FUNDING TRANSFERS TO IMPLEMENT SEARCH AND RESCUE INITIATIVES IN DEPARTMENT OF CONSERVATION

Background

- 1 Section 9(1) of the Land Transport Management Act (LTMA) 2003 enables the Crown to utilise fuel excise duty (FED) to support search and rescues (SAR) and recreational boating safety activities. The Ministry of Transport (the Ministry) reviews requests for funding under section 9(1) of the LTMA every three years to ensure adequate financial resources are provided to the SAR sector.
- 2 In April 2020, the Ministers of Transport and Finance approved the Ministry's most recent triennial review, which included funding for Department of Conservation (DoC) to support SAR activities. Table 1 provides a breakdown of initiatives that were approved for DoC.

Table 1: Funding initiatives approved for DoC

DoC SAR Initiatives (\$m)				
Initiative	2020/21	2021/22	2022/23	2023/24 and Outyears
Aoraki/Mount Cook Search and Rescue	0.068	0.066	0.166	0.066
Establishment of a cross sector Land Safety Forum	0.197	0.293	0.297	-
Development of a cross-sector strategic plan	0.200	-	-	-
Total	0.465	0.359	0.463	0.066

Funding transfers into Vote Conservation are required to implement the initiatives

- 3 To date, funding under section 9(1) has been administered through Vote Transport and is allocated towards non-government agencies such as Surf Life Saving NZ and Coastguard NZ.
- 4 However, given DoC is a government department, funding for it would have to be transferred to, and administered through, the respective Vote. To facilitate this transfer of funds, a new appropriation will need to be established in Vote Conservation given DoC has not previously received funding through section 9(1). Table 2 outlines the proposed new appropriation for Vote Conservation.

Table 2: Proposed new appropriation for Vote Conservation

Vote	Appropriation Minister	Title	Type	Scope
Conservation	Minister of Conservation	Search and Rescue Activities PLA	Departmental output expense	This appropriation is limited to search and rescue activities and services as authorised under Section 9(1) of the Land Transport Management Act 2003.

- 5 We recommend Ministers agree to the establishment of the new appropriation and approve a funding transfer into the new appropriation from Vote Transport in order to implement the approved SAR initiatives.

Funding will be governed by a Memorandum of Understanding between New Zealand Search and Rescue and DoC

- 6 The New Zealand Search and Rescue (NZSAR) Council provides strategic leadership and direction to organisations that make up New Zealand's SAR sector. The NZSAR Secretariat provides the NZSAR Council with the information, support services, and advice it needs to deliver on its strategic direction. It provides cross-SAR sector leadership and promotes a unified SAR sector.
- 7 NZSAR is responsible for establishing reporting requirements for SAR agencies who receive funding under section 9(1) of the LTMA. Therefore, it will also be responsible for monitoring funding provided to DoC for the initiatives approved in the triennial review as outlined in Table 1.
- 8 NZSAR and DoC have signed a Memorandum of Understanding (MoU) that governs how funding transferred into Vote Conservation will be administered and spent. The MoU includes:
- arrangements for how the departments will support, contribute to, and improve the delivery of SAR related services;
 - the promotion of a sound and collaborative working relationship with the NZSAR Council; and
 - monitoring and reporting requirements with NZSAR.
- 9 The MoU ensures funding approved by joint ministers in the triennial review will be spent in accordance with what was agreed and delves into more detail on delivery and necessary reporting arrangements with NZSAR.
- 10 The MoU has been prepared for the three financial years 2020/21-2022/23 and will be renegotiated for 2023/24 and outyears.
- 11 The MoU is attached to this briefing.

- 12 To ensure funds are spent in accordance with the MoU, and therefore what was agreed by Joint Ministers, we also recommend placing the below condition on use of the new appropriation. The condition will also ensure adequate performance targets and reporting requirements have been satisfied as set out in the MoU.

Appropriation	Condition on use
Search and Rescue Activities PLA	The funding can only be spent in accordance with the Memorandum of Understanding between the Department of Conservation and the New Zealand Search and Rescue Council.

Consultation

- 13 The Treasury, DoC, and NZSAR have been consulted on this paper and agree with the recommendations.

Next steps

- 14 Funding was also approved for New Zealand Police (NZP) for SAR activities. The MoU with NZP is still under consultation and we expect to provide a briefing to you for a new appropriation and a fiscally neutral transfer in 2021.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

4 February 2021

OC201016

Hon Michael Wood
Minister of Transport

Action required by:
Friday, 19 February 2021

cc Hon Grant Robertson
Minister of Finance

UPDATE - FUNDING ARRANGEMENTS FOR NEW ZEALAND SEARCH AND RESCUE TRAINING

Purpose

To seek your approval for continuation of the current funding arrangement for the delivery of search and rescue training in 2021 and beyond.

Key points

- There are nearly 12,000 people directly involved in search and rescue (SAR) operations across New Zealand, of which approximately 95% are non-paid. These people require ongoing specific skill training to ensure they are able to respond when SAR services are needed. In the year ending June 2020, there were 2,405 search and rescue incidents, from which 128 lives were saved, 506 people rescued and 783 people assisted.
- The New Zealand Search and Rescue (NZSAR) Secretariat coordinates this training. However, it is paid for through an arrangement between the Ministry of Transport (the Ministry) and the Tertiary Education Commission (TEC), under an interim delegation from the Minister of Education.
- A departmental appropriation was established in February 2019 to enable the Ministry to spend funds received from the TEC. The Minister of Education has now agreed for TEC to continue this arrangement from 2021 onwards as outlined in *Attachment A*.
- A memorandum of understanding has been agreed between the TEC and the Ministry (on behalf of the NZSAR Secretariat) to support this activity.
- NZSAR is seeking further appropriation to allow the Ministry, informed by expertise drawn from the NZSAR Secretariat, to continue to purchase SAR training for approximately 2000 people per year.
- We are seeking agreement from Joint Ministers to a fiscally neutral adjustment to increase the departmental appropriation which is funded by revenue received from TEC, by mid-February 2021 to ensure the full planned training programme can be delivered on time from late February 2021.

Recommendations

Joint Ministers are asked to:

- 1 **approve** the following fiscally neutral adjustment to give effect to the memorandum of understanding between the Ministry (on behalf of the NZSAR Secretariat) and the Tertiary Education Commission to deliver search and rescue training and activities, with no impact on the operating balance or net core Crown debt:

	\$m – increase/(decrease)				
Vote Transport	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Minister of Transport					
Departmental Output Expense: Search and Rescue Training and Training Coordination (funded by revenue other)	0.726	1.300	1.300	0.700	-

- 2 **agree** that the proposed change to appropriations for 2020/21 above be included in the 2020/21 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply.
- 3 **note** a memorandum of understanding (MOU) between the TEC and the Ministry (on behalf of the NZSAR Secretariat) for the funding arrangement for the delivery of SAR training is attached.

Withheld under Section 9(2)(a) of the Official Information Act 1982



Dr Natasha Rave
Acting Manager –
Resilience & Security

... / ... / ...

Hon Grant Robertson
Minister of Finance

... / ... / ...

Hon Michael Wood
Minister of Transport

9 / 1 / 21

Minister's office to complete:

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

Comments

Contacts

Name	Telephone	First contact
Natasha Rave, Acting Manager Resilience & Security		✓
Marshida Kolthoff, Graduate Advisor, Resilience & Security		

Withheld under Section 9(2)(a) of the Official Information Act 1982

UPDATE - FUNDING ARRANGEMENTS FOR NEW ZEALAND SEARCH AND RESCUE TRAINING

You have been asked to increase the departmental appropriation for Search and Rescue training

- 4 Arrangements for funding search and rescue training were established between the Ministry of Education and the Tertiary Education Commission (TEC) for the 2019 and 2020 calendar years, under an interim delegation from the Minister of Education.
- 5 A new departmental appropriation was established in February 2019 to enable the TEC to provide funds to the Ministry of Transport. The departmental appropriation is funded from 'revenue other' through revenue paid by the TEC to the Ministry.
- 6 On 24 September 2020 the Minister of Education delegated to the TEC ongoing authority to purchase search and rescue (SAR) training (as well as civil defence emergency management training), effective from 1 January 2021.
- 7 You have been asked to renew the departmental appropriation now because the original interim agreement expired in December 2020, and a renewal is required to enable the delivery of SAR training courses scheduled for delivery from February 2021. To enable this training to proceed as planned, we are seeking Joint Ministers' approval of the increase in departmental appropriation by mid-February 2021.
- 8 This paper asks Joint Ministers to:
 - note a memorandum of understanding (MOU) between the TEC and the Ministry (on behalf of the NZSAR Secretariat) for the funding arrangement for the delivery of SAR training is attached; and
 - agree to increase the appropriation; including agreement to appropriation adjustments, to allow the Ministry to give effect to the MOU, allowing the NZSAR Secretariat to deliver SAR training on behalf of the TEC.
- 9 As 2021 SAR training courses are scheduled for delivery from late February 2021, we are seeking your approval of departmental appropriation renewal by mid-February 2021 to enable this training to proceed as planned.

SAR personnel must undergo training to ensure they have the requisite skills and capability to respond to major incidents

SAR services and training in New Zealand

- 10 There are nearly 12,000 people directly involved in SAR-sector operations across New Zealand, of which approximately 95% are non-paid.
- 11 SAR personnel, including non-paid staff, must undergo training to ensure they have the requisite skills and capability to respond to major incidents. Training for this sector enables effective SAR services for approximately 2,000 people annually.
- 12 SAR training is funded via a \$1.3 million pool within the Adult and Community Education (ACE) fund administered by the TEC. The objective of the ACE fund is to

support education programmes that meet community needs, and is particularly directed at community-volunteer training programmes.

The NZSAR Council, Secretariat and role of the Ministry

- 13 The New Zealand SAR sector is led by a Council made up of the Chief Executives or designated representatives from the Civil Aviation Authority, the Department of Conservation, Maritime New Zealand, the Ministry of Transport, the New Zealand Defence Force, the New Zealand Police, Fire and Emergency New Zealand, and an independent member. The NZSAR Council is chaired by the Ministry's Chief Executive, Peter Mersi.
- 14 The NZSAR Council has a mandate from the Government to provide strategic leadership to the New Zealand SAR sector. To carry out this mandate, the NZSAR Council is supported by the NZSAR Secretariat, which works to improve the overall co-ordination, capability and leadership of SAR by working alongside the key organisations and individuals providing SAR services throughout New Zealand.
- 15 The NZSAR Secretariat is not a legal entity but sits within the Ministry. As such, the NZSAR Secretariat is officially hosted by the Ministry.

Confirmation of the ongoing funding arrangements for SAR training

- 16 The Minister of Education confirmed on 24 September 2020 the ongoing delegation to the TEC for authority to purchase SAR training from 1 January 2021 (*Attachment A*).
- 17 The following describe the funding arrangements from 1 January 2021.
 - For the period from 1 January 2021, the TEC will provide funds to the Ministry of Transport to allow the NZSAR Secretariat to arrange, deliver or sub-contract delivery of the required SAR training.
 - These funds are provided on a monthly basis, based on an annual forecast of training requirements from the NZSAR Secretariat.
 - Details of the arrangement are outlined in a MOU between the TEC and the Ministry (on behalf of the NZSAR Secretariat).

MOU between the Ministry and the TEC

- 18 The MOU between the Ministry and the TEC sets out the arrangements for how funding is to be used for the provision of SAR training.
- 19 The MOU also includes:
 - a provision allowing the NZSAR Secretariat to sub-contract SAR training to expert training providers, with the agreement of TEC;
 - a provision for \$85,000 of the total funding allocation to be set aside for the NZSAR Secretariat's associated administrative costs each year; and
 - reporting requirements for the NZSAR Secretariat to answer directly to the TEC on how monies are being spent on a month-by-month basis.
- 20 The MOU is complete and was signed in mid-January.

Hon Chris Hipkins



MP for Remutaka

Minister of Education

Minister of Health

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services

24 September 2020

Jenn Bestwick
Chair
Tertiary Education Commission
PO Box 27-048
Wellington 6141

Delegation to fund emergency management and search and rescue training

I delegate to the Tertiary Education Commission (TEC) (under section 159F(1)(e) of the Education Act 1989) authority to purchase civil defence emergency management (EM) training and search and rescue (SAR) training.

Purpose and amount of funding

The purpose of funding for SAR and EM training is to ensure the provision of good quality training that supports SAR and EM trainees to achieve an appropriate level of training and/or accreditation.

The total amount of funding that can be allocated under this delegation will be set through the Government's annual budget processes.

The TEC must determine the appropriate total amount of EM and SAR provision, measured in learner hours, that it purchases using the funding allocated under this delegation.

Learner eligibility

The TEC may only fund SAR and EM training under this delegation that is for domestic students (as defined in section 159 of the Education Act 1989).

Up to 1.9% of SAR training each year may be accessed by persons required to be treated as if they are not international students, as set out in the *Domestic Students (Tertiary Education) Notice 2016*.

Quality assurance

The TEC must require that the EM and SAR provision it purchases using the funding allocated under this delegation is quality assured by an appropriate organisation, as determined by the TEC.

Fees for provision funded under this delegation

The TEC must attach to funding paid under this delegation a condition that an organisation that receives funding under this delegation must ensure that a fee is not charged to a learner who is participating in EM or SAR training for which the organisation receives funding.

For the purposes of this condition, the term "fee" includes the following items: tuition fees; compulsory course costs; examination fees; costs of materials; costs of field trips; costs associated with the compulsory purchase of equipment or books; and other charges associated with a course.

For the purposes of this condition, the term "fee" does not include compulsory student services fees or fees for student identification cards.

Funding for co-ordination

The TEC may pay funding under this delegation for co-ordinating and arranging EM and SAR training, up to a maximum of \$100,000 for EM, and up to a maximum of \$85,000 for SAR.

Funding used for the right purpose

The TEC may impose any conditions on funding paid under this delegation that it considers necessary, including, without limitation, conditions for ensuring that the funding will achieve the purpose for which it has been provided.

Time period for delegation to fund emergency management training and search and rescue training

This delegation is effective from 1 January 2021. The TEC may exercise any of its administrative functions as required before this date to give effect to this delegation.

Measures to be included in Statement of Service Performance

I expect that the TEC will set appropriate measures as part of its Statement of Service Performance in order to report to me on its performance in giving effect to this delegation.

Yours sincerely



Hon Chris Hipkins
Minister of Education

RELEASED UNDER THE OFFICIAL INFORMATION ACT

**Tertiary Education
Commission**
Te Amorangi Mātauranga Matua



MEMORANDUM OF UNDERSTANDING

BETWEEN

TERTIARY EDUCATION COMMISSION

AND

MINISTRY OF TRANSPORT

for and on behalf of

NEW ZEALAND SEARCH AND RESCUE

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

This **Memorandum of Understanding (MoU)** is made on 17 December 2020

between the **Tertiary Education Commission (TEC)**

and the **Ministry of Transport (Ministry)** for and on behalf of the **New Zealand Search and Rescue Council (NZSAR)**

The TEC and the Ministry of Transport are each a "Party" to this agreement and together, the "Parties".

1. PURPOSE OF MOU

- 1.1 The purpose of this MoU is to provide the basis upon which the TEC will purchase services relating to search and rescue training from the Ministry. The Ministry, through NZSAR, will receive funding (**Training Delivery Funding**) from the TEC to deliver search and rescue training courses and activities to a specified number of learners for a specified number of hours (as set out in the Mix of Provision, for delivery that will take place during the year, agreed by the parties) (**Training Delivery**).
- 1.2 This MoU also sets out the terms on which the TEC will provide funding (**National Co-ordination Services Funding**) to the Ministry to co-ordinate national search and rescue training courses and activities (**National Co-ordination Services**). The National Co-ordination Services are set out in Schedule 3.
- 1.3 This MoU is intended to be legally binding on the parties.

2. PURPOSE OF FUNDING SEARCH AND RESCUE TRAINING

- 2.1 The purpose of funding search and rescue training is to ensure the provision of good quality training that supports search and rescue learners to achieve an appropriate level of training and/or accreditation.

3. BACKGROUND

- 3.1 The Ministry is a government department with a broad range of functions relating to transport in New Zealand. Those functions include providing leadership and support to the NZSAR Council, which administers the search and rescue sector in New Zealand.
- 3.2 The TEC is a Crown entity established under section 159C of the Education Act 1989 and continued under section 401 of the Education and Training Act 2020 (the **Act**). The TEC's functions relate to supporting the provision of tertiary education in New Zealand, including by providing funding for the delivery of tertiary education. Under section 409(1)(j) of the Act, the Minister of Education has delegated to the TEC the authority to purchase search and rescue training, and to provide funding for co-ordinating and arranging search and rescue training.
- 3.3 The TEC typically provides funding to tertiary education organisations (TEOs), as defined in section 10 of the Act, to deliver tertiary education to learners, applying a funding model based on the Equivalent Full-Time Student (EFTS) measure. The EFTS funding model is not appropriate for funding search and rescue training. This is for a number of reasons including that search and rescue training:

- (a) does not usually lead to qualifications on the New Zealand Qualifications Framework upon which the EFTS measure is based;
- (b) often consists of refresher training;
- (c) is often provided by individuals or organisations that are not TEOs; and
- (d) is typically delivered in small 'packets' to learners rather than as a full-time study load.

3.4 In addition, the TEC is not as well-placed as NZSAR to identify the mix of search and rescue training that is required.

3.5 The TEC, the Ministry of Education, and the Minister of Education are working towards developing a new funding model for search and rescue training. In the interim, the parties have agreed that the TEC will purchase services relating to search and rescue training from the Ministry to enable the Ministry (through NZSAR) to deliver or sub-contract for the delivery of the required search and rescue training.

4. FUNDAMENTAL PRINCIPLES AND RELATIONSHIP MANAGEMENT

4.1 The parties recognise that the TEC has primary responsibility for the purchase of search and rescue training courses and activities using the funding allocated under the delegation from the Minister of Education.

4.2 The parties agree to:

- (a) work together constructively, in good faith, and with honesty and integrity;
- (b) proactively raise any issues between them;
- (c) endeavour to resolve any disputes between them constructively and expeditiously; and
- (d) be aware of any possible implications of their decisions and actions for wider government policy issues.

4.3 The parties agree that regular contact will be maintained for the purpose of:

- (a) enabling the TEC to monitor the Ministry's performance;
- (b) encouraging the on-going review and assessment of the Ministry's effectiveness;
- (c) providing constructive feedback that will enhance the effectiveness of the Ministry's performance; and
- (d) identifying early any issues and opportunities for the Ministry to improve;
- (e) ensuring that the Ministry is kept informed of any developments within the TEC that are relevant to this MoU.

4.4 The parties agree that the Ministry will notify the TEC immediately if:

- (a) it believes it is unable to comply with this MoU;
- (b) it becomes aware of any actual or anticipated issues that could significantly affect:
 - (i) the delivery of search and rescue training courses and activities;
 - (ii) the Training Delivery Funding;

- (iii) the delivery of the National Co-ordination Services; or
- (iv) the National Co-ordination Services Funding.; or
- (c) any issues relating to its decisions regarding the purchase or delivery of search and rescue training courses or activities may be discussed in the public arena or may require a response from the TEC.

5. DELIVERY OF SEARCH AND RESCUE TRAINING AND COURSES

Responsibilities of the TEC

- 5.1 Subject to clause 9, the TEC will pay the Ministry the Training Delivery Funding in monthly instalments, as specified in Schedule 1.

Responsibilities of the Ministry

- 5.2 The Ministry acknowledges that the total annual amount of Training Delivery Funding available to the TEC to purchase search and rescue training courses and activities is the amount specified in Schedule 1 (**Total Training Delivery Funding**).
- 5.3 The Ministry agrees that it will:
- (a) comply with all of the terms specified in Schedule 2;
 - (b) ensure that it delivers search and training courses and activities to the number of learners and for the number of hours specified in the Mix of Provision;
 - (c) ensure that NZSAR or its delegated quality assurance body quality assures the search and rescue training specified in the Mix of Provision; and
 - (d) provide the TEC with clear and succinct reports as specified in this MoU, or otherwise reasonably required by the TEC.
- 5.4 When delivering search and rescue training courses and activities, the Ministry may purchase high quality search and rescue training courses and activities, or services in relation to search and rescue training courses and activities, by entering into contracts with third parties. For the purposes of this MoU, a "third party" may be a TEO, an individual, or a body corporate that delivers search and rescue training courses and activities, or services in relation to search and rescue training courses and activities.
- 5.5 If the Ministry enters into a contract with a third party relating to the provision of a search and rescue training course or activity, or services in relation to search and rescue training courses and activities, the Ministry must:
- (a) ensure that the terms of each contract are consistent with this MoU;
 - (b) monitor compliance with the terms of each contract;
 - (c) if a third party is failing or has failed to comply with the contract, take appropriate action to ensure compliance, or terminate the contract; and
 - (d) receive reports from each third party to enable the Ministry to provide the information specified in this MoU to the TEC.

6. NATIONAL CO-ORDINATION SERVICES

Responsibilities of the TEC

6.1 The TEC will pay the Ministry for the National Co-ordination Services as specified in Schedule 1.

Responsibilities of the Ministry

6.2 The Ministry agrees to provide all of the National Co-ordination Services specified in Schedule 3.

6.3 The Ministry acknowledges that the total amount of funding allocated by TEC for National Co-ordination Services is the amount specified in Schedule 1.

6.4 The Ministry agrees to ensure that it will:

- (a) provide high quality National Co-ordination Services in a timely manner;
- (b) work with the search and rescue sector and the tertiary education sector in a fair and balanced manner; and
- (c) use a thorough and systematic approach when delivering services relating to consultation and analysis.

7. ADVICE TO THE MINISTRY

7.1 Following a report, or information proactively provided by the Ministry, the TEC may propose for the Ministry to take a particular action in relation to the delivery or co-ordination of search and rescue training courses and activities.

7.2 Before directing the Ministry to take a particular action, the TEC will outline the proposed direction and give the Ministry an opportunity to be heard on the proposed direction.

7.3 If, after considering any submissions, the TEC gives a direction to the Ministry, the Ministry agrees to comply with the direction.

8. SUBCONTRACTING

8.1 The Ministry is accountable to the TEC for the use of the National Co-ordination Services Funding or Training Delivery Funding (together the **Funding**) by the Ministry, NZSAR, or any third party with which the Ministry contracts to deliver search and rescue training courses and activities.

8.2 The Ministry must not sub-contract for the delivery of National Co-ordination Services or the purchase of search and rescue training courses and activities without the TEC's prior written consent.

9. SUSPENDING OR REVOKING FUNDING

9.1 The TEC may suspend or revoke a payment, or any or all further payments, of National Co-ordination Services Funding or Training Delivery Funding (**Funding**) if the TEC is satisfied on reasonable grounds that the Ministry:

- (a) has not complied, or is not complying, with the terms of this MoU; or
- (b) is not providing, or has not provided, adequate or timely information required by the TEC.

- 9.2 Before deciding whether to suspend or revoke payment under clause 9.1, the TEC must:
- (a) notify the Ministry of the specific matters of concern; and
 - (b) give the Ministry a reasonable opportunity to be heard.
- 9.3 The TEC must give its reasons to the Ministry if it decides to suspend or revoke payments of Funding.
- 9.4 The TEC must specify the following matters if it decides to suspend payments of Funding:
- (a) the date on which the suspension will end and, as a consequence, the Funding will be revoked; and
 - (b) what action the Ministry must take in order to have the suspension lifted and avoid payments of Funding being revoked.
- 9.5 If the TEC suspends or revokes some or all of the Funding before the Ministry has used or contractually committed some or all of the Funding towards the Purpose:
- (a) the Ministry agrees to repay to the TEC any unexpended or uncommitted portion of the Funding; and
 - (b) the Ministry agrees to repay to the TEC any Training Delivery Funding that the TEC has paid in respect of learner hours that have not been provided.
- 9.6 The TEC may, at the written request of the Ministry, withdraw some or all payments of Funding, or any or all further payments of Funding. If the TEC withdraws Funding, it must advise the Ministry of the date on which the Funding will be withdrawn.
- 10. TERM AND AMENDMENT OF MOU**
- 10.1 This MoU is effective from 1 January 2021 to 31 December 2023 (Term) subject to clause 11.1 below.
- 10.2 This MoU, including schedules to this MoU, may be amended at any time during its Term by written agreement between the parties.
- 11. NO FURTHER FUNDING**
- 11.1 The Ministry acknowledges that:
- (a) there is no promise of further Funding from the TEC; and
 - (b) the amount of Funding payable under this MoU is dependent upon the Government allocating funding for Training Delivery and National Co-ordination Services in each Budget.

SIGNED for and on behalf of
TERTIARY EDUCATION COMMISSION by)

G E Dodge
Signature

Gillian E Dodgeon.
[Print Name])

Deputy Chief Executive - Delivery
Position

SIGNED for and on behalf of
MINISTRY OF TRANSPORT by)

P. Mersi
Signature

P. Mersi
[Print Name])

CHIEF EXECUTIVE
Position

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

3. Funding

Funding Period: 1 January 2021 - 31 December 2021	2021 Funding (ex GST)
National Co-ordination Services	\$85,000.00
Training Delivery	\$1,256,659.90
Total Funding	\$1,341,569.90
Training Delivery Funding funded learner enrolments (total expected learners from agreed Mix of Provision)	To be confirmed, based on 2021 agreed Mix of Provision
Training Delivery Funding funded learner hours (total learner hours from agreed Mix of Provision)	To be confirmed, based on 2021 agreed Mix of Provision
Training Delivery Funding funded courses and activities	See agreed Mix of Provision

4. Payment Schedule

Funding	Month of payment	2021 Payment Amount (ex GST)	2021 Scheduled Payment Date
National Co-ordination Services Funding	January	\$85,000.00	5 January 2021
Training Delivery Funding	January	\$97,391.14	5 January 2021
	February	\$97,391.14	1 February 2021
	March	\$97,391.14	1 March 2021
	April	\$97,391.14	1 April 2021
	May	\$97,391.14	3 May 2021
	June	\$97,391.15	1 June 2021
	July	\$112,052.17	1 July 2021
	August	\$112,052.17	2 August 2021
	September	\$112,052.17	1 September 2021
	October	\$112,052.17	1 October 2021
	November	\$112,052.17	1 November 2021
	December	\$112,052.20	1 December 2021

SCHEDULE 2: TERMS IN RELATION TO THE TRAINING DELIVERY FUNDING

INTRODUCTION

1. In accordance with clause 5.3, the Ministry agrees to comply with the following terms.

TERMS

Use of Training Delivery Funding

2. The Ministry agrees to ensure that the Training Delivery Funding is only used:
 - (a) lawfully, responsibly, and in a manner consistent with the appropriate use of public funds; and
 - (b) for the purpose of delivering eligible search and rescue training courses and activities to eligible learners.

Learner eligibility

Learners must be domestic students

3. The Ministry agrees to ensure that the Training Delivery Funding is only used in respect of learners who are eligible. Subject to clauses 4 and 5, an eligible learner is a domestic student (as defined in section 10 of the Act).

Eligibility of persons to be treated as if they are not international students

4. The Ministry agrees to ensure that no more than 1.9% of the Total Training Delivery Funding is used to deliver search and rescue training courses and activities to persons required to be treated as if they are not international students. If a contracted third party enrolls a learner who is a person required to be treated as if they are not an international student, and that enrolment exceeds the number specified by the Ministry to the third party, that learner is not an eligible learner.
5. For the purposes of this MoU, a "person to be treated as if they are not an international student" means an international student who expects to stay in New Zealand on a visa for at least six months after their enrolment in a search and rescue training course or activity in New Zealand funded under this MoU.

Search and rescue training course and activity eligibility

6. The Ministry agrees to ensure that Training Delivery Funding is only used in respect of eligible learners enrolled in a search and rescue training course or activity that:
 - (a) has been recommended by NZSAR;
 - (b) is appropriate for volunteers; and
 - (c) has been quality assured by NZSAR or its delegated quality assurance body.

Fees

7. The Ministry agrees to ensure that NZSAR does not charge Fees to any eligible learner who is participating in a search and rescue training course or activity funded by the Training Delivery Funding.
8. The Ministry must ensure that NZSAR does not allow any third party with which it contracts to charge Fees to any eligible learner participating in a search and rescue training course or activity funded by the Training Delivery Funding.
9. For the purposes of this MoU, "Fee":
 - (a) includes the following:
 - (i) tuition fees;
 - (ii) compulsory course costs;
 - (iii) examination fees;
 - (iv) costs of materials;
 - (v) costs of field trips;
 - (vi) costs associated with the compulsory purchase of equipment or books; and
 - (vii) other charges associated with a course; and
 - (b) does not include compulsory student services fees or fees for student identification cards.

Provision of equipment, infrastructure, and hardware

10. The Ministry agrees to ensure that NZSAR and any third party with which it contracts pays for the necessary equipment, infrastructure, and hardware required to deliver a particular search and rescue training course or activity.
11. For the purposes of this MoU, "equipment, infrastructure, and hardware":
 - (a) means items that can be used by successive intakes of learners; and
 - (b) does not include personal items that are provided for individual learners' use and that are not retained for the next intake of learners.

Agreements for the delivery of search and rescue training courses and activities

12. The Ministry may enter into contracts with third parties for the delivery of search and rescue training courses and activities.
13. The Ministry agrees that each contract with a third party will:
 - (a) specify the learners and the search and rescue training courses and activities for which the Training Delivery Funding may be used;
 - (b) impose requirements on the relevant third party to ensure that it complies with the terms of this Schedule, including the requirement to provide learner records to the Ministry, and the Ministry's ability to terminate a contract if the third party fails to comply with any of those requirements;

- (c) require the third party to notify the Ministry if:
 - (i) it is no longer able to comply with a requirement in the contract;
 - (ii) it has an insolvency event; and
 - (d) require the third party to provide the Ministry with access to its premises, employees and information for the purpose of:
 - (i) inspecting the records that the third party is required to keep; or
 - (ii) auditing the third party's compliance with the terms and conditions of the contract;
 - (e) specify that the Ministry is ultimately responsible to the TEC for the delivery of the training courses and activities; and
 - (f) require the third party to receive authorisation from each learner that it enrolls to have their personal information (name, date of birth, gender and ethnicity, and details of training) disclosed to the TEC for the purpose of administering the Training Delivery Funding.
14. If NZSAR uses Training Delivery Funding for Training Delivery, the Ministry must ensure that NZSAR receives authorisation from each learner that it enrolls to have their personal information (name, and details of training) disclosed to the TEC for the purpose of administering the Delivery Funding.

Monitoring

15. The Ministry agrees to ensure that NZSAR actively monitors Training Delivery to ensure it complies with the conditions specified in this MoU and any third-party contract.

Records

16. The Ministry agrees to ensure that each third party with which it contracts to deliver search and rescue training courses or activities:
- (a) keeps records of learners, which may be provided by the third party to the TEC on request; and
 - (b) collates data from the learner records for each search and rescue training course and activity; and
 - (c) provides the collated data to the Ministry.
17. The Ministry agrees to ensure that each learner record specifies:
- (a) the full name of the learner;
 - (b) the birthdate of the learner;
 - (c) the gender of the learner;
 - (d) the ethnicity of the learner (NZ European/Pakeha; Māori, Pasifika; Asian; and Middle Eastern, Latin American and African (MELAA));
 - (e) the status of the learner's visa including whether the person is required to be treated as if they are not an international student (if applicable);
 - (f) the search and rescue training course or activity in which the learner is enrolled;

- (g) the start and end dates of the search and rescue training course or activity;
- (h) the number of learning hours in the search and rescue training course or activity;
- (i) the number of learning hours in the search and rescue training course or activity that the learner attends; and
- (j) any other information that the TEC requires the Ministry to provide.

18. The Ministry agrees to keep records of the amount of Training Delivery Funding:

- (a) used by NZSAR for Training Delivery, and the purpose of its use; and
- (b) paid to each third party with which it contracts for the delivery of search and rescue training courses and activities, and the purpose of the payment.

Reporting

19. The Ministry agrees to provide the TEC with a report:

- (a) no later than 10 working days after 31 May for the period 1 January to 30 May;
- (b) no later than 8 working days after 30 September for the period 1 June to 30 September; and
- (c) no later than 31 January of the following year for the period 1 October to 31 December.

20. The Ministry agrees that each report will provide collated data for each search and rescue training course and activity as follows:

- (d) regions of delivery;
- (e) number of learners and hours of delivery (contracted and delivered);
- (f) hours of learner attendance;
- (g) gender of learners;
- (h) ethnicity of learners (NZ European/Pakeha; Māori, Pasifika; Asian; and Middle Eastern, Latin American and African (MELAA)); and
- (i) age of learners.

21. In addition to the information in each report, the Ministry must provide the TEC with the number of persons treated as if they were not an international student, and the collated cost of delivery to those learners.

22. The Ministry agrees to provide to the TEC, at the times specified by the TEC:

- (a) records of learners enrolled in search and rescue training courses and activities;
- (b) records kept by the Ministry as specified in clause 17 of this Schedule; and
- (c) any other information the TEC requires.

23. The Ministry agrees that it will notify the TEC immediately if:

- (a) any record required to be kept under this Schedule has been lost or damaged; and
- (b) the Ministry is no longer able to comply with a condition specified in this Schedule.

Other sources of funding

24. The Ministry agrees that it will:
- (a) not (without our prior written consent) seek or obtain any funding from any source other than the TEC to fund a search and rescue training course or activity that is delivered using the Training Delivery Funding; and
 - (b) notify the TEC immediately if the Ministry becomes aware of any circumstances that might result in a breach of paragraph 24(a) of this Schedule.

Subcontracting

25. The Ministry agrees that it will:
- (a) not subcontract its responsibility for purchasing the delivery of eligible search and rescue training courses and activities without the TEC's prior written consent;
 - (b) comply with any conditions imposed by the TEC on a consent to subcontract;
 - (c) ensure that the subcontracted party does not further subcontract any functions; and
 - (d) remain accountable to the TEC for the use of the Training Delivery Funding.

Repayment of Training Delivery Funding

26. If the Ministry receives Training Delivery Funding that is greater than it should have been, or that the Ministry was not entitled to receive, the Ministry agrees to treat the amount of over-funding as a debt due the TEC that:
- (a) is repayable on demand; and
 - (b) may be set-off against all or any funding, or any sum of money payable by the TEC to the Ministry.
27. For the purpose of clause 26, the TEC will consider that the Ministry has received Training Delivery Funding that is greater than it should have been if the Ministry does not deliver all of the learning hours specified in the Mix of Provision. In that situation the TEC will recover the difference between the Ministry's actual volume of delivery and the Training Delivery Funding it has received.

Calculating the repayment amount

28. Volume of delivery will be calculated using, for each training course or activity, the number of learner enrolments specified in the agreed Mix of Provision.
29. If the Ministry does not enrol the number of learners in a search and rescue training course or activity as specified in the agreed Mix of Provision, the TEC will recover the unused Training Delivery Funding at the training course or activity rate agreed to in the Mix of Provision.
30. If more learners are enrolled in a training course or activity than the number specified in the Mix of Provision, the over-delivery will be off-set against under-delivery in any other training course or activity agreed to in the Mix of Provision (up to the maximum Training Delivery Funding allocated).

SCHEDULE 3: TERMS IN RELATION TO THE NATIONAL CO-ORDINATION SERVICES

FUNDING

1. The Ministry agrees to ensure that NZSAR uses the National Co-ordination Services Funding to provide all of the following National Co-ordination Services as described in this Schedule:
 - (a) Research;
 - (b) Needs Analysis;
 - (c) Consultation;
 - (d) Planning;
 - (e) Reporting;
 - (f) Travel; and
 - (g) Administration.
2. The Ministry agrees to ensure that NZSAR does not use National Co-ordination Services Funding to purchase equipment (for example, helicopters) needed for the purposes of delivering search and rescue training courses and activities.

Research and Needs Analysis

3. The Ministry agrees to ensure that NZSAR researches and identifies current and future search and rescue training needs (**Research**).
4. The Ministry agrees to ensure that NZSAR analyses and assesses (**Needs Analysis**):
 - (a) current and future search and rescue training needs, nationally and by region, including:
 - (i) the volumes of training needed (in terms of learner numbers and learner hours);
 - (ii) the types of training needed, and
 - (iii) the locations where training is needed;
 - (b) the sufficiency of the current level of search and rescue provision;
 - (c) tertiary education organisations as defined in section 10 of the Act (**TEOs**) and other third parties that are able to deliver search and rescue training courses and activities, and any potential training sector development opportunities for the delivery of search and rescue training;
 - (d) TEOs and other third parties that NZSAR recommends should receive funds from the Delivery Funding;
 - (e) the search and rescue training courses and activities that should be eligible for Delivery Funding;
 - (f) learners (which may include types or classes of learners) that NZSAR recommends should participate in search and rescue training courses and activities;
 - (g) how to best prioritise search and rescue training needs, in the context of the level of Delivery Funding available;

- (h) the appropriate phasing (which may include the timing of funding over an academic year) of the use of Delivery Funding; and
- (i) any other matter relevant to the administration of the Delivery Funding, as the TEC may inform the Ministry.

Consultation

- 5. The Ministry agrees to ensure that NZSAR consults with stakeholders as follows (**Consultation**):
 - (a) by engaging with the Ministry of Civil Defence and Emergency Management to ensure that the Delivery Funding is used in a way that promotes cohesion and alignment of training offered across the search and rescue, civil defence and emergency management, and fire and rescue service sectors;
 - (b) by continually liaising with third parties (including TEOs) offering search and rescue training (**search and rescue training providers**), and third parties providing search and rescue services (**search and rescue service providers**) whose volunteers require search and rescue training, including to:
 - (i) facilitate the development of relationships between search and rescue training providers and search and rescue service providers; and
 - (ii) promote search and rescue training opportunities to search and rescue service providers; and
 - (iii) monitor data and trends relating to the demand for, and supply of, search and rescue training; and
 - (iv) by working with local organisations, groups, communities, and TEOs involved in search and rescue provision, to identify and meet community learning needs.

Planning

- 6. The Ministry agrees to ensure that NZSAR will plan and co-ordinate search and rescue training.
- 7. The Ministry agrees to ensure that NZSAR submits annually to the TEC the range of provision it expects to purchase using the Delivery Funding (a **Mix of Provision**) that:
 - (a) is in the form specified by the TEC; and
 - (b) includes all of the information the TEC reasonably requires.
- 8. The Ministry agrees to ensure that NZSAR will not make a significant change to its Mix of Provision without the TEC's prior approval.
- 9. The Ministry agrees to ensure that NZSAR aligns its purchase of search and rescue training with the strategies and objectives set out in the NZSAR Strategic Plan.
- 10. The matters described in clauses 6 to 9 comprise the **Planning** services.

Reporting

- 11. The Ministry agrees to ensure that it provides an annual report to the TEC on the National Co-ordination services it provided in 2020, and in 2021 (**Reporting**). The report relating to 2020 must

be provided to the TEC on or before 31 January 2021, and relating to 2021 must be provided to the TEC on or before 31 January 2022.

12. Each report, which may be in a form determined by the Ministry, must specify:
 - (a) the National Co-ordination Services it has provided during the relevant year;
 - (b) the amount of funding spent on each Service described in this Schedule 3; and
 - (c) how the training courses and activities it has purchased has aligned to the NZSAR Strategic Plan.

Travel

13. NZSAR may use part of the National Co-ordination Services Funding to undertake travel for the purposes of delivering the National Co-ordination Services and co-ordinating Training Delivery (**Travel**).

Administration

14. The Ministry and NZSAR may use National Co-Ordination Services Funding to procure staff to support the delivery of National Co-ordination Services.
15. The Ministry agrees to ensure that:
 - (a) the Ministry and NZSAR maintain the confidentiality of stakeholders' information where required (subject to when disclosure is required by law and the terms in this MoU under which information must be disclosed to the TEC); and
 - (b) NZSAR has appropriate processes in place to manage actual, potential, or perceived conflicts of interest that may arise when purchasing or providing Training Delivery, or providing National Co-ordination Services.
16. The matters described in clauses 5 to 16 of this Schedule comprise the **Administration** services.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

4 February 2021

OC210065

Hon Michael Wood
Minister of Transport

Auckland Transport Alignment Project (ATAP) 2021-31 Investment Package

Purpose

Provide advice on the 2021-31 Auckland Transport Alignment Project (ATAP) package of investment. This paper also seeks your agreement to lodge the attached draft Cabinet paper in February 2021.

Key points

- A large part of the ATAP 2021-31 package is a continuation of ATAP 2018-28 with an on-going commitment to projects now in construction, to the renewal of existing assets and supporting public transport operational expenditure.
- As a result of population and cost increases, challenging investment choices have had to be made across the ATAP 2021-31 package and while the investment package is significant at \$31 billion, Auckland would benefit from increased funding to maximise public transport outcomes.
- The ATAP package will deliver significant benefits to Auckland. These include, improvements to the public transport system in Auckland, delivery of large scale projects including the City Rail Link (CRL), investment in rail electrification and continued investment in walking and cycling. Developing Auckland's rapid transit is key to the public transport network.
- The work has prioritised investment to produce an package of investments that can be funded from current Government and Council plans.
- Around \$31 billion of transport funding is available for investment in Auckland over the next decade. Funding is provided by:
 - the National Land Transport Fund (NLTF) - \$16.3 billion
 - Crown funding - for the City Rail Link (\$1.1 billion) and for the New Zealand Upgrade Programme (\$3.4 billion)
 - Auckland Council - \$10 billion including \$1.1 billion for City Rail Link
 - Covid Response Recovery Fund - \$85 million for sections of the Te Whau Pathway and State Highway 16 Interim Bus Improvements.

All information withheld on this page is under section 9(2)(f)(iv) of the Official Information Act 1982

- The Government Policy Statement on Land Transport 2021-31 (GPS) includes a commitment of funding from the NLTF to Auckland of \$16.3 billion over the period 2021-28. [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- An allocation of \$40 million of operating expenditure is required for a Greencard pilot.
- The ATAP 2021-31 investment package reduces per capita emissions through encouraging people to shift away from private motor vehicle travel but due to population growth the wider emission reduction levers the Government is developing are needed to make a meaningful difference.
- Overall congestion increases by 10 per cent but there are improvements on arterial routes and for public transport.
- The ATAP 2021-31 process has highlighted that further work is required to establish how transport investment in Auckland can best help achieve outcomes for Māori. This may be a point of discussion when Cabinet considers the investment package.

Recommendations

1. The recommendations are that you:

- | | | |
|---|---|--------|
| 1 | agree to lodge the attached Cabinet paper on Thursday 11 February 2021, with any requested changes, to seek agreement from Cabinet to the Auckland Transport Alignment Project 2021-31 package of transport investments for Auckland | Yes/No |
| 2 | share a copy of this briefing and the attached draft Cabinet paper with the Minister of Finance | Yes/No |

- 3 [Redacted] Yes/No
- 4 [Redacted] Yes/No
- 5 **note** limitations around emissions reductions and achieving Māori Outcomes which could raise questions when considered by the Cabinet. Yes/No

Withheld under section 9(2)(f)(iv) of the Official Information Act 1982



Withheld under section 9(2)(a) of the Official Information Act 1982

Karen Lyons
Director, Auckland

Hon Michael Wood
Minister of Transport

...4.. / ...2... /21

..... / /

- Minister's office to complete:**
- Approved
 - Declined
 - Seen by Minister
 - Not seen by Minister
 - Overtaken by events

Comments



Contacts

Name	Telephone	First contact
Lou Lennane, Auckland Strategic Programme Lead	[Redacted]	✓
Karen Lyons, Director Auckland	[Redacted]	

Withheld under section 9(2)(a) of the Official Information Act 1982

AUCKLAND TRANSPORT ALIGNMENT PROJECT (ATAP) 2021-31 INVESTMENT PACKAGE

Background

2. The ATAP agencies have developed an investment package for the 2021-31 period which reflects the Government's and Auckland Council's jointly held strategic direction for Auckland. The advice in this briefing is recommended by the ATAP Governance Group comprising the Chief Executives of the Ministry of Transport, Auckland Council, Auckland Transport, KiwiRail, the Deputy Chief Executive Financial and Commercial Treasury and the Head of the Auckland Policy Office
3. Ideally the ATAP 2021-31 investment package will be considered and approved by your Cabinet colleagues by March so that it can provide direction to the Regional Land Transport Plan (RLTP) and National Land Transport Programme (NLTP) processes. As an alignment and consensus-building exercise between Government and Auckland Council, ATAP will provide strong direction to these processes.
4. To inform the statutory processes above, Cabinet needs to agree the indicative package at its meeting on 22 February. Auckland Council will be meeting in early March to consider the ATAP 2021-31 package.
5. The ATAP work has focused on prioritising investment in capital projects for the next decade. We also recognise that the capital investment programme needs to be complemented by work and new thinking on service levels, fares, congestion pricing, and land use planning over a longer time horizon.
6. At a meeting with you and Mayor Goff on 16 December 2020 on the ATAP package, you signalled your comfort with the 2021-31 package. You have asked for further information on establishing a Green Card pilot for Auckland which we have included in this paper.
7. 
8. 
9. We have prepared a draft Cabinet paper for your consideration, which seeks Cabinet's approval of the ATAP 2021-31 package of investments.
10. Auckland Council, Waka Kotahi, Auckland Transport, the Treasury and KiwiRail have been involved in the development of the updated indicative package through the ATAP process. The Department of Prime Minister and Cabinet has been informed.

Recommended indicative package

- 11 As we are only three years in to delivery of the 2018-2028 programme, maintaining momentum on that programme means we are not looking at wholesale review for 2021-2031. ATAP 2018-2028 was about incentivising people to use public transport, cycling and walking and continuing to build Auckland's Rapid Transit Network. This remains the direction for 2021-2031.
- 12 The majority of the 2021-31 programme is committed, meaning that we are unable to change a significant portion of the programme. The quantum of committed projects is approximately \$29 billion, made up of the following:
 - projects already in construction or under contract
 - a base level of capital renewals
 - a base level of operational expenditure (this will be revised based on advice from Auckland Transport)
 - a number of projects required to support day one of the City Rail Link (CRL) opening and continued operation
 - funding for New Zealand Upgrade Programme and stimulus projects
 - key programmes that cannot be replaced but could be scaled up or down (safety, cycling, connected communities, minor capital projects).
- 13 As a result of the level of committed funding, development of a new package is limited in terms of funding available to allocate to new projects.
14. The indicative package was updated through reviewing, testing and reprioritising investments to reflect the agreed strategic direction. We used a combination of a Ministry portfolio investment approach incorporating ATAP objectives, programme and project specific business case information, subject matter expertise and network transport modelling.

Developing a programme that responds to ATAP Objectives

- 15 The Terms of Reference agreed by the political parties provided direction through the following shared Government and Auckland Council objectives:
 - enabling Auckland's growth through a focus on intensification in brownfield areas and with some managed expansion into emerging greenfield areas
 - accelerating better travel choices for Auckland (modeshift)
 - better connecting people, places, goods and services
 - improving the resilience and sustainability of the transport system and significantly reducing the greenhouse emissions it generates
 - making Auckland's transport system safe by eliminating harm to people

- ensuring value for money across Auckland's transport system through well targeted investment choices.
16. The focus of investment in the ATAP 2021-31 package is encouraging modeshift through investment in public transport, walking and cycling and ensuring funding is adequate for the renewals and operating costs. Building the rapid transit network is core to the plan.
17. The ATAP 2021-31 package includes:
- delivery of large scale public transport projects including the Eastern Busway, Northern Pathway, Papakura to Pukekohe electrification, Wiri to Quay park rail upgrade, Rosedale and Constellation Bus stations
 - a programme of work to ensure the City Rail Link functions on Day 1 including funding of additional rolling stock
 - a significant investment in renewing and maintaining assets which sees assets maintained at an appropriate level
 - delivery of large scale roading projects e.g. the Mill Road corridor, Puhoi to Warkworth, State Highway 1 improvements (north and south) and Penlink (noting that Penlink has been designated as four lanes, the land has been purchased and two of the four lanes could be used as public transport dedicated lanes)
 - major safety upgrades e.g. Dome Valley, State Highway 16, Brigham Creek to Wakimaku which results in safety targets being met for both Auckland Transport's Vision Zero strategy and Government's Road to Zero strategy
 - a continuation of Auckland Transport's large scale regional programmes such as Connected Communities (coordinated public transport, cycling and safety improvements along key roads) and programmes for safety, cycling and optimisation (measures to maximise the effectiveness of the existing network)
 - investment in walking and cycling noting that due to the cost increases associated with delivering cycleways have impacted the extent of the Auckland Transport programme
 - funding to enable local board initiatives to be progressed
 - progress on sections of the Te Whau Pathway and State Highway 16 bus improvements (both projects funded through the Covid Response Recovery Fund).

Expected outcomes

18. The ATAP 2021-31 package is expected to result in the following outcomes:
- acceleration of the shift from cars to public transport, walking and cycling with these modes expected to absorb approximately 64 per cent of increased trip demand. Public transport mode share increases from 7 per cent to 11 per cent in the morning peak

- a reduction in greenhouse gas emissions per capita, but the forecast Auckland population increase outweighs any positive overall change. Broader government policy levers are needed to achieve meaningful emissions reduction
 - accessibility to jobs by a 30 minute car journey increases by 14% and accessibility to jobs by a 45 minute public transport journey increases by 60%
 - improved safety outcomes with an expected reduction in deaths and serious of 60% by 2030
 - reduction in congestion for bus passengers and on arterial routes, (noting expected significant increases in congestion on the motorway network and 10% increase in congestion overall due to population growth). Officials work on congestion pricing in Auckland indicates that the introduction of a modest congestion charge across the strategic corridors would result in an 8-12 per cent decrease in congestion across the region.
19. Modelling results indicate that while accessibility by car and public transport increases at a regional level, increasing congestion on the motorway network leads to reductions in accessibility in some areas of the west and south, causing an inequitable distribution of benefits across the region. This issue needs further investigation and work to consider transport equity issues in Auckland and is recommended for the future work programme.
20. At a project level, ATAP delivery agencies work with Māori and specify how individual projects are working towards achieving outcomes for Māori living in Auckland. We do not have a programme level assessment of this, and this could be raised at Cabinet. Over 2021, further work is needed in this area.
21. The Cabinet paper specifically requires an assessment on emissions reduction. The ATAP 2021-31 work has considered this through an assessment framework and a working paper will be published as part of the public release.
22. A fundamental change is necessary to the transport system in Auckland to address climate change commitments and this change would need to involve significant and rapid reductions to private motorised travel and the carbon-intensiveness of the vehicle fleet. ATAP 2021-31 sees carbon emissions remain relatively stable. Broader Government policy including fleet decarbonisation, transport pricing and urban planning will be essential for meaningful progress towards climate goals.

Funding the ATAP 2021-31 Package

23. The NLTF commits \$16.3 billion to the 2021-31 ATAP package and Auckland Council have confirmed their funding commitment for the same period is \$10 billion (including City Rail Link funding). These commitments are the same as those for ATAP 2018-28 and therefore have not built in any increased revenue assumptions that could arise from population growth (affecting rates) or increases in petrol excise duties and road user charges (impacting the NLTF).
24. In addition, there are other funding sources for the ATAP programme, including funding for the New Zealand Upgrade Programme and Stimulus Project Funding. The following table details the funding sources included in ATAP 2021-31:

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Funding Source	\$ (millions)
National Land Transport Fund (indicative level)	16,300
Auckland Council Funding (excluding CRL)	8,865
New Zealand Upgrade Programme	3,481
City Rail Link funding from Auckland Council	1,100
CRL Crown funding	1,100
COVID19 Response and Recovery Fund	85
Total funding envelope for ATAP 2021-31	30,931

25. Many of ATAP's highest priority, public transport, active mode and growth projects currently sit within Auckland Transport's programme. Projects within the Auckland Transport programme require local share co-funding from Auckland Council. For Auckland, the FAR for eligible projects is 51% (from the NLTF). Auckland Council therefore contributes 49% in co-funding.

26. [REDACTED]

27. [REDACTED]

28. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

33. [REDACTED]

[REDACTED]

35. [REDACTED]

36. With limited discretionary funds (\$1-1.8 billion), challenging choices were made to develop the ATAP 2021-31 investment package. The approach we took was to progress a number of activities rather than concentrate investment in a smaller number of projects. Some of the key trade-offs we have made include:
- Scaling back some Auckland Transport programmes (for example Connected Communities full cost is \$1.6 billion and we are proposing \$628 million is funded)
 - Not being able to progress rail funding beyond what is required for CRL day one operations
 - Allocating a minimum amount of funding to the joint Government and Auckland Council spatial priority areas (we are proposing approximately 10 percent of the full local transport infrastructure cost).
37. When you met with you and Mayor Goff in December 2020 there was agreement on the discretionary component of the package (Appendix A)

Stakeholder feedback

38. A broad range of stakeholders were consulted during the ATAP process, representing business, freight, property, health, public and active transport groups. Stakeholders were supportive of the direction of the ATAP work, acknowledging that it is largely a continuation of ATAP 2018-28. A full list of stakeholders is included in Appendix B.
39. The Auckland Business Forum noted they would like to see a greater emphasis placed on investment in freight and are supportive of the introduction of Congestion Charging as part of ATAP. Infrastructure New Zealand support the recommended package noting that in the longer term, a combination of funding sources, including value capture, road pricing and Crown investment is appropriate.

Inclusion of a Green Card Pilot for Auckland

40. When we met with yourself and Mayor Goff in December 2020, you requested we consider the inclusion of funding in the ATAP 2021-31 package for a Greencard pilot in Auckland. Mayor Goff supported this initiative, contingent on understanding the implications for the Council's operating expenditure.
41. [REDACTED]

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[REDACTED]

■

[REDACTED]

43. At this stage, we do not have finalised costings and process to establish a pilot but we will further this work as a matter of urgency. We have included reference to your intent to introduce a Green Card pilot in the attached Cabinet paper.

Cabinet consideration

44. We will update the attached Cabinet paper to reflect your feedback and provide speaking points to support the discussion at Cabinet.
45. We recommend that you discuss the Cabinet paper with your Cabinet colleagues.

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The ATAP Package		
Investment Area		ATAP 2020 (\$ millions)
Operational Cost (net of Revenue)		9,144
Asset Renewals		4,410
Projects	Rapid Transit	7,213
	Strategic & Local Roads	4,275
	Walking & Cycling & Local Board Initiatives	1,496
	Safety	1,018
	Bus & Ferry	1,312
	Optimisation & Technology	803
	Spatial Priorities	1,024
	Planning for the future	265
TOTAL		30,961

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Project	Expenditure 2021-2031 (\$ millions)
Committed	
Electric Multiple Unit Trains	5
Eastern Busway: Panmure to Pakuranga Section	8
Rosedale and Constellation Bus Stations (Northern Busway)	59
Earthquake Strengthening Programme	25
Ormiston Town Centre Main Street Link	17
Electronic Signs for Bus Stops	3
Small Improvements to Roads Around New Developments	12
Parking Programme	49
Regulatory Controls Infrastructure	1
Resolution of Encroachments and Legacy Land Purchase Arrangements	17
Medallion Drive Link	12
Matakana Link Road	26
Tamaki Drive and Ngapipi Road Intersection Safety Improvements	7
Airport Access Public Transport Improvements	12
Customer and Corporate Technology Programme	394
Transport Demand Forecasting Models Update	6
Street Lighting Improvements	17
City Rail Link	2,200
State Highway 1 Ara Tūhono Puhoi to Warkworth	830
State Highway 1 Northern Corridor Improvements (Includes Busway Extension)	111
State Highway 1 Southern Corridor Improvements (Manukau-Papakura)	241
State Highway 1 Dome Valley Safety Improvements	30
State Highway 1 Warkworth to Wellsford designation	21
State Highway 16 Brigham Creek-Waimāuku Safety Improvements	137
State Highway 20B Kirkbride Road Grade Separation	48
Minor State Highway Improvements	28
Old Mangere Bridge Pedestrian & Cycling Link	13
Supporting Growth Alliance Core Funding	44
Glen Innes to Tamaki cycleway	49
Rail Network Catch-up Renewals	163
Huapai Special Housing Area	18
Eastern Busway: Pakuranga Bus Station, Reeves Road Flyover, Ti Rakau Busway	722
Eastern Busway: Botany Bus Station	150
Tamaki Regeneration	41
Wynyard Quarter Integrated Road Programme	46
Greenfield Transport Infrastructure	202
Wainui Growth Area Improvements	23
Supporting Growth - Investigation for Growth Projects	28
Scott Point Growth Area Improvements	5
Wolverton Culverts (Stormwater repairs in New Lynn)	10
Sub total	5,828
Committed - City Rail Link Day One Programme	

Project	Expenditure 2021-2031 (\$ millions)
CRL Day One - Roadside Projects	7
CRL Day One - New Trains to Maximise Operation	404
CRL Day One - Level Crossing Removal	220
CRL Day One - Traction Feeds and Signalling	70
CRL Day One - Resilience and Asset Maintenance Programme	52
CRL Maintenance Operation and Renewals	9
Sub total	762
Committed - New Zealand Upgrade Programme	
Pukekohe Electrification	371
Wiri to Quay Park	315
Drury West, Drury Central and Paerata rail stations	247
Mill Road Corridor	1,354
Penlink	411
State Highway 1 Papakura to Bombay Hills	423
Northern Pathway Westhaven to Akoranga	360
Sub total	3,481
Committed - City Centre to Mangere and Northwest Rapid Transit	
City Centre to Mangere & Northwest Rapid Transit	1,800
Sub total	1,800
Committed - COVID Response Recovery Fund	
State Highway 16 Interim Bus Improvements - CRRF portion	50
State Highway 16 Interim Bus Improvements - NLTF portion	50
Te Whau Pathway	35
Sub total	135
Total Committed Projects	12,007


Key Programmes and Projects	
Auckland Transport Renewals	3,951
Auckland Transport Operating Cost	7,570
State Highway Maintenance, Operations & Renewals	1,435
State Highway Renewals	444
KiwiRail Renewals	73
Auckland Transport Strategic Future Planning	41
KiwiRail Strategic Future Planning	52
Waka Kotahi Strategic Future Planning	83
Greenfield Transport Infrastructure - Post Lodgement and Property	64
KiwiRail Property	-
Waka Kotahi Property	89
Safer Networks Programme	193
Safety Programme Business Case	677
School Speed Management	75
Marae and Papakainga Turnouts Safety Programme	13

Project	Expenditure 2021-2031 (\$ millions)
Network Performance	148
Intelligent Transport Systems	59
Intelligent Transport Systems Programme & State Highway Optimisation Programme	122
Connected Communities - Phase 1	628
Urban Cycleways Programme	138
Walking and Cycling Programme - Phase 1	226
Regional Improvement Projects	62
Projects funded by Rodney Targeted Rate	19
Unsealed Road Improvements	40
Environmental Sustainability Infrastructure	20
New footpaths regional programme	49
Lonely Track Road North Slip	1
Minor Walking and Cycling Improvements	6
Noise Wall Upgrade Programme	15
Public Transport Safety, Security and Amenity and Other Capital Improvements	223
Local Board Initiatives	200
Papakura Rail Station Park and Ride	11
Lake Road and Esmonde Road Improvements	52
Meadowbank Kohimarama Connectivity Project	22
Matiatia (Waiheke Island) Park and Ride	28
Integrated Ticketing (HOP Card) - Improvements, Replacement and National System	184
City Centre Bus Improvements	124

Total Key Programmes and Projects	17,135
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Additional Projects	
Smales Road and Allens Road - Widening and Intersection Upgrade	18
Glenvar Road and East Coast Road Intersection and Corridor Improvements	63
Lincoln Road Corridor Improvements	113
Sylvia Park Bus Improvements	21
Albert and Vincent Street Bus Priority Improvements	8
State Highway 18 Squadron Drive Interchange Upgrade	68
Park and Ride Programme	51
Increased Freight Allocation in Network Performance	30
City Centre Masterplan Access For Everyone (A4E) Supporting Works	30
Accessibility Improvement Project	55
Downtown Bus Improvements (Quay Park, Customs St and Wynyard Quarter)	220
Northern Busway Enhancements	62
Airport to Botany Interim Bus Improvements	29
Neighbourhood Interchanges	7
Rosedale Road Corridor	9
Supporting Electric Vehicles	34
Walking and Cycling Programme - Phase 2	80

Project	Expenditure 2021-2031 (\$ millions)
Minor Cycling and Micromobility (including pop up cycleways)	30
Additional Operating Expenditure Increment - Specific New Bus Services	100
Core Operational Capital Programme	10
Rail Corridor Progressive Fencing and Security	20
Airport to Botany Route Protection	47
Warkworth Route Protection	7
Level Crossing Grade Separation*	100
Northwest Growth Area*	186
Auckland Housing Programme*	180
Drury & Paerata Growth Area*	243
Total Projects and Programmes	1,819
Total	30,961


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Appendix B – List of ATAP 2021-31 Stakeholders

ATAP Stakeholders
Heart of the City
Auckland Business Forum
Auckland Chamber of Commerce
Generation Zero
Greater Auckland
Infrastructure New Zealand
IMSB
New Zealand Automobile Association
Ports of Auckland
Auckland Airport
Bike Auckland
National Road Carriers
Auckland Regional Public Health Service
Sustainable Business Council
New Zealand Property Council – Auckland Branch
University of Auckland
Business North Harbour Association
Walk Auckland
Greater Auckland
Campaign for Better Transport

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15 February 2021

OC210037

Hon Michael Wood
Minister of Transport**Action required by:**
Friday, 19 February 2021

OIL POLLUTION ADVISORY COMMITTEE: MEMBER APPOINTMENTS

Purpose

To seek your agreement to:

- appoint Nigel Clifford to Interim Oil Pollution Advisory Committee (OPAC or the Committee) Chair until such time that a permanent Maritime New Zealand (MNZ) Director is appointed by the MNZ Authority and you have appointed the permanent MNZ Director to OPAC Chair;
- appoint three recommended candidates to representative positions on OPAC and approve the Appointment and Honours (APH) Committee completion papers for your preferred candidates; and
- approve OMV as the oil and gas production industry representative member on OPAC.

Key points

- OPAC is a technical advisory committee that advises the MNZ Authority on the New Zealand Marine Oil Spill Response Strategy; the fixing of the oil pollution levies; the use of the New Zealand Oil Pollution Fund; and any other matter related to oil spills that the Minister of Transport, or Maritime New Zealand's Director, specifies.
- The Committee comprises 20 representative members from the shipping, oil, and fishing industries as well as government agencies, iwi, and councils. You are responsible for appointing and determining the terms and conditions of membership to OPAC, including the Chair position, which is typically held by the MNZ Director for the term of their Directorship.
- There are currently six vacant positions on the Committee:
 - Department of Conservation (DoC) representative member;
 - Ministry for the Environment representative member;
 - Te Puni Kōkiri (TPK) representative member;
 - oil and gas production and distribution industry representative member (currently held by a Z Energy employee);

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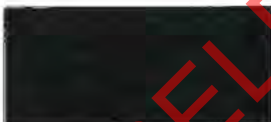
- o international container shipping representative member (currently held by a Maersk employee); and
- o the oil and gas production industry representative member (currently held by an OMV employee).
- Nigel Clifford is Interim MNZ Director and requires a signed letter from you (to take up the OPAC Chair position until such time that a permanent MNZ Director is appointed by the MNZ Authority and you have appointed the permanent MNZ Director to OPAC Chair. A draft appointment letter to Mr Clifford is **attached** for your signature at **Appendix One**.
- The Ministry requires your agreement for OMV to hold the oil and gas production industry representative position. OMV representation would give the Committee insight from a large gas and liquid hydrocarbon producer, and a major explorer in a number of offshore basins. If you agree with this approach then we will seek nominations for the position from OMV or, alternatively, we will source candidates from other oil and gas production organisations operating in New Zealand.
- DoC, Maersk, and Z Energy each nominated a candidate to act as their organisation's OPAC representative. An interview Panel comprising Ministry officials and Interim MNZ Director / OPAC member, Nigel Clifford, considered the nominated candidates and found the following suitable for appointment:
 - o [REDACTED] for the DoC representative member position;
 - o Leonard Bentley (Maersk) for the international container shipping representative member position; and
 - o Steve Flanagan (Z Energy) for the oil and gas production and distribution industry representative member position.
- If you wish to progress the appointment of these candidates the Ministry recommends the APH papers at **Appendix Two** are lodged with the Cabinet Office by 10.00 am on Thursday 4 March 2020 to allow APH to consider the appointments at its meeting on 10 March 2020. Once Cabinet confirmation of these appointments is received, we recommend you sign the *New Zealand Gazette* notice and letters of appointment at **Appendix Three**.
- If you do not wish to progress with some (or all) of these appointments then the Ministry will work with the representative organisations to source additional candidates.

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Recommendations

We recommend you:

- 1 **sign** the letter at **Appendix One** to appoint Nigel Clifford to Interim OPAC Chair until such time that a permanent MNZ Director is appointed by the MNZ Authority and you have appointed the permanent MNZ Director to OPAC Chair Yes / No
- 2 **agree** that the oil and gas production industry representative member position continues to be held by OMV Yes / No
- 3 **agree** to appoint three recommended candidates to positions on OPAC:
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 - [REDACTED], Department of Conservation representative member Yes / No
 - Leonard Bentley (Maersk), international container shipping representative member Yes / No
 - Steve Flanagan (Z Energy), oil and gas production and distribution industry representative member. Yes / No
- 4 **sign** the papers attached at **Appendix Two** for APH to note your intention to appoint [REDACTED] Leonard Bentley and Steve Flanagan to representative positions on OPAC Yes / No
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- 5 **lodge** the signed APH papers with the Cabinet Office by 10.00 am on Thursday 4 March 2020 to allow APH to consider the appointment of [REDACTED], Leonard Bentley and Steve Flanagan at its meeting on Wednesday 10 March 2020 Yes / No
- 6 **sign and send** the attached letters of appointment and the *New Zealand Gazette* notice at **Appendix Three**. Yes / No



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Robert Anderson
Manager, Governance

11 / 02 / 2020

Hon Michael Wood
Minister of Transport

..... / /

Minister's office to complete:

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

Comments

Contacts

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Name	Telephone	First contact
Robert Anderson, Manager, Governance	[REDACTED]	
Alex Beedell, Senior Advisor, Investment	[REDACTED]	

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OIL POLLUTION ADVISORY COMMITTEE: MEMBER APPOINTMENTS

You are the Responsible Minister for the Oil Pollution Advisory Committee (OPAC or the Committee)

1. OPAC is a technical advisory committee that advises the Maritime New Zealand (MNZ) Authority on the:
 - 1.1. New Zealand Marine Oil Spill Response Strategy;
 - 1.2. the fixing and levying of oil pollution levies under part 24 of the Maritime Transport Act 1994;
 - 1.3. the use of the New Zealand Oil Pollution Fund; and
 - 1.4. any other matter related to oil spills that the Minister of Transport, or Maritime New Zealand's Director, specifies.
2. You are responsible for appointing and determining the terms and conditions of membership to OPAC, including the Chair position, which is traditionally held by the MNZ Director for the duration of their time in the role.
3. The Committee comprises 20 appointed members, and two Australian observers. Section 282 of the Maritime Transport Act 1994 states the Minister shall, in appointing members of the Committee, consider whether the Committee should have members who represent, or have experience relating to, the following:
 - 3.1. the shipping industry;
 - 3.2. the oil and gas exploration industry;
 - 3.3. the oil and gas production and distribution industry;
 - 3.4. the Petroleum Industry Emergency Action Committee;
 - 3.5. operators of port facilities;
 - 3.6. regional councils;
 - 3.7. Maritime New Zealand;
 - 3.8. the Ministry of Transport;
 - 3.9. the Ministry for the Environment (MfE);
 - 3.10. the Department of Conservation (DoC); and
 - 3.11. Te Puni Kōkiri (TPK).

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4. There are currently six vacant positions on the Committee:
 - 4.1. DoC representative member;
 - 4.2. MfE representative member;
 - 4.3. TPK representative member;
 - 4.4. oil and gas production and distribution industry representative member (currently held by an Z Energy employee);
 - 4.5. and international container shipping representative member (currently held by an Maersk employee); and
 - 4.6. the oil and gas production industry representative member (currently held by an OMV employee).

The Interview Panel (the Panel) recommends three candidates for appointment

5. DoC, Maersk, and Z Energy have each nominated a candidate to act as their organisation's OPAC representative. In late 2020, these candidates were interviewed individually by a Panel consisting of officials from the Ministry and Interim MNZ Director / OPAC member, Nigel Clifford.
6. The Panel assessed candidates on their knowledge and experience of matters related to marine oil pollution (in particular prevention and response), coastal, marine or maritime matters and networking and engagement. The Panel recommends the appointment of:

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 - 6.1. [REDACTED] to the DoC representative member position;
 - 6.2. Leonard Bentley (Maersk) to the international container representative member position; and
 - 6.3. Steve Flanagan (Z Energy) to the oil and gas production and distribution industry representative member position.
7. If you do not wish to progress with some (or all) of the candidates recommended for representative positions, then the Ministry will work with the organisations to source additional candidates. The Maritime Transport Act 1994 allows the Committee to operate without these three vacancies being filled as there is no set quorum.

[REDACTED] - DoC representative member Withheld under Section 9(2)(a) of the Official Information Act 1982

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11.

12.



Leonard Bentley (Maersk) - International container shipping representative member

13. The international container shipping representative position is open to international container shipping organisations operating in New Zealand. The former Minister of Transport agreed to appoint a Maersk representative to the position (OC190167 refers) as Maersk is a member of the Shipping Container Lines group, which has major vessels that contribute significantly to the Oil Pollution Levy.
14. The Panel recommends that you appoint Leonard Bentley to the international container shipping industry representative member position. Mr Bentley is well connected in the shipping industry and a Maersk employee, enabling him to provide industry and customer perspectives on one of OPAC's core functions – providing advice on the fixing and levying of the Oil Pollution Levy.
15. Mr Bentley is Country Customer Service Manager for Maersk, with 17 years' experience in the international shipping industry. In his current role, Mr Bentley is responsible for informing global processes to align with local needs, enabling Oceania to effectively implement global processes and maintain a well functioning supply chain
16. Mr Bentley has excellent working relationships within Maersk and other organisations in the Shipping Container Lines group, giving him the networking and engagement (marine) skillset required by the Committee.

Steve Flanagan (Z Energy) - Oil and gas production and distribution industry representative member

17. The oil and gas production and distribution industry representative position is open to all oil and gas production and distribution organisations operating in New Zealand. The former Minister of Transport agreed to appoint a Z Energy representative to the position (OC190167 refers) as Z Energy ships a significant amount of oil around the country, and is a key player in the oil transport and distribution system around the coast of New Zealand.
18. The Panel recommends that you appoint Steve Flanagan to the oil and gas production and distribution industry representative member position. Mr Flanagan has in-depth knowledge of prevention and response related to marine oil pollution, and is able to provide advice from an operational perspective, while utilising his mechanical experience.
19. As South Island Regional Operations Manager at Z Energy, Mr Flanagan is required to manage risks and operations at four fuel terminals across the South Island, and to have an excellent understanding of oil industry safety procedures/protocols and

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quality standards. In this capacity, Mr Flanagan ensures terminal maintenance is undertaken to a safe and reliable standard.

20. In addition to his operational expertise, Mr Flanagan also has mechanical experience from his roles as a fitter, specifically in the maintenance required to upkeep oil terminal equipment such as pipelines. He also has first hand experience working on an oil spill response.
21. During the interview Mr Flanagan acknowledged the importance of collaboration between iwi, councils, emergency services, port authorities, environmental agencies and oil companies to find an effective resolution – an approach supported by OPAC. The Ministry notes that Mr Flanagan has excellent working relationships across the oil sector (notably BP and Total Oil) and with regional councils.
22. The Ministry considers that Mr Flanagan's knowledge of marine oil pollution prevention and response (both operational and mechanical), and his existing relationships with stakeholders, would enable him to advise OPAC on one of its key functions – consulting on the New Zealand Marine Oil Spill Response Strategy. This experience would be beneficial to OPAC when drafting regional marine oil spill contingency plans notably the section which specifies the functions and responsibilities of persons at shipboard, site, regional, and national levels.

Conflicts of interest

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23. [REDACTED] and Mr Flanagan have not declared any conflicts of interest, and the Ministry is unaware of any conflicts that may preclude their appointment to OPAC.
24. Mr Bentley has disclosed for completeness that [REDACTED]. He will declare any perceived, likely or actual conflict should it arise [REDACTED], and recuse himself as appropriate as mitigation of that conflict.
25. Successful candidates will be required to declare any perceived, likely or actual conflict (should it arise) to the OPAC Chair, and recuse themselves as appropriate as mitigation of that conflict. The Ministry is currently conducting Ministry of Justice criminal checks with the cooperation of the candidates.

There are some key views/issues to consider when appointing candidates to the three remaining OPAC vacancies

26. The majority of OPAC representatives are organisational nominees, and the need for specialist expertise on the Committee limits the potential for a well-balanced Committee in terms of gender diversity or ethnic representation.
 27. The Committee's composition has strong representation from the shipping industry with the majority of members identifying as male and NZ European / British. However, the Committee lacks Māori, Pasifika and environmental representation.
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28. The three recommended candidates will not balance the Committee in terms of gender or ethnic representation but their technical skills and experience are critical to enable OPAC to undertake its core functions effectively. Notably, the appointment of DoC's representative, [REDACTED], would give the Committee an environmental perspective that has been lacking since the resignations of representatives for DoC and the Ministry for the Environment in 2019/20.

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29. The Ministry considers that Māori representation is required to support the iwi representative serving on the Committee, and we are awaiting Te Puni Kōkiri's nominee for this role to assist with filling this competency gap. Where possible, Ministry officials will work with nominating entities identify female candidates with the competencies required by the OPAC who identify as Māori and Pasifica.

The Ministry will work with representative organisations to source viable candidates for three remaining vacancies

30. Following approval of this paper, three vacancies for OPAC representative positions will remain. The Ministry will continue to work with MfE and TPK to source appropriate candidates for their vacant representative positions (the result of resignations in 2019/20).
31. The remaining vacancy relates to a resignation from the oil and gas production industry representative position (currently held by OMV) in January 2021. The Ministry and the Interim MNZ Director, Mr Clifford, recommend that the position continues to be held by OMV.
32. Representation from the OMV would give OPAC advice from a large gas and liquid hydrocarbon producer, and a major explorer in a number of offshore basins around New Zealand (particularly the Taranaki Basin). This insight would be beneficial to OPAC when consulting on the New Zealand Marine Oil Spill Response Strategy.
33. If you agree with this approach, then the Ministry will work with MNZ and OMV to find suitable replacement candidates for the vacant position. If you do not agree with this approach, then the Ministry will source candidates from alternative oil and gas production organisations operating in New Zealand.
34. The Ministry will provide advice to you on the permanent OPAC Chair position and the three remaining representative positions following the announcement of the new MNZ Director.

Next steps

35. If you wish to progress the appointment of these candidates the Ministry recommends the APH papers at **Appendix two** are lodged with the Cabinet Office by 10.00 am on Thursday 4 March 2020 to allow APH to consider the appointments at its meeting on Wednesday 10 March 2020.
36. Subject to Cabinet endorsement on 15 March 2020, we ask you to sign the attached appointment letters and the *New Zealand Gazette* notice (**attached at Appendix three**) to finalise these appointments.

Security classification – In Confidence

Office of the Minister of Transport

Chair, Cabinet Appointments and Honours Committee

OIL POLLUTION ADVISORY COMMITTEE: MEMBER APPOINTMENTS

Proposal

- 1 This paper outlines my intention to appoint the following members to the Oil Pollution Advisory Committee (OPAC or the Committee):
 - 1.1 Leonard Bentley as the international container shipping representative member for an open-ended term commencing from 22 March 2021; and
 - 1.2 Steve Flanagan as the oil and gas production and distribution industry representative member for an open-ended term commencing from 22 March 2021.

Background

- 2 OPAC was initially established under the Marine Pollution Act 1974 and continues under the Maritime Transport Act 1994. As a Legislative and Technical Advisory Committee, it advises the Maritime New Zealand Authority on the:
 - 2.1 New Zealand Marine Oil Spill Response Strategy;
 - 2.2 the fixing and levying of oil pollution levies under part 24 of the Maritime Transport Act;
 - 2.3 the use of the New Zealand Oil Pollution Fund; and
 - 2.4 any other matter related to oil spills that the Minister of Transport, or Maritime New Zealand's Director, specifies.
- 3 The Committee comprises 20 representative members from the shipping, oil and fishing industries, as well as government agencies, iwi, and councils. Members are accountable to me as the Minister of Transport.
- 4 An *Organisation Form* is attached, setting out the current terms and membership of OPAC.

Comment

Leonard Bentley (Maersk) - International container shipping representative member

- 5 I intend to appoint Leonard Bentley as the international container shipping representative member for an open-ended term commencing on 22 March 2021. Mr Bentley was nominated by Maersk as its representative.
- 6 Mr Bentley is well connected in the shipping industry and a Maersk employee, enabling him to provide industry and customer perspectives on one of OPAC's core functions – providing advice on the fixing and levying of oil pollution levies.
- 7 Mr Bentley is Country Customer Service Manager for Maersk, with 17 years' experience in the international shipping industry. In his current role, Mr Bentley is responsible for informing global processes to align with local needs, and enabling Oceania to effectively implement global processes and maintain a well functioning supply chain.
- 8 Mr Bentley has demonstrated his ability to effectively network and engage within the shipping industry. He has excellent working relationships within Maersk and other organisations in the Shipping Container Lines group, giving him the networking and engagement (marine) skillset required by the Committee.
- 9 Mr Bentley's appointment will fill an existing vacancy on OPAC held by a Maersk representative.

Steve Flanagan (Z Energy) - Oil and gas production and distribution industry representative member

- 10 I intend to appoint Steve Flanagan as the oil and gas production and distribution industry representative member for an open-ended term commencing on 22 March 2021. Mr Flanagan was nominated by Z Energy as its representative.
- 11 Mr Flanagan's knowledge of marine oil pollution prevention and response, from an operational and mechanical perspective, will enable him to advise OPAC on one of its key functions – drafting the New Zealand Marine Oil Spill Response Strategy.
- 12 Mr Flanagan is South Island Regional Operations Manager at Z Energy, a position that requires him to manage risks and operations at four fuel terminals across the South Island. In this capacity, he is required to have an excellent understanding of oil industry safety procedures/protocols and quality standards.
- 13 Mr Flanagan has excellent working relationships across both the oil sector and regional councils, which will benefit the Committee when reviewing regional marine oil spill contingency plans. He also has practical experience working on an oil spill response.

- 14 Mr Flanagan's appointment will fill an existing vacancy on OPAC held by a Z Energy representative.

Nigel Clifford – Interim OPAC Chair

- 15 The OPAC Chair position is typically held by the Maritime New Zealand (MNZ) Director for the term they hold the role. Former MNZ Director, Keith Manch, departed the entity on 31 January 2021, leaving the OPAC Chair position vacant.
- 16 Until a successor for MNZ Director is found, the MNZ Authority has appointed Nigel Clifford, Deputy Director, Safety and Response Systems, to act as Interim MNZ Director.
- 17 I have appointed Mr Clifford as Interim OPAC Chair until such time that a permanent MNZ Director is appointed by the MNZ Authority and I have appointed the permanent MNZ Director to OPAC Chair. As this is an interim appointment, it does not require APH approval.

Representativeness of appointments

- 18 The majority of OPAC representatives are organisational nominees, and the need for specialist expertise on the Committee limits the potential for a well-balanced Committee in terms of gender diversity or ethnic representation.
- 19 The appointment of Mr Bentley and Mr Flanagan will not balance the Committee in terms of gender or ethnic representation but their technical skills and experience are critical to enable OPAC to undertake its core functions effectively.
- 20 Māori representation is required to support the iwi representative serving on the Committee and there is a vacancy on the committee for an organisational representative from Te Puni Kōkiri. Where possible, Ministry of Transport officials will identify female candidates with the competencies required by OPAC who identify as Māori and/or Pacifica.

Remuneration

- 21 OPAC members do not receive fees, however, members are entitled to be reimbursed for reasonable expenses incurred to attend meetings.

Appointment process and consultation

- 22 I can confirm that an appropriate process has been followed in selecting the proposed appointees in terms of the Public Service Commission's Board Appointments and Inductions Guidelines.
- 23 In summary, that process included: identification of suitable candidates from organisations with vacant representative member positions (Maersk and Z Energy), nomination of candidates who could act as their organisation's OPAC representative to the Ministry of Transport, and due diligence

interviews. The proposed appointees have also provided signed written disclosures.

- 24 Interim Maritime New Zealand Director, Nigel Clifford, was consulted throughout the appointment process and is supportive of the proposed representative member appointments.

Conflicts of interest

- 25 I can confirm that appropriate enquiries concerning conflicts of interest have been carried out, in accordance with Public Service Commission's Board Appointments and Inductions Guidelines to identify any conflict of interest that could reasonably be identified.

Withheld under Section 9(2)(a) of the Official Information Act 1982

- 25.1 Mr Bentley has disclosed for completeness [REDACTED]. He will declare any perceived, likely or actual conflict should it arise [REDACTED] and recuse himself as appropriate as mitigation of that conflict.

- 25.2 Mr Flanagan has declared no conflicts of interests.

- 26 OPAC has strategies in place to manage any conflicts of interest which may arise, including relevant members withdrawing from discussions where appropriate. Any conflicts that do arise can be managed in accordance with OPAC's existing practices.

Timing and Publicity

- 27 The appointments will also be notified in the *New Zealand Gazette*.

Recommendations

- 28 It is recommended that the Committee note my intention to appoint:

28.1 Leonard Bentley as a member for an open-ended term commencing from 22 March 2021; and

28.2 Steve Flanagan as a member for an open-ended term commencing from 22 March 2021.

Authorised for lodgement

Hon Michael Wood

Minister of Transport

APH Organisation Form

All sections must be completed.

Organisation and Responsible Portfolio

Oil Pollution Advisory Committee – Transport

Brief Outline of the Functions and Responsibilities of the Organisation

The Oil Pollution Advisory Committee (OPAC) was initially established under the Marine Pollution Act 1974 and continues under the Maritime Transport Act 1994. OPAC's purpose is to give advice to the Maritime New Zealand Authority on:

- the New Zealand Marine Oil Spill Response Strategy
- the fixing and levying of oil pollution levies
- the use of the New Zealand Oil Pollution Fund
- any other matters related to marine oil spills specified by the Minister of Transport or the Director of Maritime New Zealand.

The Minister of Transport is the responsible Minister.

Current Membership

Name	Gender Identity	Region	Ethnicities (and Iwi if applicable)	Date of original appointment	Expiry date of present term
Vacancy (Chair) Held by Maritime New Zealand Director				N/A	N/A
Captain Keith Brown, Shipping industry representative	M	Wellington	British	01/05/2018	N/A

Nigel Clifford, <i>Maritime New Zealand representative</i>	M	Wellington	British	01/10/2012	N/A
Morris van Voornveld, <i>New Zealand Association of Shipping Agents</i>	M	Wellington	NZ European	01/10/2012	N/A
<i>Vacancy Oil and gas production industry representative (held by OMV)</i>				N/A	N/A
Captain Charles Smith, <i>Port Chief Executives Group</i>	M	Wellington	NZ European	23/11/2010	N/A
Shelley Tucker, <i>Ministry of Transport</i>	F	Wellington	NZ European	01/05/2018	N/A
Annabel Young, <i>New Zealand Shipping</i>	F	Wellington	NZ European	6/07/2015	N/A
Maurice Bone, <i>BP Oil Ltd</i>	M	Auckland	NZ European	17/07/2013	N/A
Martin Burley, <i>Coastal Oil Logistics</i>	M	Wellington	British	6/07/2015	N/A
Richard Wells, <i>New Zealand fishing industry</i>	M	Nelson	NZ European	6/07/2015	N/A
Fred McLay, <i>Regional Council management</i>	M	Taranaki	NZ European	10/10/2016	N/A
Captain James (Jim) Dilley, <i>Regional Council Representative</i>	M	Canterbury	NZ European	11/08/2017	N/A

Professor Chris Battershill, <i>Community Representative</i>	M	Bay of Plenty	NZ European	12/08/2019	N/A
Carlton Bidois, <i>Iwi Representative</i>	M	Bay of Plenty	NZ Māori (Ngāti Ranginui and Ngāi Te Rangi)	12/08/2019	N/A
<i>Vacancy, Department of Conservation</i>				N/A	N/A
<i>Vacancy, International container shipping representative (held by Maersk)</i>				N/A	N/A
<i>Vacancy, Te Puni Kōkiri</i>				N/A	N/A
<i>Vacancy, Ministry for the Environment</i>				N/A	N/A
<i>Vacancy, Oil and gas production and distribution industry (held by Z Energy)</i>				NA	N/A

Observer status on the Committee					
Toby Stone, <i>Australian Maritime Safety Authority</i>	M	Australia	Australian	2010	N/A
Nick Quinn, <i>Australian Marine Oil Spill Centre</i>	M	Australia	Australian	14/02/2012	N/A

Candidate CV Form

Name (family name in upper case; include title if appropriate)	BENTLEY, Leonard
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The Position

Organisation/Entity	The Oil Pollution Advisory Committee (OPAC)
Position (chair/member etc.)	International Container Shipping Representative Member
Term	An open-ended term commencing from 22 March 2021
Payment (per day /per year)	OPAC members do not receive fees, however, members are entitled to be reimbursed for reasonable expenses incurred to attend meetings.

How the Candidate Meets the Needs of the Position

Skills and attributes the candidate will bring to the position (e.g. business skills, community involvement, cultural awareness, regional perspective – as relevant to the needs of the position)	<p>Mr Bentley is well connected in the shipping industry and a Maersk employee, enabling him to provide industry and customer perspectives on one of the OPAC's core functions – providing advice on the fixing and levying of oil pollution levies.</p> <p style="color: red;">Withheld under Section 9(2)(a) of the Official Information Act 1982</p>
Possible conflicts of interest	<p>Leonard Bentley has disclosed for completeness that [REDACTED]. He will declare any perceived, likely or actual conflict should it arise [REDACTED], and recuse himself as appropriate as mitigation of that conflict.</p>
Proposals for conflict management (if applicable)	<p>Mr Bentley will be required to declare any perceived, likely or actual conflict (should it arise) to the OPAC Chair, and recuse himself as appropriate as mitigation of that conflict.</p>

The Candidate

Name (family name in upper case; include title if appropriate)	BENTLEY, Leonard
Address	Maersk Level 3, Building B/2 Graham Street Auckland CBD AUCKLAND, 1010
Ethnicity(s)	South African
Age range	Preferred not to say
Gender	M
Current or most recent Employment (specify position and employer, include years)	Country Customer Service Manager, Maersk (2019 – present) Key Client Development Executive, Maersk Line (2015 – present)
Government board appointments held (current and previous, include years)	N/A
Private and/or voluntary sector board appointments held (current and previous, include years)	Marine Representative, Rennies Ships Agency (2002–2004)
Qualifications and experience (include significant work history and community involvement)	<p><u>Qualifications</u> BA Business Management, University of Lincoln Business School (2016) Senior Management Development Program, University of Stellenbosch (2014) African Leadership Development Program University of Stellenbosch (2013)</p> <p><u>Experience</u> Direct Sales Manager, Maersk Line (2017–2018) Regional Sales Manager, Gauteng & Botswana, Safmarine (2014 to 2015) Key Accounts Manager, Safmarine (2011–2012) Vessel Operations Specialist, Maersk Line (2011)</p>

Date: 03/02/2020

Candidate CV Form

Name (family name in upper case; include title if appropriate)	FLANAGAN, Stephen
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The Position

Organisation/Entity	The Oil Pollution Advisory Committee (OPAC)
Position (chair/member etc.)	Oil and Gas Production and Distribution Representative Member
Term	An open-ended term commencing from 22 March 2021
Payment (per day /per year)	OPAC members do not receive fees, however, members are entitled to be reimbursed for reasonable expenses incurred to attend meetings.

How the Candidate Meets the Needs of the Position

Skills and attributes the candidate will bring to the position (e.g. business skills, community involvement, cultural awareness, regional perspective – as relevant to the needs of the position)	Mr Flanagan knowledge of marine oil pollution prevention and response, from an operational and mechanical perspective, will enable him to advise the OPAC on one of its key functions – drafting the New Zealand Marine Oil Spill Response Strategy.
Possible conflicts of interest	Mr Flanagan has not declared any conflicts of that may preclude his appointment to the OPAC.
Proposals for conflict management (if applicable)	Mr Flanagan will be required to declare any perceived, likely or actual conflict (should it arise) to the OPAC Chair, and recuse himself as appropriate as mitigation of that conflict.

The Candidate

Name (family name in upper case; include title if appropriate)	FLANAGAN, Stephen
Address	 Withheld under Section 9(2)(a) of the Official Information Act 1982
Ethnicity(s)	NZ European
Age range	Preferred not to say
Gender	M
Current or most recent Employment (specify position and employer, include years)	South Island Regional Operations Manager, Z Energy (2016 – present)
Government board appointments held (current and previous, include years)	N/A
Private and/or voluntary sector board appointments held (current and previous, include years)	N/A
Qualifications and experience (include significant work history and community involvement)	<p><u>Qualifications</u> Chevron Texaco Permitting (Caltex) (2006–2009) NZOSL In-house Permitting (2004–2006) NZOSL Shore Officer (Shell Oil) – Wellington (2004) Fitter / Welder (1986)</p> <p><u>Experience</u> Terminal Manager, Z Energy (2016–2018) Terminal Operations Manager, Chevron New Zealand Ltd (2006–2016) Assistant Terminal Operations Manager, New Zealand Oil Services Ltd (NZOSL) (2003–2006) Maintenance & Diagnostic Technician, ACME Engineering (1998–2003) Oil Industry Experience, ACME Engineering (1998–2003)</p>

Date: 03/02/2020



Office of Hon Michael Wood
Member of Parliament for Mt Roskill

Minister of Transport
Minister of Workplace Relations and Safety
Deputy Leader of the House

Cabinet Committee Background Information and Talking Points

Cabinet Committee: Appointments and Honours Committee (APH) on 10 March 2021

Paper Title: Oil Pollution Advisory Committee: Member Appointments

Portfolio: Transport

Officials Attending: TBC

Background Information

- This paper outlines my intention to appoint:
 - Leonard Bentley as representative member for international container shipping on the OPAC for an open-ended term commencing from 22 March 2021; and
 - Steve Flanagan as representative member for the oil and gas production and distribution industry on the OPAC for an open-ended term commencing from 22 March 2021.

OPAC: Background

- The OPAC is a technical advisory committee established under section 282 of the Maritime Transport Act 1994.
- The Committee advises the Maritime New Zealand (MNZ) Authority on the New Zealand Marine Oil Spill Response Strategy; the fixing of the oil pollution levies under part 24 of the Maritime Transport Act; the use of the New Zealand Oil Pollution Fund; and any other matter related to oil spills that the Minister of Transport, or Maritime New Zealand's Director, specifies.
- The Committee comprises 20 representative members from the shipping, oil, and fishing industries; as well as government agencies, iwi, councils. Members are appointed by the Minister of Transport for open-ended terms, until their employment at the representative organisation ends.

Candidates for appointment

Leonard Bentley (Maersk) - International container shipping representative member

- Mr Bentley is Country Customer Service Manager for Maersk, with 17 years' experience in the international shipping industry. He has excellent working relationships within Maersk and other organisations in the Shipping Container Lines grouping, giving him the networking and engagement (marine) skillset required by the OPAC.
- Mr Bentley is well connected in the shipping industry and a Maersk employee, enabling him to provide industry and customer perspectives on one of the OPAC's core functions – fixing and levying of the Oil Pollution Levy.

Steve Flanagan (Z Energy) - Oil and gas production and distribution industry representative member

- Mr Flanagan is South Island Regional Operations Manager at Z Energy, a position that requires him to manage risks and operations at four fuel terminals across the South Island. In this capacity he is required to have an excellent understanding of oil industry safety procedures/protocols and quality standards.
- Mr Flanagan has in-depth knowledge of prevention and response related to marine oil pollution, and is able to provide advice from operational and mechanical perspectives. This experience would be of benefit to the OPAC when revising/drafting regional marine oil spill contingency plans and undertaking one of the OPAC's core functions – consulting on the New Zealand Marine Oil Spill Response Strategy.
- I consider that Mr Bentley and Mr Flanagan will make strong additions to OPAC.

Appointments Process

- I can confirm that an appropriate process has been followed in selecting the proposed appointee, in terms of the Crown Entities Act 2004 and the Public Service Commission's *Board Appointments and Induction Guidelines*.

Conflicts of interest

- I can confirm that appropriate enquiries concerning conflicts of interest have been carried out, in accordance with the Public Service Commission's appointment guidelines, to identify any conflict of interest that could reasonably be identified.
- No conflicts of interest were declared by Mr Flanagan.
- Mr Bentley has disclosed for completeness that [REDACTED]. He will declare any perceived, likely or actual conflict should it arise [REDACTED], and recuse himself as appropriate as mitigation of that conflict.
- OPAC members are required to declare any perceived, likely or actual conflict (should it arise) to the OPAC Chair, and recuse themselves as appropriate as mitigation of that conflict.

Fees

- OPAC members do not receive fees, however, members are entitled to be reimbursed for reasonable expenses incurred to attend meetings.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Steve Flanagan



Withheld under Section 9(2)(a) of the Official Information Act 1982

Dear Mr Flanagan

I am pleased to advise that I hereby appoint you as a member of the Oil Pollution Advisory Committee (OPAC / the Committee) for an open-ended term commencing on 22 March 2021. Please confirm your acceptance of this appointment in writing as soon as possible.

The legislation relevant to your role is the Maritime Transport Act 1994 and your appointment is made under section 282(2) of this Act.

I note that you have certified that you are not disqualified from being appointed and have declared no current conflicts of interest. In case any actual conflicts of interest do arise, I expect you to advise the OPAC Chair and follow the standard processes for managing and declaring them. For your reference, a list of OPAC members is attached at **Appendix One**.

Withheld under Section 9(2)(a) of the Official Information Act 1982

Your contact at the Ministry of Transport is Robert Anderson, Manager, Governance. His phone number is [REDACTED] and his email address is R.Anderson@transport.govt.nz

Fees

OPAC members do not receive fees, however, members are entitled to be reimbursed for reasonable expenses incurred to attend meetings. Maritime New Zealand's OPAC representative, Nigel Clifford, will be able to assist you with claims and any taxation matters.

Resignation

The term for OPAC members is open-ended and your membership ends when you resign from the Committee or when I write to inform you that your representation is no longer required. In the event that you resign, you will need to provide written notice to the OPAC Chair. The resignation will then be effective on receipt of the notice, unless specified otherwise in the notice.

Being a member of OPAC is a significant role and provides an opportunity for you to make a major contribution to New Zealand. I would like to thank you for your willingness to participate in, and contribute to, the development of New Zealand's oil pollution preparedness and response activities. The skills and experience you bring to the role will be a considerable asset to OPAC.

I wish you well in this appointment.

Yours sincerely

Hon Michael Wood
Minister of Transport

Encl: *New Zealand Gazette* notice

Copy to: Nigel Clifford, Interim Chief Executive of Maritime New Zealand and Interim
Chair of the Oil Pollution Advisory Committee
Peter Mersi, Chief Executive, Ministry of Transport

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Appendix One: Oil Pollution Advisory Committee current members

OPAC members and their nominating organisations include:

- Nigel Clifford, (Interim Chair), Maritime New Zealand
- Captain Keith Brown, shipping industry representative
- Morris van Voornveld, New Zealand Association of Shipping Agents
- Captain Charles Smith, Port Chief Executives Group
- Shelley Tucker, Ministry of Transport
- Annabel Young, New Zealand Shipping
- Maurice Bone, BP Oil Ltd
- Martin Burley, Coastal Oil Logistics
- Richard Wells, New Zealand fishing industry
- Fred McLay, Regional Council management
- Captain James (Jim) Dilley, Regional Council Representative
- Professor Chris Battershill, Community Representative
- Carlton Bidois, Iwi Representative
- Leonard Bentley, Maersk (new appointee)

The following OPAC members have observer status:

- Toby Stone, Australian Maritime Safety Authority
- Nick Quinn, Australian Marine Oil Spill Centre.

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Leonard Bentley
GM Customer Experience Oceania
Maersk
Level 3, Building B/2 Graham Street
Auckland CBD
AUCKLAND, 1010

██████████ Withheld under Section 9(2)(a) of the Official Information Act 1982

Dear Mr Bentley

I am pleased to advise that I hereby appoint you as a member of the Oil Pollution Advisory Committee (OPAC / the Committee) for an open-ended term commencing on 22 March 2021. Please confirm your acceptance of this appointment in writing as soon as possible.

The legislation relevant to your role is the Maritime Transport Act 1994 and your appointment is made under section 282(2) of this Act.

I note that you have certified that you are not disqualified from being appointed and have declared no current conflicts of interest. In case any actual conflicts of interest do arise, I expect you to advise the OPAC Chair and follow the standard processes for managing and declaring them. For your reference, a list of OPAC members is **attached at Appendix One**.

Withheld under Section 9(2)(a) of the Official Information Act 1982

Your contact at the Ministry of Transport is Robert Anderson, Manager, Governance. His phone number is ██████████, and his email address is R.Anderson@transport.govt.nz

Fees

OPAC members do not receive fees, however, members are entitled to be reimbursed for reasonable expenses incurred to attend meetings. Maritime New Zealand's OPAC representative, Nigel Clifford, will be able to assist you with claims and any taxation matters.

Resignation

The term for OPAC members is open-ended and your membership ends when you resign from the Committee or when I write to inform you that your representation is no longer required. In the event that you resign, you will need to provide written notice to the OPAC Chair. The resignation will then be effective on receipt of the notice, unless specified otherwise in the notice.

Being a member of OPAC is a significant role and provides an opportunity for you to make a major contribution to New Zealand. I would like to thank you for your willingness to participate in, and contribute to, the development of New Zealand's oil pollution preparedness and response activities. The skills and experience you bring to the role will be a considerable asset to OPAC.

I wish you well in this appointment.

Yours sincerely

Hon Michael Wood
Minister of Transport

Encl: *New Zealand Gazette* notice

Copy to: Nigel Clifford, Interim Chief Executive of Maritime New Zealand and Interim
Chair of the Oil Pollution Advisory Committee
Peter Mersi, Chief Executive, Ministry of Transport

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OPAC members and their nominating organisations include:

- Nigel Clifford, (Interim Chair), Maritime New Zealand
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- Captain Charles Smith, Port Chief Executives Group
- Shelley Tucker, Ministry of Transport
- Annabel Young, New Zealand Shipping
- Maurice Bone, BP Oil Ltd
- Martin Burley, Coastal Oil Logistics
- Richard Wells, New Zealand fishing industry
- Fred McLay, Regional Council management
- Captain James (Jim) Dille, Regional Council Representative
- Professor Chris Battershill, Community Representative
- Carlton Bidois, Iwi Representative
- Steve Flanagan, Z Energy (new appointee)

The following OPAC members have observer status:

- Toby Stone, Australian Maritime Safety Authority
- Nick Quinn, Australian Marine Oil Spill Centre.

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BRIEFING

Designation of Waka Kotahi NZ Transport Agency as a work health and safety regulator

Reason for this briefing	<p>On 30 September 2019, Cabinet directed officials to report back to the Minister of Transport and Minister of Workplace Relations and Safety on the merits of designating the Waka Kotahi NZ Transport Agency (the Transport Agency) as a work health and safety regulator under the Health and Safety at Work Act 2015.</p> <p>This briefing provides a summary of the merits of designating the Transport Agency as a work health and safety regulator and proposes further detailed work and a joint meeting of Ministers.</p>
Action required	<p>Consider the merits of designating the Transport Agency as a work health and safety regulator.</p> <p>Agree to a joint meeting to discuss this further with officials in order to make an 'in principle' decision.</p>
Deadline	20 December 2019
Reason for deadline	Cabinet directed agency advice to Ministers with a view to making an 'in principle' decision by December 2019. This timing allows the Transport Agency to incorporate work health and safety functions into its regulatory strategy and capability from the outset, which it is currently developing.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
Kirstie Hewlett	Deputy Chief Executive, MoT	[REDACTED]	
Lisa Collins	Manager, Health and Safety Policy, MBIE		

MINISTER'S COMMENTS:

Withheld under Section 9(2)(a) of the Official Information Act 1982

Date:	10 December 2019	Briefing number:	1792 19-20 (MBIE) OC191262 (MoT)
Attention:	Hon Phil Twyford Hon Iain Lees-Galloway	Security level:	In Confidence
For information	Hon Stuart Nash		

Minister of Transport's office actions

Noted

Seen

Approved

Needs change

Referred to

Withdrawn

Not seen by Minister

Overtaken by events

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Executive Summary

1. This briefing (developed by officials from the Ministry of Transport, MBIE, the Transport Agency, Police and WorkSafe) covers the merits of designating the Waka Kotahi NZ Transport Agency (the Transport Agency) as a work health and safety regulator for the land transport sector under the Health and Safety at Work Act 2015 (HSWA).
2. The review of the regulatory capability and performance of the Transport Agency identified that a lack of regulatory coordination had been a contributing factor to the regulatory failure. As a result, Cabinet agreed in October 2019¹ to commission work from officials to assess the merits of designating the Transport Agency as a work health and safety regulator.
3. You are being asked to approve the continuation of more detailed work to progress designation, subject to a joint meeting with senior officials in early 2020.

Background

4. Under HSWA, the Prime Minister can designate agencies other than WorkSafe to regulate work health and safety, where an agency has specialist sectoral knowledge and there are:
 - 4.1. **Efficiency and effectiveness gains** from having a regulator think holistically about safety issues.
 - 4.2. Opportunities to **reduce potential gaps** where two agencies are working in the same space, each thinking the other agency is taking responsibility and action.
 - 4.3. Opportunities to **reduce potential duplication** of expertise and effort when two agencies have similar roles working towards the same goals, including **minimising unnecessary burdens** on the sector.
5. Overlapping regulatory systems for land transport and work health and safety has created duplication, gaps and missed opportunities, as outlined in the Martin Jenkins Review into the capability and performance of the NZTA. No single agency has had end-to-end oversight of the land transport regulatory system because regulatory functions have been dispersed amongst various agencies. Dispersing the functions has prevented a single regulator from taking a more holistic approach to regulated parties, makes it more difficult to understand causes of risks through the supply chain. It does not always encourage the use of the most appropriate regulatory lever to address the risk at hand. This can result in poor delivery of safety outcomes.
6. **WorkSafe** has finite resources to improve outcomes across all types of work and industries. It therefore focusses its efforts where there is the greatest risk of harm and intervention would make the most difference. WorkSafe can achieve better outcomes, in terms of harm reduction, from investment in the higher risk sectors where there is no alternative regulator with a safety focus.
7. **NZ Police** have similarly finite resources and their responsibility for enforcing compliance with health and safety legislation is just one area of their road policing responsibilities.

¹ <https://www.transport.govt.nz/assets/Import/Uploads/About/Documents/2.-OC190867-Cabinet-paper-NZTA-regulatory-review.pdf>

8. The **Transport Agency** does work with commercial operators as part of the transport regulatory regime, however, it does not have the broader legal responsibility or legislative enforcement tools that are found in the Health and Safety at Work Act.

Options

9. We considered two options for this paper (others were initially considered but discounted as they were sub-optimal in terms of health and safety outcomes and efficiency gains):
 - 9.1. **Maintaining the status quo** (the 'do nothing' option), and
 - 9.2. **Designating NZTA** as a work health and safety regulator.
10. Designating the Transport Agency is deemed the preferred option because we anticipate it will provide the following benefits:
 - 10.1. **Effectiveness** – the Transport Agency is familiar with the business models, and operations of the organisations it regulates, as well as the technical specifications of the vehicles they operate. The agency would be able to look better across the end-to-end land transport system, and use this information to target the areas of highest risk. Having the designation would also enable the Transport Agency to have a broad range of tools to think about how best to deal with a compliance issue. i.e; where poor shift management and commercial incentives on the part of a business have caused the harm, the HSWA tools may be more appropriate, where it is purely driver fault, the transport regulation might be more appropriate.
 - 10.2. **Efficiency** – facilitating the integration of HSWA and land transport safety regulatory activity, saving time and money for the regulated parties and the government agencies
 - 10.3. **Durability** – enhanced resilience in the wider regulatory system, by fostering a community of practice to innovate and improve best practice between the work health and safety regulators.
 - 10.4. **Fairness and Accountability** – makes transport sector participants accountable to a single regulator responsible for compliance with land transport safety rules, as well as their work health and safety responsibilities.
11. Designation is unlikely to have a positive impact unless it is accompanied by appropriate resourcing. However, we note that making an early decision 'in principle' on the designation will enable the Transport Agency to incorporate HSWA into its regulatory strategy and the capability build it is undertaking, so there will be some efficiencies. Other designated health and safety regulators receive some of the funding collected by the Health and Safety at Work Levy. If a designation is agreed in principle, work will be undertaken on funding.
12. We appreciate there may be concern about adding functions to the Transport Agency when it has recently had a regulatory failure. However, the Transport Agency is making good progress on developing its regulatory strategy, systems and processes and bringing in more capability. An early in principle decision on designation will ensure it can effectively incorporate HSWA into its new strategy and processes, rather than it being added on later. It will also enable the Agency to work closely with WorkSafe and leverage its operational policies and knowledge as it builds its strategy and operating model.
13. Any designation could "Go Live" once further detailed work is done and Ministers agree the necessary building blocks have been put in place at the Agency. Designation is by the Prime Minister on recommendation from Cabinet.

14. We also understand that there may be some concern that there are conflicts to be managed within the Agency between its regulatory role and other roles. Cabinet has already agreed that these will be managed by the following:
- (a) The appointment of a Statutory Director that is independent from the other agency functions and is not carried out by the Chief Executive.
 - (b) The Agency Regulatory Strategy will outline the processes for management of any perceived or actual conflicts.
 - (c) The monitoring of processes and procedures around management of conflicts by the Agency Board and the Ministry of Transport as part of its monitoring role.

Next Steps

15. We recommend that you jointly meet with the relevant senior officials early in the New Year with a view to then making an 'in principle' decision to designate. If the decision is made to designate, officials will then undertake more detailed work, including defining the detailed scope of designation and the associated cost, enhancing the mitigations to the identified risks including providing reassurance around conflict management, and identifying sustainable funding.

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Purpose of report

1. The purpose of this briefing is to respond to a Cabinet directive for officials to report back to the Minister of Transport and Minister of Workplace Relations and Safety on the merits of designating the Waka Kotahi NZ Transport Agency (the Transport Agency) as a work health and safety regulator under the Health and Safety at Work Act 2015 (HSWA).

1.1 This briefing provides you with an overview of the:

- ability to designate agencies other than WorkSafe and benefits of this approach
- scale of the health and safety challenge in the road transport sectors
- current legislative landscape and operational enforcement of health and safety in the land transport sector (both road and rail)
- merits of designating the Transport Agency as a work health and safety regulator compared to the status quo
- risks, broad financing options, and suggested next steps ahead of seeking approval from the Prime Minister to designate the Transport Agency.

2. We will arrange a joint meeting for you with the relevant senior officials early in the new year, with a view to making an 'in principle' decision.

3. For the purpose of this paper the potential scope for the Transport Agency to be designated is broadly defined as work that occurs in the land transport sectors – such as the provision of freight and passenger services on the road and rail networks. Ideally, the designation should build on the Transport Agency's scope of functions under its primary legislation. Should you decide, in principle, to designate the Transport Agency, the exact scope of designation will be determined by more detailed policy work prior to approval of the designation by the Prime Minister.

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Agencies other than WorkSafe can regulate health and safety at work

1. Section 191 of HSWA enables the Prime Minister to designate an agency as a work health and safety regulator, having regard to the specialist knowledge of that agency. The designation must specify the scope of the designation:
 - for a particular industry, sector, or type of work or circumstance, and
 - the functions or powers that the designated agency may exercise under HSWA.
2. Designation is by the Prime Minister, on recommendation from Cabinet. Notice of the designation is given in the *New Zealand Gazette*.
3. WorkSafe is currently the work health and safety regulator for all sectors and industries, apart from the maritime and civil aviation sectors, where Maritime New Zealand (MNZ) and the Civil Aviation Authority (CAA) have already been designated².
4. A designated agency reports to its responsible Minister on its activity under HSWA, and is funded for this activity through its usual Vote appropriation by money collected from the Health and Safety at Work levy. The Minister for Workplace Relations and Safety and the responsible Minister for the designated agency (in this case the Minister of Transport) may give joint policy directions to the designated agency. WorkSafe or the designated agency may also perform functions or exercise powers in the other agency's area if that agency gives consent to do so.

Designation under HSWA has several benefits

5. Designations recognise the mutually reinforcing overlap between the objectives of HSWA and other regulatory systems, and that there are efficiency and effectiveness gains from having regulators think holistically about safety issues. It helps reduce the potential for gaps when there are two agencies working in the same space, with each thinking the other agency is taking responsibility. It also aims to avoid duplication of expertise and effort when two agencies have similar roles working towards the same or complementary goals.
6. For example, if Maritime New Zealand was investigating safety issues on a ship, it can use its levers under both the maritime safety and the work health and safety regulatory systems to determine how best to achieve health and safety outcomes. This means that Maritime NZ can take a holistic, end-to-end approach to improving both maritime safety, and work health and safety outcomes.
7. Designation is also intended to increase efficiency and reduce burdens for regulated communities by only having one regulator with which to interact on a day-to-day basis. It can be confusing and costly for regulated parties when dealing with two regulators that have a focus on safety, but are coming from different regulatory approaches, for example, a performance-based regulatory system and a prescriptive, rules-based system, as is the case now for the land transport sector.

² Maritime NZ is the designated work health and safety regulator for work on board ships and ships as workplace (excluding the military), and the CAA is designated for work to prepare an aircraft for imminent flight, work on board an aircraft for the purpose of imminent flight or while in operation, and for aircraft as workplaces while in operation (excluding the military).

Overlapping regulatory systems create duplication, enforcement gaps and missed opportunities

8. The design of the current regulatory systems for work health and safety and land transport safety both overlap – in terms of legislative obligations and regulatory functions of agencies. This is because the work health and safety regulatory system applies to all work across all industries, including transport industries.
9. There are also multiple organisations with responsibilities for enforcement and leadership of different aspects of the system. This has allowed for a system where different agencies defer to each other, and no single agency has a good overview of what is happening across the whole commercial transport sector. This means that despite best endeavours, the design of the system has led to agencies only being able to address the symptoms of risks, rather than treat the root causes. In some areas their work overlaps, and in others there are gaps between them – see below.



The legal requirements on businesses and workers overlap...

10. All businesses (including the road and rail sector) have a broad duty under HSWA to protect workers and other people from the risks arising from their business³. All businesses must ensure they have considered and managed the health and safety risks arising from their business, so far as is reasonably practicable.
11. Under HSWA, workers must take reasonable care to avoid causing harm to themselves and others. This includes workers operating vehicles, such as driving vehicles or trains for work.
12. Under the Railways Act 2005, participants in the rail sector must also ensure, so far as is reasonably practicable, that none of their rail activities are likely to cause serious injury or death.
13. By contrast, for road transport there is a more prescriptive approach. While sections 94 and 95(1) of the Land Transport Management Act 2003 do require the Transport Agency to contribute to a "safe" land transport system, other legislation is exclusively focussed on offences and the potential consequences. For example, an employer breaches transport law

³ Workers includes employees, contractors, volunteers, and people gaining work experience. Other people includes passengers, bystanders, customers and visitors

if their drivers falsify log books under their direction – but there is no direct requirement to stand a driver down if they report to work impaired by fatigue. By comparison, fatigue would be a hazard to be managed under HSWA.

...and so do the roles and functions of Government agencies.

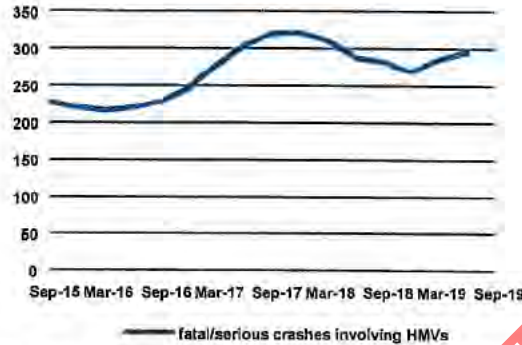
14. WorkSafe is the primary work health and safety regulator. Along with MBIE in its regulatory stewardship and policy role, it is responsible for advising on the performance of, and making recommendations to improve, the effectiveness of the work health and safety system.
15. WorkSafe also has a leadership role coordinating the implementation of work health and safety initiatives with other agencies. It permits a range of high risk work operations, for example; major hazard facilities, and adventure activities. WorkSafe conducts assessments in workplaces to see how effectively businesses are managing their risks and focusing on key risks like hazardous substances, key controls like health monitoring, or other system enablers like worker engagement.
16. The Transport Agency is responsible for regulating commercial public and passenger safety in land transport and controls the regulatory system by certifying and licensing participants in the land transport sector. As part of its statutory functions, the Transport Agency must also contribute to an effective, efficient and safe land transport system in the public interest. It also investigates and reviews accidents and incidents involving land transport.
17. WorkSafe and the Transport Agency have similar functions such as education and engagement, investigation, information analysis, and prosecution. This means both agencies can be involved in developing guidance on safe land transport, or investigating the same incidents where death or serious injury has occurred, or both could be working to influence a business to improve safety. For an overview of the breakdown of their functions, please see Appendix A.
18. While NZ Police is not a HSWA designated agency, some of their Commercial Vehicle Safety Team (CVST) officers are warranted as HSWA inspectors by WorkSafe. The Police CVST have responsibility for on-road commercial vehicle safety enforcement (inspecting heavy goods vehicles at the roadside, for instance). NZ Police use their commercial vehicle expertise to gather evidence, but WorkSafe remains the regulator. If the matter is serious, WorkSafe can take a prosecution forward once an investigation is complete. CVST and WorkSafe have a shared agreement setting out agreed ways of working for training, coordination of activities and information sharing. The Transport Agency, WorkSafe and CVST also sometimes conduct joint operations. Separately, we are also reviewing the interface between the CVST and the Transport Agency to see whether improvements could be made in this area too.

What's the scale of the challenge with health and safety in the land transport sector?

19. Our current understanding of work health and safety outcomes in the land transport sector is limited by the availability of data and the way in which different agencies currently collect information. Overall we believe that work health and safety outcomes in the land transport sector (particularly in regard to road use) have not been improving at the same rate as other sectors of the economy.
20. The Transport Agency's quarterly Road Safety Outcomes report⁴ does not distinguish between work related and non-work related incidents. However, the Ministry of Transport

⁴ <https://www.nzta.govt.nz/assets/resources/road-safety-outcomes/docs/rso-jul-sep-2019.pdf>

and Police have work underway to differentiate work-related incidents and hope to be able to measure this in the near future. Overall, we can see a general trend that the number of fatalities and injuries is not reducing. The number of fatal/serious crashes involving heavy motor vehicles (as they are more likely to be in commercial operation) has also risen from 221 in 2015 to 270 in 2018.



21. The new 'Road to Zero' road safety strategy acknowledges that far too many workers are involved in crashes that result in deaths and serious injuries. Research suggests that around 25% of road fatalities involve a person driving for work⁵.
22. Work-related road safety is a key area of focus for the new road safety strategy. This is not only because of the size of the problem, but also because there is a real opportunity for businesses across the supply chain to take steps to significantly improve the safety of their workers and the public on the road.
23. In developing Road to Zero stakeholders expressed concern that some businesses do not treat road safety as a critical health and safety risk, and that businesses in all sectors need better information about how to meet their obligations. Fatigue, distraction and vehicle safety are seen as priority issues, as well as using chain of responsibility obligations⁶ to drive change. Stakeholders have also noted that factors such as long working hours can impact on the safety of workers travelling to and from their workplace.
24. Many roles in the land transport sector are also sedentary. This means, for example, truck drivers can suffer from work-related health problems. A study of the health of truck drivers in the US found that whilst drivers might describe their health as good, 83.4% were overweight, 56.3% had chronic fatigue, 70% were at risk of sleep apnoea and about 40% had cardiovascular concerns⁷.
25. Looking ahead, there are also opportunities and risks around emerging technologies in the transport sector and the changing nature of transport-related work. Those changes might make it advantageous to have one transport regulator with specialist sectoral knowledge taking a holistic view of the transport safety system and the work health and safety system. Stakeholders have also expressed a desire for there to be better coordination and leadership by regulators in the system. A greater focus on work health and safety in the land transport sector is warranted, and we have an opportunity to determine what the most efficient way to do this is.

⁵ Lilley, R. (2019) Factsheet 44 - Work Related Fatal Injury Study - 3: Work-related Road Traffic Fatalities 1999-2014. Injury Prevention Research Unit. University of Otago.

⁶ The offences set out in Part 6C of the Land Transport Act 1998 (such as permitting work time breaches)

⁷ Tedestedt George, C. (2018) An Inquiry into Contextual Factors Impacting the Occupational Health, Safety, and Well-Being of New Zealand Truck Drivers: an Ecological Systems Approach, p.211

<https://openrepository.aut.ac.nz/handle/10292/12005?show=full>

There is scope to improve the land transport health and safety system

26. The deliberate overlap of the land transport safety regulatory system, and the work health and safety regulatory system has created an unintended gap in the delivery of those regulatory systems. This has led to missed opportunities where the land transport sector is not receiving the holistic and focussed attention from a work health and safety perspective. Outcomes on the ground have not been improving as rapidly as they could, given there are two safety regulators in the same space.
27. WorkSafe has a finite resource to improve work health and safety outcomes across all types of work and industries, so focusses on where there is the greatest risk of harm and where intervention would make the most difference. WorkSafe can better utilise its resources to influence those sectors where no other regulator, with a safety focus, exists to do that work.
28. WorkSafe has not pro-actively focussed on the land transport sector because the Transport Agency regulates safety in the land transport sector. WorkSafe has taken limited focussed regulatory action in relation to road and rail incidents when the risk of harm has warranted an intervention.
29. For example, the risk of harm to workers doing maintenance work in rail tunnels, and the risk of harm in the event of a fire in a rail tunnel. WorkSafe has also been working with the Transport Agency's Rail team to identify and develop a coordinated approach to catastrophic risk in rail. In 2018, WorkSafe began a programme of work to reduce vehicle⁸-related harm, as vehicles and mobile plant such as forklifts are the single biggest cause of fatalities at work across all sectors. Nevertheless, for the above reasons, the land transport sector has not been prioritised by WorkSafe.
30. The Transport Agency and the transport regulatory regime has some focus on commercial operators and its work contributes to health and safety at work outcomes (such as advice on tackling driver fatigue). However, as it does not have the legal responsibility to enforce HSWA requirements, it has not been able to look from the start to the end of the supply chain for transport operators. It has missed out on a more integrated approach for dealing with operators from taking a work health and safety perspective.
31. NZ Police have similarly finite resources in this area and their ability to enforce compliance with work health and safety legislation is just one area of their road policing responsibilities. As they are not a designated agency, NZ Police cannot access the dedicated funding to support their work as warranted health and safety inspectors. Police have tended to focus their attention on the acute risks (crashes) rather than the chronic risks (such as the health problems associated with sedentary work) as that is more aligned with their core road policing objectives. To date, Police have not undertaken more than 1500 hours of HSWA investigations per year.
32. In summary, the design of the current system has meant that no single agency has prioritised work health and safety in the land transport sector in their regulatory work programme. Whilst they have all been active in regulating for safety outcomes, the health impacts of work in the land transport sector have been neglected. No single agency enjoys an end-to-end perspective of the regulatory system that would enable them to take a holistic approach to improving outcomes on the ground.

⁸ Work vehicles covers a wide variety of vehicles, including those operating mostly off the road network e.g. forklifts, cranes, excavators, quad bikes.

What are the objectives for designation?

33. In assessing the merits of designating the Transport Agency as a work health and safety regulator we have considered some general principles, as well as four regulatory stewardship objectives to assess the options.
34. The general principles for designation under HSWA are:
- designation should provide operational independence for the regulator(s)
 - designated functions and powers should enable the agency to be an effective HSW regulator.
 - designation should recognise regulatory interfaces while minimising the risk of gaps between regulators.
35. In considering the merits of designating the Transport Agency, we have used four of the Treasury's regulatory stewardship objectives⁹ to assess these against:
- 35.1. **Effectiveness** – measurable, improved work health and safety outcomes for the land transport sector
- 35.2. **Efficiency** – reduced duplication of effort across agencies, making sure that the right agency is in the right place at the right time, with the right technical expertise, with minimised unintended consequences or undue regulatory burdens
- 35.3. **Durability** – enhanced resilience in the wider regulatory system, so that it can adapt and evolve over time, whilst performing to a consistently high standard
- 35.4. **Fairness and Accountability** – the system respects rights and delivers good process – e.g.; accountability, fair and impartial decision-making, opportunities for those affected by to be heard, and opportunities for review or appeal

What are the options?

36. Two broad options are considered in this briefing:
- 36.1. **Maintaining the status quo** (the 'do nothing' option), and
- 36.2. **Designating the Transport Agency** as work health and safety regulator for the land transport sector.
37. The first option is unlikely to deliver a significant improvement to health and safety in the land transport sector.
38. The second option, to designate the Transport Agency as a work health and safety regulator for the land transport sector is consistent with the Government's wider ambitions to improve work-related health and safety in the land transport sector.
39. We have also discounted an alternative options at this early stage. We considered that enhancing the status quo by WorkSafe increasing its focus on land transport would not deliver better outcomes than designating and funding the Transport Agency, because the efficiencies would not be gained while the duplication of effort remains. WorkSafe would not

⁹ <https://treasury.govt.nz/sites/default/files/2015-09/good-reg-practice.pdf>

have the whole land transport system view that the Transport Agency would be able to take. It would also mean WorkSafe would be less able to focus in other areas of harm where there is not a sector focussed regulator.

Assessing the merits of designation

40. The table below highlights the merits of designation compared to the status quo, followed by a more detailed analysis of the merits below.

	Status quo	Designation
Effectiveness	<p>WorkSafe has less technical expertise and specialist knowledge of the transport sector participants and risks. WorkSafe also has less strong relationships with transport sector participants</p> <p>The risk of a gap in the delivery of regulatory activities continues as the two agencies defer to each other within the overlap, creating unintended gaps in focus and delivery</p> <p>Unlikely to see much change in the level of awareness about work health and safety requirements among sector participants</p> <p>The level of WorkSafe activity in the land transport sector continues to be subject to variability based on transport risks and harm compared to other sectors</p>	<p>Utilises the Transport Agency's specialist knowledge of the land transport sector, its participants, and technical subject matter expertise</p> <p>Increases awareness of work health and safety regulatory system via more regular contact with the regulator (the Transport Agency)</p> <p>Continued targeted and end-to-end focus of work health and safety in land transport – improving outcomes</p> <p>Broadening of the Transport Agency's focus from acute injury to include health outcomes and support worker engagement</p>
Efficiency	<p>Regulators continue to duplicate effort, for example; inspections, investigations, data collection</p> <p>WorkSafe develop and duplicate sector knowledge that already exists in the Transport Agency</p> <p>Continued potential for confusion of regulated parties having to deal with and comply with two safety systems</p>	<p>Regulators can streamline and focus resources, so there is potential for more impact and better value for money</p> <p>Reduces confusion for regulated parties by only dealing with a single safety regulator</p> <p>The Transport Agency works across road and rail so will also enable better understanding of risks across freight networks</p>

		Road safety outcomes, and work health and safety could be improved through the use of tools available under HSWA.
Durability	Little change. Concentrates work health and safety expertise at WorkSafe	Increases New Zealand's work health and safety regulatory capacity – spread across four agencies. Possibility for innovation and spreads risk of failures in oversight Potential for better adaptation of work health and safety interventions as transport technology and risks evolve with a transport focused regulator.
Accountability	Ongoing risk of a gap between the enforcement activities of the two agencies	The Transport Agency has end-to-end oversight of regulating operators in the land transport sectors. Greater potential for cultural change within industry

How would designation be more effective?

41. Designation is designed to take advantage of technical expertise and sector-specific knowledge held by agencies. It also enables efficiencies by streamlining administration in one agency, minimising compliance costs and avoiding duplication between agencies. The Transport Agency would be able to use its end-to-end intelligence within the land transport sector to more effectively target its interventions at the highest risk areas.
42. As the lead agency responsible for safety oversight of the land transport sector, the Transport Agency is a 'known quantity' for operators in the rail and road systems. The Agency is also familiar with the business models, operations and technical specifications of the organisations that it licenses and the vehicles they operate. This varies according to the type of licence and the size and complexity of the licence holder's operations. Nevertheless, there is sector specific knowledge and technical expertise for the land transport sector within the Transport Agency that does not exist to the same level at WorkSafe.
43. Provided that designation is accompanied by an appropriate funding commitment, it would deliver a net increase to the regulatory work being undertaken to promote work health and safety, and to enforce compliance with HSWA in the land transport sector. Given the currently limited activity in the land transport sector, there is a low baseline on which to improve. As the Transport Agency gradually builds up its work health and safety capability, designation could deliver a more effective health and safety regulatory system.

How would designation be more efficient?

44. The knowledge and the relationship that the Transport Agency has with regulated parties creates an opportunity for more efficient regulatory oversight. For instance, if the Transport Agency was conducting a safety assessment at a licenced rail operator, this could be integrated with a health and safety assessment, saving time, money and effort for the agencies and reducing unnecessary burden on the rail operator.
45. The two land transport sectors (road and rail) are quite distinctive from each other, requiring different regulatory approaches, and also diverse within themselves. For instance, oversight of operator licence holders in the rail sector encompasses everything from small heritage and tourism operators to KiwiRail. Work taking place on the road network will include large companies with fleets of heavy goods vehicles or coaches, along with small taxi companies and providers of vehicle recovery services.
46. Given the diverse nature of the regulated parties that the Transport Agency is already responsible for overseeing, there is already evidence of the agency taking a tailored approach to regulatory oversight and being able to accommodate different regulatory styles. The Transport Agency will, however, require long term support and monitoring from the Ministry of Transport, WorkSafe and MBIE to ensure that they successfully integrate the HSWA roles into delivery of their regulatory activity.

How would designation be more durable?

47. Designating the Transport Agency (accompanied by a corresponding funding appropriation) would grow the overall size of the regulatory community looking at work health and safety in New Zealand. It would also spread that expertise from WorkSafe to the three transport regulators (CAA and Maritime NZ are already designated) and open an opportunity for innovation and development of best practice in the different organisations. The risk of diluting expertise in the Transport Agency and spreading it thinly would have to be countered with an appropriate increase in overall funding.
48. By having another agency effectively regulating work health and safety, New Zealand would benefit from a community of regulators that is able to leverage off each other's knowledge (avoid each other's mistakes) and improve regulatory practice overall. Whilst WorkSafe would remain the primary regulator (providing the three designated transport agencies with advice and support), in time it is possible that best practice in certain issues could be developed in the transport regulators that will be of value to WorkSafe.

How would designation be more accountable?

49. It should be emphasised that designating the Transport Agency will not introduce any new regulatory requirements on the land transport sector. The sector is already subject to the requirements of HSWA. Designation would facilitate more frequent discussion about work health and safety issues between the regulator and the regulated parties, helping to deliver improved levels of compliance. There will be more of a focus on how they are meeting those requirements in conjunction with transport safety obligations.
50. The Transport Agency would have the opportunity to take a more holistic approach to assessing the cause of risks in the land transport sector by looking up and down the supply chain. So, rather than treating the symptoms in terms of taking enforcement action for breaches of work health and safety regulation, the Transport Agency could address the root cause of the breach, which may be several steps up the supply chain. This would make the originator of the risk accountable for mitigating it.

51. Having a single designated work health and safety regulator for the land transport sector, participants would be accountable to a single agency for their operational safety and their work-related health and safety. The combined effect of one regulator promoting good practice and enforcing compliance could drive a cultural change amongst sector participants.

Recommendation

52. Considering the above factors, we recommend that you jointly meet with the relevant senior officials to discuss this further, with a view to taking an 'in principle' decision on designation.
53. We will continue to progress more detailed work towards designating the Transport Agency as the work health and safety regulator for the land transport sector. At this stage we would like to flag some key risks and mitigations, as well as options for funding these new regulatory functions for the agency.

Risks associated with the designation of the Transport Agency and proposed mitigations

54. We have identified five key risks with designating the Transport Agency. We will conduct further work as part of the next phase of the project to further explore and mitigate these risks.
 - i) Capability
 55. There is a risk that some stakeholders could argue the Transport Agency is not capable of taking on new responsibilities at this time.
 56. Having just been through a high-profile regulatory failure, the Transport Agency is making good progress on rebuilding its regulatory strategy and capability. An 'in principle' decision to designate would mean that new health and safety regulatory functions could be built into the foundations. By factoring in work health and safety regulatory practices into its regulatory strategy at this early stage, the agency has an opportunity to deliver those functions more effectively and efficiently than if they were added on at a later stage.
 57. It will also enable the Agency to work closely with WorkSafe and leverage its operational policies and knowledge as it builds its strategy and operating model.
 58. The Transport Agency would also have to reconcile two different regulatory approaches – the more prescriptive, rules-based system in land transport, and the more performance-based system for work health and safety. We think this risk can be managed as the Transport Agency is already responsible for delivering multiple different regulatory systems. WorkSafe has effective processes and procedures that could be adopted by the Transport Agency.
 - ii) Inconsistency
 59. There is a risk that designating the Transport Agency creates potential inconsistency in application of health and safety regulation between regulators. This already exists in the different ways that WorkSafe, CAA and Maritime NZ target their interventions.
 60. As above, if the in principle decision is made now, this risk can be managed by the Agency building HSWA practices into the foundations of its regulatory strategy and operating model, and working closely with WorkSafe to ensure consistency with WorkSafe processes and systems to support decision-making and regulatory actions. A decision later may result in it being an add-on and increase the risk of inconsistency.

61. With more than one regulator actively regulating work health and safety, we need to foster a community of practice across the regulators to help drive improvements in best practice.
- iii) Handling conflicts of interest
62. As an organisation responsible for the funding of the land transport system, management of the state highway network, and regulation of land transport operators, there is the potential for a perceived conflict of interest. For example, as a major procurement authority, the Transport Agency can be both a client of, and regulator of, contractors working on road construction and repairs.
63. This risk was considered in the review of the Transport Agency's regulatory performance. The report did not suggest that having multiple roles is in itself a concern, but rather that systems and processes need to be in place to manage any conflicts. Cabinet has already agreed that these will be managed by the following:
- (a) The appointment of a Statutory Director that is independent from the other agency functions and is not carried out by the Chief Executive.
- (b) The Agency Regulatory Strategy will outline the processes for management of any perceived or actual conflicts.
- (c) Monitoring ny processes and procedures around management of conflicts by the Agency Board and the Ministry of Transport as part of its monitoring role.
- iv) Use of new powers
64. The powers granted to regulators under HSWA are very broad, and there is a risk that the Transport Agency could try to use them to fill perceived gaps in existing land transport regulations. The Transport Agency could make use of the extensive powers granted under HSWA, and the discretion that the Act gives regulators, to pursue objectives other than improving work health and safety.
65. We believe this risk can be managed, we are already reviewing and providing NZTA with a similar range of powers and tools in transport legislation. So, there will not be an incentive to use HSWA just for the regulatory powers, but rather because it is the more appropriate legislative framework.
- v) Scope
66. The recent re-designation of Maritime NZ and the CAA has reiterated the importance of precisely defining the scope of designation, ensuring that the impacts of designation under the new HSWA legislative framework are well understood, and ensuring there is sufficient time to do this properly. The second lesson, which extends beyond work health and safety, is the importance of a strong and ongoing monitoring programme to ensure that Ministers have a clear line of sight to the effective delivery of regulatory activity. The agencies will work collaboratively to design the scope of any designation to ensure it is well defined and understood.
67. Functions of a HSWA regulator are much broader than a pure focus on safety, so it is important that designated regulators have an ongoing mentoring and support relationship with WorkSafe. This helps them to develop the capability to fulfil other functions supporting, promoting and enforcing areas such as worker engagement and participation, and health monitoring.

68. The Ministry of Transport is also currently developing an enhanced monitoring role to ensure all of the designated agencies: The Transport Agency, CAA, and Maritime NZ are performing their HSWA role effectively. This will be developed with MBIE and WorkSafe.
69. The next phase of our risk management work as we develop our approach to designation will include ensuring the above and any other risks are explored and mitigations are put in place.
70. There are also a range of additional potential checks and balances, including:
- the new Transport Agency statutory director role being developed
 - the incorporation of HSWA approaches in the development of the Transport Agency's regulatory strategy from the outset
 - the flexibility of the designation mechanism that allows for adjusting the scope of the role to address and avoid potential conflicts of interest
 - the ability of WorkSafe to perform functions in respect of the scope of designation of another agency (with its consent)
 - the joint policy direction that Ministers can give the designated agency
 - the improved monitoring of agency capability and approach by the Ministry of Transport

Options for funding designation

71. A prerequisite for achieving a significant step-change in land transport work health and safety outcomes is sustainable baseline funding. A decision on funding mechanisms does not need to be taken now, but it will need to be taken as part of the designation.
72. There is only really **one source of funding**. The Health and Safety at Work (HSW) Levy.
73. The cost of the Transport Agency's health and safety regulatory activity should be recovered from the Health and Safety at Work levy – the dedicated funding source specific to this purpose. A staged increase in baseline funding would be expected, beginning from the point of designation, as the Transport Agency builds up its capacity, capability and activity. Should the agency require additional funding to cover increased work health and safety activity, it would need to seek this through Budget as normal, with it then recovered from the levy.
74. Whether a levy rate increase will be required to cover the designation appropriation will depend on the timing of designation, the baseline funding level required by the Transport Agency, and the level of future levy revenue.
75. A fiscally neutral transfer of WorkSafe's appropriation from Vote Labour Market, to Vote Transport to fund the Transport Agency is a sub-option. As land transport work health and safety regulatory activity has never been specifically funded, it would likely create a funding shortfall at WorkSafe. This could impede its ability to effectively regulate other sectors. This would not be a preferred way forward.
76. Alternative funding sources have been discounted in preparing this briefing, as there is already a dedicated levy that is specific to funding work health and safety regulatory activity. To propose alternatives would mean that the land transport sector could be double-charged for work health and safety regulatory oversight.
77. For comparison, Currently Maritime NZ receives \$6.1m annually and CAA \$1.64m annually for their respective HSWA activities. This is recovered from the HSW levy. Of WorkSafe's total funding, \$96m is recovered from the HSW Levy, and \$1.5m from Crown funding for a

public register for hazardous substances. WorkSafe is also funded from energy safety and major hazard facilities levies, and receives funding from ACC for harm prevention activity. All capital expenditure comes from Crown funding, and not the HSW Levy.

78. Ahead of detailed scoping work, we do not know the level of baseline funding the Transport Agency would require. As part of the proposed next stage of designation work the Transport Agency will determine estimated resourcing requirements and associated costs. Agreement on a sustainable funding mechanism will be central to the future decision to designate. Starting work now to embed work health and safety regulatory practices in the design of the Transport Agency's new regulatory strategy is likely to deliver better value for money. It would be easier to remove these practices, if necessary, from the agency's regulatory strategy, rather than trying to add them on as an extension at a later date.

Stakeholders' views on designation

Agencies and the Police

79. We have worked closely with WorkSafe in preparing this advice, and they support designation of the Transport Agency as a work health and safety regulator. Their support is subject to further work to resolve concerns that the broad powers granted under HSWA could be directed at achieving transport safety outcomes, or used to fill perceived gaps in land transport regulations, rather than directed at improving outcomes in the work health and safety system.
80. The Transport Agency is enthusiastic about taking on responsibility for regulating work health and safety in the land transport sector. More work is required to ensure that the organisation has properly scoped out what it would mean for them, but subject to an appropriate funding mechanism being agreed, the agency is highly supportive of designation.
81. Police believe that having the Transport Agency as the regulator for HSWA in the commercial vehicle industry could be leveraged to bring benefits for the sector, as the Transport Agency already has significant expertise in all areas of the transport sector as opposed to WorkSafe NZ who is predominately focussed on other issues.
82. In Police's view, having the Transport Agency as the regulator would enhance the Transport Agency/Police road safety focus and allow both parties to focus on the whole journey of the commercial vehicle, including loading, transport, distribution and final destination - the Transport Agency and Police already interact in many of these areas. Police is looking forward to understanding how the new designation would work in practice. Many of the benefits of alignment with the Transport Agency would be contingent on the nature of their MOU with NZ Police.

External stakeholders

83. We have not thoroughly discussed the proposal with external stakeholders at this stage in the policy development process. In the reference group on workplace safety, as part of the road safety strategy development, stakeholders did recommend that there be better alignment and coordination between the regulators, and designations should be explored. There is a sample range of views on designation below. A more extensive programme of engagement with stakeholders will be undertaken next year.
84. *TRANSPORT SECTOR - "If there can be some streamlining, for example on the implementation of the health and safety regulations, we would support that." Nick Leggett,*

Road Transport Forum, 10/10/19 <http://transporttalk.co.nz/news/rtf-calls-measured-response-rzta>

85. "From our point of view we want a level playing field and inspections are good because they keep everyone honest." Dennis Robertson, Road Transport Association chief exec
<https://www.stuff.co.nz/business/107265754/police-defend-big-drop-in-commercial-vehicle-inspections>
86. TRADE UNIONS – We have had some engagement with the RMTU (representing rail workers) on the location of the regulatory functions for rail safety. In May 2018, the RMTU proposed that WorkSafe NZ take over the whole of the responsibility for rail safety. The RMTU has shifted from this view following its involvement in the National Rail Industry Advisory Forum that the Transport Agency sponsors. We understand that the RMTU's current view is that there should be a single stand alone transport safety regulator for all modes, which would have the compliance regulatory role for land, sea and air with a director of transport safety.
87. Other unions active in land transport have not expressed a formal view. We propose to engage with the CTU, RMTU and other relevant unions (First, Tramways, Amalgamated Workers) during the consultation phase.

Proposed next steps

88. If, after having jointly met with the relevant senior officials, you agree 'in principle' to designate the Transport Agency, a policy paper to Cabinet will be required, seeking its agreement to recommend that the Prime Minister designate the agency, including agreement to the scope of designation and the funding level and source.
89. We also suggest that the Transport Agency should demonstrate its regulatory capability before designation, including that it has the people, regulatory strategy, and operating model to deliver its functions.
90. The detailed policy work on the scope of designation will also need to consider:
 - how best to define the industry, sector, type of work or circumstance to be designated
 - what functions and powers the Transport Agency would be designated for
 - how to best address the areas where the Transport Agency is most likely to need support to develop its capability, such as worker health, worker engagement and participation, upstream duties such as work health and safety in design, or safety risks that are not rail or road-specific
 - overlaps or gaps with WorkSafe and Police and the need to update cooperation agreements.
91. We anticipate that it will take 8-12 months to effectively undertake this work to inform the Cabinet paper.
92. Targeted consultation with interested stakeholders, including participants in the land transport sector will also be undertaken.

Recommendations

94. We recommend that you:

- a) **agree** to a joint meeting with officials with a view to making an 'in principle' decision to designate the Transport Agency as a work health and safety regulator and to commission the detailed work that will be required before a designation can be made Yes/No
- b) **note** that ahead of designation the following conditions must be met:
- i. definition of the detailed scope of the Transport Agency's designation
 - ii. agreed sustainable baseline funding
 - iii. the Transport Agency demonstrating capability to deliver its regulatory functions
- c) **note** that we will :
- i. work with WorkSafe and the Transport Agency to define the detailed scope of designation
 - ii. ask the Transport Agency to work out their resourcing requirements and the associated costs



Withheld under Section 9(2)(a) of the Official Information Act 1982

Kirstie Hewlett
Deputy Chief Executive, Regulatory and Data



Withheld under Section 9(2)(a) of the Official Information Act 1982

Lisa Collins
Manager, Health and Safety Policy
Labour and Immigration Policy, MBIE

MINISTER'S SIGNATURE:

DATE:

Appendix A – Comparison of HSWA functions and NZTA’s similar land transport functions

WorkSafe functions	NZTA current functions
Monitoring and enforcement of compliance – assessments and investigations by inspectors	Yes
Publishing information about its approach to enforcement and its performance standards for completing investigations	Yes
Developing codes of practice	Yes
Providing guidance, advice and information	Yes
Developing safe work instruments (a type of legislative instrument)	Similar mechanism is proposed in NZTA Bill
Collecting, analysing and publishing statistics and information relating to work health and safety eg collating notifications to identify patterns of risk and develop information for interventions	Yes
Engagement - fostering cooperative and consultative relationships between businesses and workers and their representatives	Limited
Supporting development of work health and safety initiatives in collaboration with other agencies or interested persons	Yes
Promoting and coordinating the sharing of information with other regulatory agencies	Yes
Promoting and supporting research, education and training	Yes

RELEASED UNDER THE OFFICIAL INFORMATION ACT

18 February 2021

OC210087

Hon Michael Wood
Minister of Transport

COVER NOTE FOR WAKA KOTAHI REGIONAL FUEL TAX QUARTERLY REPORT

Purpose

To highlight key information in the Regional Fuel Tax Second Quarter Report 1 October – 31 December 2020 from Waka Kotahi NZ Transport Agency (Waka Kotahi).

Key points

- Waka Kotahi is required to monitor and report to you on some key aspects of the operation of the regional fuel tax in Auckland. The aspects are the price of fuel (to monitor any potential price/cost-spreading), litres distributed (boundary issues) and compliance issues each quarter. The follow points highlight the key information from the Ministry review of Waka Kotahi's latest report.

To date, the data presented has not provided any information to suggest measurable cost-spreading, boundary issues, evasion or avoidance have occurred

- The price of the three monitored fuel types (91 and 95 octane petrol and diesel) inside the Auckland scheme area was on average 10 cents per litre higher than the price of fuel outside Auckland. This seems to indicate that price spreading is not occurring. The average price of petrol (91 octane) in Auckland this quarter was lower (\$1.98 per litre) than in the quarter before the regional fuel tax was implemented on 1 July 2018 (average price \$2.07).
- There has not been a significant change in the amount of fuel distributed outside Auckland, relative to inside the Auckland region. A significant change in the quantity of fuel being distributed outside Auckland (relative to inside Auckland) could suggest road users are choosing to refill outside the Auckland region (for example, in the Waikato) to avoid the regional fuel tax, but there is no evidence of this in the latest report.¹
- There is no evidence of concerns with evasion or avoidance of the regional fuel tax. Waka Kotahi reports it continues to monitor compliance and address issues as they arise. To date, the main issues have related to minor discrepancies in fuel company tax returns and a few instances of late payments, which attracted penalties.

¹ The average price of petrol (95 octane) was \$1.86 per litre in the Waikato (and \$1.98 per litre in Auckland). This price difference could suggest the imposition of the regional fuel tax inside Auckland does not create a sufficient incentive for motorists to travel outside Auckland to refuel.

The report also shows some interesting trends unrelated to the regional fuel tax

- The amount of diesel distributed this quarter in Auckland is the largest amount recorded since the regional fuel tax came into effect (though only by a slight margin). The amount of petrol distributed inside Auckland is also similar to amounts distributed prior to the COVID-19 national and regional lockdowns. This challenges predictions that COVID-19 would result in a long lasting or significant reduction in fuel consumption (and consequently have a sustained revenue impact) following the end of the lockdown periods.
- In the quarter prior to the regional fuel tax in Auckland coming into effect (March – June 2018), petrol cost an average of \$2.19 per litre for 91 octane petrol in the South Island. This quarter (October – December 2020), the average price of petrol in the South Island has fallen to \$1.90 per litre, a reduction of almost 30 cents per litre. The average diesel price has also dropped more than 40 cents per litre over this period.

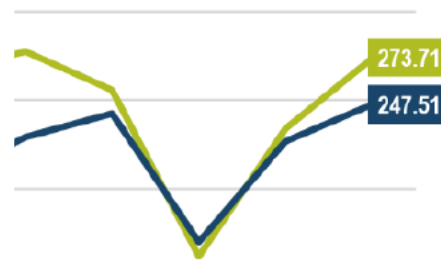


Figure 1 Volume of diesel (green line) and petrol (dark blue) distributed in Auckland between the second quarter of 2020 and the second quarter of 2021.

The report will be published online in the next few months

- Waka Kotahi will make the report available on its website in the next few months. Publication of the previous reports has not attracted interest or queries. We can provide you support should you receive a query once the report is made available.

[Redacted]

 Marian Willberg
Manager, Demand Management
 .18/02/2021.

Hon Michael Wood
Minister of Transport
 / /

Minister's office to complete:

Approved Declined

Seen by Minister Not seen by Minister

Overtaken by events

Comments

Information withheld under section 9(2)(a) of the Official Information Act 1982.

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