TE MANATŪ WAKA
MINISTRY OF TRANSPORT

OC220163 – Part One

11 April 2022

[redacted]

Tēnā koe [redacted]

Part One Response and Notification of Extension

I refer to your request for information dated 8 March 2022 sent to the Minister of Transport Hon Michael Wood. As you are aware, your request was transferred to Te Manatū Waka Ministry of Transport (the Ministry) on 14 March 2022. Pursuant to the Official Information Act 1982 (the Act), you requested the following:

> *"…a copy of all 37 of the reports and briefings the Minister received between December 2021 and January 2022, which are listed at the following link: https://www.transport.govt.nz/assets/Uploads/BriefingListDecember2021January2022.pdf"*

The document schedule attached as Annex One lists all 37 documents found at the link you provided to the Ministry's website and outlines how each has been treated under the Act.

We have made a decision on 26 of the documents in your request and are extending the time to make a decision on the remaining 11 documents, pursuant to Section 15A of the Official Information Act, thus responding to your request into two parts.

Extension

The Ministry requires an additional 18 working days to respond to 11 of the documents in your request. Therefore, you can expect to receive a response regarding those documents by 10 May 2022. Note this date takes into account three public holidays – Good Friday, Easter Monday and ANZAC day – which (as outlined in Section 2(1) of the Act) are not working days for the purposes of the Act.

The reason for the extension is that consultations necessary to make a decision on these documents are such that a proper response cannot reasonably be made within the original time limit. Please be assured the Ministry will endeavour to provide you a response sooner than 10 May 2022 if possible.

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AUCKLAND OFFICE: NZ Government Auckland Policy Office, PO BOX 106483, Auckland 1143, New Zealand. TEL +64 9 985 4800

Part One Response

With regard to the decision on the 26 documents addressed in this letter (as Part One of our response to your request), 15 are being released to you, 10 are being withheld in full, and one is being refused. Certain information or full documents have been withheld or refused under the following sections of the Act:

6(a)	as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government
9(2)(a)	to protect the privacy of natural persons
9(2)(b)(ii)	to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
9(2)(ba)(ii)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
18(d)	the information requested is or will soon be publicly available.

With regard to the information that has been withheld under Section 9 of the Act, I am satisfied that the reasons for withholding the information at this time are not outweighed by public interest considerations that would make it desirable to make the information available.

You have the right under Section 28(3) of the Act to make a complaint to the Ombudsman, about the withholding and refusal of information, or this extension. The Ombudsman can be contacted at: **info@ombudsman.parliament.nz**

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

Nāku noa, nā

Hilary Penman
Manager, Ministerial Services

Annex One – Document schedule

Doc #	Reference Number	Title of Document	Decision on request or extension applied
1	OC210861	Enabling Drone Integration	Withheld in full under Section 9(2)(f)(iv).
2	OC210909	Auckland Light Rail - Proactive release of documents	Extension of time limit under Section 15A.
3	OC210916	Budget 2022 Vote Transport - Initiatives for submission	Withheld in full under Section 9(2)(f)(iv).
4	OC210933	Half-year economic and fiscal update 2021 - forecast of National Land Transport Fund Revenue	Some information withheld under Section 9(2)(a).
5	OC210972	COVID-19- Extension of the Essential Transport Connectivity (ETC) Scheme to 2022 - Speaking notes for Cabinet Committee - 8 December 2021	Some information withheld under Sections 9(2)(a), 9(2)(b)(ii), 9(2)(f)(iv) and 9(2)(g)(i).
6	OC210818	Summary of the review into Road Safety Investment and Delivery	Extension of time limit under Section 15A.
7	OC210966	Clean Vehicle Bill Targets and Other Matters	Some information withheld under Section 9(2)(f)(iv).
8	OC210908	COVID-19- Extension of the Essential Transport Connectivity (ETC) Scheme to 2022	Some information withheld under Sections 9(2)(b)(ii), 9(2)(f)(iv) and 9(2)(g)(i).
9	OC210976	Auckland Light Rail - meeting with Waka Kotahi Board Chair and Chief Executive	Withheld in full under Sections 9(2)(g)(i) and 9(2)(f)(iv).
10	OC210724	Civil Aviation Bill - Initial briefing to Select Committee	Some information withheld under Section 9(2)(a).
11	OC210980	Auckland Transport Alignment Project (ATAP) Three Year Implementation Update 2018-2021	Extension of time limit under Section 15A.
12	OC210975	Air New Zealand Licence Variation - Hong Kong	Some information withheld under Sections 6(a) and 9(2)(a).
13	OC210981	Air navigation system review- terms of reference and structure	Some information withheld under Section 9(2)(a).
14	OC210970	Update on Sustainable Aviation Aotearoa	Withheld in full under Section 9(2)(f)(iv).
15	OC210943	Programme assessment criteria for Waka Kotahi	Some information withheld under Section 9(2)(a).
16	OC210985 T2021/2951	Final approvals for loan facility for Waka Kotahi to support the National Land Transport Programme 2021-24	Extension of time limit under Section 15A.
17	OC210942	Clean Car Sector Leadership Group's fees and expenses	Some information withheld under Section 9(2)(a).
18	OC210986	Proposed transport sector amendments under the Covid Protection Framework	Extension of time limit under Section 15A.

19	OC210803	S112 Crown Entities Act Direction - Coastal Shipping Activity Class	Some information withheld from the document under Section 9(2)(a). The attachment to the document titled: *New Zealand Transport Agency (Additional Delivery Management Function) Direction 2021* is refused under Section 18(d), as it is publicly available at: www.parliament.nz/resource/en-NZ/PAP_118355/8595587c1bc63241514802c5b54c7c0e1627b50a
20	OC210813	Road Safety Penalties Review - Proposed recommendations for public consultation	Withheld in full under Section 9(2)(f)(iv).
21	OC210988	Transport bids for 2022 legislative programme	Withheld in full under Section 9(2)(f)(iv).
22	OC211002	Procurement Work Programme - December Update	Withhold in full under Sections 6(a) and 9(2)(f)(iv).
23	OC210991	Further information on North Shore Airport's application for airport authority status	Withheld in full under Section 9(2)(f)(iv).
24	OC211007	Rolling Contact Fatigue system issues review - Phase One final report	Some information withheld under Sections 9(2)(a) and 9(2)(g)(i).
25	OC210978 T2021/2934	Crown response to the Office of the Auditor-General's draft report on the governance of the City Rail Link project	Withheld in full under Sections 9(2)(ba)(ii) and 9(2)(f)(iv).
26	OC210949	Transport Regulatory Work programme update December 2021	Extension of time limit under Section 15A.
27	OC211018	Update on the alleviation of current supply chain issues	Some information withheld under Sections 9(2)(a), 9(2)(f)(iv) and 9(2)(g)(i).
28	OC210982	Effective Transport Financial Penalties - Update	Extension of time limit under Section 15A.
29	OC211004	Development of the 2023 -2025 *Road to Zero* Action Plan	Some information withheld under Section 9(2)(a).
30	OC220019	Funding reallocation for "Redevelopment of Strategic Roads in the Far North - Ruapekapeka Road"	Extension of time limit under Section 15A.
31	OC210884	Setting new objectives for the planning, procurement and delivery of public transport	Extension of time limit under Section 15A.
32	OC211016	Research into the use and effectiveness of alcohol interlocks	Some information withheld under Section 9(2)(a).
33	OC211020	COVID-19 - Update on development of MIAC exit strategy	Some information withheld under Sections 6(a), 9(2)(a), 9(2)(b)(ii), 9(2)(f)(iv) and 9(2)(g)(i).
34	OC210903	Tackling Unsafe Speeds programme - final Policy decisions	Extension of time limit under Section 15A.

35	OC210979	Tackling Unsafe Speeds - final Cabinet decisions	Extension of time limit under Section 15A.
36	OC220011 T2022/52 BRF21/22011215	Auckland Light Rail Board Appointments: confirmation of position description and skills matrix	Refused in full under section 18(d) as the paper is already publicly available on the Auckland Light Rail Project page of our website at: www.transport.govt.nz//assets/Uploads/OC220011-ALR-Board-appointments-confirming-approach-and-position-description.pdf
37	OC220014	Legislative Programme 2022 - Transport Bids for Lodging	Withheld in full under Section 9(2)(f)(iv).

Document 4

2 December 2021 OC210933

Hon Michael Wood **Action required by:**

Minister of Transport Friday, 10 December 2021

HALF-YEAR ECONOMIC AND FISCAL UPDATE 2021 - FORECAST OF NATIONAL LAND TRANSPORT FUND REVENUE

Purpose

To update you on the 2021 Half-Yearly Economic and Fiscal Update (HYEFU 2021) forecast for the National Land Transport Fund (NLTF).

Key points

- In the weekly report provided on 19 November 2021, we advised that HYEFU 2021 predicts a decrease in revenue compared to our previous forecast[1], Budget Economic and Fiscal Update (BEFU 2021). This briefing note provides more detail on the updated forecast.

- Compared to BEFU 2021, we expect a 3.6 percent decrease in NLTF revenue in 2021/22 and a 2.6 percent decrease, or $353 million, over the 2021-24 National Land Transport Programme (NLTP 2021).

Table 1: Forecast NLTF revenue for the NLTP 2021.

	BEFU	HYEFU	Difference	
Financial Year	($ million)	($ million)	($ million)	(%)
2021/22	4,402	4,244	-158	-3.6
2022/23	4,511	4,404	-108	-2.4
2023/24	4,610	4,524	- 87	-1.9
Total	**13,524**	**13,171**	**-353**	**-2.6**

- The Crown is in the later stages of finalising a $2,000 million facility to support the delivery of NLTP 2021. This will provide some flexibility to manage any revenue reduction, but if the forecast eventuates, expenditure over the NLTP will be lower than intended. Once the loan facility is confirmed, Te Manatū Waka will monitor and advise on its drawdown, repayment, and its use to deliver NLTP 2021.

[1] OC210305 refers

Recommendations

We recommend you:

Yes / No

1 **refer** this briefing to Hon. Grant Robinson, Minister of Finance

Marian Willberg
Manager, Demand Management and Revenue
.....1/12/2021....

Hon Michael Wood
Minister of Transport
..... / ...... / ......

Minister's office to complete: ☐ Approved ☐ Declined

☐ Seen by Minister ☐ Not seen by Minister

☐ Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Marian Willberg, Manager, Demand Management and Revenue	s 9(2)(a)	✓
James McDevitt, Senior Adviser, Demand Management and Revenue		

HALF-YEAR ECONOMIC AND FISCAL UPDATE 2021 - FORECAST OF NATIONAL LAND TRANSPORT FUND REVENUE

We provide updated National Land Transport Fund (NLTF) forecasts to the Treasury for its six-monthly Economic and Fiscal Updates

1 In 2012, Cabinet directed Te Manatū Waka the Ministry of Transport to report to the Ministers of Transport and Finance on actual and forecast NLTF revenue and expenditure[2]. This is to ensure that Ministers are aware of NLTF performance, and that any risks are adequately managed.

2 We refresh our forecasts of NLTF revenue based on the most up-to-date data at each of the Treasury's forecasting rounds. These six-monthly forecasts are based on a range of inputs such as fuel price, vehicle kilometres travelled and a range of macro-economic variables. The Half-Yearly Economic and Fiscal Update (HYEFU) 2021 includes Track User Charges in NLTF forecasting for the first time.

3 The result of the Treasury's forecasting rounds is the HYEFU in the 2nd quarter of each financial year and the Budget Economic and Fiscal Update (BEFU) in the 4th quarter of each financial year.

Compared to BEFU 2021, our updated forecasts predict a decrease in NLTF revenue over the short, medium, and long term

4 Our forecasts make the following key assumptions:

4.1 There are no forecast increases to Fuel Excise Duty (FED) and Road User Charges (RUC) rates. This is consistent with the GPS 2021, which states there will be no increases in the next three years.[3]

4.2 There are no further significant travel restrictions due to COVID-19. This is in line with Treasury's assumptions and macroeconomic forecasts for this update.

4.3 The Government's transport decarbonisation policies are revenue neutral. It's unlikely this would be the case, but we need to undertake further work before we can reliably include the impact of these policies in our revenue forecasts.

5 Table 2 sets out a summary of the forecast revenue flow to the NLTF over the coming financial year. The drop in revenue is driven by reduced vehicle travel due to the most recent COVID-19 restrictions. The majority (82 percent) of the revenue impact is through decreased FED receipts, reflecting that personal travel significantly decreased while freight, as an essential service, broadly carried on as normal.

[2] EGI Min (12) 17/4 refers

[3] Note that the NLTF does not rise with inflation, only with any increases in travel (currently around x percent per year) and increases to FED and RUC rates, which are set by Government via legislation.

Table 2: Comparison of forecast NLTF revenue for the 2021/22 financial year.

	BEFU 2021	HYEFU 2021	Difference	
	($ million)		($ million)	(%)
Road user charges	1,953	1,922	-31.4	-1.6
Fuel excise duty	2,227	2,084	-143.9	-6.5
Motor vehicle registration and licensing fees	222	231	9.6	4.3
Track user charges	n/a	8	8.0	-
Total	**4,402**	**4,244**	**-157.7**	**-3.6**

6 Over the three-year period of NLTP 2021 (2021-24) our updated forecasts predict a net income to $13.2 billion, a decrease of $353 million or -2.6% compared to BEFU 2021 (Table 1). Most of the expected revenue impact is in the current 2021/22 financial year, but we are expecting shortfalls in the following years - $108 and $87 million respectively.

7 Table 3 shows the forecast revenue for NLTP 2021 compared to the activity class ranges set out in the Government Policy Statement on land transport 2021/22–2030/31 (GPS 2021). Compared to last year's HYEFU, we expect an improved financial position for NLTP 2021. Our low scenario now has $42 million of flexibility, compared to a $180 million shortfall we forecast last year [refer OC200912]. Likewise, the HYEFU 2021 medium and high scenarios have an improved margin against the lower funding range of $177 million and $130 million respectively.

Table 3: Impact of Low, Medium, and High volume NLTF estimates on meeting GPS 2021 Lower Expenditure Ranges throughout the NLTP 2021.

	GPS 2021 Lower Expenditure Range ($ million)	NLTF Low Scenario ($ million)	**NLTF Medium Scenario (HYEFU 2021)** ($ million)	NLTF High Scenario ($ million)
2021/22	4,245	4,185 (-60)	**4,244 (-1)**	4,304 (+59)
2022/23	4,315	4,314 (-1)	**4,404 (+89)**	4,496 (+181)
2023/24	4,320	4,423 (+103)	**4,524 (+204)**	4,626 (+306)
Gap/Flexibility	N/A	(+42)	**(+291)**	(+547)

Note: yearly gap/flexibility is denoted in brackets against each scenario as either +/-.

8 Across the full 10-year period covered by GPS 2021 we forecast a net reduction in revenue of $551 million, or -1.2% compared to BEFU 2021. This will place further pressure on the ability to deliver on the objectives of GPS 2021 beyond the current NLTP.

9 Despite this, forecast NLTF revenue exceeds the aggregate lower activity class range by at least $2,771 million (low revenue scenario) to $4,161 million (medium revenue scenario).

The gap between revenue and investment can be somewhat mitigated through the planned $2 billion Crown loan facility

10 In August 2021, the Crown agreed in-principle to address the investment gap in NLTP 2021 by providing a further Crown loan facility of up to $2,000 million to Waka Kotahi [CAB-21-MIN-0337 refers]. This was requested by Waka Kotahi prior to formally adopting the NLTP 2021 on 1 September 2021.

11 A paper outlining the appropriation recommendations for the facility is scheduled to be considered by the Economic and Development Committee on 8th December.

12 The Crown also provides $3,909 million of additional debt to Waka Kotahi ($2,050 million for Public Private Partnerships and the remaining $1,859 million for other expenditure). These loans are almost fully utilised or unable to be drawn down further, except for $175 million of the revenue/expenditure component of the revolving facility and $50 million for management of annual cash flow variation.

13 We expect that any reduction in revenue can be partially managed through utilising the $175 million available in the revenue shock facility (which would need to be repaid within 4 years). Any further reduction can be offset in the short-term by utilising part of the $2,000 million facility sooner than planned, but this would need to result in reduced expenditure later in the NLTP period (unless revenue later recovers).

14 The main risk of using debt to cover NLTF expenditure is that future revenue hypothecated for transport projects will instead be spent servicing debt. The Land Transport Revenue Review (being undertaken jointly by the Te Manatū Waka, Treasury, and Waka Kotahi) will look at how this debt is best managed and repaid.

We will continue to monitor NLTF revenue and our next forecast will be completed in May 2022

15 We will continue to monitor the actual NLTF revenue received on a quarterly basis and we will update you through the weekly report. We will also regularly assess the impact that any reduced revenue is having or forecast to have on expenditure under the NLTP 2021.

16 The next NLTF revenue report will be provided to your Office in May 2022 as part of the BEFU 2022 process. This will advise if there is any significant deviation between actual revenue received and our NLTF forecasts.

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

2 December 2021 | OC210972

Hon Michael Wood

Minister of Transport

Action required by:
Wednesday, 8 December 2021

COVID-19 - EXTENSION OF THE ESSENTIAL TRANSPORT CONNECTIVITY (ETC) SCHEME TO 2022 - SPEAKING NOTES FOR CABINET COMMITTEE - 8 DECEMBER 2021

Purpose

To provide you with speaking notes for this paper at Cabinet Economic Development Committee (DEV) on 8 December 2021

Key points

- The Essential Transport Connectivity (ETC) Scheme was put in place during the height of COVID-19 response in May 2020.
- The scheme has been successful and the expenditure to date of $12m has enabled more than 193,000 passenger journeys on 15,000 services that would otherwise likely not have operated.
- The Essential Transport Connectivity Scheme (ETC) supports the continued operation of essential transport routes and services in the face of COVID-19 travel restrictions and reduced passenger demand. The ETC is due to expire on 31 December 2021. With the announcement of the COVID-19 Protection framework and the Reconnecting New Zealanders strategy it is timely to consider the next steps for the scheme.
- The Cabinet paper recommends that the scheme be continued until the end of April 2022. Not all supported operators will be eligible support over this period. The Ministry will continue to actively monitor and review each operator to assess their commercial viability and ability to withstand the current commercial climate.
- No new funding is required as funding remains in the existing ETC multi-year appropriation.
- This proposal supports the Government's economic response to COVID-19 through its efforts to cushion the financial blow to whānau and families, workers, businesses and communities from the impacts of COVID-19, position New Zealand for recovery, and reset and rebuild our economy.

Recommendations

We recommend you:

1 **note** the attached speaking notes for the paper COVID-19- Extension of the Essential Transport Connectivity (ETC) Scheme to 2022 at Cabinet Economic Development Committee on 8 December 2021.

Brent Lewers
Reconnecting New Zealanders
2 / 12 / 21

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

Name	Telephone	First contact
Brent Lewers, Programme Manger, Reconnecting New Zealanders	s 9(2)(a) [redacted]	✓
Tom Gillard, Programme Assistant, Reconnecting New Zealanders	s 9(2)(a) [redacted]	

Cabinet Committee Background Information and Talking Points

Cabinet Committee: *Cabinet Economic Development Committee (DEV)*

Subject: *Cabinet Paper – COVID-19- Extension of the Essential Transport Connectivity (ETC) Scheme to 2022*

Portfolio: *Transport*

Background Information:

- The Essential Transport Connectivity (ETC) scheme was established in May 2020. The scheme was designed to ensure key domestic transport connectivity was enabled by funding operators to continue providing essential services that enabled New Zealanders to access social, economic and recreational opportunities.

Talking Points:

The ETC was established to ensure essential transport connections were maintained despite the impacts of COVID-19

- In March 2020, the COVID-19 lockdowns and Alert Levels resulted in local and domestic travel restrictions which significantly impacted the operation of some transport routes and services. These routes were either unable to operate or operated at reduced capacity due to social distancing requirements. These closures resulted in a marked decrease in domestic travel.

- The dramatic decrease in passenger demand and revenue placed transport operators and service providers under immense financial pressure. The financial pressure caused the cancellation of services which threatened the viability of operators and exposed potential gaps in regional connectivity.

- The ETC scheme was established by Cabinet on 11 May 2020 to provide support to maintain these essential routes and services negatively impacted by COVID-19 [CAB- 20-MIN-0219.28]. The scheme enables the government to respond quickly where the failure of a transport service would have significant negative social and economic outcomes and would impact New Zealand's post COVID resilience and recovery.

The scheme is meeting its objectives and ensured essential services continue to be provided

- The ETC scheme has enabled more than 193,000 passenger journeys on 15,000 services for $12m committed expenditure. It has supported:
  - Travel for work and medical appointments from regions to main hubs e.g. Takaka to Wellington
  - Regional bus services and flights to geographically isolated communities e.g. Chatham Islands flights.
  - Responded quickly to the resurgence of COVID-19 in the community by supporting Barrier Air to continue delivering critical supplies to Great Barrier Island
  - Supported the domestic and international aviation network through supporting MetServices forecasting services
- s 9(2)(b)(ii) [redacted] (which is low given some of these tickets cost upwards of $200 one way).

There is a reasonable possibility that the ETC is still required in 2022

- While New Zealand's vaccine rollout has progressed at pace and there is expected to be a general relaxation of New Zealand's domestic COVID-19 settings under the COVID-19 Protection Framework, there is a risk that:
  - In the immediate term, interregional travel settings remain in a state of flux with the return of some restrictions necessary to protect the healthcare system or high risk groups;
  - In the short term, even with high vaccination rates and few to no travel restrictions, there is continued travel hesitancy and low passenger demand. If this occurs, then some essential transport routes and services may continue to be unviable;
  - In the medium term, as a result of new variants of concern, a significant domestic resurgence, reduced vaccine effectiveness, or other unforeseen events, New Zealand faces a return to regional lockdowns and domestic travel restrictions. These events would mean that the ETC was once again needed to quickly stand-up support to ensure essential connections are maintained; and
  - International tourists, which are an important source of revenue for many services which are also relied on by New Zealand travellers, may still take some time to return as the Reconnecting New Zealanders strategy is implemented.

I propose to continue the ETC until 30 April 2022 to align with the Reconnecting New Zealanders strategy

- The scheme should be continued to ensure essential transport connectivity is provided while the COVID-19 Protection framework 'beds in' and travel hesitancy subsides.
- s 9(2)(b)(ii) [redacted] No new funding is required as sufficient funding remains from the original allocation.

- The 30 April end date also aligns with the anticipated Step 3 of Reconnecting New Zealanders. At this point, eligible fully vaccinated travellers would be able to return to New Zealand in accordance with the staged approach proposed to be taken under step 3.

- Extending the scheme also means that the ETC remains in place to provide rapid support in the event there are future lockdowns or unanticipated COVID-19 events such as the emergence of new strains.

- s 9(2)(b)(ii) [redacted] As passenger numbers increase, the cost to the Government automatically decreases. Support arrangements would continue to be regularly reassessed to determine whether support was still required.

- s 9(2)(f)(iv) [redacted]

- The amounts at stake here are small, but the decisions can be important for isolated communities in particular. I propose the Secretary for Transport, with the agreement of Treasury, be delegated decisions of up to $0.5m.

- Decisions above $0.5m would then be considered by joint Ministers - any two of myself, the Associated Minister of Finance and the Minister of Economic and Regional Development. Any proposed declines will also be brought to the attention of joint Ministers.

I also propose an open competitive procurement process be run for s 9(2)(b)(ii) [redacted] **South Island services.**

- s 9(2)(b)(ii) [redacted]

- s 9(2)(b)(ii) [redacted] However, there may be other operators (established or new) which could operate these services at lower cost and using vehicles more suited to current demand.

- I recommend that Cabinet agrees that the Ministry run an open market procurement for these services. s 9(2)(b)(ii) [redacted]

Back pocket responses to potential questions

How many operators does the ETC support and how many of these are likely not to require support by 30 April?

Currently the ETC supports 8 operators s 9(2)(b)(ii) [redacted]. The Ministry expects that after travel hesitancy subsides and New Zealanders can travel from Australia that support amounts for across the operators will reduce. However, it is too early to know how many will not require support by 30 April. I expect the Ministry will monitor passenger numbers and revenue to determine whether an operator no longer qualifies for support.

Wouldn't the COVID-19 Protection framework mean that ETC support is no longer needed?

It is too early to know the impact of the COVID-19 Protection Framework on demand and how much travel hesitancy there will be under an unfamiliar red, orange and green system. While it is possible that under the COVID-19 Protection Framework some services quickly become viable, I do not expect this to be the case for all routes and services. There is a strong possibility that many services continue to be unviable for much of early 2022 (potentially through to 31 March 2022) as a result of travel hesitancy and a continued lack of international tourists.

s 9(2)(b)(ii) [redacted]

As passenger numbers increase, the cost to the Government automatically decreases [redacted]
s 9(2)(b)(ii) [redacted]

Is there likely to be backlash to the proposed procurement approach to South Island services

s 9(2)(g)(i), s 9(2)(b)(ii) [redacted]

In Confidence

Minister of Transport

Cabinet Economic Development Committee

Clean Vehicle Bill Targets and Other Matters

Proposal

1 This paper seeks agreement to amend Clean Vehicle Standard (the Standard) carbon dioxide (CO_2) targets following submissions on the Land Transport (Clean Vehicles) Amendment Bill (The Bill) and revise exclusions on some vehicle types.

Relation to Government priorities

2 In December 2020 this Government declared a climate emergency and the Clean Car Programme, including the Standard and the Clean Car Discount scheme (the Discount), is one of a number of actions the Government has taken in response. The Clean Car Programme also gives effect to the commitment in the Labour Party's Clean Energy Plan to accelerate the electrification of the transport sector and to our Cooperation Agreement with the Green Party of "increasing the uptake of zero-emission vehicles".

3 The Clean Car Programme will be one of a number of transport policies to be included in the Government's first Emissions Reduction Plan (ERP), which will be published by 31 May 2022. The ERP, led by the Minister of Climate Change, will outline the strategies and policies that will be used to achieve the first emissions budget for 2022–2025, and will be built on to deliver the second and third budgets (over the 2025-2030 and 2030-2035 periods).

Summary

4 The Bill will implement the Standard and the Discount as agreed by Cabinet in February and June 2021[1]. A draft Bill was introduced to Parliament in September 2021 and was referred to the Transport and Infrastructure Select Committee (the Committee). In November 2021, officials reviewed the 135 written submissions made on the Bill and 28 oral submissions made to the Committee[2]. Submitters represented the motor vehicle industry, local government, individuals, and others.

5 Among the key issues raised in submissions were concerns about the ability of vehicle importers to achieve the CO_2 reduction targets that the Bill proposed to legislate in years 2025, 2026, and 2027. Concerns were particularly raised for years 2026 and 2027. In response to these concerns, I am seeking Cabinet's decision on whether to relax the 2026 targets and to set the 2027 target by regulation at a later time. These changes would seek to strike a balance between calls from many in the vehicle industry to ease these targets so they can achieve them with less difficulty, against the Government's, and of many other submitters, priority to rapidly decarbonise transport.

6 Adjusting the 2026 target will acknowledge the increased uncertainty, relative to earlier this year, about the availability of supply of low emissions commercial

[1] Refer CAB-21-MIN-004 and CAB-21-MIN-181.1, and CAB-21-MIN-316 to introduce the Bill.
[2] Submissions are published and available at https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_115766/tab/submissionsandadvice.

vehicles, including utes, and ongoing disruption in the supply chain and availability of key vehicle components. Deferring setting the 2027 target will mean industry is less able to plan for that year, but will allow this target to be finalised when there is better information about supply and in the wider context of our Emissions Reduction Plan which will be adopted in mid 2022. The Emissions Reduction Plan is also expected to clarify the Government's intentions with regard to a timeline for phasing out import of internal combustion engine vehicles; this will support industry planning and mitigate deferral of setting the 2027 target.

7 Cabinet has already agreed to review the targets in 2024 (CAB-21-MIN-004 refers). This means that whether we choose to keep the current targets in the Bill, or relax them, their levels will be still be reviewed, and can adjusted up or down if necessary, in 2024.

8 Some of the other issues raised in submissions on the Bill relate to exclusions, which are not in the scope of the Bill. Instead, the exclusions are in scope of the regulations I will be making separately for the Discount and the Standard in 2022. In this paper I recommend Cabinet agree to changes to policy it has previously agreed [CAB-21-MIN-004; CAB-MIN-21-181.1 refer]. These exclusions would address concerns raised about disability vehicles, motorsport vehicles, and scratch-built and modified vehicles.

s 9(2)(f)(iv)

[redacted]

We should consider whether to retain the current 2023, 2024, and 2025 targets, but relax the 2026 target

10 Many submitters on the Bill commented on the CO_2 targets proposed as part of the Clean Vehicle Standard. Thirteen submitters wanted the targets to be more ambitious, with some, such as Auckland and Wellington City Councils, seeking the targets phase out the importation of petrol and diesel vehicles altogether. The VIA, representing used vehicle importers, noted the challenge of the targets however broadly supported the ambition of the Bill.

11 Seventeen submitters, mostly comprising distributors of brand new petrol and diesel vehicles, including the Motor Industry Association (MIA), stated that the targets, mostly in years 2026 and 2027, were unachievable.

12 Targets are integral to how the Standard will work. The Standard will require importers to increase the supply and variety of zero and low emissions vehicles available for purchase in New Zealand. Annually strengthening CO_2 targets on importers of new and used light vehicles will reduce the emissions from light vehicles entering our fleet over time, to help us meet our 2050 net-zero carbon emissions target.

13 The legislated emissions targets which are set out in this Bill need to strike the right balance. They should not be so strict that importers cannot supply the low emissions vehicles required at an acceptable price, but they must be strong enough that New Zealand is prioritised in global markets for supply of the most efficient models of vehicles. In oral hearings on the Bill, many local vehicle distributors noted that having

regulated targets provided leverage to secure zero and low emission vehicles from their parent companies.

14 New Zealand's average vehicle carbon dioxide emissions are among the highest in the world, and as a consequence, the rate of improvement New Zealand needs to achieve will be much faster than other automotive markets, such as Japan, Europe, and North America, which have regulated for vehicle emission reductions for decades.

15 I am confident about the achievability of our targets over the 2023 to 2025 period. The introduction of rebates on electric vehicles in July 2021 led to a significant and sustained increase in EV uptake, meaning, we are already close to reaching the 2023 CO_2 reduction target for new passenger cars. Our CO_2 target for 2025 has already been achieved by major global markets including the UK and Europe. Our largest vehicle distributor by volume, Toyota, supports our 2025 target.

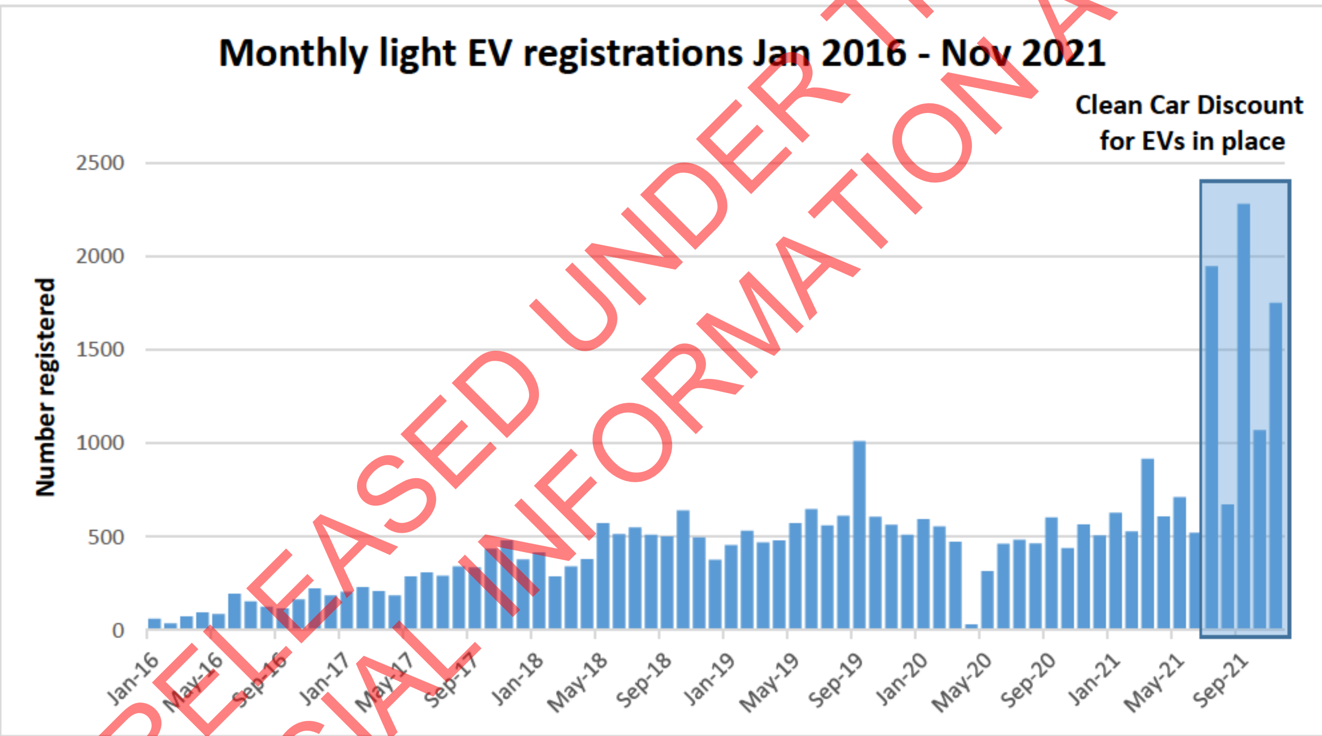

Figure 1: Monthly light electric vehicle (EV) registrations. Note that COVID-19 has contributed to limiting sales in some months.

16 The key uncertainty with reaching the 2026 targets is the potential lack of availability of zero and low emitting utes. Utes vehicles make up a significant proportion of vehicle sales today however there is presently no electric (zero emission) or hybrid (low emission) ute for sale in New Zealand, despite earlier industry indications that these would be available locally by now. The MIA, representing distributors of new vehicles, suggests there will be at least 10 models of electric or hybrid utes by 2025, which is promising, but uncertainties over volume and vehicle capability remain.

17 Established brands such as Toyota and Ford are predicted to offer electric utes to New Zealand but are yet to make commitments around dates or volume. Ford has begun selling hybrid and electric utes in the US, and has announced it will do

likewise by 2024 in Europe[3], including that New Zealand's top-selling ute, the Ford Ranger, will eventually be 'electrified'. Toyota has announced by 2030 it will offer 30 electric models globally by 2030, comprising over 3 million sales annually, though has not currently announced the timing of an electic ute within that framework.[4]

18 Over the past decade, utes have doubled from 6 percent of newly imported vehicle sales in 2010 to 13 percent in 2021. The Bill will place pressures on the vehicle market that will likely cause some reversal of this growth trend, and will encourage the substitution of high emission utes with lower-emission vans and 4WD SUVs. However, achieving the Bill's CO_2 targets will likely rely on electric utes being supplied to our market, especially from 2026.

19 There are already hybrid and electric cars, SUVs, and vans in both the new and used markets, so target achievability in those segments, in comparison to utes, is less of a concern.

20 Where importers sufficiently overachieve their passenger vehicle target, they can underachieve their commercial target by the same amount, to avoid charges. This offsets the pressure to supply low emissions utes in the short term, to a degree.

21 Through submissions to the Bill, the MIA and a number of vehicle importers proposed that New Zealand lag two years behind the vehicle CO_2 targets currently enacted in the EU. This would represent a significant reduction in ambition and would risk New Zealand missing out on low and zero emission vehicles.

22 The EU Parliament is currently in the process of negotiating a new set of much stronger targets that would also phase out petrol and diesel vehicles entirely by 2035[5]. The UK has announced it will also set targets stronger than current EU regulations from 2024, leading to the phase out of petrol and diesel vehicles in 2030, and phase out of hybrids in 2035, leaving only zero emission vehicles from 2035[6].

23 Whilst these foreign targets have not yet been enacted, brands that are significant both to Europe and our local market have announced positive responses. Ford intends to sell only zero emission cars in Europe from 2030[7], and Toyota likewise for all vehicles sales in Western Europe by 2035[8]; noting both intend to continue to sell petrol and diesel vehicles in other markets where CO_2 regulations are less strict.

24 Striking a balance between feedback from submitters seeking variously that ambition be increased or decreased, uncertainties regarding future zero and low emission ute supply, and announcements that vehicle emission targets are being strengthened in key overseas jurisdictions, I recommend we give consideration to relaxing the 2026 targets.

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[3] https://media.ford.com/content/fordmedia/feu/en/news/2021/02/17/ford-europe-goes-all-in-on-evs-on-road-to-sustainable-profitabil.html
[4] https://global.toyota/en/newsroom/corporate/36428993.html
[5] https://www.euractiv.com/section/electric-cars/news/eu-signals-end-of-internal-combustion-engine-by-2035/
[6] https://www.gov.uk/government/publications/transitioning-to-zero-emission-cars-and-vans-2035-delivery-plan
[7] https://media.ford.com/content/fordmedia/feu/en/news/2021/02/17/ford-europe-goes-all-in-on-evs-on-road-to-sustainable-profitabil.html
[8] https://www.reuters.com/business/autos-transportation/toyota-says-all-europe-sales-will-be-zero-emission-cars-by-2035-2021-12-03/

25 I do not agree with the proposal from the MIA to lag two years behind the enacted European targets as this would not see New Zealand make the progress we need in our light vehicle fleet in the near term, to contribute to our national emissions reductions targets. Instead, I propose the change would be based upon figures in the existing EU targets referenced in the MIA's submission[9]. This change is expected to increase the likelihood of achieving the CO_2 targets in the Bill by allowing different ratios of vehicle types. For example:

25.1 The 2026 Type A (cars and SUVs) target could be achieved with a 35% mix of petrol vehicles rather than 30%. It still relies on a significant proportion of electric (20%), plug-in hybrid (15%), and hybrid (30%) car sales. The change in ambition is small.

25.2 The Type B (utes and vans) vehicle target can be achieved with a 60% mix of diesel vehicles instead of 40%. It relies on 20% electric and 10% plug-in hybrid ute/van sales in 2026. This is a reduction in ambition and responds to the uncertainty about the supply of electric and hybrid utes noted earlier.

It may also be preferable to defer settingthe 2027 targets

26 I have considered whether it would be appropriate to reduce the level of ambition for the 2027 targets to address the concerns of vehicle importers. However, I do not advise this at this time.

27 I consider that it may be preferrable for the Bill to remain silent on the 2027 target. The EU is actively negotiating stronger long-term targets, as are the UK and US, and there will be a wider range of low and zero emission utes available in a few years' time.

28 The Bill currently provides that initial targets be set in primarily legislation, and that later targets, from 2028 be set by regulation. Therefore, I consider the 2027 target should be set at a later date by regulation. This will be informed by updated information regarding the vehicle market and supply closer to that time (addressing current uncertainties. The 2027 target could be set later in 2022 through Order in Council, in the context of the final Government's Emissions Reduction Plan [redacted] s 9(2)(f)(iv) [redacted] Government could set the 2027 target in 2023 if it wanted. Deferring setting the 2027 target beyond 2023 may compromise manufacturers' ability to plan and order stock.

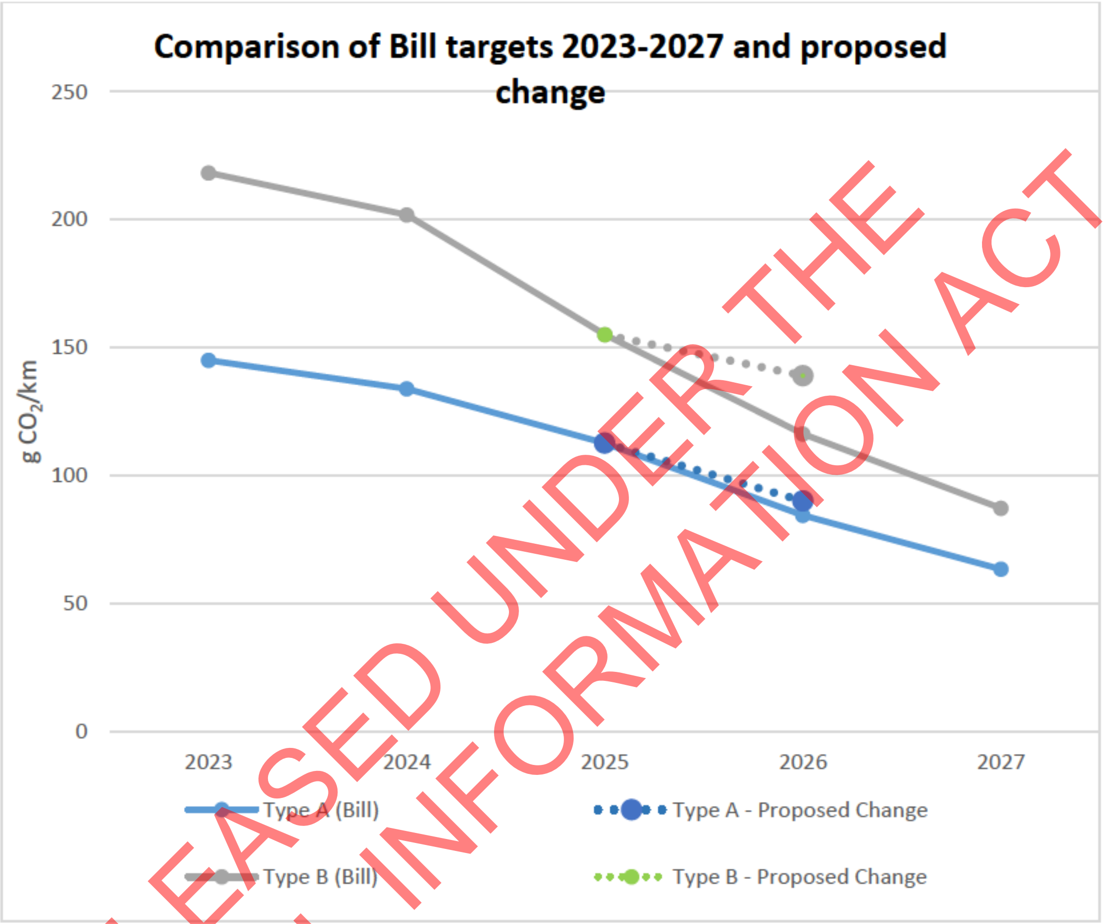
29 A strong 2027 target, when set, will be needed in order for New Zealand to remain on course to decarbonise transport in line with our domestic CO_2 targets/budgets and international commitments.

30 If agreed, I propose to introduce these amendments by Supplementary Order Paper at the Committee of the whole House stage of the Bill. The following table and graph detail the changes I am proposing for 2026 and 2027.

	Type A Vehicle (Cars and SUVs)		Type B Vehicles (Vans and utes)	
Year	Target Proposed by Bill (g CO_2/km)	Change proposed (g CO_2/km)	Target Proposed by Bill (g CO_2/km)	Change proposed (g CO_2/km)
2023	145	No change	218.3	No change

[9] Figures supplied by the MIA. As the EU regulations are based on a different emissions test measurement system, they cannot be used verbatim.

2024	133.9	No change	201.9	No change
2025	112.6	No change	155.0	No change
2026	84.5	**90.0**	116.3	**139.0**
2027	63.3	**Set by regulation later**	87.2	**Set by regulation later**



31 Cabinet has already agreed to review the targets in 2024 (CAB-21-MIN-004 refers). This means that whether we choose to keep the current targets in the Bill, or relax 2026 and defer 2027 as I propose, their levels will be still be reviewed, and can adjusted up or down if necessary, in 2024.

I recommend that disability vehicles and motor sport vehicles be excluded from some charges set by the Clean Car Programme

32 Submissions to the Bill proposed that various groups be excluded from paying charges that arise from individual vehicles exceeding the thresholds in the Clean Vehicle Discount scheme and/or Clean Car Standard. The request for exclusions included utes, campervans, motorsport vehicles, and disability vehicles. I do not consider it appropriate to provide exclusions to utes or campervans, as, due to their high emissions, and especially in the case of utes, their high sales volumes, reducing emissions from these vehicles is key to decarbonising our fleet. There are however some areas where I propose changes. I am seeking agreement to these matters now in order for decisions to be reflected in regulations that must be drafted early in 2022.

Motor sport vehicle exclusion

33 According to a submission made by the Low Volume Vehicle Technical Association (LVVTA) there are between ten to fifteen motor sport vehicles imported into New Zealand annually. These vehicles are captured incidentally by the Discount and Standard schemes, as the vehicles are required to be road-registered to travel on sections of public roads that are legally closed for rally racing. These motor sport vehicles are already exempted from requirements in a number of land transport rules. I recommend they also be excluded from both the Standard and the Discount Scheme. This exclusion would have a very minor effect on emissions.

Disability vehicles exclusion

34 Approximately 500 vehicles a year are modified for disability purposes, either in New Zealand or overseas (primarily Japan) and then imported. Modifications are to make the vehicle able to be operated with different controls (such as hand only controls), to support disabled drivers, or enable passengers to be carried while seated in wheelchairs. Most vehicles that are modified in New Zealand for disabled users are vehicles that are already in the fleet, purchased second hand. Only a few hundred vehicles[10] are imported each year either intended for modification or already modified, and so would be subject to the Standard or the Discount. I propose that these imported vehicles would not be subject charges under the Discount.

35 Officials do not have data on the emissions for the imported modified vehicles, but it is likely that larger vehicles, such as vans used for the carriage of wheelchairs, would often incur a charge under the Discount. Those modified for hand controls could, however, be almost any kind of vehicle.

36 Submitters on the Bill, representing the disability community and importers of disability vehicles, noted that in particular, it is difficult to modify electric vans to support wheelchairs given the underfloor position of batteries. They considered it would be unfair to penalise the sector, if there were no viable alternatives.

37 Because they are modified[11], disability vehicles are required to be issued certificates to show that they conform to a modification defined as “LV3A” or “LV3B”. These certificates are issued through the Low Volume Vehicle system that is overseen by the LVVTA[12], which is an independent organisation that is recognised in transport legislation. I recommend that vehicles that are issued with certificates for these codes are excluded from charges under the Discount, though such vehicles could still be eligible for rebates if they were relevant. It is not possible under the scheme to exempt vehicles from fees if they are modified after the vehicle is registered.

38 Although I propose to remove disability vehicles from the Discount, I propose that such vehicles should remain in the Standard. This is because there are low and zero emission options for at least some vehicle types adapted for non-wheelchair related modifications. Importers can also offset any fees for high-emitting vehicles by also importing low-emitting cars and vans. If any concerns arise following the

[10] A review of data for 2021 year to date shows that 200 of the 449 disability vehicles were modified prior to, or within 60 days of, being first registered.
[11] ‘Modified’ is a legally defined term in the Land Transport Vehicle Standards Compliance Rule 2002.
[12] Code LV3A defines non-structural disability vehicle modifications (388 registrations Jan-Oct 2021) and LV3B defines structural disability vehicle modifications (34 registrations Jan-Oct 2021). Most of these were second-hand vehicles that would not have had charges imposed on them. Refer https://www.lvvta.org.nz/documents/suplementary_information/Limitations_of_LVV_Certifier_categories.pdf

implementation of this policy, it can be reviewed as part of the planned review in 2024.

Modified vehicles exclusion

39 I also recommend that an issue relating to excluding modified vehicles from the Standard, which was raised by the LVVTA in its submission on the Bill is addressed. Cabinet agreed that 'scratch-built' vehicles and modified vehicles certified by the Low Volume Vehicle Technical Association Incorporated" are excluded from the Standard (CAB-21-MIN-004 recommendation 48.5). An exclusion for scratch-built vehicles remains acceptable. It relates to only 5 to 10 vehicles a year and there is no facility in New Zealand that can measure the emissions of such vehicles using the WLTP[13] test procedure, required for testing imported vehicles. For the same reason, I would seek that this exclusion be expanded to the Discount.

40 However, I am concerned that the vehicles covered by the term "modified" would include vehicles subject to routine modifications such as those made to taxis or the addition of optional extras such as bull-bars on utes. That could create an opportunity for vehicles to escape the policy that is unintended and unfair. I recommend that the exclusion be narrowed to scratch built vehicles only.

41 The VIA, which represents used vehicle importers, proposed that importers should be able to import petrol cars and convert these to be EVs. They asked that once they were converted, these vehicles should be able to receive the full benefit of selling a used-import electric vehicle under the Standard and Discount.

42 I recommend that Cabinet agree that vehicles that are converted to be EVs before they are certified for entry into service be eligible for any discount under the Discount, and that these vehicles would be treated as having zero emissions for the purposes of calculating their contribution to an importer's targets in the Standard. This would be on the proviso that such vehicles would need to be: modified before they are entry certified (as this is the point at which the Standard applies); operate exclusively as a zero emission vehicle; and the modification would need to certified under the LVV standard for electric vehicle conversion[14].

I recommend that Waka Kotahi be enabled to refund charges in two specific scenarios

43 There is currently no explicit provision where charges under the Clean Car Discount Scheme that are paid to Waka Kotahi relating to high emitting vehicles can be refunded. There are two obvious cases where this should be permitted:

43.1 In the case that an error has resulted in excess charges being paid. In this situation, Waka Kotahi should refund the excess or the amount paid in error.

43.2 In the case that the first registration of the vehicle has been reversed. There are limited grounds for reversing the first registration of a vehicle[15], including that the customer does not take possession of the vehicle, and that the reversal occurs within 28 days of registration. In such a situation, Waka Kotahi should refund the charge paid. When the vehicle is subsequently then

[13] Worldwide Harmonised Light Vehicles Test Procedure.
[14] https://www.lvvta.org.nz/documents/standards/LVVTA_STD_Electric_and_Hybrid_Vehicles.pdf
[15] See conditions of the MR2D vehicle registration reversal process at https://www.nzta.govt.nz/vehicles/motor-vehicle-traders/buying-and-selling/

registered by someone else, the applicable charge would then be imposed on the new buyer.

s 9(2)(f)(iv)

[redacted]

Financial Implications

52 There are no financial implications from the recommendations in this paper.

Legislative Implications

53 I propose to introduce amendments to the 2026 and 2027 targets in the Bill by Supplementary Order Paper at the committee of the whole House stage of the Bill.

54 The excluded vehicles for the Clean Vehicle Discount scheme will be prescribed in the Land Transport (Clean Vehicle Discount Scheme) Charges Regulations, which I will recommend once the Bill is passed. The excluded vehicles for the Clean Vehicle Standard will be prescribed in regulations for the Standard, later in 2022.

55 The Bill is currently being considered by the Transport and Infrastructure Committee and is scheduled to be reported back to the House on 2 February 2022.

Impact Analysis

Climate Implications of Policy Assessment

56 The cumulative CO_2 abatement provided by targets and policy proposed by the Bill for the period 2022-2030 is expected to be 1.8 to 7.2 mega tonnes, which is an improvement on the range of 1.5 to 6.3 mega tonnes that had been modelled prior to the factoring of the 2026 and 2027 CO_2 targets into the Bill. The more relaxed vehicle targets for 2026 have not been modelled but would shift the abatement to between those two ranges.

Population Impact

57 There are no significant gender, disability, or other population implications from the policy. The policy is forecast to save households at least $6,800 per vehicle through fuel savings.

58 Over 70 percent of annual vehicle sales are of vehicles already in the New Zealand fleet. These vehicles will not be subject to the Standard. This minimises the likelihood that groups such as lower income households and younger workers and students would be negatively affected by the Standard.

59 The proposal in paragraphs 33-37 to remove disability vehicles from the discount scheme will, if agreed, reduce potential negative cost impacts for the disability community.

60 People and businesses who require vehicles such as utes, where low emissions options are limited, could face an increase in vehicle prices in the early years of this policy.

Consultation

61 This paper was provided to the following agencies for consultation: Waka Kotahi NZ Transport Agency, Ministry for the Environment, Ministry for Primary Industries, Inland Revenue, Ministry of Business Innovation and Employment, Energy Efficiency and Conservation Authority, Ministry of Foreign Affairs and Trade, and the Treasury The Department of Prime Minister and Cabinet has been informed.

Proactive Release

62 I intend that this paper be proactively released, subject to any necessary redactions consistent with the Official Information Act 1982, within 30 business days of decisions being confirmed by Cabinet.

Recommendations

The Minister of Transport recommends the Cabinet Economic Development Committee:

1 **note** vehicle CO_2 targets in the Bill should be set so as to maintain affordable supply and ensure New Zealand is prioritised in global markets for supply of low emission vehicles

2 **note** that due to a lack of firm commitments by manufacturers about supplying zero emission utes to New Zealand, there is uncertainty about the achievability of our 2026 and 2027 targets

3 **note** that Cabinet has agreed in 2024 to review Clean Car Standard CO_2 targets, allowing targets to be relaxed if they are too challenging, or tightened if that is appropriate (CAB-21-MIN-004 refers).

4 **agree** that for the 2026 target in the Land Transport (Clean Vehicles) Amendment Bill

EITHER

4.1 Retain the 2026 targets currently in the Bill

OR

4.2 Amend the Type A vehicles target from 84.5 grams to 90 grams (CO_2 per km, 3-phase WLTP); and

4.3 Amend the Type B vehicles target from 116.3 grams to 139 grams (CO_2 per km, 3-phase WLTP)

5 **agree** that for the 2027 target in the Land Transport (Clean Vehicles) Amendment Bill

EITHER

5.1 retain the 2027 targets currently in the Bill

OR

5.2 the 2027 targets be removed from the Bill and instead set by regulation at a later date

6 **agree** that I propose these amendments by Supplementary Order Paper at the Committee of the whole House stage of the Bill

7 **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to draft a Supplementary Order Paper to give effect to recommendation 4.2, 4.3 and 5.2

8 **authorise** the Minister of Transport to make any minor, technical, or consequential changes that arise consistent with the policy intent of recommendation 4.2, 4.3 and 5.2

9 **rescind** CAB-21-MIN-004 recommendation 48.5 which excluded “scratch built vehicles and modified vehicles certified by the Low Volume Vehicle Technical Association Incorporated” from the Clean Vehicle Discount

10 **agree** to the following changes to exclusions in the Clean Vehicle Discount and Clean Vehicle Standard, as specified in each case:

10.1 that motor sport vehicles, as defined in the Land Transport Rule: Frontal Impact 2001, are excluded from the Clean Vehicle Standard and the Clean Vehicle Discount;

10.2 that disability vehicles that have a modification that are issued a “LV3A” or “LV3B” certificate through the Low Volume Vehicle process prior to being registered are excluded from paying charges under the Clean Vehicle Discount, and that they are otherwise included in the Clean Vehicle Standard and Clean Vehicle Discount, including being eligible for rebates;

10.3 that scratch-built vehicles certified through the Low Volume Vehicle Technical Association Incorporated’s processes are excluded from Clean Vehicle Discount and the Clean Vehicle Standard;

11 **agree** that any vehicle that is imported and converted to zero emissions before it is entry certified can be treated as though it was manufactured as a zero emission vehicle for the purposes of the Clean Vehicle Standard and Clean Vehicle Discount

12 **note** that the list of excluded vehicles will be prescribed in regulations for the Clean Vehicle Discount and Clean Vehicle Standard

13 **agree** charges paid under the Clean Car Discount Scheme may be refunded

13.1 where Waka Kotahi is satisfied that an error has resulted in excess charges being paid and that any refund will be to the extent of the excess or the amount paid in error, or

13.2 where the first registration of the vehicle has been reversed.

14 **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to the policy proposals in recommendations 10 and 13 in regulations relating to the Clean Vehicle Discount and Clean Vehicle Standard, as applicable, including any necessary consequential amendments, savings and transitional provisions

15 **authorise** the Minister of Transport to make any minor, technical, or consequential changes that arise consistent with the policy intent of recommendations 10 and 13

s 9(2)(f)(iv)

[redacted]

s 9(2)(f)(iv)

[redacted]

Commercial in Confidence

Office of the Minister of Transport

Cabinet Economic Development Committee

COVID-19- Extension of the Essential Transport Connectivity (ETC) Scheme to 2022

Proposal

1 This paper seeks agreement to extend the Essential Transport Connectivity (ETC) Scheme to 30 April 2022 to align with the proposed commencement of Step 3 of Reconnecting New Zealanders. It also informs Cabinet of the proposed approach to maintaining interregional connectivity in the South Island in the absence of international tourists.

Relation to government priorities

2 This proposal supports the Government's economic response to COVID-19 through its efforts to cushion the financial blow to whānau and families, workers, businesses and communities from the impacts of COVID-19, position New Zealand for recovery, and reset and rebuild our economy.

Executive Summary

3 The Essential Transport Connectivity Scheme (ETC) supports the continued operation of essential transport routes and services in the face of COVID-19 travel restrictions and reduced passenger demand. The ETC is due to expire on 31 December 2021.

4 I recommend Cabinet agree to extend the ETC scheme to 30 April 2022 to align with the planned Step 3 of Reconnecting New Zealanders and to ensure essential transport services are maintained while domestic travel recovers from the impact of the current, and any future, COVID-19 restrictions. Extending the ETC scheme ensures that transport connections can be maintained despite the uncertain impact of COVID, and places New Zealand and its transport operators in a strong position for recovery. Given the proposed staged approach to Step 3, I will come back to Cabinet closer to the time if passenger numbers do not look sufficient and further extension is necessary.

5 Extending the ETC does not automatically commit the Government to providing funding for services. ETC funding agreements are generally short term to ensure that the ETC is not locked into providing support for longer than is necessary. s 9(2)(b)(ii) [redacted] The level of support provided decreases as passenger numbers increase. The ETC being available to provide support does not mean that it will always do so.

6 I expect the extension to cost an average of s 9(2)(b)(ii) [redacted] per month s 9(2)(b)(ii) [redacted] The actual spend may in fact be much lower as passenger travel increases, and the amount of support required declines. The extension does not require any new funding as there is sufficient funding remaining within the existing ETC appropriation. s 9(2)(b)(ii) [redacted]

7 I also recommend Cabinet agree that funding for South Island interregional bus services be available through to 30 June 2022 (i.e. beyond the 30 April 2022 end date set out above). This will enable the Ministry of Transport to run an open market procurement for these services. s 9(2)(b)(ii) [redacted] As with the ETC's current funding model, if the new operator is able to operate commercially, then no support will be provided. The Ministry of Transport will also work with regional councils to investigate ways to transfer responsibility for these services away from the ETC and central Government from 30 June 2022.

The ETC was established to ensure essential transport connections were maintained despite the impacts of COVID-19

8 From March 2020, the COVID-19 lockdowns and Alert Levels resulted in local and domestic travel restrictions which significantly impacted the operation of some transport routes and services. These routes were either unable to be operated or operated at reduced capacity due to social distancing requirements. Additionally, New Zealand closed its borders to international travellers. These closures saw the disappearance of the international tourism market overnight and resulted in a marked decrease in domestic travel.

9 The dramatic decrease in passenger demand and revenue placed some transport operators and service providers under immense pressure, causing services to be cancelled, threatening the viability of some operators, and exposing potential gaps in regional connectivity. It also created a risk that the ability of New Zealand's transport services to recover post-COVID-19 would be significantly impacted.

10 The ETC scheme was established by Cabinet on 11 May 2020 to provide support to maintain these essential routes and services negatively impacted by COVID-19 [CAB-20-MIN-0219.28]. The scheme enables the government to respond quickly where the failure of a transport service would have significant negative social and economic outcomes and would impact New Zealand's post COVID resilience and recovery. The ETC scheme's funding comprised:

10.1 $20 million to enable support for non-aviation essential transport operators [CAB-20-MIN-0219.28]; and

10.2 $30 million to fund aviation initiatives under the scheme from the underspend of the $600 million aviation relief package. This was subsequently reduced to $10.7m to fund an extension of the International Airfreight Capacity scheme in September 2020.

11 The Ministry of Transport and the Treasury completed a review of the ETC scheme in April 2021 and recommended that the scheme be extended to 30 September 2021. Cabinet agreed to this extension and authorised joint Ministers[1] to extend the scheme for a further three months (up to 31 December 2021) if Ministers assessed that there is an ongoing need for support [CAB-21-MIN-0180].

[1] The Minister of Transport, Minister of Finance, Associate Minister of Finance responsible for aviation matters, and the Minister of Economic and Regional Development.

12 In response to the August 2021 COVID-19 outbreak in Auckland and the return to Alert Level 4 across New Zealand, joint Ministers agreed to extend the ETC to 31 December 2021. Cabinet agreement is required to extend the ETC beyond this date.

The current Delta outbreak has lengthened the impact of COVID-19 on New Zealand's domestic transport services

13 On 17 August 2021, New Zealand returned to Alert Level 4 nationally as a result of community cases of the COVID-19 Delta variant. Auckland remains at Alert Level 3 with the rest of the country at Alert Level 2. Since the emergence and taking hold of the Delta variant, the Government has signalled a shift away from its elimination strategy and move to a COVID-19 Protection Framework. The new framework is not expected to come into effect across the country before mid December (at the earliest) and may not apply to all of New Zealand equally (particularly in the event that local restrictions are required to protect the healthcare system or vulnerable population groups).

14 New Zealand's vaccine rollout has progressed at pace and there is expected to be a general relaxation of New Zealand's domestic COVID-19 settings under the COVID-19 Protection Framework. However, there is still significant uncertainty about what New Zealand's border settings and domestic restrictions will look like over the coming weeks and months. While it is possible that under the COVID-19 Protection Framework some services quickly become commercially viable, we do not expect this to be the case for all routes and services – particularly for those services which traditionally relied on international tourists to subsidise services for New Zealanders. There is a risk that:

14.1 In the immediate term, interregional travel settings remain in a state of flux with the return of some restrictions necessary to protect the healthcare system or high risk groups;

14.2 In the short term, even with high vaccination rates and few to no travel restrictions, there is continued travel hesitancy and low passenger demand. If this occurs, then some essential transport routes and services may continue to be unviable;

14.3 In the medium term, as a result of new variants of concern, a significant domestic resurgence, reduced vaccine effectiveness, or other unforeseen events, New Zealand faces a return to regional lockdowns and domestic travel restrictions. These events would mean that the ETC was once again needed to quickly stand-up support to ensure essential connections are maintained; and

14.4 In the longer term, international tourists, which are an important source of revenue for many services which are also relied on by New Zealand travellers, may take some time to return as the Reconnecting New Zealanders strategy is implemented.

15 We know that even last summer, when there were no domestic transport restrictions or COVID-19 cases in the community, many essential transport services were unable to cover their costs of operating. It is a reasonable assumption that passenger demand over the coming months will be lower than last year. The emergence of the Delta variant in New Zealand, an unfamiliar COVID-19 alert framework, and increased travel hesitancy as a result of recent lockdowns are likely to mean that

fewer New Zealanders will be willing to travel long distances or rely on transport outside of a private vehicle over summer.

I propose that the ETC scheme be extended to 30 April 2022 to ensure that essential transport connections are maintained while domestic travel recovers

16 I consider it prudent to keep the ETC scheme in place until 30 April 2022. This would ensure that essential transport connectivity can be maintained while domestic travel increases and changes to New Zealand's COVID-19 settings are implemented. An extension of the scheme ensures that domestic transport operators have the confidence they need to schedule services, and passengers know that those services are not going to be cancelled on them at short notice if they might operate at a loss.

17 The 30 April end date aligns with the anticipated Step 3 of Reconnecting New Zealanders. At this point, eligible fully vaccinated travellers would be able to return to New Zealand in accordance with the staged approach proposed to be taken under step 3. Coupled with the earlier steps of Reconnecting New Zealanders (which will see an increase in New Zealanders wanting to travel to overseas departure points which boosts demand and the viability of essential transport services), it is hoped that demand for domestic services will be such that ETC support is no longer required. s 9(2)(f)(iv) [redacted]

18 Extending the scheme also means that the ETC remains in place to provide rapid support in the event there are future lockdowns or unanticipated COVID-19 events. We have recently seen the value in being able to quickly respond to the impact of domestic travel restrictions. When New Zealand returned to Alert Level 4 in August 2021, the ETC was able to rapidly provide support to ensure that critical supplies continued to flow to isolated communities. For example, from 17 August to 4 November 2021, the ETC enabled over 190,000kgs of critical supplies (including fresh food and COVID-19 vaccines) to reach the residents of Great Barrier Island who would have otherwise been cut off.

19 I recommend Cabinet agree to extend the ETC scheme to 30 April 2022. This extension can be fully funded within the ETC's existing funding allocation. The ETC currently spends an average of ~s 9(2)(b)(ii) [redacted] per month. We expect the amount of support required from operators to slowly decrease as passengers return. However, even if the ETC continues to provide support at its historic rate for the entire extension period, only s 9(2)(b)(ii) [redacted] would be required. I expect the ETC to have s 9(2)(b)(ii) [redacted] m remaining at 31 December 2021 to fund the extension (assuming no unexpected, large funding applications are received and approved between now and 31 December).

20 Extending the scheme does not mean all the support agreements currently in place would be automatically extended or funding provided. The Ministry of Transport would continue to enter into agreements under which s 9(2)(b)(ii) [redacted] As passenger numbers increase, the cost to the Government automatically decreases. Support arrangements would continue to be regularly reassessed to determine whether support was still required.

I recommend that Cabinet delegate some future funding decisions to the Secretary for Transport

21 If Cabinet agree to extend the ETC scheme to 30 April 2022 then I recommend delegating some future, low value, funding decisions to the Secretary for Transport. For all other funding decisions, the current delegation of decisions to joint Ministers would continue to apply. The following framework sets out the limits of the proposed delegation to the Secretary.

21.1 approvals are delegated until 30 April 2022;

21.2 the applicant meets (or still meets) the eligibility criteria;

21.3 the funding agreement does not extend beyond 30 April 2022;

21.4 the approval or extension is within a funding envelope of up to $0.500m per agreement;

21.5 the Treasury agrees that an application or extension should be put to the Secretary for consideration; and

21.6 the Secretary for Transport may delegate his authority to a Deputy Chief Executive of the Ministry of Transport.

22 As under previous delegations, the Ministry would continue to seek joint Ministers' approval where decisions are outside of the delegation to the Secretary for Transport, are considered sensitive, or where the Secretary determines that seeking Ministerial approval is appropriate.

Regardless of a relaxation of domestic COVID-19 restrictions, I do not expect some interregional bus services in the South Island to be viable until international tourists return

23 s 9(2)(b)(ii) [redacted] These regions have a low population density and have traditionally relied on international tourists to make transport services for residents viable. s 9(2)(b)(ii) [redacted]

24 s 9(2)(b)(ii) [redacted]

25 s 9(2)(b)(ii) [redacted]

s 9(2)(b)(ii) [redacted]

26 Joint Ministers have agreed that should Cabinet agree to extend the ETC scheme, the Ministry of Transport will run an open market procurement to seek other operators who could stand up services on the West Coast and Christchurch to Queenstown (inland) routes. 9(2)(g)(i) [redacted] here is no guarantee that any operator would be willing to stand up new services in the current environment without some Government support – even if just to cover any losses while a new service is established.

27 s 9(2)(b)(ii), s 9(2)(g)(i) [redacted] While more international visitors are expected from 30 April under step 3, the return of these travellers is likely to be staged. A meaningful increase in passenger numbers is unlikely to happen overnight.

28 I propose Cabinet agree that funding for South Island regional bus services be available to 30 June 2022 to allow a worthwhile procurement to take place (i.e. funding would be available beyond the 30 April 2022 date proposed for all other routes/services). s 9(2)(b)(ii) [redacted] This funding is already included in the cost estimates for the ETC, so no new funding is required to support the procurement.

Implementation

29 I propose that following agreement from the Cabinet, the Ministry of Transport:

29.1 Reassess all operators, at the time their next extension, against the ETC eligibility criteria;

29.2 Continue operation of the scheme until 30 April 2022 (and 30 June 2022 for the South Island interregional bus services);

29.3 Begin initial market engagement on the procurement for South Island interregional bus services; and

29.4 Prepare advice for joint Ministers on whether the staged approach to step 3 of Reconnecting New Zealanders means the scheme needs to be extended beyond 30 April 2022, and provide this advice to joint Ministers in March 2022 so that I can return to Cabinet for a further decision if required.

Financial Implications

30 No new funding is required to support this initiative. The ETC scheme has sufficient funding remaining in the current financial year (s 9(2)(b)(ii) [redacted] is expected to remain at 31 December 2021) to keep the ETC operating at the same, or a reduced level, well beyond 30 June 2022. s 9(2)(f)(iv) [redacted]

31 There is a risk that new applications are made for the ETC which reduce the amount of funding available. For example, the Ministry recently received an application for support s 9(2)(b)(ii) [redacted] The risk of there being an overspend from the ETC or new funding required in the current financial year is low.

Risks and mitigations

32 s 9(2)(f)(iv) and s9(2)(g)(i) [redacted]

Legislative Implications

33 There are no legislative implications.

Regulatory Impact Statement

34 No Regulatory Impact Statement is required as this proposal does not introduce or change any legislation.

Climate Implications of Policy Assessment

35 A Climate Implications of Policy Assessment (CIPA) has not been prepared for this paper. The proposal recommends providing financial support for transport operators and services, which creates greenhouse gas emissions. Even with this support it should be recognised that the total number of domestic flights and road/sea transport services provided per week would still be materially less than the number which operated prior to COVID-19. As part of the procurement of South Island interregional bus services we may consider the age of an applicant's fleet and emissions profile as part of the assessment process.

36 More broadly I am looking at how to reduce emissions from the transport sector as part of the 'Hīkina te Kohupara – Kia mauri ora ai te iwi - Transport Emissions: Pathways to Net Zero by 2050' work programme.

Population Implications

37 This proposal has the following anticipated population impacts.

Table 1. ETC extension population implications

Population group	How the proposal may affect this group
Remote/rural populations	Many regions cannot justify transport services based solely on domestic population and they continue to be unviable without international tourists. Many more remote communities and individuals do not have nearby access to essential services (such as health and welfare services) and may not be able to travel to the nearest essential service without a transport connection.
Elderly, vulnerable, and disabled people	Many of the services support by the ETC scheme to date disproportionately support the elderly, vulnerable, and disabled people. These groups often have limited access to private vehicles, struggle with standard transport options, or have complex needs which require regular transport to a main centre to access.

Human Rights

38 There are no implications for human rights.

Consultation

39 The Treasury has been consulted on this paper.

Communications

40 I do not intend to make a formal public announcement of the extension of the ETC scheme as those transport operators and services that are expected to require support are already under the scheme or have been offer the opportunity to apply and have either been declined or chose not to submit an application. The Ministry of Transport will communicate directly with affected parties.

41 I do not intend to formally announce the procurement opportunity for South Island interregional bus services. However, the opportunity will be posted on GETS and the Ministry will engage directly with the affected regional councils and potential operators as part of initial market engagement.

Proactive Release

42 Not proposed due to the extensive discussion of matters which are commercially sensitive.

Recommendations

I recommend that the Committee:

1 note that on 11 May 2020 Cabinet established the Essential Transport Connectivity (ETC) Scheme to provide support to maintain essential transport routes and services negatively impacted by COVID-19 [CAB-20-MIN-0219.28].

2 note that the ETC scheme is due to end on 31 December 2021 and Cabinet agreement is required to extend the scheme further.

3 note that we expect there to be s 9(2)(b)(ii) [redacted] in unallocated ETC funding remaining at 31 December 2021.

4 note that the impact of the current COVID-19 outbreak is likely to be felt for some time and it is likely that ETC support will be required for the first part of 2022 as passenger travel begins to recover from the impact of recent COVID-19 restrictions.

5 note that Step 3 of the Reconnecting New Zealanders approach would see fully vaccinated eligible travellers able to enter New Zealand from 30 April 2022, under a staged process.

6 agree that the ETC Scheme be extended to 30 April 2022 to align with Step 3 of Reconnecting New Zealanders and to allow time for domestic travel to recover from the impacts of the recent Alert Level increases.

7 s 9(2)(f)(iv) [redacted]

8 delegate authority to the Secretary for Transport to enter into funding agreements in accordance with the delegation framework set out in paragraph 21.

9 note that the extension of the ETC scheme to 30 April 2022 does not require any new funding and can be funded through the existing ETC multi-year appropriation.

10 note that subject to Cabinet agreeing to extend the ETC scheme, joint Ministers intend to run an open market procurement for the interregional South Island bus services currently supported by the ETC scheme (West Coast and inland services from Christchurch to Queenstown).

11 agree that funding for the South Island interregional bus services referred to in recommendation 10 be available to 30 June 2022 (i.e. regardless of the 30 April 2022 end date for the ETC scheme set out in recommendation 6).

Authorised for lodgement

Hon Michael Wood

Minister for Transport

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

6 December 2021 OC210724

Hon Michael Wood
Minister of Transport

CIVIL AVIATION BILL - INITIAL BRIEFING TO SELECT COMMITTEE

Snapshot

You have been invited to a public hearing on the Civil Aviation Bill as part of the Transport and Infrastructure Committee's considerations. This briefing highlights key themes from written submissions received to date, provides you with suggested speaking points, and provides back pocket notes on key considerations that may be raised by the Committee.

Time and date	**1:00 – 1:15 pm, 9 December 2021**
Venue	Zoom
Attendees	Members of the Transport and Infrastructure Committee
Officials attending	Official attending remotely will be Tom Forster (Manager Economic Regulation), Sonya Van De Geer (Principal Adviser), Eve Tucker (Senior Adviser), Rebecca Summerill (Senior Solicitor)
Agenda	You will speak for 5-7 minutes followed by Committee questions
Talking points	A speech is attached at Annex 1, and a Q&A document is attached at Annex 2.

Contacts

Name	Telephone	First contact
Tom Forster, Manager Economic Regulation	s 9(2)(a) [redacted]	✓
Eve Tucker, Senior Adviser Economic Regulation	s 9(2)(a) [redacted]	
Sonya Van De Geer, Principal Adviser Economic Regulation	s 9(2)(a) [redacted]	

Civil Aviation Bill - Initial briefing to Select Committee

Key points

- You have accepted an invitation from the Transport and Infrastructure Committee to attend an initial public hearing on the Civil Aviation Bill. The hearing will be 15 minutes long including time for members of the committee to ask questions.

- We have prepared a suggested speech for your consideration (Annex 1), as well as a Q&A document covering a number of questions that may be raised by the committee (Annex 2).

- Officials will meet with you on Tuesday, 7 December 2021 to discuss these materials and key themes raised in submissions for your awareness.

Matters raised by submitters are likely to be raised by the Committee

1 The Civil Aviation Bill was referred to Select Committee on 29 September 2021, and public submissions closed on 2 December. Oral submissions will be heard in February 2022.

2 Submissions canvassed a range of issues relevant to the aviation system. These are elaborated on in Annex 2.

3 At a high level, key matters raised in submissions, that are within the policy remit for the Bill, include:

3.1 whether drug and alcohol management plans will be scalable for small operators

3.2 the medical regime in the Bill, including the relationship between the Medical Convenor and the Director of Civil Aviation

3.3 consumer protection, including desire for independent dispute resolution options and more stringent requirements for airlines.

4 Matters that are of interest for civil aviation but beyond the policy remit and/or purpose of the Bill include:

4.1 accessibility at airports and onboard aircraft for people who are deaf or hearing impaired

4.2 fatigue risk management, including for air traffic controllers and pilots

4.3 how certain types of aviation are reflected in legislation (principally in Civil Aviation Rules), such as agricultural operations, helicopters, hang gliders, paragliders, and model aircraft.

5 We anticipate strong industry engagement on the Bill will continue throughout the parliamentary process.

Hon Michael Wood

DRAFT Speech – Civil Aviation Bill

Occasion:	Public Select Committee hearing on the Civil Aviation Bill
Date and time of speech:	9 December 2021, 1:00 pm
Audience:	Transport and Infrastructure Committee
Location:	Online via Zoom

Structure of this speech

1. Pleasantries
2. Introduction
3. Background – "a once in a generation opportunity"
4. Key policy[1]
5. Conclusion
6. Available for questions

[1] Key policy includes:

- Drug and alcohol impairment – Carterton balloon tragedy
- CORSIA and emissions reduction
- Consumer protection
- Drones
- Security
- Airport regulation
- Airline alliances

Introduction

- Our aviation system is vital to New Zealand's prosperity and to maintain essential social and economic links - within our regions - and with the rest of the world.
- As Minister of Transport, I am committed to ensuring safety and security in our aviation system and to help position the sector for recovery from COVID-19.
- This Bill, which has been in development for over 5 years, represents a major modernisation of civil aviation legislation while maintaining fundamentals of the current law.
- The Civil Aviation Bill will improve aviation safety and security, encourage effective competition for international air services, and enable the regulator and aviation businesses to adapt to changes in technology and business practices.

This is a once-in-a-generation opportunity to modernise our primary aviation legislation

- With this Bill, this Government seeks to repeal and replace the Civil Aviation Act 1990 and the Airport Authorities Act 1966 with a single, modern statute that provides a platform for safety, security and economic regulation of civil aviation.
- Both current Acts have been amended over time - but required a substantial overhaul to reflect the aviation environment of today, and for the future.
- Policy in the Bill has been subject to extensive consultation with the aviation sector, including an exposure draft of the Bill which was released publicly in 2019.
- The sector has actively participated in development of this Bill to date and I anticipate this will continue as you undertake your consideration.

- I'd like to take this opportunity to summarise some key issues this Bill addresses within the wider aviation framework.

Drug and alcohol impairment – Carterton balloon tragedy

- In 2012, New Zealand experienced the horror of the Carterton hot air balloon crash that saw the loss of many innocent lives.

- Subsequent investigations highlighted how this tragedy was preventable. Pilot failings and drug use played a central role in the crash.

- Since that terrible day, the families have tirelessly advocated for change, and today I am proud that this Bill introduces a new framework to address drug or alcohol use in the aviation system.

CORSIA

- The Bill also enables a framework for New Zealand's participation in CORSIA.

- CORSIA forms part of the international aviation community's response to the need to reduce emissions, given that international civil aviation sits outside the nationally determined contributions under the UNFCCC.

Consumer protection

- Through this Bill, changes are being made so that government can make regulations to require airlines to disclose information, and to clarify the process to have claims heard by the Disputes Tribunal where there is dispute.

Remotely piloted or autonomous aircraft (drones)

- The Bill incorporates amendments that account for new and emerging technologies such as remotely piloted and autonomous aircraft (commonly known as drones) and clarifies the responsibilities of the operator.
- It also provides new intervention powers for suitably trained and qualified people, including constables, to respond to serious misuse of such aircraft.

Security

- Aviation security continues to play a critical role in the aviation system. The Bill clarifies what powers, protections and tools aviation security officers have at security designated aerodromes, and who can provide aviation security services.
- It also expands the aviation security regime to enable short-term additional security measures in temporary "landside security areas" at airports when there is a threat to persons in the 'landside area' of an airport.

Airport regulation

- The response to the COVID-19 pandemic has demonstrated airports' role in connecting New Zealanders to the world and the importance of maintaining a safe and secure border.
- This Bill proposes a joined-up approach between government and airports when planning for the future. It does so by introducing a modern registration regime for airports to replace Airport Authorities.

- This new registration regime also seeks to build on the collaboration and transparency both government and airports have demonstrated over the past two years.

- As part of this, some airport operators will be required to work with government agencies to set medium-term spatial plans where agencies such as Customs and Health require space in the airport to undertake their functions.

Airline Alliances

- The Bill strengthens the authorisation regime for airline alliances. It requires a transparent process and sets out specific criteria for decision-making.

Conclusion

- This government is proud to deliver this Bill after years of work and consultation.

- I hope you will look on this favourably and I am happy to take questions.

Key topics:

- Airport registration and Enforceable Regulatory Undertakings (ERUs)
- Consumer protection
- Drones
- Drug and alcohol management plans (DAMPs)
- Just Culture
- Landside Security Areas at airports
- Medical convenor
- Public Works Act and the offer back process

Airport registration and Enforceable Regulatory Undertakings (ERUs)

Q/ Airports have worked tirelessly with government agencies throughout the COVID response. Why do ERUs need to be legislated?

Providing a legislative framework ensures the long-term, continued collaboration that we have seen during the response to COVID-19.

Consumer protection

Q/ Why does the Civil Aviation Bill not introduce greater expectations of liability for airlines where there is a cancellation or delay?

When considering whether additional consumer protections were required, we looked at the existing protections that are available now and balanced the impact that new protections may have on airlines, particularly in the context of COVID-19.

Given these factors, additional consumer protections have not been included in this Bill.

Drones

Q/ Why isn't there more about drones?

The Ministry is progressing work on drone regulation separately. The Bill is complementary to this programme of work but not directly connected.

Q/ Why are drone intervention powers necessary?

Drones are becoming increasingly commonplace, and many small-to- medium sized models are easy to obtain from electronics retailers and online suppliers. This makes drones an easily available tool which can be used by malicious actors to threaten aviation or public safety and security, and it is in the public interest to mitigate this threat.

The policy change to include drone intervention powers represents a shift from presuming that it is always in the interests of aviation or public safety and security to prevent interference with aircraft, to one that recognises that drones can pose a threat to aviation or public safety and security, and that in some circumstances it is reasonable and proportional to interdict a drone (which is technically interference with an aircraft) to preserve aviation or public safety and security.

Drug and alcohol management plans (DAMPs)

Q/ Isn't it unreasonable to expect small operators to develop DAMPS and conduct random testing?

Small adventure aviation operators have had Drug and Alcohol Management Plans in place for years. The CAA will provide guidance on reducing burdens such as small operators clubbing together to access random testing and example DAMPs specifically aimed at smaller operators.

Just Culture

Q/ Why don't the Just Culture provisions go further?

The Bill includes provisions that codify modern regulatory practice into primary legislation while not unreasonably fettering the Director's powers. These provisions should reassure the sector about how the CAA uses information, while not impeding the Directors decision making process.

Landside Security Areas at airports

Q/ Why do we need landside security areas?

The inclusion of new landside security areas is to provide an additional tool to respond to imminent security threats. Specifically, this proposal will mean that people entering a specified landside security area can be searched for weapons or prohibited goods.

Q/ Why are we doing this for airports but not for other crowded places like shopping malls or train stations?

The Ministry has a broad transport security work-programme. While the security focus for the Civil Aviation Bill is on the aviation system, the Ministry has other pieces of work to consider the appropriate security measures for other 'crowded places' (including ferry terminals, railway stations, and bus terminals) in accordance with the 'Crowded Places Strategy (lead by the New Zealand Police).

Medical convenor

Q/ Why is there a medical convenor rather than an independent process?

The current process is independent, as the Medical Convenor is appointed by Cabinet, not by the Director of Civil Aviation. The regulator provides information to the convenor as required to support their independent considerations.

Q/ Why does the Director of Civil Aviation have the last say regarding medicals?

The Director is responsible for the safety and security of the civil aviation system. Putting one part of the system in the hands of someone else, who does not have oversight of other elements, would result in a fractured process.

Public Works Act and the offer back process

Q/ Aren't airports better placed than the CE of LINZ to decide what surplus land is?

Yes. LINZ has no intention of being involved in deciding what surplus land is. Once an airport determines land is surplus, the CE of LINZ would become involved.

8 December 2021 OC210975

Hon Michael Wood
Minister of Transport

AIR NEW ZEALAND LICENCE VARIATION – HONG KONG

Purpose

Air New Zealand has applied for a Licence variation to operate unlimited non-stop only services to Hong Kong. You are the licensing authority for New Zealand international airlines.

Key points

- Air New Zealand Limited has applied for a variation to its Scheduled International Air Service Licence to reflect these open capacity arrangements with Hong Kong.

- This allows the basic international service between two countries.

- The proposed licence variation not only reflects the air services arrangements with Hong Kong, but would enable Air New Zealand to respond to future market demand for increased frequencies without having to go through the license application process at such time.

Recommendations

We recommend you:

1	**sign** the attached replacement Scheduled International Air Service Licence in the name of Air New Zealand Limited, providing for unlimited non-stop only services between New Zealand and Hong Kong	Yes / No
2	**sign** the attached notice for publication in the New Zealand Gazette, advising that you have made the variation to Air New Zealand's Licence.	Yes / No

Tom Forster
Manager, Economic Regulation
8 / December / 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

Contacts

Name	Telephone	First contact
Tom Forster, Manager, Economic Regulation	s 9(2)(a)	✓
Ana Clark, Graduate Adviser, Economic Regulation	s 9(2)(a)	

AIR NEW ZEALAND LICENSE VARIATION – HONG KONG

Air New Zealand has requested a variation to its licence

1 Air New Zealand's Licence currently provides for nine own-aircraft frequencies per week between New Zealand and Hong Kong. Air New Zealand has requested that its licence reflect the fact that there are no limits on the number of non-stop only services that can be operated between New Zealand and Hong Kong.

2 The proposed licence variation would enable unlimited, non-stop only services, between New Zealand and Hong Kong. The variation appears at page 9 of the Annex to the attached Licence.

3 You are the licensing authority for New Zealand international airlines holding a scheduled international air service licence.

4 You are required to take into account matters specified in section 87F of the Civil Aviation Act 1990 ('the Act"), when considering an application to vary a licence held by a New Zealand international airline when the variation is for an increase in capacity (as this one is). These matters are:

4.1 any relevant international agreement, convention, or arrangement to which New Zealand is a party

4.2 the safety and security requirements of the Director of Civil Aviation

4.3 the financial ability of the applicant to carry on the proposed service

4.4 the likelihood of the applicant carrying on the proposed service satisfactorily

4.5 any written representations received by the Minister in relation to the application

4.6 such other matters as you see fit.

Relevant international agreements, conventions, or arrangements

5 s 6(a) [redacted]

6 Cathay Pacific's Scheduled International Air Service Licence already includes this open capacity provision.

Safety and Security Requirements

7 Air New Zealand holds a current Air Operator Certificate issued by the Director of Civil Aviation. The Certificate authorises the operation of international air services to/from New Zealand and is valid until 26 May 2025.

Financial ability and likelihood of carrying on proposed services

8 Air New Zealand, which is majority owned by the New Zealand Government, is a long–established international carrier, has appropriate financial resources and is clearly capable of carrying on the services covered by its licence satisfactorily.

Written representations

9 Public notice of Air New Zealand's application for the licence variations in relation to Hong Kong was given in the *New Zealand* Gazette on 10 November 2021. The period for the receipt of representations expired on 2 December 2021.

10 No representations were received.

Notice in the *New Zealand Gazette*

11 Section 87J(6) of the Act requires that where you have agreed to vary Air New Zealand's Licence, notice of this should be published in the *New Zealand Gazette*. A notice is attached for your signature, if you agree to the licence variation.

Other matters

12 We consider there are no other matters that need to be taken into account in assessing Air New Zealand's application.

NOTICE OF VARIATION OF A SCHEDULED INTERNATIONAL AIR SERVICE LICENCE

Further to a notice in the *New Zealand Gazette* of 10 November 2021, and pursuant to section 87J(6) of the Civil Aviation Act 1990, I, Michael Philip Wood, Minister of Transport, give notice that, having received an application from Air New Zealand Limited, I have varied the Scheduled International Air Service Licence held by that airline to provide for it to operate unlimited non-stop only services between New Zealand and Hong Kong.

The variation took effect from the date of signature below.

Signed at Wellington/Auckland this day of 20 .

Michael Wood
MINISTER OF TRANSPORT

SCHEDULED INTERNATIONAL AIR SERVICE LICENCE

I, MICHAEL PHILIP WOOD, Minister of Transport, pursuant to section 87J of the Civil Aviation Act 1990, VARY and REPLACE the Scheduled International Air Service Licence first granted on 19 August 1997 to **Air New Zealand Limited** (“the licensee”) of Auckland, New Zealand, a designated airline of the Government of New Zealand, for the carriage of passengers, cargo and mail. Such carriage is to be in accordance with the conditions specified in this Licence.

1. Replacement Licence

This Licence replaces the Licence issued on 30 July 2020.

2. Routes and Capacity

(a) The licensee may carry on international air services in both directions over the routes listed in the attached Annex and with the capacity stated therein.

(b) Despite clause 2(a), if the Secretary for Transport is satisfied that capacity constraints are necessary in the public interest for the purposes of ensuring that managed isolation or quarantine (MIQ) passengers entering New Zealand will not exceed New Zealand’s MIQ capacity, the Secretary for Transport may give the licensee a notice providing for temporary constraints on the number of MIQ passengers that the licensee may:

(i) carry on any or all scheduled international services that terminate in New Zealand

(ii) permit to disembark from a service that will transit through New Zealand.

(c) Any notice under clause 2(b) must be:

(i) in writing

(ii) given to the licensee no later than 5 days before the relevant capacity constraint first applies

(iii) subject to review by the Secretary for Transport on a fortnightly basis.

(d) A notice under clause 2(b) may provide for MIQ passenger constraints to be:

(i) applied by flight, period or on any other differential basis

(ii) notified from time to time by or on behalf of the Secretary under the notice, provided that any constraint must be notified to the licensee no later than 5 days before the relevant constraint applies.

(e) The licensee must comply with any MIQ passenger constraint notified under clause 2(b) to 2(d).

(f) In clauses 2(b) to 2(e):

MIQ means isolation and quarantine facilities managed by or on behalf of the New Zealand Government for the purposes preventing the spread of COVID-19 in New Zealand.

MIQ passenger—

(i) means a passenger who is required under the COVID-19 Public Health Response Act 2020 to enter managed isolation and quarantine on entry into New Zealand; and

(ii) excludes a passenger transiting to a service leaving New Zealand without entering New Zealand.

(g) Clauses 2(b) to 2(f) come into force on 1 August 2020 and expire when the COVID-19 Public Health Response Act 2020 is repealed.

3. Nature of service filings

(a) The licensee shall file with the Secretary for Transport:

(i) a statement of the nature of the services proposed to be operated for each IATA schedule period, and

(ii) any proposed amendment to that statement, not less than 30 days ahead of their effective date, or at such shorter notice as the Secretary may allow.

(b) Nature of service filings shall include, in respect of each service to be operated:

- the period of operation, with dates;
- the points to be served and the route to be followed;
- the aircraft type to be used and, for passenger services, the seating configuration;
- the capacity to be purchased on any code-shared services using the aircraft of another airline, and the name of that airline;
- the frequency of the service per week; and
- the flight numbers of the service.

(c) The Secretary for Transport shall either acknowledge such a filing in respect of each air service or refer such a filing to the Minister of Transport for consideration.

(d) The Minister of Transport may either disallow a nature of services filing so referred or direct the Secretary for Transport to acknowledge such a filing.

(e) The Minister of Transport shall advise the licensee of the reasons for disallowing such a filing and may invite the licensee to lodge an amended filing with the Secretary for Transport.

(f) No new or amended nature of services filing shall take effect unless and until it is acknowledged by the Secretary for Transport.

(g) The Minister of Transport may at any time disallow, in whole or in part, an existing nature of services filing referred to the Minister by the Secretary for Transport.

4. Insurance

The licensee shall maintain insurance to cover liability that may arise out of or in connection with the air services provided by the licensee pursuant to the provisions of this licence in respect of the death of or bodily injury to any person, and in respect of loss of or damage to any property.

5. Tariffs

The licensee shall file passenger and cargo tariffs when requested to do so by the Secretary for Transport.

6. Financial and statistical returns

The licensee shall file with the Secretary for Transport such financial and statistical returns and statements as the Secretary requests.

7. Inter-Governmental Arrangements

(a) Where the Government of New Zealand has entered into arrangements relating to air services with the Government of another country or territory, the scheduled international air services between New Zealand and that country or territory authorised by this Licence shall be conducted in compliance with those arrangements.

(b) Whether or not there are such arrangements in force, to exercise the rights granted by this Licence, the licensee must be substantially owned and effectively controlled by New Zealand nationals.

8. Operational and Safety Standards

Except for code-sharing or wet-leasing capacity arrangements involving the use of the aircraft of another airline that holds the appropriate operating authorisation, the licensee shall operate the international air services authorised by this Licence in accordance with the appropriate operating authorisation issued to the licensee by the Director of Civil Aviation of the Civil Aviation Authority of New Zealand.

9. Validity Period of this Licence

This Licence, issued to Air New Zealand Limited, shall take effect from 1 August 2020 and shall, unless suspended or revoked, remain in force until and including 1 May 2027.

DATED at Wellington this day of 2021.

Hon Michael Wood
Minister of Transport

Annex

Route and Capacity Entitlements for Air New Zealand Limited

Argentina

Route

Points in New Zealand, optionally via intermediate points in the South Pacific and South America, to Buenos Aires, and optionally beyond to any point or points.

Capacity

As filed with and acknowledged by the Secretary for Transport.

Note

With regard to the beyond points, Rio de Janeiro and Sao Paulo are available for own-aircraft or code-share services. All other beyond points are available on the basis that Air New Zealand is the marketing carrier in a code-share arrangement with another airline as the operating carrier.

Australia

Route

1. Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to any point or points in Australia, and optionally beyond.
2. As a Single Aviation Market airline: between points in Australia.
3. For all-cargo services only: between Australia and any point or points.

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

Austria

Route

Points in New Zealand to any point or points in Austria, optionally via any point or points.

Capacity

As filed with and acknowledged by the Secretary for Transport.

Note

Fifth freedom traffic rights may not be exercised between points in Austria and the intermediate points of Bangkok, Hong Kong and Singapore.

Belgium	*Route* Points in New Zealand via any points to points in Belgium and beyond to any points. *Capacity* As filed with and acknowledged by the Secretary for Transport. *Note* Fifth freedom traffic rights may not be exercised between points in Belgium and either the intermediate or beyond points.
Brazil	*Route* Points in New Zealand, optionally via intermediate points, to points in Brazil and optionally beyond. *Capacity* As filed with and acknowledged by the Secretary for Transport.
Brunei Darussalam	*Route* Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to Brunei Darussalam, and optionally beyond. *Capacity* As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.
Cambodia	*Route* Points in New Zealand, optionally via intermediate points, to Cambodia, and optionally beyond. *Capacity* As filed with and acknowledged by the Secretary for Transport.
Canada	*Route* Points in New Zealand, via intermediate points, to a point or points in Canada, and to points beyond. *Capacity* As filed with and acknowledged by the Secretary for Transport.

Chile

Route

1. Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to a point or points in Chile, and optionally beyond.

2. Between Chile and any point or points.

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

China

Route

1. For combination services: points in New Zealand to points in China.

2. For code-shared services where Air New Zealand is the marketing carrier in a code-share arrangement with a Chinese operating carrier: points in New Zealand, optionally via intermediate points, to points in China and optionally to points beyond China.

3. For code-shared services where Air New Zealand is the marketing carrier in a code-share arrangement with a third-country operating carrier on the sector further from New Zealand: points in New Zealand to points in China and beyond to Abu Dhabi.

4. For cargo-only services: points in New Zealand, via intermediate points, to points in China and beyond.

Capacity

For combination services: up to twelve services per week with any aircraft type.

For code-shared services where the licensee is the marketing carrier in a code-share arrangement with a Chinese operating carrier or third-country operating carrier: as filed with and acknowledged by the Secretary for Transport.

For cargo-only services: as filed with and acknowledged by the Secretary for Transport.

Note

Points in China do not include the Hong Kong Special Administrative Region and the Macau Special Administrative Region.

Colombia

Route

Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to a point or points in Colombia and optionally beyond.

Colombia (cont.)

Capacity

Code-share only: as filed with and acknowledged by the Secretary for Transport, with the licensee to be the marketing carrier.

Note

Fifth freedom traffic rights may not be exercised.

Cook Islands

Route

1. Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to a point or points in the Cook Islands and optionally beyond.
2. Between the Cook Islands and any point or points.

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

Denmark

Route

Points in New Zealand, via intermediate points, to a point or points in Denmark, and to points beyond.

Capacity

As filed with and acknowledged by the Secretary for Transport.

Fiji

Route

Points in New Zealand to Nadi, and optionally beyond to Rarotonga, Papeete, Tokyo or Osaka, two other points in Japan, Seoul, Honolulu, Los Angeles, Vancouver, Toronto.

Capacity

As filed with and acknowledged by the Secretary for Transport.

Note

Services beyond Nadi to Osaka may only be operated pursuant to a commercial agreement between Air New Zealand and the designated airline of Fiji.

France

Route

1. From any points behind New Zealand, optionally via any intermediate points, to any points in French Polynesia, and optionally beyond to any points.
2. Points in New Zealand to Noumea.

France (cont.)

Capacity

For Route 1: As filed with and acknowledged by the Secretary for Transport.

For Route 2:

For own-aircraft services: up to three return services per week, with aircraft not exceeding 350 seats;

For code-share services (where the licensee is the marketing carrier): as filed with and acknowledged by the Secretary for Transport.

Notes

For Route 1: Points in the French Republic (including New Caledonia) are not permitted as points behind New Zealand, or as intermediate points or as beyond points.

Germany

Route

1. Points in New Zealand, optionally via any intermediate points, to points in Germany, and optionally beyond.

2. For all-cargo services only: between Germany and any point or points.

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

Hong Kong

Route

1. For own-aircraft services:

   A. : Points in New Zealand to Hong Kong.

   B. Points in New Zealand, optionally via Melbourne, to Hong Kong, and optionally beyond to London.

2. For code-shared services: Points in New Zealand, optionally via any point/s (excluding mainland China and Taiwan), to Hong Kong, and optionally beyond to any point/s (excluding Mainland China and Taiwan).

Capacity

For Route 1A: as filed with and acknowledged by the Secretary for Transport.

For Route 1B: up to nine frequencies per week with any aircraft type.

Hong Kong (cont.)

For code-shared services (where the licensee is the marketing carrier): as filed with and acknowledged by the Secretary for Transport.

Note

For code-shared services, fifth freedom and stopover traffic rights may not be exercised between Hong Kong and either the intermediate or beyond points.

India

Route

Points in New Zealand, optionally via Singapore, Hong Kong, Bangkok and two points in Australia, to Bangalore, Chennai, Hyderabad, Kochi, Kolkata, Mumbai and New Delhi.

Capacity

Code-share only: as filed with and acknowledged by the Secretary for Transport, with the licensee to be the marketing carrier.

Notes

1. Rights to New Delhi may be exercised only by way of a code-share arrangement with Air India.

2. Fifth freedom traffic rights may not be exercised.

Indonesia

Route

1. Points in New Zealand to Denpasar.

2. Points in New Zealand, via Singapore, to Balikpapan, Denpasar, Jakarta, Medan and Surabaya.

Capacity

For Route 1: up to seven return services per week, using aircraft with a maximum of 400 seats.

For Route 2: code-share only, with the licensee to be the marketing carrier - as filed with and acknowledged by the Secretary for Transport.

Ireland	*Route* From points behind New Zealand via New Zealand and intermediate points to and between points in Ireland and beyond. *Capacity* As filed with and acknowledged by the Secretary for Transport. *Note* Fifth freedom traffic rights may not be exercised between points in Ireland and either the intermediate or beyond points.
Italy	*Route* Points in New Zealand, optionally via intermediate points, to points in Italy and optionally to points beyond. *Capacity* Code-share only, with the licensee to be the marketing carrier: as filed with and acknowledged by the Secretary for Transport. *Note* Fifth freedom traffic rights may not be exercised.
Japan	*Route* Points in New Zealand, optionally via intermediate points, to points in Japan and optionally to points beyond. *Capacity* For own-aircraft services to and from Haneda Airport: up to three return services per week, with any aircraft type. For own-aircraft services to and from points in Japan other than Haneda Airport: as filed with and acknowledged by the Secretary for Transport. For code-share services, as the marketing carrier: as filed with and acknowledged by the Secretary for Transport. *Notes* 1. Fifth freedom traffic rights may be exercised to and from points in Japan, other than Tokyo. 2. Own stopover traffic may be carried. 3. Co-terminal rights may be exercised at any point in Japan.

Korea

Route

Points in New Zealand, optionally via intermediate points, to points in Korea.

Capacity

For own-aircraft services: up to five return services per week with any aircraft type.

For code-share services, as the marketing carrier: as filed with and acknowledged by the Secretary for Transport.

Laos

Route

Points in New Zealand, optionally via intermediate points, to points in Laos and optionally beyond.

Capacity

As filed with and acknowledged by the Secretary for Transport.

Malaysia

Route

Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to any point or points in Malaysia and optionally beyond.

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

Mexico

Route

Points in New Zealand to a point or points in Mexico, optionally via any point or points and beyond to any point or points.

Capacity

For third/fourth freedom services: as filed with and acknowledged by the Secretary for Transport.

Note

Fifth freedom traffic rights may not be exercised at the intermediate or beyond points, but own-stopover passengers may be carried.

Netherlands

Route

Points in New Zealand, via any intermediate point, to Amsterdam.

Netherlands (cont.)

Capacity

For code-share services: as filed with and acknowledged by the Secretary for Transport, with the licensee to be the marketing carrier.

Note

Fifth freedom traffic rights may not be exercised.

Niue

Route

Points in New Zealand, optionally via Tonga, to Niue.

Capacity

Up to two return services per week.

Philippines

Route

1. Points in New Zealand, optionally via Singapore, to points in the Philippines.

2. Points in New Zealand to Manila.

Capacity

For route 1: code-share only, with the licensee to be the marketing carrier - as filed with and acknowledged by the Secretary for Transport.

For route 2: up to three services per week with any aircraft type.

Note

Fifth freedom traffic rights may not be exercised, but own-stopover passengers may be carried on route 1.

Russia

Route

Points in New Zealand, optionally via Singapore, to Moscow and optionally beyond to Stockholm.

Capacity

Code-share only: as filed with and acknowledged by the Secretary for Transport, with the licensee to be the marketing carrier.

Samoa

Route

1. Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to a point or points in Samoa and optionally beyond.

2. Between Samoa and any point or points.

Samoa (cont.)	*Capacity* As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.
Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu	*Route* Points in New Zealand to a point or points in the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, optionally via any point and beyond to any point. *Capacity* As filed with and acknowledged by the Secretary for Transport.
Singapore	*Route* 1. Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to Singapore, and optionally beyond. 2. Between Singapore and any point or points. *Capacity* As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.
South Africa	*Route* Points in New Zealand, optionally via points in Australia, and separately Singapore, to any point in South Africa. *Capacity* For code-shared services: as filed with and acknowledged by the Secretary for Transport.
Spain	*Route* Points in New Zealand, optionally via any intermediate point/s, to two points in Spain and optionally beyond to any point/s. *Capacity* Code-share only: as filed with and acknowledged by the Secretary for Transport, with the licensee to be the marketing carrier. *Note* Fifth freedom traffic rights may not be exercised.

Sri Lanka	*Route*
	Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to Sri Lanka, and optionally beyond.
	Capacity
	As filed with and acknowledged by the Secretary for Transport.
Sweden	*Route*
	Points in New Zealand, via intermediate points, to a point or points in Sweden, and to points beyond.
	Capacity
	As filed with and acknowledged by the Secretary for Transport.
Switzerland	*Route*
	Points in New Zealand to a point or points in Switzerland, optionally via any point and beyond to any point.
	Capacity
	As filed with and acknowledged by the Secretary for Transport.
Thailand	*Route*
	Points in New Zealand, optionally via intermediate points, to points in Thailand, and optionally beyond.
	Capacity
	As filed with and acknowledged by the Secretary for Transport.
	Notes
	1. There is unlimited capacity for the exercise of third and fourth freedom traffic rights.
	2. Fifth freedom traffic rights may be exercised on up to 21 frequencies per week, with any aircraft type.
Tonga	*Route*
	1. Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to a point or points in Tonga and optionally beyond.
	2. Between Tonga and any point or points.

Tonga (cont.)

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

Turkey

Route

Points in New Zealand, via any intermediate points, to any point or points in Turkey and beyond to any point.

Capacity

Code-share only: as filed with and acknowledged by the Secretary for Transport, with the licensee to be the marketing carrier.

Note

Fifth freedom traffic rights may not be exercised.

United Arab Emirates

Route

Points in New Zealand, via intermediate points, to points in the United Arab Emirates and beyond.

Capacity

As filed with and acknowledged by the Secretary for Transport.

United Kingdom

Route

Points in New Zealand, via intermediate points, to points in the United Kingdom and beyond.

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

United States of America

Route

1. Optionally from points behind New Zealand, via New Zealand, and optionally via intermediate points, to any point or points in the United States of America, and optionally beyond.

2. For all-cargo services only: between the United States of America and any point or points.

Capacity

As filed with the Secretary for Transport for either acknowledgement or information purposes in accordance with section 3 of this Licence.

Vanuatu

Route

Points in New Zealand to points in Vanuatu.

Vanuatu (cont.)

Capacity

For own-aircraft services: up to four return services per week with any aircraft type.

For code-shared services: as filed with and acknowledged by the Secretary for Transport.

Viet Nam

Route

1. Points in New Zealand, optionally via Hong Kong, to Ho Chi Minh City.
2. Points in New Zealand, optionally via Singapore, to Da Nang, Ha Noi and Ho Chi Minh City.

Capacity

Code-share only: as filed with and acknowledged by the Secretary for Transport, with the licensee to be the marketing carrier.

Notes

1. Fifth freedom traffic rights may not be exercised between Hong Kong and Ho Chi Minh City.
2. Fifth freedom traffic rights may not be exercised between Singapore and each of Da Nang, Ha Noi and Ho Chi Minh City.

Other

Route

Such additional routes as may from time to time be approved by the Minister of Transport subject to any conditions that may be imposed by the Minister in respect of those additional routes.

Capacity

Such additional capacity as may from time to time be approved by the Secretary for Transport subject to any conditions that may be imposed by the Minister in respect of that additional capacity.

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

8 December 2021

OC210981

Hon Michael Wood

Minister of Transport

cc Hon David Clark

Minister of State Owned Enterprises

Action required by:

Friday, 17 December 2021

AIR NAVIGATION SYSTEM REVIEW- TERMS OF REFERENCE AND STRUCTURE

Purpose

Seek your approval of a draft terms of reference and structure for a review of the air navigation system.

Key points

- In February 2021 you agreed to a high level, first principles review of the air navigation system involving all parties in the sector, to address persistent issues with the regulatory, institutional, and funding settings for the air navigation system.
- There is no overarching statement of the principles and objectives for the air navigation system, making it difficult to determine if the current settings are appropriate now and for the future.
- We have the drafted terms of reference to identify the objectives and ideal characteristics for the system, assess the current situation, and provide recommendations for strengthening the system settings in the three key areas.
- We recommend a Ministerially-appointed independent panel to provide a strong signal of independence, and a high level mandate to address contentious issues across multiple agencies and sector groups.
- Because of the contentious nature of the issues and a high level of interest in the review, we recommend sharing the draft terms of reference with targeted stakeholders for transparency, and to manage expectations of the scope of the review.

Recommendations

We recommend you:

1	**approve** the draft terms of reference for targeted stakeholder review	Yes / No
2	**agree** that the review will be conducted by a Ministerially-appointed independent panel	Yes / No
3	**refer** this paper to the Minister of State Owned Enterprises and discuss it with him	Yes / No
4	**forward** this paper to the Ministers of Finance, Defence, Research Science and Innovation, Tourism and Regional Development, and Health for their information	Yes / No
5	**note** that (pending your agreement) following targeted stakeholder engagement, we will provide you with a revised terms of reference and a proposed list of Panel members in February 2022	Yes / No
6	**indicate** if you would like to meet with officials to discuss the terms of reference and the structure of the review.	Yes / No

Tom Forster **Manager Economic Regulation** 8 / December / 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

Contacts

Name	Telephone	First contact
Bronwyn Turley, Deputy Chief Executive	s 9(2)(a)	
Tom Forster, Manager Economic Regulation	s 9(2)(a)	✓
Brigid Borlase, Principal Advisor Economic Regulation	s 9(2)(a)	

AIR NAVIGATION SYSTEM REVIEW: TERMS OF REFERENCE AND STRUCTURE

Background

1 In February 2021 you met with the Minister of State Owned Enterprises and officials to discuss the air navigation service provision and issues with regional connectivity [OC210132 and OC210078 refer].

2 You agreed to a first principles review, taking a broad scope and including all relevant stakeholders, to:

- define what New Zealand needs and wants from the air navigation system now and into the future
- assess suitability of the regulatory, institutional, and funding settings for the air navigation system to deliver the outcomes we want
- focus on the regulatory, institutional and funding settings that influence the air navigation system.

Setting the scene: the proposed terms of reference

3 The draft terms of reference are attached at Annex 1.

Scoping the review

4 The air navigation system is a critical part of our national infrastructure. It exists to enable aviation operations that in turn deliver services and benefits across a wide range of communities and sectors within and outside aviation.

5 The air navigation system is made up of a series of components that provide for safe operation of aircraft from take-off to landing. Not all flights need all parts of the system; however, we need a comprehensive system to provide for the full range of airborne operations. These include recreational flights by small private aircraft, remotely piloted and autonomous aircraft (drones), rocket launches and re-entries, defence operations, emergency medical services, business aviation, and scheduled flights ranging from regional routes to international passenger and cargo flights.

6 Aviation now includes business models and global partnerships not envisaged when current aviation system safety and security policies were established.

7 The terms of reference recognise the wider context in which the air navigation system supports outcomes such as social connection, economic development, emergency response, and accessing healthcare services.

8 Appendix 1 to the terms of reference describes the breadth of the review. We propose that the review considers and may make recommendations on the system component providers, users, funders, and agencies in the authorising environment as appropriate.

9 The terms of reference proposes that the review should not generally make recommendations on the parties that are dependent on or benefit from the system (the outermost ring on the diagram) but will consider the implications of its recommendations on those groups.

10 The draft terms of reference exclude consideration of technical, specific operational or tactical matters; or recommending that regulators make or amend rules for a particular purpose. The focus would be on ensuring that the high level settings enable the system to deliver on its objectives.

11 For example, the review may consider whether the policy and regulatory settings are agile enough to integrate new technology in a safe and efficient way, without stipulating the exact types of technologies or the particular ways the rule set might be adjusted.

Air navigation system components and characteristics

12 Delivering outcomes relies as much on *how* the system works as to what it includes. The system components – the physical and digital infrastructure – need to be matched with identified characteristics, for example that it is safe, secure, reliable, sustainable, comprehensive, and efficient. The system principles and characteristics will be defined in phase 1 of the review.

Initial stakeholder feedback

13 We spoke with a range of stakeholders while preparing the terms of reference (see Annex 2). All supported the proposal for a review.

14 Common themes emerged from those discussions:

What do we want from the system?

14.1 The lack of a national view of the expectations on the air navigation system, making it difficult to determine what the network should comprise, the services it should support and where, and how it should be funded.

14.2 The need for a system-based review of the settings, including areas where the expectations and incentives appear to be competing or contradictory.

14.3 A broad approach that considers how the air navigation system contributes to social and economic outcomes that occur outside the aviation system.

14.4 The need to ensure the regulatory system is agile and responsive to new technologies to deliver safe integration and the realisation of potentially significant economic, social, educational, environmental and reputational benefits.

How is the system structured?

14.5 Questions about Airways' and MetService's obligations as state-owned enterprises, and perceptions that their commercial obligations do not align with broader government objectives.

14.6 The impacts of COVID-19 on the Civil Aviation Authority (CAA), operators, MetService and Airways, highlighting vulnerabilities in the system funding models and causing concern about the impacts of short-term cost reductions on the long-term strength and safety of the system.

14.7 Perceptions that the current settings do not support collaborative relationships and do not support comprehensive, long term planning for the air navigation system.

Who pays? Where do costs and benefits fall?

14.8 Some of Airways' services are not commercially viable; however, service users have no choice of providers and Airways has limited alternative means of recovering costs.

14.9 The long-term viability of regional aviation connections alongside concerns about the potential community and regional impacts if those air connections were reduced or removed.

14.10 The user pays model does not reflect that some parts of the air navigation service are provided as a public good.

14.11 The challenge of balancing investment in new technologies and future opportunities, and at the same time maintaining the current system.

15 Several stakeholders were of the view that this should be a review of Airways. Others, including Airways and Treasury, felt there is a risk the review could easily become too focused on the institutional model and not consider the system needs and desired outcomes from a national perspective.

16 We agree with Airways and Treasury. While a strong focus on Airways – as the sole provider of air navigation services – is necessary, it would not be useful to consider the company and its work in isolation. We strongly recommend a systems-based approach to the review as described in the terms of reference.

Proposed structure for the review

17 We recommend that you appoint a three-person independent advisory panel to conduct the review, supported by a Secretariat hosted by Te Manatū Waka - Ministry of Transport (the Ministry) and responsible to the panel.

18 We assessed three options for the structure of the review and considered independence, resourcing, and mandate to address the types of issues signalled to you in previous advice and expressed by stakeholders.

19 We also recommend:

19.1 the establishment of two reference groups: one of sector stakeholders, and one comprising government agencies with an interest in the review, to provide system-wide views, ensure ongoing engagement and coordination, and to provide access to specialist technical advice when required

19.2 appointing international expert peer reviewers to assess the recommendations from both phases of the review from an objective standpoint, and to assess our system in the context of international best practice.

Cost of the review

20 The review, including Panel members' fees, would be funded from within Ministry baselines. Panel members' fees have been estimated using the Public Service Commission guidelines.

Table 1: Analysis of options for structure of the review

	Benefits	**Costs and risks**
Recommended option Option 1: Ministerially-appointed independent review panel with Secretariat hosted by the Ministry of Transport *Indicative cost: $817,150 in total (across 2021/22 and 2022/23 years)*	Strongest signal of independence and objectivity, reporting to the Minister directly Strong indication of the importance of the review Well positioned to make recommendations on controversial issues and/or those that relate to the Ministry, the agencies it monitors, and on other government agencies	Significant requirement on Ministry resources if the Secretariat is drawn from current staff The Minister and Ministry have a lower level of oversight of the review
Option 2: In-house review conducted by the Ministry of Transport *Indicative cost: $658,100*	Lowest cost Ministry has high level of oversight of the project	Weak signal of independence Significant requirement on Ministry resources Limited mandate to make recommendations on other agencies May be difficult to demonstrate objectivity if making recommendations on the Ministry or the agencies it monitors
Option 3: Contracted external provider reporting to the Secretary of Transport *Indicative cost: $858,050*	Stronger signal of independence compared to option 1 Ministry retains oversight Lower requirement on Ministry resources	Highest cost option Dependent on availability of a suitable provider A weaker position if making recommendations on the Ministry of other agencies Weaker indication of the importance of the review

Process and timing for the review

21 The terms of reference set out a two phase process, focusing first on what New Zealand wants and needs from the air navigation system, and then assessing the current settings and recommending changes (if any) to achieve the agreed objectives.

22 The review would report to you at the end of both phases.

23 Stakeholder engagement is a central feature of the review process. We are working with Te Arawhiti to establish engagement with Māori, and the review will be conducted in accordance with Hei Arataki, the Ministry's Māori Strategy. The air navigation system has an as-yet unquantified role in providing Māori with access to essential services (e.g. specialist and emergency healthcare), economic opportunities through tourism and production, and maintaining whānau, hapu, and iwi connections.

24 This review is highly anticipated as a means of directly dealing with several long-standing issues. There is a risk that delays to the review would impact the aviation sector's confidence in the government's commitment to a safe and sustainable aviation system.

25 The sector, including the regulator, Airways, MetService, and airlines continue to respond to the impacts and ongoing uncertainties associated with COVID-19. The review will need to be mindful of the sector's capacity, noting that there is general support for the review from these organisations.

Next steps

26 Should you agree, the next steps and indicative timeframes would be:

Timing	Terms of reference	Panel selection and appointment
By 22 December	Revise the terms of reference to reflect your preference for the review structure	Draft position descriptions for Panel members
Mid-January 2022	Share terms of reference with targeted stakeholders (see Annex 2)	Identification of potential Chair and panellists Begin establishment of the Secretariat
Early February 2022	Revise the terms of reference based on stakeholder feedback	Initial discussions with potential panellists
Mid-February 2022	Seek your approval of the proposed final terms of reference and recommended panel members	
Late February 2022	Request approval of the terms of reference from the Cabinet Economic Development Cabinet committee	
Mid-Mach 2022		Request approval of the Panel from the Cabinet Appointments and Honours committee
End March 2022	Initiate the review	

ANNEX 1: DRAFT TERMS OF REFERENCE

REVIEW OF NEW ZEALAND'S AIR NAVIGATION SYSTEM

Terms of reference

Purpose

New Zealand does not have a current high level statement of the principles and national level objectives for the air navigation system. Without that foundation, it is difficult to determine if the current approach is the strongest option for meeting our current and future needs.

The purpose of the review is to take a high-level, first principles approach to establishing agreed objectives for the air navigation system, assess the current policy and regulatory, institutional and funding settings against those objectives, and recommend options for strengthening the system now and thirty to fifty years to the future.

Background

The air navigation system exists to enable aircraft operations. The system works as an integrated whole, providing the information and infrastructure for aircraft from take off to landing.

The air navigation system is a key part of New Zealand's transport infrastructure. The system contributes to New Zealand's economic growth and prosperity, social connectivity, resilience, and our role as a participant in regional and global fora. As a remote island nation, we rely almost exclusively on air transport to connect our people to the world.

We have international obligations and opportunities. We are a member state of the International Civil Aviation Organization. New Zealand is responsible for the world's largest search and rescue region which stretches to the Antarctic and provides aviation safety and security support to our Pacific neighbours. This country is also home to innovators in aviation and space activities, with significant potential for growth. We export our aviation knowledge and expertise around the world.

Context for the review

The most recent national policy statement on aviation is the *National Airspace Policy of New Zealand*, published in 2012.

In the intervening decade the demands on and expectations of the air navigation system have continued to change, presenting challenges and opportunities, such as:

- new technologies: airframe materials, autonomous and remotely piloted aircraft, artificial intelligence, alternative fuels, and new propulsion systems
- drives for the decarbonisation of aviation
- demands for different design and use of airspace, including low altitude and urban airspace, and providing for aircraft transiting to and from space
- emergence new business models and alternative providers for some components of the air navigation system
- emerging threats and management of risks around cyber security and security of physical infrastructure
- movement to performance-based regulation and other regulatory responses to rapidly changing technology.

Stakeholders have raised questions about the current settings for the air navigation system, including:

- clarifying and addressing the expectations on the system from aviation participants, and a range of other sectors such as civil defence and emergency management, health, economic development, and defence
- the effectiveness of the user pays model for funding air navigation services
- identification of and funding for air navigation services provided as a public good
- the characteristics and performance of the market for the air navigation system components
- the role of the aviation system in regional development, connectivity, and resilience
- the cost of service provision
- planning to enable timely investment in new air navigation system technologies
- the impacts of COVID-19, including reliance on passenger volume as the primary funding source for air navigation service provision.

Method of work

The review will be conducted in accordance with these terms of reference, and in a way that demonstrates:

- transparency
- independence and impartiality
- timely and open engagement
- consideration of the full range of stakeholders' views
- a systems-based approach
- timely and open engagement
- partnership with iwi and Māori in good faith and in accordance with the principles of Te Tiriti o Waitangi (CO(19)5, Te Tiriti o Waitangi / Treaty of Waitangi guidance
- commitment to an enduring approach to continuous improvement of the air navigation system, taking a multi-generational view.

The review methodology and the findings and recommendations from both stages will be subject to review by international experts in air navigation system policy, design, regulation, funding, and delivery.

Assumptions

The review includes the following working assumptions:

- Safety is the primary objective.
- The current system is safe.
- The air navigation system is an essential part of New Zealand's national infrastructure.
- A safe, efficient, sustainable, innovative, and responsive air navigation system helps New Zealand flourish.
- New Zealand meets its international obligations.
- The system is resource limited and there will be competing demands and tensions.

Scope

Description of the air navigation system and the scope of the review

Appendix 1 illustrates the air navigation system components, the providers of the components, and the connections to the wider economy and society. The diagram also references the source of the rules and guidance that determine how the system should operate.

Air navigation system components and characteristics

The review will consider the air navigation system components: those elements that are essential for the aviation system to operate and to deliver on user and national expectations. The scope will include consideration of how the settings influence the provision and maintenance of the system components.

In the context of the review, characteristics refers to how the system should operate, for example it should be safe, efficient, secure, integrative, future-focussed, resilient, and responsive to emerging opportunities and threats

Air navigation system providers, users, and authorising environment

The review will consider the role of air navigation system provider and user needs, including consideration of how the settings facilitate or act as barriers to achieving the objectives for the system.

Dependents and beneficiaries of the air navigation system

Several sectors and agencies depend on and/or benefit from the provision of the air navigation system, though are not providers or direct users of the air navigation system components.

Matters for consideration

The review may consider the following:

- policy settings that influence the air navigation system

- roles, functions, obligations and duties of the agencies and organisations involved in the provision use, and monitoring of the components of the air navigation system
- the relationships between those roles, functions, and duties
- the monitoring and evaluation of the performance of those roles and functions
- revenue, funding, and pricing mechanisms in the system
- the impact that the air navigation system (and any recommended changes to the applicable settings) has on the wider ambitions for New Zealand society, economy, environment, and our global profile and participation
- the system and its objectives and outcomes in the context of Te Tiriti o Waitangi, and a te ao Māori view
- the influence of the system on regional connectivity
- the operation of the air navigation system in the New Zealand Flight Information Region and the Oceanic Flight Information Region[1].

The review will give due consideration to:

- international models of policy and regulatory, institutional, and funding for air navigation system planning, delivery, and assessment of system performance
- other work relevant to this review, including but not limited to the Civil Aviation Bill, the review of the Outer Space and High Altitude Activities Act 2017, the Aerospace Strategy, Airways pricing round and Civil Aviation Authority funding review
- the impact of COVID-19 on the aviation sector.

Matters out of scope

The following are generally out of scope of the review:

- technical and operational matters, for example technical standards for air navigation system components; operational procedures and rules; methodology for the designation and use of airspace; or application of operational policies in particular instances or locations[2]
- detailed examination of specific commercial agreements between parties, though the review may consider the influence the system settings have on how commercial agreements are generally developed and applied, and the results of those methods
- COVID-19 response and recovery support measures.

The review will not make recommendations that:

- directly create obligations on sectors that depend on or benefit from the air navigation system (see Appendix 1)

[1] The New Zealand Flight Information Region is our domestic airspace. The Oceanic Flight Information Region is airspace over the high seas that New Zealand manages under an International Civil Aviation Organization Regional Air Navigation Agreement.

2 The review may use case studies but will focus its recommendations on system-wide matters.

- relate directly to operational, tactical, or procedural matters regarding the operation of the air navigation system components, or use of the system by aviation participants
- refer to amending or creating specific Civil Aviation Rules, notices, or guidance, though it may consider the regulatory system settings with respect to the agreed system objectives.

The review will, however, consider how its recommendations would impact on matters and sectors outside its scope.

Process and outputs

The review will focus on the policy and regulatory, institutional, and funding settings for the air navigation system and conduct its work in two phases.

Phase 1

In its first phase the review will:

- identify the base principles and objectives for the air navigation system
- identify the components and characteristics of an optimally performing air navigation system for New Zealand, considering:
  - national objectives
  - providers and users of the air navigation system
  - those sectors dependent or and/or benefiting from the operation of the system
  - international standards, guidance, and obligations.

Phase 1 output:
Recommendations to the Minister of Transport on establishing an agreed set of principles, characteristics and desired outcomes for the air navigation system now and 30 to 50 years into the future.

Phase 2

The second phase of work will focus on assessing the current system, including all parties and how they operate, against the principles and outcomes identified in Phase 1.

Phase 2 output:
Recommendations to the Minister on options to strengthen the air navigation system's ability to meet the agreed principles and objectives. The recommendations will focus on the policy and regulatory, institutional, and/or funding settings.

Recommendations will consider possible impacts on aviation safety.

Given its high level nature, the review may make recommendations for further detailed examination of specific aspects or issues.

Engagement

The [Panel] [Ministry] will report to the Minister at the end of each phase, and on a case-by-case basis by agreement. The Minister of Transport may consult with colleagues responsible for portfolios that are involved in and/or potentially affected by the review.

The review will engage with other stakeholders as appropriate. The Ministry will provide a web page with information about the review, and an email address for stakeholders' use.

The review will provide regular updates to stakeholders and their constituents through the reference groups and direct communications.

Structure

[The review will be conducted by a Ministerially appointed independent advisory panel.

Independent advisory panel membership

[Name] – Chair

[Name]

[Name]

Term of appointment

[to be confirmed]

Secretariat

Secretariat services will be hosted by the Ministry of Transport. The Secretariat will provide research, analytical, project coordination, communications, and technical subject matter expert input as required.]

OR

[The review will be conducted by the Ministry of Transport.]

Stakeholder engagement

The review will establish two reference groups:

- an interagency group comprising agencies with an interest in the air navigation system.
- industry and sector stakeholders.

The review be guided by an engagement plan to ensure all relevant stakeholders are involved and can present their views.

Timeframe

The review will start in [March 2022].

Phase 1 will be completed by [30 July 2022].

Phase 2 will be completed by [16 December 2022].

Timeframes for the implementation of recommendations from the review will form part of the advice to the Minister of Transport at the end of Phase 2.

Appendix one: air navigation system – scoping map

This verison represents feedack to date. It will be further refined as part of the review with stakeholders.

The review will not generally make recommendations on dependents and beneficiaries of the system; however, will consider the impacts of its recommendations on these actors.

This diagram shows the system components.

The characteristics of the system (e.g., safe, secure, viable, efficient) will be identified as part of phase 1 of the review and are not shown here.

ANNEX 2: STAKEHOLDER ENGAGEMENT FOR SCOPING AND REVIW OF THE DRAFT TERMS OF REFERENCE

Involved in both scoping and review

- Civil Aviation Authority
- Treasury
- Airways
- Metservice
- Ministry of Business, Innovation and Employment – Innovative Partnerships and the New Zealand Space Agency
- New Zealand Defence Force
- Department of Prime Minister and Cabinet: National Security Group; National Emergency Management Agency
- Land Information New Zealand
- Air New Zealand
- Aviation New Zealand
- Aviation Federation
- New Zealand Airlines Pilots Association
- New Zealand Airports Association
- Individual airports:
    - Auckland
    - Wellington
    - Christchurch
    - Queenstown

Airports involved in scoping and will be represented by the Airports Association for the review of the draft terms of reference

- Hawkes Bay
- Westport
- Whakatāne
- Whangārei
- Whanganui
- Marlborough
- Dunedin
- Invercargill

Document 15

10 December 2021 OC210943

Hon Michael Wood
Minister of Transport

Hon Grant Robertson
Minister of Finance

PROGRAMME ASSESSMENT CRITERIA FOR WAKA KŌTAHI

Purpose

Seeking your approval of criteria proposed by Waka Kōtahi to adopt a programme-level assessment of combinations of projects, where appropriate, to inform National Land Transport Fund (NLTF) funding decisions. However, a separate assessment for each individual project within a programme remains the default requirement.

Key points

- The Government Policy Statement on Land Transport (GPS) 2018 requested Waka Kōtahi to develop criteria for deciding when programme-level assessments should take place, where this is essential to deliver on the GPS strategy priorities of safety or access.

- Cabinet Minute CAB-18-MIN-0293.02 instructed the Ministers of Transport and Finance to assess and approve the criteria proposed by Waka Kōtahi for adopting a programme-level assessment.

- The main risk of adopting a programme-level assessment is that it might hide the fact that certain projects are included whose benefits do not exceed their costs, or that these projects do not meaningfully contribute to or complement the rest of the programme.

- Officials from Te Manatū Waka Ministry of Transport and the Treasury are satisfied that the criteria proposed by Waka Kōtahi will avoid any risks of inappropriately adopting a programme-level assessment approach.

Recommendations

We recommend you:

1 **Note** that Cabinet Minute CAB-18-MIN-0293.02 authorised the Minister of Finance and Minister of Transport to approve criteria by which Waka Kōtahi would consider whether it is appropriate to utilise a programme-based economic assessment framework. Yes / No

2 **Note** that Waka Kōtahi has developed criteria for having the flexibility to undertake programme-level assessments, to help inform decisions on whether to invest. Officials of Te Manatū Waka and the Treasury are comfortable with these criteria. Yes / No

3 **Approve** the following criteria for Waka Kōtahi to adopt programme-level assessment where appropriate, rather than the default of project assessments: Yes / No

- There is a well-defined grouping of projects or activities which would best contribute to outcomes if delivered as a programme; and
- The programme is supported by a business case, which establishes that the benefits of the programme exceed the costs; and
- Programme funding is approved for standard activities only[1] (any complex or novel activities require their own detailed business case); and.
- Mechanisms are in place to manage changes in cost, scope, additions and removal of activities.

Hon Michael Wood
Minister of Transport
..... / ..... / .....

Hon Grant Robertson
Minister of Finance
..... / ...... / ......

Joanne Leung
Chief Economist and Manager, Domain Strategy, Economics and Evaluation
10 / 12 / 2021

[1] Activities for which there is a good understanding of the cost and benefits and their contribution to outcomes.

Minister's Office to complete:

☐ Approved ☐ Declined

☐ Seen by Minister ☐ Not seen by Minister

☐ Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Joanne Leung, Chief Economist and Manager: Domain Strategy, Economics and Evaluation	s 9(2)(a)	✓
Geoff Parr, Principal Economist: Domain Strategy, Economics and Evaluation	s 9(2)(a)	

PROGRAMME ASSESSMENT CRITERIA FOR WAKA KŌTAHI

Purpose

1 This briefing seeks your approval of the criteria developed by Waka Kōtahi for assessing and making decisions on combinations of activities or projects[2] that require funding approval under the NLTF.

2 To enable the decision, we also outline how programme-level assessment supports GPS 2021 and decision-making, and we explain the assessment criteria, how they apply, and the funding pathways.

Context

3 Waka Kōtahi can approve NLTF funding for projects or combinations of projects. Assessing and making decisions at a programme level means that combinations of projects are assessed together for funding purposes as part of an integrated proposal for delivering targeted outcomes.

4 GPS 2018 requested Waka Kōtahi to develop criteria for deciding when programme level assessments should take place:

"*It is expected that evaluations will normally occur at the project level, however there is flexibility for programme level evaluations to take place where this is essential to deliver on the GPS strategic priorities of safety or access. The NZ Transport Agency will develop criteria for deciding when programme level evaluations should take place, and will transparently report when and why programme level evaluations have taken place*."

5 The approach to funding programmes reflects an increased focus on the need to achieve value for money and that programmes (combinations of projects) can potentially support better delivery, and hence value for money, by providing an integrated solution that manages risk at the appropriate level and supports efficiency in procurement.

How does a programme approach support GPS 2021 and Decision-Making?

6 Waka Kōtahi currently approves funding for certain ongoing programmes, such as the road policing programme and maintenance programmes, which are supported by a business case or activity management plan.

7 To support the achievement of outcomes through a programme, Waka Kōtahi has developed a programme-level assessment approach and a set of criteria to support transparency in process, fairness to all approved organisations and to improve efficiency and effectiveness in delivering outcomes. This approach works with the business case process, but is designed to:

- Support assessment of cumulative investments

[2] For the purposes of this Briefing, 'activities' are the same as 'projects'.

- Reduce administrative and transaction costs (time and costs of developing business cases) for funding approval of a collection of projects
- Increase funding certainty to support better planning, programming and delivery of projects
- Provide better procurement opportunities in the delivery of programmes.

8 The ability to undertake a programme-level assessment will help the transport sector target outcomes through integrated solutions and combinations of projects to tackle significant challenges. This will allow the public and partner organisations to have visibility on the outcomes being addressed and how the responses to the challenge will be delivered.

9 In addition to supporting the GPS 2021 strategic priorities of Safety, the programme-level assessment also supports Climate Change interventions, Improving Freight Connections and Better Travel options, and facilitates government commitments in relation to the Auckland Transport Alignment Project (ATAP), Let's Get Wellington Moving, and Road to Zero.

10 The criteria, approach and funding pathways for programmes are set out below.

Eligibility criteria for adopting a programme-level assessment

11 To ensure consistency in application, the following criteria have been developed and proposed by Waka Kōtahi, for funding a programme:

- There is a well-defined grouping of projects or activities, which would best contribute to outcomes if delivered as a programme; and
- The programme is supported by a business case, which establishes that the benefits of the programme exceed the costs; and
- Programme funding is approved for standard activities only[3] (any complex or novel activities require their own detailed business case); and
- Mechanisms are in place to manage changes in cost, scope, additions and removal of activities.

How does programme-level assessment apply?

12 Assessment is of the programme as a whole, rather than individual projects or activities.

13 To ensure each programme selects elements that deliver on the targeted outcomes, Waka Kōtahi developed the following conditions to deal with projects with benefit/cost ratios of less than one (BCR<1):

- any project with BCR<1 with low alignment to the GPS priorities targeted by the programme must be excluded from the programme

[3] Activities for which there is a good understanding of the cost and benefits and their contribution to outcomes.

- a project with BCR<1 may be included[4] if it:
    - has high or medium alignment to GPS priorities; and
    - is required for the integrated delivery of the programme; and
    - does not have a material impact on the overall value for money of the programme.

Funding pathways for an approved programme of activities

14 Waka Kōtahi has developed two pathways for funding an approved programme of activities.

<u>Single business case</u>

15 This pathway is suited to a programme where there is a good understanding of the costs and benefits of the component activities and contribution to outcomes. An overall assessment of the programme via a single business case is sufficient for a decision to approve the entire programme.

16 A programme could span several years, but funding approval would be limited to the three-year period of a National Land Transport Programme (NLTP).

17 The programme would consist of "standard" activities that are consistent with the outcomes to be achieved by the programme. Standard activities are activities that are not complex and for which there is a good understanding of the cost and benefits and their contribution to outcomes.

18 The business case to support funding for the programme would need to define what activities are included in the programme, how changes to scope and costs would be managed, the costs and benefits of the programme, its contribution to outcomes, the procurement approach and a monitoring plan.

19 For example, a programme of standard speed management interventions can be funded under this pathway. In this case, we have a good understanding of what speed management involves, the contribution to road safety outcomes, what the benefits and costs are, and that this intervention could be applied consistently across New Zealand.

<u>Multiple business cases</u>

20 This pathway requires utilising the existing programme business case approach to consider strategic approaches for addressing complex problems. Detailed business cases would need to be developed for activities or groups of activities within the scope of the programme business case.

21 The Auckland Supporting Growth Programme is an example of a programme suited to this pathway.

[4] Examples, in the context of the Road to Zero programme, are intersection solutions which commonly have a BCR<1 in isolation but are integral to the programme delivering safe outcomes.

Investment planning involving programmes

22 A programme is prioritised in the NLTP as a whole (rather than separately for the individual projects within it). However, the level of funding approved is limited to a maximum of three years or the remainder of the relevant NLTP period so as not to unduly pre-empt a subsequent GPS.

23 Waka Kōtahi may indicate expected expenditure on a programme in future years. This does not provide funding approval but is intended to provide transparent forecasting of NLTF cashflows to enable greater alignment of longer-term programmes and NTLF funding availability.

24 Publishing investment funding targets will be appropriate where there is strong expectation that an amount of funding is likely to be provided. This is particularly the case where, through GPS 2021, Government has indicated long-term (10 years) funding targets, e.g. the Road to Zero and ATAP.

Risk analysis

25 The main risk of adopting a programme-level assessment is that it might hide the fact that certain activities are included whose benefits do not exceed their costs, or that these activities do not meaningfully contribute to or complement the rest of the programme.

26 Officials at Te Manatū Waka and the Treasury are satisfied that the requirements to check for strategic alignment and other factors for projects with a BCR<1 as outlined in paragraph 13 will help to alleviate this risk.

Consultation and Monitoring

27 Waka Kōtahi worked with officials from Te Manatū Waka and the Treasury to develop the programme approach to advance investment decision making. The criteria for adopting a programme-level assessment have been reviewed and endorsed by officials of Te Manatū Waka and the Treasury. Waka Kōtahi will monitor the implementation and use of any programme-level assessment as well as international research to support further development or improvements over time.

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

10 December 2021 OC210942

Hon Michael Wood
Minister of Transport

Action required by:
Thursday, 16 December 2021

CLEAN CAR SECTOR LEADERSHIP GROUP'S FEES AND EXPENSES

Purpose

To seek your agreement on the fees and expenses for the Clean Car Sector Leadership Group (CCSLG).

Key points

- The CCSLG was established in August 2021 to advise you on measures to accelerate the uptake of clean vehicles.
- There is no specific funding for the CCSLG, so it will need to be resourced from Te Manatū Waka Ministry of Transport's (the Ministry or Te Manatū Waka) baseline. We need to set a cap on funding used for the CCSLG given the competing pressures on our resourcing.
- The Cabinet Manual requires that "all but the most minor public appointments" are considered by Cabinet, and that you should put before your colleagues the sorts of issues on which you would wish to be consulted. There is no formal guidance defining a 'minor appointment'. The expectation, however, is that Ministers themselves will assess whether to inform colleagues of their intention to appoint.
- Given the less technical nature of the work, we suggest that the CCSLG sit at the lower end of the fee scale and that because of this, there is less need for you to inform your Cabinet colleagues. However, you may wish to consider whether to notify your colleagues on the final group membership and purpose more formally through the Cabinet Appointments and Honours Committee (APH).

Recommendations

We recommend you:

1	**agree** that fees be paid for members of the Clean Car Sector Leadership Group (CCSLG) at the rate of $300 a day for members and $400 for the Chair	Yes / No
2	**agree** to limit funding for the CCSLG to $25,000 for the remainder of the 2021/22 financial year and $50,000 for subsequent years	Yes / No
3	**agree** that the existing agreement of confidentiality in the CCSLG Terms of Reference is sufficient to cover the scope of the group without the need for formalised Non-Disclosure Agreements	Yes / No
4	**confirm** whether you would like to inform your Cabinet colleagues of the final make up of the CCSLG and its Terms of Reference.	Yes / No

Ewan Delany
Manager, Environment, Emissions and Adaptation, The Ministry of Transport
10/ 12 / 21

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

Name	Telephone	First contact
Ewan Delany, Manager, Environment, Emissions and Adaptation	s 9(2)(a)	✓
Ella Sparrow, Adviser, Environment, Emissions and Adaptation	s 9(2)(a)	

CLEAN CAR SECTOR LEADERSHIP GROUP'S FEES AND EXPENSES

Overview of the Clean Car Sector Leadership Group

1 On 13 June 2021, as part of the Clean Car Discount announcement, you publicly stated your intentions to create a sector leadership group to help increase uptake of low emission vehicles. In our briefing of 23 June 2021 (OC210498 refers), we provided further advice on setting up a group, suggested members, and included a draft invitation for the inaugural meeting of the group.

2 The Clean Car Sector Leadership Group (CCSLG) was established in August 2021 to advise you on measures to accelerate the uptake of clean vehicles. The membership of the CCSLG was established by invitation, and the group has been convened through informal mechanisms.

3 The CCSLG have met on three occasions[1]. You attended the first two meetings when the Terms of Reference were being developed. At the meeting of 15 November 2021, the CCSLG agreed on its final Terms of Reference, including its mission statement and media principles. The Terms of Reference are in **Annex 1** and its mission statement is:

> *Identify opportunities and barriers to the uptake and accessibility of low-emission vehicles, to support an ambition to increase zero emissions vehicles to 30 percent of the light vehicle fleet by 2035.*

4 During the finalisation of the Terms of Reference, it was agreed that Te Manatū Waka officials would investigate the potential for non-disclosure agreements with members to support informed discussion based on current Ministry and Minister policy thinking. Mark Gilbert, the appointed Chair, also raised the topic of fees and expenses for CCSLG members.

5 As with its predecessor, the Electric Vehicle Programme Leadership Group, some members will require a fee, while others will attend as part of their work programme, and therefore are being paid by their organisations. The fees we are proposing for members are the same as for the previous Group.

6 The Cabinet Manual requires that "all but the most minor public appointments" are considered by Cabinet, and that you should put before your colleagues the sorts of issues on which you would wish to be consulted. There is no formal guidance defining a 'minor appointment'.

7 We sought advice from Te Kawa Mataaho Public Service Commission on the assessment of "most minor" on 6 December 2021. Te Kawa Mataaho confirmed that most such appointments are likely to be at the lower levels of Group 4 of the fees framework, however, is a matter of judgment for the Minister to make.

[1] Monday 23 August 2021, 11:45am, Zoom virtual meeting; Friday 17 September 2021, 10:30am, Zoom virtual meeting; Monday 15 November 2021, 4:00pm, Zoom virtual meeting.

8 You may wish to consider whether to notify your colleagues on the final group membership and purpose. Given the less technical nature of the work and existing experience, we suggest that the CCSLG sit at the lower end of the fee scale and that because of this, there is less need for you to inform your Cabinet colleagues.

Fees and expenses for CCSLG Members

9 While there is no obligation to pay fees, we recommend payment to recognise member's service and that they be reimbursed for actual and reasonable costs, where appropriate, eg travel to meetings.

10 On 4 October 2021, we sought advice from Te Kawa Mataaho Public Service Commission on the provision of fees for informal committees.

11 Te Kawa Mataaho confirmed that informal committees are covered by the fees framework agreed by Cabinet[2]. This framework provides a schedule of fees for the different categories of groups and committees that advise Ministers and government agencies. The fees differ broadly accordingly to the nature of a group's business, its role and skill requirements.

12 In our view, the CCSLG falls within the category of "members appointed to bodies in which the Crown has an interest" of the Cabinet fees framework. This category covers a vast array of bodies from advisory committees, to technical review committees and professional regulatory bodies.

Nature of the fees

13 The framework's fee levels are generally expressed as a daily rate. This rate reflects a working day of about eight hours. Work for longer than eight hours in one day must not attract an extra payment unless the combination of travel and work is frequently longer than eight hours.

14 The daily fee applies to all work, including that performed outside of CCSLG meetings (e.g. preparation, representing the Group at other forums, or administrative work) that may be required. All work that is required by the CCSLG member should be paid at the approved daily rate.

Calculation of the fee

15 As the Responsible Minister, you determine the daily fee rate based on the fees framework. The framework has a scoring matrix that considers the following criteria:

- skills, knowledge and experience required for members
- function, level and scope of authority
- complexity of issues
- public interest and profile.

[2] CO (19) 1: Fees Framework for members appointed to bodies in which the Crown has an interest | Department of the Prime Minister and Cabinet (DPMC)

16 We have applied this scoring matrix to the CCSLG, and the resultant score is 15. This score puts it near the lower end of level 3 (scores 15 — 19), which has a daily rate of $205 - $395 for group members and $280 - $575 for the Chair.

17 Based on our assessment, we recommend fees of $300 a day for members and $400 for the Chair. This is the middle of the level band, however you ultimately have discretion to adjust this fee. This fee for members is the same as that for the previous EV Leadership Group, with a similar role and membership. This assessment also reflects that the CCSLG is less technical in nature than, for example, the recently-disestablished Independent Expert Panel on Drug Driving which was remunerated at a higher level.

Funding for CCSLG will need to come from Ministry baseline

18 We have not received specific funding for the CCSLG, so it will be resourced from Te Manatū Waka's baseline. To manage this unanticipated expense, we need to limit the fees members can claim and expansion of the group's size and activities beyond its current level.

19 Te Manatū Waka may fund CCSLG to commission work by a third party, if there is remaining budget following fees and expenses.

20 We recommend a maximum budget of $25,000 for fees and expenditure relating to the CCSLG over the remainder of the 2021/22 financial year, and $50,000 for subsequent years.

Confidentiality of discussions

21 Non-Disclosure Agreements (NDAs) could allow information not in the public domain to be shared with CCSLG in confidence, allowing more effective and constructive conversation.

22 The CCSLG Terms of Reference include an agreement of confidentiality based on the Chatham House Rule. In addition, there is an expectation that any sensitive issues discussed are not taken outside of meetings. Based on the quality of the existing relationships between members and the previous experience of the EV Leadership group, we have no reason to believe that they will not abide by the existing convention of confidentiality. This approach should still enable the group to receive information not publicly available, at your discretion on a case by case basis. We suggest this is sufficient to cover the scope of the group without the need for formalised NDAs.

Next steps

23 If you agree to the proposed fees, we will offer CCSLG members the option to be paid for their work.

24 The CCSLG's existing Terms of Reference do not refer to a specific fee but we will amend them to do so.

ANNEX 1: CLEAN CAR SECTOR LEADERSHIP GROUP TERMS OF REFERENCE

The purpose of the Clean Car Sector Leadership Group (CCSLG) is to advise the Minister of Transport, Hon Michael Wood, on accelerating the uptake of clean vehicles (ultra low emission vehicles - ULEVs) in New Zealand in pursuit of the net zero emissions targets set out in the Climate Change Response Act.

Mission statement: Identify opportunities and barriers to the uptake and accessibility of low-emission vehicles, to support an ambition to increase zero emissions vehicles to 30 percent of the light vehicle fleet by 2035.

The CCSLG comprises: Drive Electric, Sustainable Business Council, Motor Industry Association, Vehicle Importers Association, Ākina Foundation, Consumer New Zealand, and Vector.

Officials from the Te Manatū Waka – the Ministry of Transport, Waka Kotahi New Zealand Transport Agency, the Energy Efficiency Conservation Authority and Parliamentary officials will also attend.

A work plan under this Terms of Reference will be commissioned after the initial meeting.

The scope

The CCSLG is able to discuss and provide advice to the Minister on the following range of relevant topics, including:

1. Climate Change, Transport, and Clean Car policy
    - The role of clean car policy in New Zealand's broader transition to a low emissions transport system
    - Emissions standards and incentives
    - Tax policy
    - Structure and timing of any restriction on the import of ICE vehicles
    - Scrappage or removal of high-emitting vehicles in the current fleet

2. Commercial factors
    - New and used clean car and light commercial supply
    - Private, commercial and government fleet transition
    - Emerging technologies
    - Mobility as a Service (Maas) & TaaS (Transport as a Service)
    - Training and skills required to support the transition
    - Electric vehicle battery recyclability

3. Infrastructure

3a. Charging infrastructure

- Charging infrastructure (both public and private) coverage
- In-home and in-street charging and equipment standards (quality, safety and cyber security)
- Role of existing electricity lines companies in charging infrastructure roll out, including regulation and investment
- Role of local government in charging infrastructure roll out, including regulation and investment
- Role of central government in charging infrastructure roll out, including regulation and investment

3b. Electricity and network infrastructure

- Impacts of the acceleration on e-mobility on electricity generation and networks
- Smart grids and smart charging

4. Access and equity
   - Opportunities for innovative solutions to ensure fair access to clean cars and transport to all New Zealanders
   - MaaS/TaaS and the role it can play to deliver access and equity, including car share, bike share, walking, public transport etc
   - Affordability of electric vehicles and energy

5. Consumer education
   - Encouraging the uptake of cleaner cars by consumers
   - Providing accurate information and creating an understanding of future market trends
   - Consumer insights and uptake
   - Consumer confidence and clear information on current incentives for clean vehicle uptake

Operating model

The CCSLG will operate in accordance with the following:

1. The role of the Minister:
   - Appoint a Chair of the CCSLG
   - Appoint members to the CCSLG
   - Direct the Group to provide advice on specific questions at his discretion
   - Attend the CCSLG meetings

2. The role of the Ministry of Transport
   - To provide secretarial support to the CCSLG, including an agenda before each meeting and minutes
   - To consider advice provided to the Minister by the CCSLG

3. The role of the CCSLG
   - Provision of independent advice to the Minister
   - Attend meetings and contribute advice

4. Confidentiality
   - Chatham House Rule applies

5. Media and communications
   - Enquiries regarding the CCSLG, its activities and work programme are to be referred to either Minister Michael Wood's office or the CCSLG Chair, Mark Gilbert.

6. Meeting frequency
   - The group will meet on a bi-monthly basis.
   - Meetings will be a mix of online and in person.

7. Duration of the Group
   - The CCSLG will exist for the duration of this term of Government.

8. Fees and expenses
   - Ministry of Transport

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

15 December 2021 OC210803

Hon Michael Wood **Action required by:**

Minister of Transport Before the end of 2021

S112 CROWN ENTITIES ACT DIRECTION - COASTAL SHIPPING ACTIVITY CLASS

Purpose

To seek your agreement to provide Waka Kotahi with a direction which will allow them to manage the delivery of coastal shipping related activities as part of the new coastal shipping activity class.

Key points

- The Government Policy Statement on Land Transport 2021 (GPS 2021) and National Land Transport Programme included a new coastal shipping activity class. Waka Kotahi has not had to deliver on coastal shipping related activities since the short-lived GPS in 2009.

- We have worked through a number of options on how these activities could be delivered, and recommend you issue a direction under s112 of the Crown Entities Act adding an additional management of delivery function to Waka Kotahi.

- This direction will allow Waka Kotahi to manage the delivery of activities funded out of the Coastal Shipping activity class.

- Following your provision of direction under section 112 of the Crown Entities Act 2004, Waka Kotahi will communicate to the market the desired activity class outcomes, areas of potential investment and the investment decision-making processes and call for investment proposals in early 2022.

Recommendations

We recommend you:

1	**agree** to issue the New Zealand Transport Agency (Additional Delivery Management Function) Direction 2021 to Waka Kotahi New Zealand Transport Agency	Yes / No
2	**sign** the proposed New Zealand Transport Agency (Additional Delivery Management Function) Direction 2021	Yes / No
3	**sign** the proposed accompanying letter for Sir Brian Roche	Yes / No
4	**authorise** the Ministry to arrange for the New Zealand Transport Agency (Additional Delivery Management Function) Direction 2021 to be published in the *Gazette* and for a copy to be presented to the House of Representatives.	Yes / No

Harriet Shelton
Manager – Supply Chain
15 / 12 / 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

Contacts

Name	Telephone	First contact
Harriet Shelton, Manage, Supply Chain	s 9(2)(a)	
Callum Gill, Senior Adviser, Supply Chain	s 9(2)(a)	✓
Steph Gregor, Solicitor	s 9(2)(a)	

Purpose

1 This paper seeks your agreement to issue the New Zealand Transport Agency (Additional Delivery Management Function) Direction 2021 under s112 of the Crown Entities Act in order for Waka Kotahi to deliver on coastal shipping related activities.

Background

2 The GPS 2021 includes a new coastal shipping activity class, which has an allocated funding range of $30-$45 million over three years. Waka Kotahi have however advised that they are targeting $30 million over three years given the pressures across the National Land Transport Fund (NLTF).

3 Coastal shipping as a mode has not been included in the NLTF since 2009, where it was short-lived as the Sea Change Strategy and domestic sea freight development activity class were scrapped by the incoming Government.

Need to note the four investment focus areas as agreed by the Waka Kotahi Board

4 Waka Kotahi commissioned independent consultants, Mark Oxley and Mick Payze, to provide advice on the coastal shipping sector in New Zealand and an approach for investing in the coastal shipping activity class. They recommended the activity class focus on reducing the sector's greenhouse gas emissions, enhance the sector's resilience, and improve the domestic sector's competitiveness.

5 To achieve these objectives, the Waka Kotahi Board approved four focus areas for investments through the coastal shipping activity class:

- New or enhanced domestic services – proposals could include new container services and new bulk services or increased frequencies and additional ships for existing container and bulk services;
- Reducing sector emissions – proposals could include testing emerging technologies for decarbonising domestic shipping;
- New or enhanced inter-modal links – proposals could include new inter-modal links or improvements to existing inter-modal links, such as track works or road access improvements; and
- New or enhanced maritime infrastructure – proposals could include shore power connections at ports, new (small) regional ports, and expanding of existing ports.

The coastal shipping activity class will not be delivered via the traditional RLTP process

6 Standard NLTP investment processes require that approved organisations (e.g. local authorities) submit proposals through Regional Land Transport Plans for investment from the NLTF. Approved organisations' activities tend to have a regional focus, while the coastal shipping sector's role in the freight system is inter-regional and national.

7 This means that approved organisations are unlikely, or unable, to submit proposals that will deliver the desired national and sector-wide activity class outcomes. Alternatively, an approach that encourages proposals from industry is more likely to deliver the desired activity class outcomes.

8 Section 10(3) of the LTMA specifies what the NLTF must be used for. The delivery of activities are generally managed by Police, KiwiRail, regional councils, territorial authorities and approved public organisations in accordance with section 10(3) of the LTMA.

9 Section 10(3)(b) also allows the fund to be used to pay for activities or combinations of activities (including those relating to State highways) approved under section 20 for which the Agency is responsible for delivering or managing delivery.

10 Waka Kotahi is empowered to undertake the functions provided for in section 95 of the LTMA. With the exception of managing the State highway system (which is expressly provided for in the Agency's functions), Waka Kotahi does not have the ability to manage delivery of approved activities.

We considered three options for managing delivery of coastal shipping

11 We worked with Waka Kotahi to evaluate what options might be available to deliver on the activity class. The options were:

- **Approved organisations:** This is the standard funding process for Waka Kotahi, where local authorities outline projects for funding via their Regional Land Transport Plans. Approved organisations would be responsible for procuring and managing delivery of these activities.
- **Ministry of Transport:** Coastal shipping activities could be delivered by the Ministry of Transport, who would be responsible for procuring and managing delivery of the activities. This would require the Ministry of Transport to be appointed as an approved organisation by the Minister.
- **Waka Kotahi:** Waka Kotahi could be responsible for procuring and managing delivery of the activities directly, as it is for State highways. This option requires the Minister to make a direction to Waka Kotahi in accordance with s112 of the Crown Entities Act 2004 to carry out an additional function.

12 We considered that the first two options were not the most efficient way to manage funds in the activity class. As noted earlier, it is difficult for approved organisations to outline specific coastal shipping projects and regional benefits when coastal shipping is not confined within one region.

13 The Ministry of Transport is also not set up to consider the potential high volume of applications. The Ministry will still be represented in the assessment panels.

14 We consider that Waka Kotahi is best placed to manage delivery of coastal shipping, given their existing role in delivering on the NLTF. Including coastal shipping in Waka Kotahi's investment mandate allows them to make investments in shipping while considering investments they are making throughout the transport system and for rail and road. This will also contribute to Waka Kotahi achieving its strategic direction of Improving Freight Connections.

We propose that you issue a direction to Waka Kotahi

15 Section 95(t) of the LTMA allows the Minister to direct functions relating to land transport in accordance with section 112 of the Crown Entities Act 2004. Land transport is defined in section 5(1) the LTMA as including coastal shipping.

16 Accordingly, a Ministerial direction under section 112 of the Crown Entities Act would give Waka Kotahi responsibility for managing the delivery of coastal shipping, which would allow Waka Kotahi to manage the allocated NLTF funding for coastal shipping without having to distribute it via the ill-suited RLTP process.

Directions cannot relate to statutorily independent functions

17 Waka Kotahi has a statutorily independent function to approve activities under section 20 of the Land Transport Management Act 2003 (LTMA). Both section 95(3) of the Land Transport Management Act and section 113 of the Crown Entities Act say that when performing a statutorily independent function the Agency must act independently and the Minister may not give directions to the Agency in relation to performing that function.

18 Waka Kotahi being involved with managing coastal shipping is predicated on Waka Kotahi exercising their section 20 function to fund coastal shipping activities in the first place. Waka Kotahi must use this power independently.

We propose that the direction will not specify an expiry date

19 Although section 115A of the LTMA allows a ministerial direction to specify an expiry date one has not been included in the proposed direction. This is because Waka Kotahi has advised that although Waka Kotahi will not be approving funding beyond 30 June 2024, it may be continuing to manage activities already approved (e.g. ongoing activities).

20 Section 115A of the LTMA requires a ministerial direction that doesn't specify an expiry date to be reviewed after at least 5 years have passed since the making of the direction. As part of the Ministry's stewardship function, we will provide advice on the review of this direction at that time.

21 In accordance with both sections 115 of the Crown Entities Act and the wording of the direction, you may also revoke the direction at any time.

Procedure for ministerial directions on government policy

22 Section 115 of the Crown Entities Act outlines the procedure for ministerial directions. Section 115(1) requires a Minister to consult with the Crown entity before giving the direction to the entity. Waka Kotahi have been heavily involved in this process and the direction is being proposed at their request. We consider that this meets the section's consultation requirements.

23 Once the direction has been signed and provided to Waka Kotahi, you must publish it in the *Gazette* and present a copy to the House of Representatives. Once we receive a signed copy of the direction, and with your authorisation, we can arrange both of these steps for you.

Next Steps

24 Following your provision of direction under section 112 of the Crown Entities Act 2004, Waka Kotahi will communicate to the market the desired activity class outcomes, areas of potential investment and the investment decision-making processes and call for investment proposals in early 2022.

Note the document referred to in the recommendations section of this briefing "New Zealand Transport Agency (Additional Delivery Management Function) Direction 2021" is withheld under section 18(d) of the Act as it is publicly available. (See document schedule for details.)

Sir Brian Roche
Board Chair
Waka Kotahi

Issuance of New Zealand Transport Agency (Additional Delivery Management Function) Direction 2021

Dear Brian

As you are aware, the National Land Transport Programme 2021-24 has allocated $30 million for a new coastal shipping activity class. I am notifying you that I have signed a Direction to enable the New Zealand Transport Agency (Waka Kotahi) to manage the delivery of any activities approved under section 20 of the Land Transport Management Act 2003 that are funded out of the coastal shipping activity class.

The decision by Waka Kotahi about whether to approve activities under section 20 of the Land Transport Management Act is a statutorily independent function. Consistent with section 113 of the Crown Entities Act 2004, this Direction does not relate to that section 20 function or in any way require Waka Kotahi to exercise that function in a particular way. This Direction allows Waka Kotahi to manage delivery of an activity only if it has already exercised its statutorily independent function of approving it.

As required by the Crown Entities Act 2004, the Direction will soon be tabled in the House of Representatives and published in the *New Zealand Gazette*.

Yours sincerely

Hon Michael Wood
Minister of Transport

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

17 December 2021 OC211007

Hon Michael Wood

Minister of Transport

Cc Hon Grant Robertson

Minister of Finance

ROLLING CONTACT FATIGUE SYSTEM ISSUES REVIEW – PHASE ONE FINAL REPORT

Purpose

Update you on the findings from Phase One of the review into the system issues that contributed to the issues with rolling contact fatigue (RCF) in the Auckland rail network.

Key points

- The key finding from the Phase One report (attached at Annex 1) was that a lack of system maturity allowed RCF to worsen and remain unresolved.
- The metro rail system has grown significantly in usage, in asset value and broader strategic importance. However, unclear roles and responsibilities, ineffective checks and balances, and insufficient capability, capacity and resources did not enable the system to evolve in line with growing demands.
- The review has not taken place in a static environment, and the system has been developing naturally (with the industry revising governance arrangements, for instance) whilst the review takes place, so several of the review findings are already being addressed.
- Work is underway on Phase Two of the review to develop recommendations to improve the system, including consultation with interested parties on options for improvement. The final Phase Two report should be ready in early 2022.
- Implementation of the recommended improvements will require collaboration between all parties involved in delivering metropolitan rail services.

Harriet Shelton **Manager, Supply Chain** .17.. / .12.. / .21...	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

Name	Telephone	First contact
Rory Sedgley, Principal Adviser, Supply Chain	s 9(2)(a)	✓
Harriet Shelton, Manager, Supply Chain	s 9(2)(a)	

ROLLING CONTACT FATIGUE SYSTEM ISSUES REVIEW – PHASE ONE FINAL REPORT

Background

1 In June 2021 the Ministry of Transport (the Ministry) commissioned Deloitte to lead an independent review of the system level issues that may have contributed to the presence of widespread rolling contact fatigue (RCF) on the Auckland metropolitan rail network.

2 The purpose of the independent system review is to build on the work done to identify the technical root causes and to identify issues in the system of rail funding and governance that may have contributed to the situation.

3 RCF is a form of wear and tear that naturally occurs in the track due to high contact stresses. If not identified and fixed, RCF can lead to breaks in the track and potential rolling stock derailment.

4 A joint Auckland Transport (AT)/KiwiRail working group in 2021 identified the three technical root causes of accelerated RCF as:

- Track: Sub-optimal track condition (aged track on historic formation), historic under investment, and insufficient rail grinding (to remove surface defects from the track)
- Vehicle: High yaw stiffness (to improve passenger comfort) increases propensity to create RCF on imperfect track
- Wheel rail interface: Insufficient emphasis on wheel rail profile that optimizes total cost of ownership (TCO).

5 Work to remediate RCF began in August 2020 with much of the urgent track work completed by Easter 2021. Continued maintenance and renewal of the network, through the Rail Network Growth Impact Management (RNGIM) project, is intended to improve the network standard in time for the opening of City Rail Link (CRL).

6 Through improvements to the track formation, with sleeper and rail replacement, the RNGIM project will address some of the contributing factors to RCF. KiwiRail and AT have established a Wheel-Rail Interface technical group, which will work out the best way to optimise the interaction between wheels and the track. A rail grinding programme is underway in Auckland to reduce the risk of RCF reoccurring on the replaced track and a grinding strategy will be developed as part of normal asset management.

Key findings

7 The key finding from the Phase One report (attached at Annex 1) was that a lack of system maturity allowed RCF to worsen and remain unresolved. The AMRN system has grown significantly in usage, in asset value and broader strategic importance. However, unclear roles and responsibilities under the Metropolitan Rail Operating Model (MROM), ineffective checks and balances, and insufficient capability, capacity and resources did not enable the system to evolve in line with growing demands. The system also lacked an enduring vision and plan under a disaggregated model.

8 More detail on the findings of the independent review can be found in the final report attached. The nine key system findings are set out below and some of these findings have been fully or partially addressed, but addressing others remains a work in progress.

Finding	Comment
1. The Auckland Metro Rail Network (AMRN) system is fragmented and lacking a unified set of objectives and supporting planning & coordination mechanism that brings all the parties together to agree and maintain those objectives.	This is a work in progress. The New Zealand Rail Plan and the Rail Network Investment Programme (RNIP) set out a national strategic vision and investment forecast for the rail network. AT and KiwiRail are now working together on a Programme Business Case for the 30-year development of the AMRN, which will culminate in the creation of an Auckland Rail Plan. It will be important that these requirements, once defined through the Programme Business Case, are updated on a regular basis. KiwiRail and AT are also updating the governance arrangements for the metro network.
2.There is no detailed, and integrated, above and below rail asset management plan for the AMRN system, optimising the total cost of ownership based on agreed levels of service.	KiwiRail has undertaken a detailed assessment of its current asset management maturity and briefed you on this on 3 November 2021. KiwiRail and AT aspire to an integrated above and below rail asset management plan but acknowledge this will take several years to develop. This work will also need to align with the Programme Business Case to ensure the plan delivers on the system requirements.
3.Maintenance standards did not keep pace with the requirements of a modern metro system, raising questions over how these standards were governed and assured.	Funding has been set aside for changes to KiwiRail's codes and standards to consider AMRN specific requirements, including operation of both passenger and freight services and new technology. It will be important that delivery of these updates is monitored as part of the future system governance arrangements (see point 6). The appropriateness of the codes and standards themselves may be a future regulatory focus for Waka Kotahi.
4.The safety regulator was passive and lacked the maturity and resourcing to clarify its role and work pro-actively.	Since 2018, the rail regulator has expanded significantly and adopted a revised Rail Safety Regulatory Operating Model. It is increasingly active as a regulator, but there remains room for improvement. This improvement would be supported by clearer definition of its proposed regulatory model and maturity journey.

5.The Auckland Network Access Agreement (ANAA) commercial model does not create incentives for the access provider to lift the quality of network access services to that required for a modern metro system.	AT and KiwiRail continue to prefer the ANAA model as the regime for governing access to the network for metro passenger services but have work underway through a joint "ANAA reset group" to update arrangements. This work is at a very early stage.
6.There was an absence of effective industry governance arrangements to raise and resolve system concerns.	This is a work in progress. KiwiRail and AT are updating the governance arrangements for the metro network. The parties have acknowledged the lack of a clear escalation mechanism and the need to address this. From a regulatory perspective, Waka Kotahi is reviewing the future scope of the National Rail Industry Advisory Forum.
7.The funding model focused on short term affordability and did not enable catch up renewals or investment in capability and capacity to deliver ongoing maintenance and renewals for the long term.	The funding model reforms following the Future of Rail review provide KiwiRail with a degree of certainty of funding from the NLTF, but there remains an affordability challenge around the AT contribution and the NLTF has tight funding constraints. The completion of the asset management plan is critical to defining the required level of investment.
8.There were competing objectives/priorities within the AMRN system, which led to insufficient access for maintenance.	Ensuring sufficient access for maintenance (and work to improve the standard of the network to a level required to enable higher frequency services post-CRL) is a key driver behind the revised governance arrangements currently being prepared by AT and KiwiRail.
9.The capacity and tools needed to support an effective cyclical maintenance programme were insufficient given usage growth and the age and condition of assets.	This is acknowledged by system participants and improvements to asset management are underway. KiwiRail briefed you on its Continuous Improvement Programme on 3 November 2021. The completion of the asset management plan is critical to defining the resources required. Improved system governance and an improved ANAA will also be important to ensuring transparency over improvements in KiwiRail's asset management practices.

Collaboration throughout the review and beyond

9 Throughout the RCF system issues review Deloitte have undertaken extensive engagement and consultation with the participants in the metro rail system. This has created a general consensus around the key findings of the review, notwithstanding questions over the balance of emphasis, with KiwiRail placing greater weight on a historic lack of funding and AT emphasising asset management as the underlying problem.

10 s 9(2)(g)(i) [redacted]

11 A high quality and constructive workshop held on 6 December 2021 with attendees from KiwiRail, AT, Transdev, Waka Kotahi (in its capacity as both the rail safety regulator, and investor) and Greater Wellington Regional Council tested different options for improving the system. Options to strengthen the system and address Phase One findings ranged from incremental to more fundamental structural reform, and early feedback has indicated more comfort with the former over the latter.

12 There are 6 principles guiding the development of recommendations for improvement:

1) Because of the degree of public benefits, governments (central and local) need to set the strategy for rail, including the funding envelope, to facilitate effective system planning and prioritisation.

2) Asset management processes and a whole of life perspective (integrating above and below rail) are crucial for optimising system outcomes.

3) Both funders and beneficiaries (i.e. access seekers) have a critical role in overseeing the development of the system and monitoring the realisation of public benefits.

4) Both the track and train should work to a consistent customer focused performance framework to deliver passenger and freight benefits.

5) Funding arrangements need to provide certainty to reflect the capital intensive and long-life nature of railways and to enable effective planning and delivery of works.

6) Because below rail infrastructure has natural monopoly characteristics there are risks in relying solely on contractual arrangements and collaboration to respond to changes in desired outcomes over time.

13 The review team will further refine recommendations and continue to engage with participants with a view to securing a high level of support. Given the disaggregated nature of MROM, most changes to the system require the participants (KiwiRail and AT) to initiate and deliver changes for themselves. There is very limited scope for Government to impose changes on the sector (other than through legislative reform).

14 KiwiRail and AT acknowledge that the current model for administering the metro network is inadequate for managing the period of intense disruption to improve the standard of the network before CRL opens, and for delivering the level of service that will be expected when CRL opens. Senior leaders from KiwiRail and AT have recently been working to refresh the governance arrangements for the Auckland metro network with the intention of delivering a unified customer-centric approach.

15 The Ministry considers that given the significant Crown investment being directed at the Auckland metro network, the governance arrangements would be strengthened by participation from Waka Kotahi (as an investor) and or the Ministry.

Next steps

16 Ministry officials and Waka Kotahi will continue to work collaboratively with KiwiRail and AT as the metro rail governance arrangements evolve.

17 Deloitte are working on Phase Two of the review and will finalise their recommendations for system improvements in a report to you in early 2022. Whilst we expect the report to propose changes to optimise the current system, we also anticipate further work will be required to review whether MROM remains the most appropriate model for the future.

ANNEX 1

Rolling Contact Fatigue system issues review: Phase One final report

Auckland Metro Rail System Issues: Phase 1

Ministry of Transport

Final Report

DECEMBER 2021

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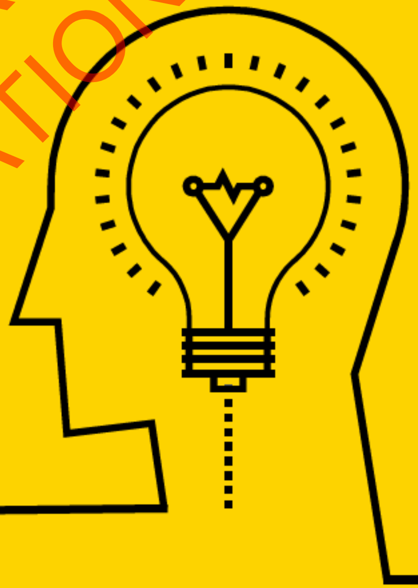
Contents

Executive summary



Auckland Metro Rail System Issues: Independent Review

The Auckland metro rail network (AMRN) is a critical asset for both passenger and freight traffic. The identification of severe rolling contact fatigue (RCF) on the AMRN in 2019 and 2020 caused significant disruption. The Ministry of Transport has engaged Deloitte to identify and articulate whether any system level issues may have contributed to the RCF issues experienced on the AMRN, and to make recommendations on future changes to the system.

Introduction

This review comprises two phases. Phase 1 focused on issues identification and Phase 2, which is well advanced at the time of writing, is focused on recommendations to strengthen the AMRN System. The purpose of the review is not to identify any wrongdoing or compliance issues from the parties involved.

This Phase 1 Report identifies the 'system level' issues that may have contributed to the RCF issues experienced on the AMRN. By system, we mean the organisations that work together to safely and efficiently deliver services on the AMRN. These organisations include KiwiRail (KR), Auckland Transport (AT), Transdev Auckland, Construcciones y Auxiliar de Ferrocarriles (CAF), Waka Kotahi (both its investment and safety regulation functions (WKI and WKS respectively)), the Crown (acting through the Ministry of Transport and the Treasury).

System level issues include those associated with system governance, incentives, funding, and capacity and capability.

Our approach to Phase 1 of the review has been to draw together themes and supporting evidence from interviews and workshops with system participants and key documents related to the system and its participants. We have also incorporated feedback and information provided to us in response to the draft Phase 1 report. A summary of substantive stakeholder feedback can be found on page 12.

Relationship to the Root Cause Review

The focus of this Review is not on the technical root causes of RCF, which have been explored through a separate working group. However, these technical root causes form important context for the review.

Since the fatal Hatfield crash in the UK in 2000 the risk of "managing" RCF rather than removing it has been well understood by network users and operators.

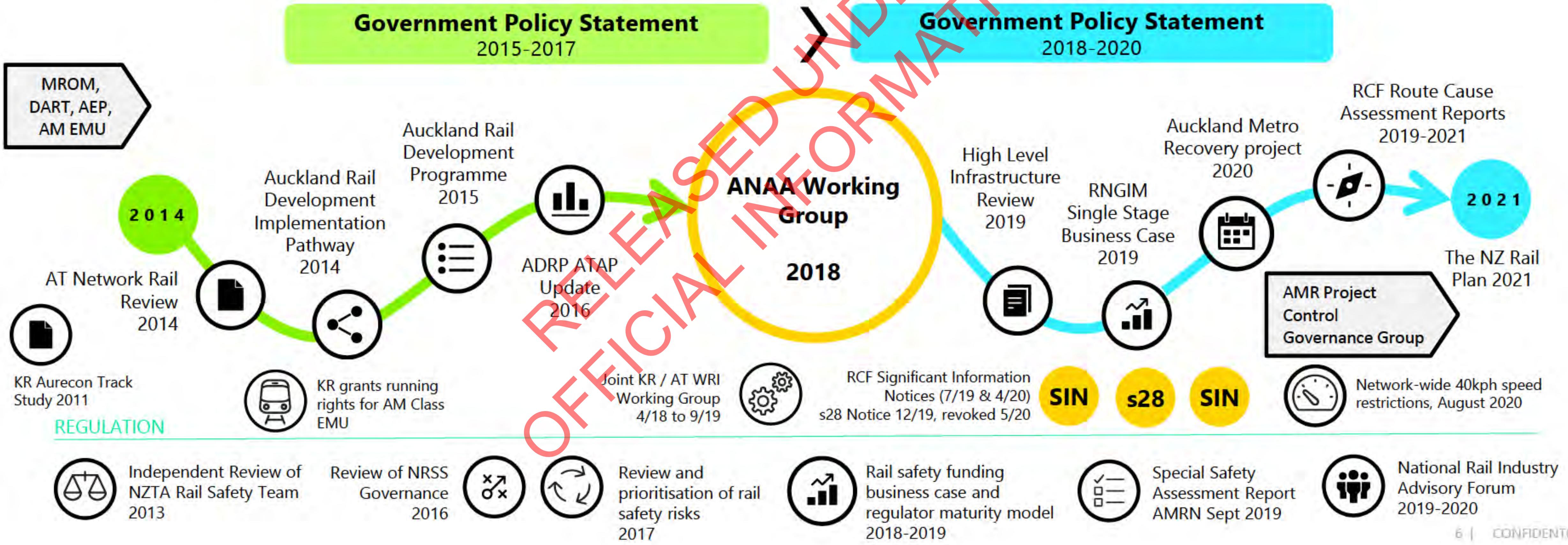
The Root Cause Review found that accelerated RCF in Auckland was due to a widespread set of localised causes which stem from a track asset that was not "fit for purpose" prior to the commencement of a more frequent, more demanding modern electric multiple unit (EMU) passenger operation on track condition and maintenance.

The Root Cause Review noted the closest single root cause was the failure to implement the recommendations of the 2014 Network Rail Consulting report during 2014-17. It found that there was under investment in the track infrastructure and a lack of rail grinding ahead of severe RCF being discovered. The new EMUs were also designed with high vehicle stiffness for passenger comfort. This may increase a vehicle's propensity to cause RCF on non-perfect track. Modelling for the Review found that the EMU wheel profile has a higher propensity to cause RCF when compared to the standard KR wheel profile, noting neither profile is likely to be optimal. The need to optimise the wheel rail interface (WRI) is acknowledged between the parties.

Timeline of events

The establishment of the ANAA Working Group in 2018 to prepare for the next Triennium coincided with newly available funding and, together with increased activity by the regulator, marked a turning point.

BEFORE	AFTER
The investment environment for rail was constrained, and the Crown was not formally approached to fund additional AMRN renewals	The ANAA Working Group was established and resulted in a successful funding request under the Transitional Rail Activity Class



Key events

The AMRN system, and wider New Zealand rail system, has undergone significant changes over the past two decades. The key events relevant to the AMRN are outlined on slides 20-25 and summarised below.

Pre 2014

- The Crown became increasingly involved in the rail system with the acquisition of the AMRN in 2002, and the formation of KR in 2008. This was accompanied by significant Crown investment to expand AMRN capacity for metro services, including electrification for the introduction of the AM EMU vehicles in 2014. However, 'in place' track and formation infrastructure did not receive significant investment.
- The Crown adopted the MROM model in 2009. Under this model, AT was tasked with planning and commissioning metro passenger services, and KR responsible for freight services and network infrastructure. AT and KR entered an 85-year access agreement.
- In 2010, the KiwiRail Turnaround Plan was implemented, which focused on ensuring KR financial sustainability and growing its freight business.
- Concerns with the performance of WKS, the rail safety regulator, were identified in 2013.

2014 - 2018

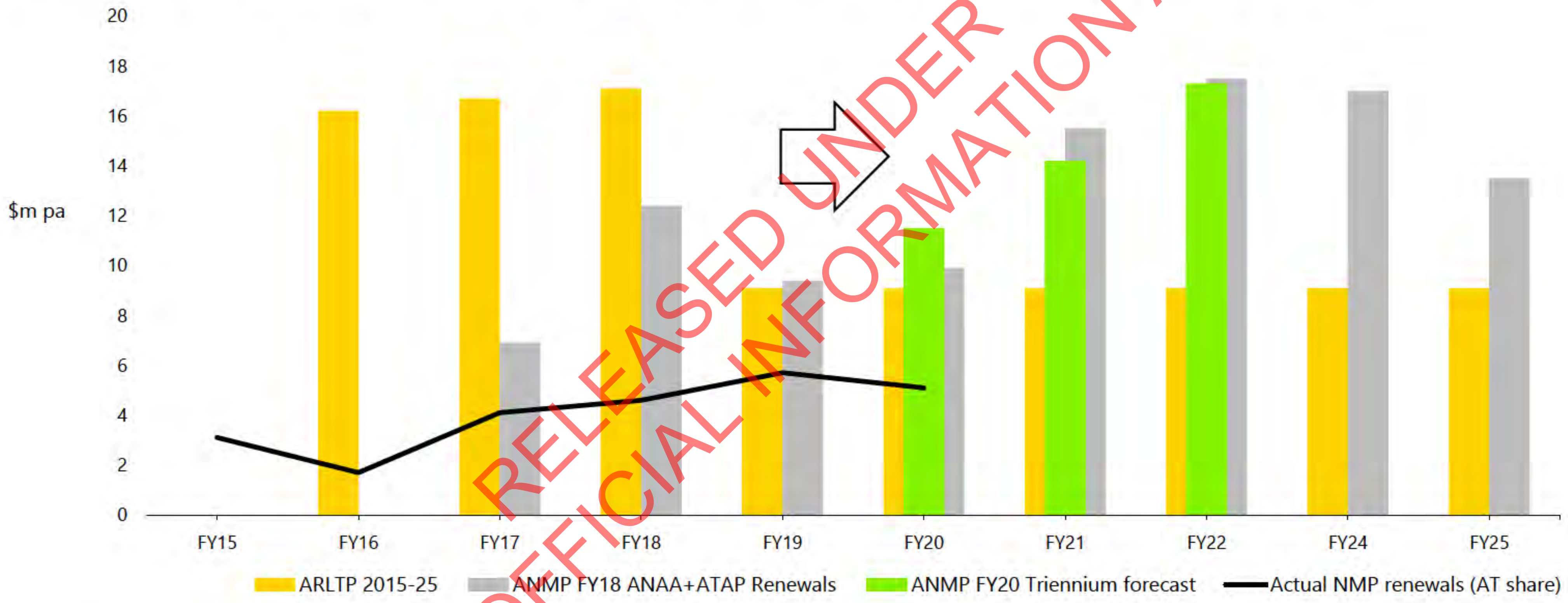
- Between 2014 and 2018, the parties increased their understanding of the infrastructure deficit facing the AMRN, with Network Rail Consulting undertaking an independent review into the AMRN. This review identified that the network required a ~$100m programme of catch-up renewals and new maintenance practices to ensure the AMRN was fit for purpose.
- In 2016, the Crown and Auckland Council agreed to fund City Rail Link.
- The ANAA parties formed working groups to address concerns over the WRI (2017-2019) and wider network performance issues (the ANAA working group, formed in 2018).
- At a national level, WKS began increasing the capability of its regulatory branch and developing a business case for further expanding its regulatory team.
- Changes to the GPS in 2018 introduced an increased focus on metro rail and public transport, with specific funding for metro rail upgrades.

Post 2018

- The ANAA working group commissioned an independent review of AMRN infrastructure and subsequently developed a business case (RNGIM) to fund catch up renewals and new maintenance approaches. WKI approved the full $330m RNGIM business case in 2020.
- In 2019, WKS carried out a special safety assessment into the AMRN, which identified significant deficiencies in the management of the network, including the presence of RCF.
- RCF emerged as a critical issue for the AMRN in 2020 as new testing revealed the extent of the issue, resulting in network wide TSRs. Urgent works were undertaken to enable TSRs to be removed in 2021.
- The Future of Rail review found that managed decline of rail infrastructure and short-term funding arrangements were key problems facing the national rail system. Changes to the rail funding and planning framework were implemented in 2021, while leaving the AMRN system largely unchanged.

Planned and actual AMRN renewals

In 2014, the Network Rail Study recommended $100 million in catch-up renewals to bring the network into a steady state position. This was reflected in the 2015 RLTP and the 2014/15 NMP, but were not funding until 2019/20. These catch-up renewals were subsequently included in the 2020 ANMP Triennium budget. Over the period 2015 to 2020, the share of actual renewals funded by Auckland Transport under the ANAA averaged $4 million per annual.



Sources:
1. Auckland Regional Land Transport Plan (RLTP) 2015-2025 (NB: We have assumed catch up renewals spending after FY18 would be spread equally over six years)
2. Auckland Network Management Plans FY15-FY20

Key findings

Our core finding is that a lack of system maturity allowed RCF to worsen and remain unresolved. The AMRN system has grown significantly in usage, in asset value and broader strategic importance. However, unclear roles and responsibilities under MROM, ineffective checks and balances, and insufficient capability, capacity and resource did not enable the system to evolve in line with growing demands. There was a lack of an enduring vision and plan required under a disaggregated model.

Characteristics of a well functioning system		Key system findings with respect to RCF
Unified objectives	A unified set of system objectives for planning and delivering the desired levels of service	1. The AMRN system is fragmented and lacking a unified set of objectives and supporting planning & coordination mechanism that brings all the parties together to agree and maintain those objectives. 2. There is no detailed, and integrated, above and below rail asset management plan for the AMRN system, optimising the total cost of ownership based on agreed levels of service.
Checks and balances	Appropriate checks and balances to ensure system participants are effectively carrying out their functions	3. Maintenance standards did not keep pace with the requirements of a modern metro system, raising questions over how these standards were governed and assured. 4. The safety regulator was passive and lacked the maturity and resourcing to clarify its role and work pro-actively. 5. The ANAA commercial model does not create incentives for the access provider to lift the quality of network access services to that required for a modern metro system. 6. There was an absence of effective industry governance arrangements to raise and resolve system concerns.
Enabling environment	An enabling environment that allows participants to achieve the desired service levels	7. The funding model focused on short term affordability and did not enable catch up renewals or investment in capability and capacity to deliver ongoing maintenance and renewals for the long term. 8. There were competing objectives/priorities within the AMRN system, which led to insufficient access for maintenance. 9. The capacity and tools needed to support an effective cyclical maintenance programme were insufficient given usage growth and the age and condition of assets.

Primary system issues

While a range of system issues have been identified, we have classified a subset as 'primary system issues' due their proximity to the RCF root cause. The majority of these can be classified as contributors to a lack planning and coordination in the AMRN system in relation to RCF.

AMRN governance and asset management planning and practices

The AMRN system was unable to develop a detailed asset management plan, including a plan that integrates a whole of life view of both above rail and below rail assets. The governance of the AMRN may have contributed to the inability to improve the underlying asset condition and asset management practices. The system is fragmented and there is no joined up view on the AMRN network objectives and required levels of service.

Independent engineering assessments in 2014 and 2019, and the RCF root cause working group in 2021, document a need to improve asset management and network access practices to ensure the AMRN could be renewed and maintained for EMU service. Despite the significant uplift in system use in the past decade, the AMRN system was also unable to implement necessary changes in maintenance practices, such as adoption of new equipment or required levels of access, until the RCF issue became widespread.

KR is currently working on developing a new asset management plan for its national network. While we understand KR and AT are collaborating on a programme business case for the development of the AMRN over the next 30 years. The Ministry of Transport also understands that KR and AT are collaborating on the development of a dedicated AMRN asset management plan. The RNGIM programme also provides funding for improvements in asset management practices. We do not have information on the extent to which any improvements have been implemented.

Anticipating and addressing impacts from system growth

The introduction of the EMUs coincided with increased system usage but there was no adjustment to the funding model and maintenance approach to account for whole of life impacts of these factors on the network.

In 2017, once the EMUs had been operating on the network for three years, we understand AT and KR entered discussions on managing wheel rail interface (WRI) issues. However, they were unable to reach agreement on a way forward. A key recommendation resulting from the RCF root cause working group in 2021 is for the parties to further engage on WRI optimisation and total cost of ownership.

Standards are a key part of the maintenance and safety management system. Maintenance standards for below rail infrastructure are governed by KR internally. In relation to maintenance standards, while these were reviewed in 2015, it does not appear these evolved in line with the growing demands on the AMRN. WSP's review in 2019 identified a need to change standards to ensure they were aligned with modern metro passenger requirements. The RNGIM programme incorporates a review of standards, but we do not have information on the status of that review.

Primary system issues

Not all of the system issues identified related to coordination and planning. Several issues relate to whether or not there were the right checks and balances on the AMRN system participants to address the root causes of RCF. Other issues are examples of constraints on the AMRN system participants.

Ineffective checks and balances

KR's codes and standards, as they relate to maintenance, also appear to be connected to the RCF root causes. Codes and standards related to track inspections and maintenance were the sole responsibility of KR. In 2014, Network Rail Consulting identified a need to modernise standards. Questions were raised during the 2019 Special Safety Assessment in relation to adherence to these standards, and the process by which these standards are changed. We have limited information on the extent to which KR has evolved its controls over these codes and standards, but understand this is an ongoing focus for WKS.

While WKS intervened in 2019, it appears the safety regulator was not close to the AMRN, including network condition and maintenance practices such as codes and standards, prior to then. The regulator itself was under-funded and acknowledged the need to be more active in its regulatory oversight of the system.

The governance of the AMRN is also likely to have contributed to an inability to resolve the RCF root causes. Waka Kotahi's 2019 SSA observed a lack of understanding of each party's needs, constraints and inability to compromise under ANAA. Outside of the ANAA we are not aware of a standing forum that existed during this time and involved both WKI and the Crown. We acknowledge AMRN participants have subsequently worked together to secure funding for AMRN renewals and to invest in improved asset management practices, but future governance arrangements are unclear.

Constraints and inhibitors

The AMRN system funding model was a key constraint. It appears there was no consensus on the need for catch up renewals, nor was there a funding avenue available at the time to enable catch up renewals of this scale to progress. While AT and KR prepared a development pathway for the AMRN, it appears important components of this plan, such as required catch up renewals, did not secure funding until RCF became a significant issue. Identified as necessary by NR in 2014 to ensure the network was fit for purpose, the cost of these renewals was estimated at ~$100m.

Ongoing maintenance and renewals were funded through the ANAA, which is a long term access agreement between AT and KR. We understand that the annual commercial negotiation process to set the ANAA budget often meant discussions were focussed on budget constraints, as opposed to what was required for the network. There was no transparency of these issues outside of the ANAA parties. This led to systematic underfunding of the network maintenance and renewal.

Affordability is likely to be an ongoing issue for the AMRN. AT and KR are currently working to determine the long term investment requirement for the AMRN through a programme business case, which is expected to identify the future operating and renewals budgets.

Summary of substantive stakeholder feedback

KiwiRail

KR stated that while this report's overarching conclusion was 'probably not an unreasonable starting point', they were concerned that the issues on slide 41 were presented as soundbites and questioned whether they met the threshold for system level issues, and whether they were still relevant or enduring issues to be resolved.

KR's feedback emphasised funding as a key system issue, noting that while there were many contributing factors to the RCF situation, the most significant was the lack of funding to enable an appropriate asset management planning and investment programme. Further, KR did not see the ANAA as an issue, as there was little point in changing performance targets without additional funding.

KR cited the Matangi procurement as an example of new rolling stock being introduced on a network in a similar condition to the AMRN, but not resulting in RCF. They noted a different approach to WRI as well as a series of investments to ensure the Wellington network was ready to accommodate the new rolling stock. KR also noted there was a much larger annual renewals programme agreed with GWRC for the Wellington network than compared with the programme agreed with AT for the AMRN.

KR's view is that the report would benefit from further context. In particular, prior to the Future of Rail review, KR was significantly underfunded and the rail system was in managed decline, reflecting the government's appetite for rail investment at that time.

AT

AT noted that the report was well informed and balanced, but sought greater emphasis on forward focus areas. AT sees the underlying reason for the existing situation is a lack of asset management planning, and a lack of maintenance and renewals in line with increased access and use by various parties. In their view, addressing how to uplift system capability and capacity to achieve improvements in asset management planning and forward maintenance and renewal delivery is key.

AT suggested that report would be enhanced by clarifying where accountabilities lie, and identifying if accountabilities are not clearly defined, rather than necessarily attributing failures of individual participants to the system as a whole.

AT were concerned that the report over-emphasises the role of the EMUs and WRI as causes of the RCF situation. AT stated that the RCF Working Group and supporting experts were conclusive that track, formation and associated asset management issues were contributing factors, but that studies were inconclusive in regard to vehicle and WRI as root causes. AT also noted the EMU specification was tendered by KR prior to the process being transferred to AT, with the units accepted by KR under the same formal process as the Matangi units in Wellington. AT also noted the potential role of growth in rail freight as an RCF contributor.

AT noted that they and KR have been working together successfully in recent years to secure additional investment.

OTHER

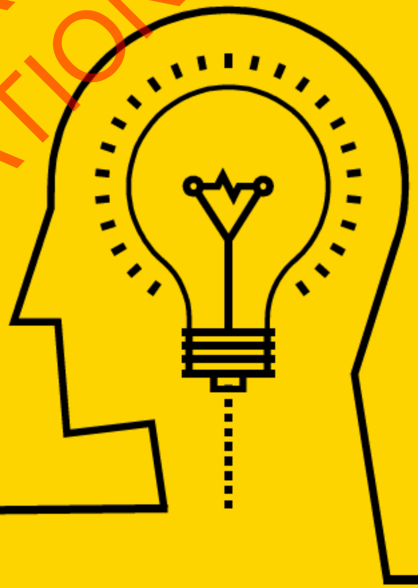
TDAK: Positive feedback on the report, noting it was comprehensive and reflected different views in a balanced way. Amongst other points of feedback, TDAK's view was that report did not sufficiently highlight the apparent lack of understanding of the state of the network by the asset maintainer. Further, TDAK saw the ANAA as more of a contributing factor rather than the primary driver of issues. They noted that proper inspection and maintenance regimes covered by KR's safety case are more directly connected to RCF.

WKI+WKS: Joint WK feedback was supportive of the report and its framework for capturing issues.

CAF: CAF's feedback primarily related to the technical Root Cause Report, which informed this report. CAF noted that it does not agree that EMU stiffness or the wheel profile were root causes of severe RCF on the AMRN. CAF also stated they were not aware of KR having concerns in 2014 over the potential below rail maintenance impact of the EMUs and that original EMU profile was agreed by all stakeholders during the design stage.

GWRC: Positive feedback on the report and emphasised need for strong asset management disciplines, and for asset management and codes and standards to be inclusive of metro passenger requirements.

Introduction



Auckland Metro Rail System Issues: Independent Review

The Auckland metro rail network (AMRN) is a critical asset for both passenger and freight traffic. The identification of severe rolling contact fatigue (RCF) on the AMRN in 2019 and 2020 caused significant disruption. The Ministry of Transport has engaged Deloitte to identify and articulate whether any system level issues may have contributed to the RCF issues experienced on the AMRN, and to make recommendations on future changes to the system.

This report focuses on identifying the system level issues that may have contributed to the RCF issues experienced on the AMRN. These issues include those associated with system governance, incentives, funding, and system maturity (including capacity and capability).

The focus of the Review is not on the technical root causes of RCF, which have been explored through a separate working group. However, these technical root causes form important context for the review.

Further, the purpose of the review is not to identify any wrongdoing or compliance issues from the parties involved.

Our approach to Phase 1 of the review has been to draw together themes and supporting evidence from interviews and workshops with system participants and key documents related to the system and its participants.

We consulted with AMRN system participants on the draft of this report and requested further information to resolve areas of uncertainty. This report incorporates additional information supplied by participants, noting that some areas of uncertainty remain where the requested information was not supplied to us.

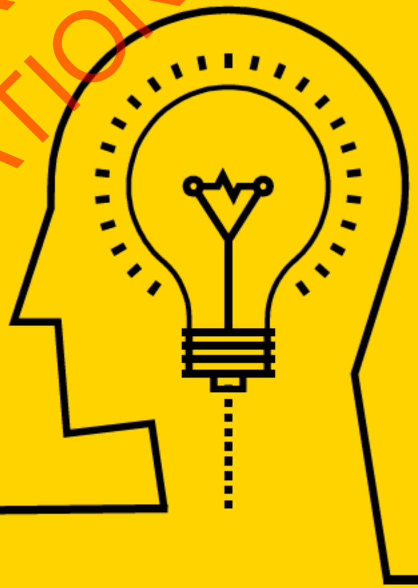
The nature of a systems level review is necessarily qualitative. There are areas of consensus and divergence amongst industry participants. Our role has been to distil industry perspectives and supporting evidence into key themes and findings. We draw on evidence from interviews, an industry workshop, and a review of a wide ranging set of documents we have been provided.

System participants we have interviewed include KiwiRail, Auckland Transport (AT), Greater Wellington Regional Council, Ministry of Transport, Transdev Auckland, Construcciones y Auxiliar de Ferrocarriles (CAF), Waka Kotahi (WKS and WKI – the WK Safer Rail and the Rail Investment teams respectively), and the Rail and Maritime Transport Union.

We are grateful for the time system participants have invested in this review to date, and the willingness of all participants to engage with this review.

Phase 2 will focus on developing and consulting on recommendations for change to resolve the issues identified through Phase 1. Phase 2 will involve further workshops with participants.

Context and timeline



It plays a key role in both the city's public transport system and the national freight network.

The rail network plays a key role in the movement of freight, especially to and from the Ports of Auckland and Port of Tauranga, and as an origin point for domestic cargo. The track through Auckland carries a third of all rail freight in New Zealand. An estimated six million tonnes moves on the Auckland network each year. On a typical weekday about 40 freight trains travel through the Auckland network.

Auckland's rail network is a key strategic transport asset.

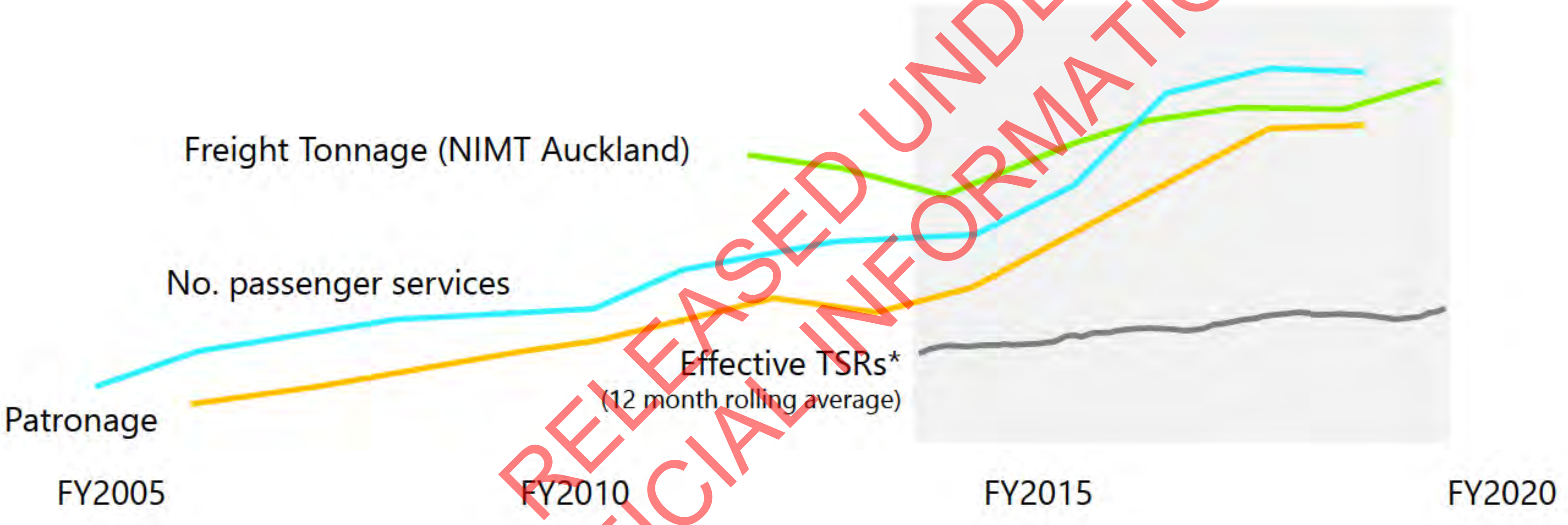
There were 22.5 million commuter trips in the year to December 2019, up from 10.2 million in FY13, and from 2.5 million in mid-2003 when Britomart opened. On a typical weekday more than 600 commuter services run on the Auckland network.

Ensuring the Auckland metropolitan rail network is resilient, reliable and CRL ready is a key priority in ATAP.

Growth on the AMRN

+13% pa over 12 years

Passenger and freight growth since DART / AEP has put considerable pressure on the AMRN performance, with the number of active temporary speed restrictions increasing steadily from late 2015 onward.

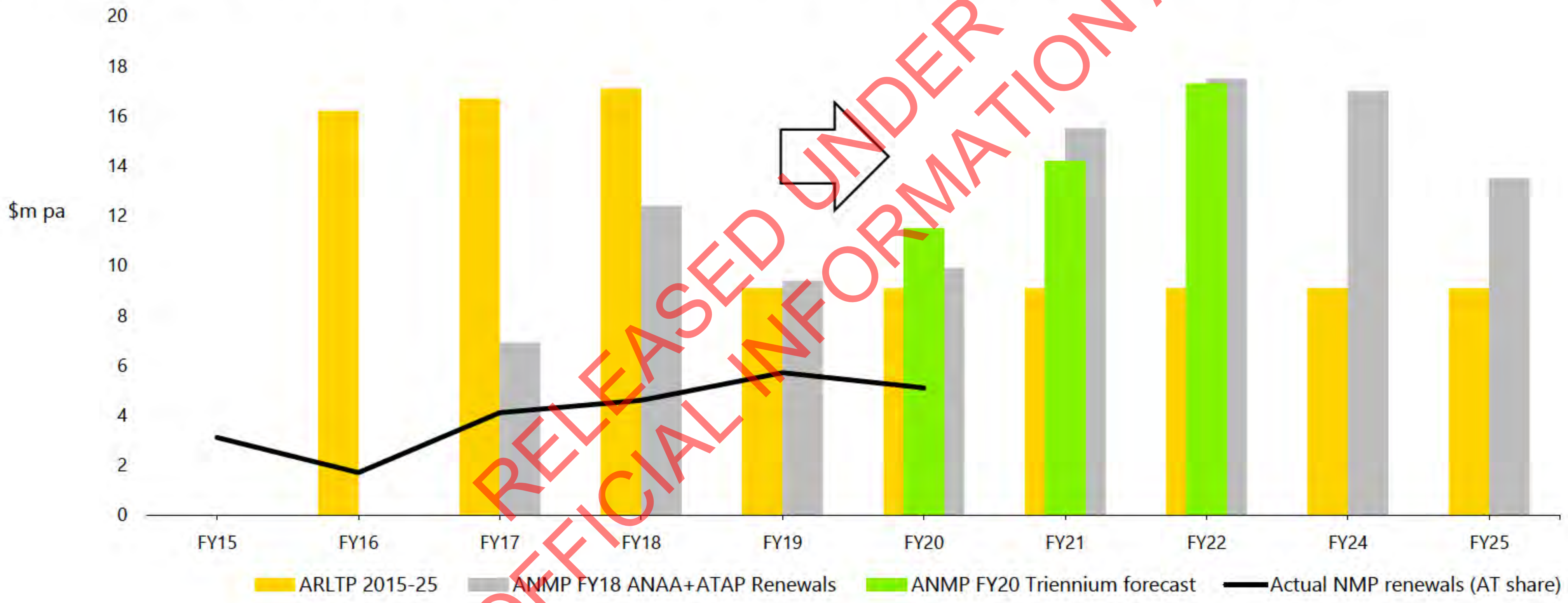


Source : Rail Network Growth Impact Management (RNIGM) SSBC, WSP | OPUS

*Temporary speed restrictions, usually put in place to mitigate the safety risks from an infrastructure fault.

Planned and actual AMRN renewals

In 2014, the Network Rail Study recommended $100 million in catch-up renewals to bring the network into a steady state position. This was reflected in the 2015 RLTP (but not funded) and referenced in the 2018 ANMP. These catch-up renewals were subsequently included in the 2020 ANMP Triennium budget. Over the period 2015 to 2020, the share of actual renewals funded by Auckland Transport under the ANAA averaged $4 million per annum.



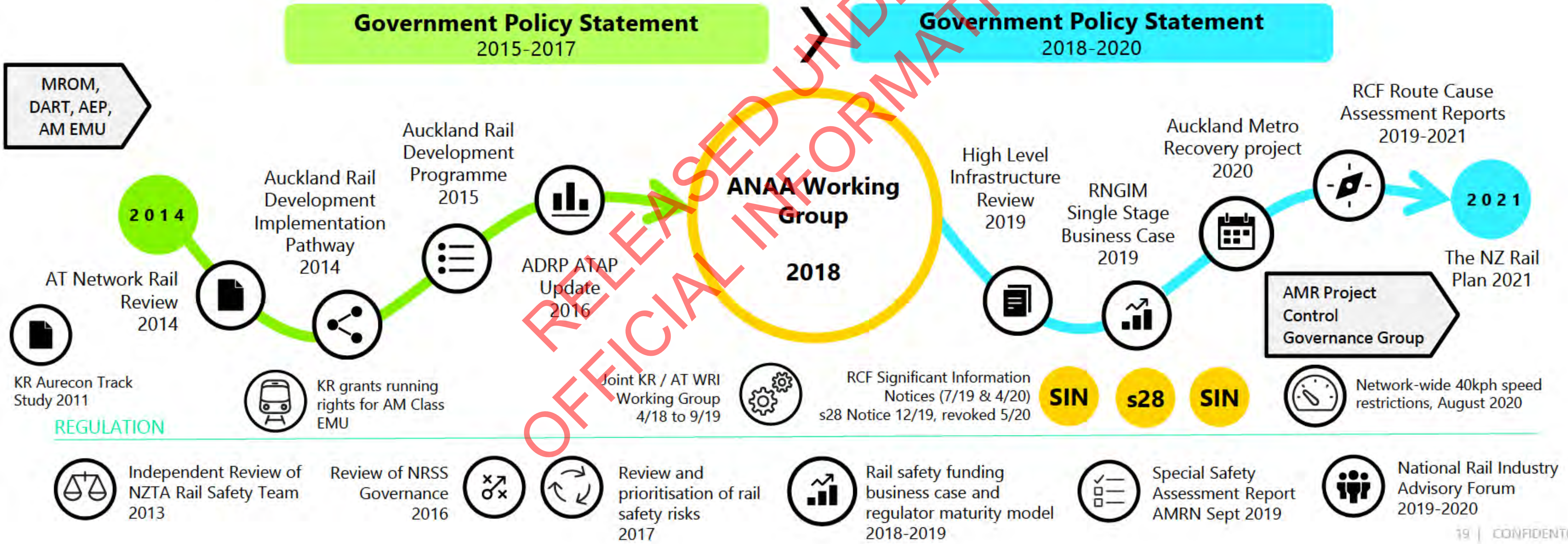
Sources:

1. Auckland Regional Land Transport Plan (RLTP) 2015-2025 (NB: We have assumed catch up renewals spending after FY18 would be spread equally over six years)
2. Auckland Network Management Plans FY15-FY20

Timeline of events

The establishment of the ANAA Working Group in 2018 to prepare for the next Triennium coincided with newly available funding and, together with increased activity by the regulator, marked a turning point.

BEFORE	AFTER
The investment environment for rail was constrained, and the Crown was not formally approached to fund additional AMRN renewals	The ANAA Working Group was established and resulted in a successful funding request under the Transitional Rail Activity Class



Timeline of events: Pre-2014

The transformation of the AMRN began with the Crown investment of $600m for Developing Auckland's Rail Transport (DART) between 2006 and 2012, followed be the electrification of the network (AEP) and the procurement of a fleet of modern EMUs.

Event	Date	Description	Relevance
Crown reacquisition of rail assets	2002-2008	AMRN was acquired in 2002, and all below rail assets in 2004, leading to the formation of Ontrack. In 2008, the above rail assets were acquired and merged with Ontrack to form KR.	Resulted in significant changes in industry structure, with first vertical disaggregation between above and below-rail services, and then reintegration into a Crown-owned SOE.
Railways Act 2005	2005-onwards	Established the current licensing regime where rail participants assess and control their safety risks and provide assurance to WKS.	Created the current regulatory framework, with WK (initially Land Transport NZ) as regulator.
DART	2006-2012	Significant investment to expand capacity of system through double tracking, upgraded stations, reopening the Onehunga line, and a new connection to Manukau.	New infrastructure enabled more intensive use of network, however infrastructure already in place only received relatively minor improvement.
AEP	2007-2013	Electrification of most of the AMRN (Papakura to Swanson) and total replacement of the signaling system.	Enabled EMU use and more intensive use of network.
Matangi procurement	2007-2010	Greater Wellington Regional Council acquired new electric metro passenger fleet.	KR have stated that they were closer to the Matangi than the AM Class EMU procurements, with the Matangi trains not having the equivalent design features as the AM Class EMUs.
AM Class EMU procurement	2009-2014	The procurement of the new Auckland electric passenger fleet was first managed by ARTA (AT's predecessor) and transferred to KiwiRail in 2009. AT then completed the process in 2011.	Resulted in the introduction of new rolling stock that saw patronage grow significantly. EMU design features have been identified as one of the contributing factors to RCF, although the extent of this contribution is not agreed between KR and AT (and CAF).
KR Turnaround Plan and Metropolitan Rail Operating Model (MROM)	2009-onwards	The Turnaround Plan focused on improving KR's financial viability and its freight business, and MROM clarified that regional transport authorities were responsible for planning and procuring metro rail services.	Created existing AMRN industry arrangements, with split between freight and metro passenger services and adoption of ANAA for metro passenger access and associated fee.
Aurecon Track Study	2011	KiwiRail commissioned study into existing track quality and to identify routine or catch up renewals; found track to be in fair condition with isolated deterioration.	Did not identify significant infrastructure or funding deficit, but highlighted need for preventive maintenance programme and long-term investment programme and potential EMU impacts.

Timeline of events: 2014 - 2018

During this period catch up infrastructure renewals were identified by Network Rail Consulting. However, these were not funded. There was also a review that identified issues with the forum that governs system interoperability.

Event	Date	Description	Relevance
Independent Review of NZTA Rail Safety Team	2013	WKS engaged an international consultant to review the performance of its rail regulatory function.	Highlighted 'considerable room for improvement' in terms of the regulator's performance and resourcing.
Network Rail Consulting Report	2014	AT commissioned Network Rail Consulting to undertake an independent review of the track condition for Auckland to identify the works needed to bring the track asset condition up to the standard required to support reliable EMU operation.	Identified a need for a five-year programme of catch up track and formation renewals (~$100 million in value), and suggested reviews of engineering standards and maintenance planning procedures.
Running rights granted for AM Class EMU	2014	KR granted running rights to the AM Class EMUs in 2014, noting that it had concerns the modified EMU wheel profile would impact on rail maintenance requirements. Both AT and CAF have noted that they are not aware of these concerns being raised at the time, and that the wheel profile was approved by all stakeholders during the EMU design stage.	Allowed EMUs to begin operating on the AMRN.
Auckland Rail Development Implementation Pathway and Auckland Rail Development Programme (ARP)	2014-onwards	In 2014, an AT report proposed a pathway for development of the Auckland rail network through to 2031, including the catch up renewal programme suggested by Network Rail. In 2015, this was formulated into the ARDP, a joint AT and KiwiRail passenger and freight infrastructure plan from 2016 – 2045, setting out the network and infrastructure investments required to meet forecast demand.	Identified an indicative programme of works to enable the network to meet post-City Rail Link (CRL) service levels. The 2014 report identified securing funding, resourcing and access as key implementation issues.
Review of National Rail System Standards (NRSS)	2016	WKS commissioned review, which assessed the governance, operation and management of the NRSS.	Identified deficiencies with the NRSS, including out of date standards and ineffective governance.

Timeline of events: 2014 - 2018

Steps were also taken to increase the capacity and capability of the regulator. The ANAA parties formed new working groups to address network performance issues.

Event	Date	Description	Relevance
Rail safety funding business case and regulator maturity model	2017-2019	In 2017, WKS commissioned a review to identify and provide evidence-based recommendations for managing priority safety risks for New Zealand rail operations. From 2017 through to 2019, WKS developed a maturity model to enhance its rail regulatory capability and performance, and to fund those enhancements.	Enabled the rail safety regulator to expand its capacity and capability.
Future of Rail Review	2017-2019	In 2017, the Future of Rail began examining the future role rail could play in New Zealand's transport system. The review found the rail network was facing a state of managed decline due to long-term underinvestment, and that short-term funding arrangements for the rail network through the annual budget process were inadequate for a long-term network asset.	Led to significant changes in how rail is planned and funded at a national level. The Future of Rail had a component which was reviewing the MROM. However, it was agreed to maintain MROM within the new system, recognising that a future review was required.
GPS 2018	2018-2021	GPS 2018 introduced an increased focus on public transport, with a dedicated transitional funding class for metro rail infrastructure improvements.	Provided funding to address AMRN catch up renewals, introduce new equipment, and review maintenance codes and standards.
ANAA Working Group	2018	A working group was formed, consisting of AT, KR, and Transdev, in light of increasing demands on network and service failures, to the review the AMRN infrastructure, maintenance and asset renewal strategy.	Brought together the ANAA parties to address declining system performance, and led to the RNGIM business case.
Joint KR AT Wheel Rail Interface (WRI) Working Group 2018 – 2019	2018-2019	Following engagement on WRI issues in 2017, AT and KR formed a working group in 2018 to examine issues with EMU stiffness. This was in the context of granting running rights to an additional tranche of EMUs. This group last met in September 2019. The parties have agreed to re-establish a WRI group.	Illustrates that the parties were aware of WRI issues but also highlights that the WRI discussion is ongoing.

Timeline of events: After 2018

While the AMRN system participants developed a business case to secure funding for AMRN infrastructure renewals, the state of the AMRN became a focus of the regulator. RCF emerged as a prominent issue with the AMRN.

Event	Date	Description	Relevance
High level infrastructure review	2019	Independent review by WSP reporting to the ANAA working group into the specification and condition of AMRN rail assets, maintenance standards and maintenance plan.	Reconfirmed extensive track and track bed renewals were required and provided the basis for the RNGIM business case. The review identified that urgent action was needed to monitor and assess RCF and mitigate RCF through grinding or rail replacement.
RNGIM Single Stage Business Case	2019-2020	Business case prepared by WSP identifying a preferred set of interventions to address the findings of the high level infrastructure review.	Secured funding from the new NLTF transitional rail activity class, to undertake catch up renewals and to improve maintenance approaches, capacity and capability. While approved in 2020, a funding portion was released in 2019 for urgent renewals and new RCF testing approaches.
SIN Significant Information Notice T19-004	2019	KR issued a track engineering advisory notice in relation to RCF, which modified existing inspection and mitigation requirements.	Highlighted the increasing focus on RCF, although this modification of standards became a matter of concern during the SSA.
Special Safety Assessment (SSA)	2019-2020	Following intelligence related to the AMRN asset condition, WKS initiated an SSA into the AMRN in July 2020, which identified significant concerns with the condition of the network and maintenance practices. The SSA report is dated September 2019 and remedial actions were closed out during June 2020, with ongoing monitoring in place.	The SSA made a number of significant findings, including that the levels of maintenance activities at the time were insufficient and that RCF appeared to be widespread throughout the network. The SSA also raised concerns in relation to adherence to maintenance standards, and the process for changed standards, including relation to Significant Information Notice T19-004.
s28 Railways Act s 28 notice	2019-2020	Statutory notice from WKS imposing conditions on the operation and use of AMRN (including no increase in train services beyond existing timetables and a requirement on KiwiRail to demonstrate an appropriate maintenance programme) due to the condition of the AMRN and inadequate management of RCF. The notice was revoked in May 2020.	Highlighted the severity of the RCF issue and wider AMRN condition.

Timeline of events: After 2018

The identification of severe RCF in 2020 required the imposition of blanket speed restrictions and urgent track repairs.

Event	Date	Description	Relevance
National Rail Industry Advisory Forum	Late 2018- onwards	New industry grouping convened by WKS consisting of the main participants in the New Zealand rail industry alongside industry regulators, and the Ministry of Transport.	Provided for a new forum, with wider membership than the NRSS-E, to identify, discuss, resolve and implement solutions to rail industry wide matters.
Significant Information Notice T20-004	2020	KiwiRail issued a revised track engineering advisory notice in relation to RCF, which replaced Significant Information Notice T19-004.	Updated the RCF inspection and management approach taking account of WKS's concerns raised during the SSA.
Speed restrictions	2020	In August 2020, additional testing identified severe RCF throughout the AMRN. A network wide 40 km/hr speed restriction was applied to manage the safety risks while repairs were undertaken.	Demonstrates the impacts stemming from severe RCF on the AMRN.
Auckland Metro Recovery project	2020-2021	Work to remediate RCF began in August 2020 with much of the urgent track work completed by Easter 2021, funded through RNGIM.	Replaced affected rail and end of sleep sleepers to enable the speed restrictions to be lifted. Ongoing work on formation and improving maintenance practices will occur under the RNGIM programme.

Timeline of events: After 2018

The parties have now reached a consensus position on the technical causes of the RCF. The government has also made significant changes to the planning and funding framework for rail in New Zealand with the introduction of the Rail Plan and the Rail Network Investment Programme.

Event	Date	Description	Relevance
Root cause analysis	2019-2021	RCF route cause assessment Reports were prepared in 2019 and 2020 by two different consultancies. In 2021, the joint working group examining the technical causes of the accelerated RCF prepared and released a report identifying the technical root causes. These broadly relate to the (1) condition of track and maintenance practices (2) the impact from the stiffness and wheel profile of the EMU vehicles, and (3) the wheel-rail interface.	Identifies the the technical root causes of the accelerated RCF on the AMRN, and a series of recommendations to ensure RCF does not again become a critical issue on the AMRN. Stakeholder feedback on this report identified different areas of emphasis and remaining areas of disagreement amongst the stakeholders on some root cause elements.
The NZ Rail Plan and RNIP	2021	The Future of Rail Review confirmed the value of rail to New Zealand and highlighted that the rail network was facing a state of managed decline due to long-term underinvestment. The New Zealand Rail Plan sets out the Government's long-term vision for rail investment as an integrated part of the land transport investment system, and has identified resilience and reliability are key priorities for rail. It states that the long-term vision is for the rail network to provide modern transit systems in New Zealand's largest cities, and to enable increasing volumes of freight to be moved by rail. To replace the transitional rail activity class, there is a new rail network activity class to support investment in KR's network maintenance and renewal programme. The Rail Network Investment Programme (RNIP), developed by KR and approved by the Minister of Transport, sets out KR's planned below rail maintenance, renewal and improvement activities.	Highlights ongoing importance of the AMRN for delivering on the government's objectives for rail. There is now ongoing funding from the NLTF to deliver the RNIP, noting that existing metro access arrangements remain in place.

GPS

GPS 2018-2020 enabled greater investment in rail infrastructure to support passenger rail growth. GPS 2018 has now been replaced by GPS 2021, which includes for the first time an activity class that enables NLTF funds to be invested in the KR national rail network. GPS 2021 also integrates metro network rail investment into the PT infrastructure activity class and allows for it to be considered alongside other public transport infrastructure investment.

The GPS sets out the Government's strategic direction for the land transport system over the next 10 years and is updated every three years. It provides guidance on how we invest the National Land Transport Fund (NLTF), and how we assess and prioritise activities for Regional Land Transport Plans (RLTPs) and the National Land Transport Programme (NLTP).

Government Policy Statement
2015-2017

GPS 2015 provided limited guidance on investment in metro rail. This GPS did note that investment in urban passenger rail services from the NLTF (under the public transport activity class) was supplementing Crown grants.

GPS 2015 also noted there were no current Crown appropriations to rail freight services and infrastructure within the scope of the GPS.

The 2015 Auckland RLTP noted: 'The Transport Agency is currently unable to fund rail infrastructure and KiwiRail's investment is limited to freight projects where there is a demonstrated commercial return.'

Government Policy Statement
2018-2020

GPS 2018 introduced an increased focus on public transport and rail. The amount of funding for public transport and rail was increased.

The transitional rail activity class was created, which was specifically focused on below track improvements for metro passenger services, with funding at 100% FAR.

How the Future of Rail has changed funding?

Network funding has historically been sought on an annual basis through the Budget process. Changes to the LTMA mean that funding for the rail network can be accessed from the NLTF, with the GPS providing certainty of a baseline level of support. The ANAA and WNA arrangements remain unchanged, however.

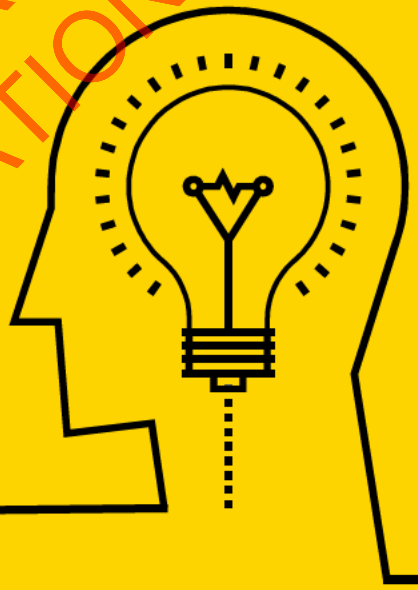
Before

- 2010 KiwiRail Turnaround Plan and introduction of the MROM created a separation between metro and freight-related investment.
- Crown provided funding support for KR (through grants and shareholder injections) for freight network investment.
- Metro councils were expected to fund maintenance and renewals related to their services, with specific network budgets developed for the Auckland and Wellington metros, with funding split between the metro councils and KiwiRail, to fund steady state maintenance and renewals. Metro councils received support from NLTF for public transport services and infrastructure, most recently at 51% FAR.
- There was Crown investment into the metro networks through programmes such as DART and AEP. The Crown has also commissioned various upgrades (e.g. CRL, NZUP programme).

Today

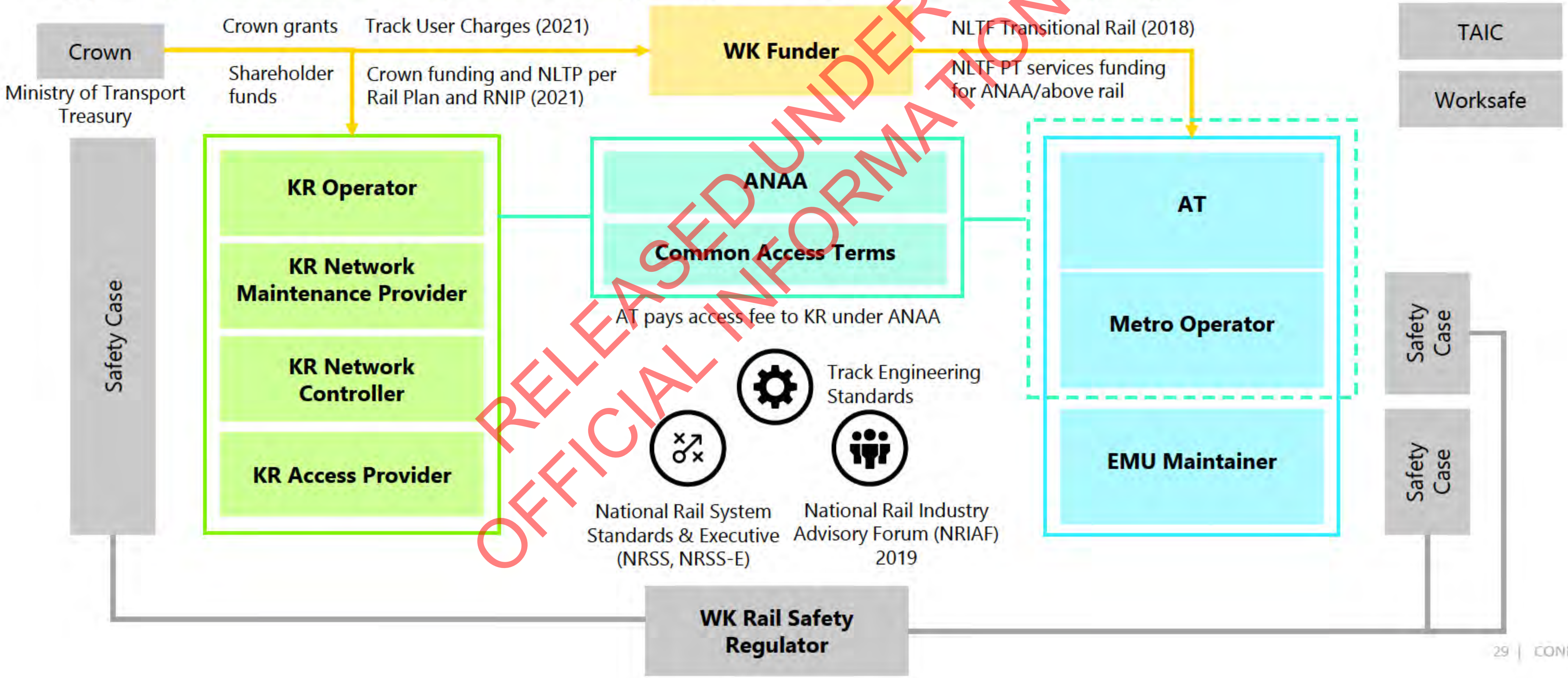
- KiwiRail can now access funding from the NLTF by developing the RNIP, aligning with the Rail Plan and RLTPs. The RNIP needs to align with the GPS, is reviewed by WKI and approved by the Minister of Transport. KR now pays track user charges into the NLTF.
- The RNIP enables funding for KR to maintain, operate, renew and improve the rail freight and tourism network (including a proportionate contribution to the cost of maintaining metropolitan rail networks used by KR's rail freight and long-distance passenger services).
- The RNIP is focused on the national network, but funds KR's share of the metro network budgets and incorporates metro network improvements. Renewals and maintenance spending related to metro passenger services, or further network upgrades for metro passenger services, would still be part funded by the metro councils (supported by WKI at 51% FAR from the public transport activity class), or funded by the Crown.
- The metro access arrangements have been retained within the current system at this time, pending a further MROM review.

The system



The system

The system consists of the organisations that work together to safely and efficiently deliver services on the AMRN. Under the MROM, the system is vertically disaggregated for metro passenger services with commercial access arrangements between above and below rail, supported by a safety regulation and co-funding model. Freight and long distance passenger services are vertically integrated with the below rail network. The core structure of the AMRN system has remained largely unchanged since the ANAA was adopted in 2012, noting planning and funding arrangements have recently changed.



Industry roles and responsibilities

Outline of key accountabilities and responsibilities related to the ANRN budget

		Crown	Auckland Transport	KiwiRail	Waka Kotahi	Metro Operator	EMU Maintainer
Network budget	**AMRN metro passenger access fee**		Pays access fee based on its share of the AMRN network budget	Invoices Auckland Transport for access	Pays share of AT fee at 51% FAR	Checks KiwiRail access fee invoices through wash up process	
	AMRN network budget	The Minister of Transport approves the RNIP, which incorporates the AMRN budget	Influences AMRN budget as pays large share, approves NMP	Develops the AMRN network budget for inclusion in the NMP. Also develops the RNIP, which incorporates the AMRN budget	Reviews the RNIP		
	AMRN KiwiRail freight and long distance passenger share of network budget			Pays TUC into NLTF	Pays KR share of network budget, which forms part of the RNIP		

Industry roles and responsibilities

Outline of key accountabilities and responsibilities related to planning and funding

		Crown*	Auckland Transport	KiwiRail	Waka Kotahi	Metro Operator	EMU Maintainer
Planning and funding	**Network renewal funding**		Responsible for share of steady-state renewals funding	Responsible for seeking funding for renewals from WKI and AT	Catch up renewals currently funded by WKI	Consulted with as part of NMP development	
	Network upgrades funding	Current programme of network upgrades are largely funded by the Crown	Works with KR on strategic planning for network, half funds CRL	Develops business cases and executes programmes	WKI can fund additional metro rail upgrades via NLTF at 51% FAR		
	Network Management Plan		AT reviews and accepts the NMP	KR develops the NMP in consultation with AT and Transdev		Consulted with as part of NMP development	
	Asset management planning (below rail)		Interest in below rail asset management approach as seeks to maximise network performance for metro passenger services	Responsible for asset management planning for below track infrastructure	Provides asset management advice through RNIP		
	Asset management planning (above rail)	Funds new KR rolling stock	Plans and procures new PT rolling stock and passenger stations	Grants running rights to rolling stock, plans and procures freight rolling stock, interest in above rail asset management to extent it has implications for below rail assets	Pays share of AT capital costs		
	Long term planning	Party to ATAP, since 2021 has also set objectives through the Rail Plan and approves the RNIP	Works with KR to develop ARDP, which informs RLTP, RNIP, ATAP	Works with AT to develop ARDP, which informs RLTP, RNIP, ATAP	Party to ATAP		

*The Ministry of Transport monitors performance of the transport system and advises on system settings, with Treasury monitoring KR's commercial performance as an SOE. Both the Ministry and Treasury advise on system funding.

Industry roles and responsibilities

Outline of key accountabilities and responsibilities related to network operations

		Crown	Auckland Transport	KiwiRail	Waka Kotahi	Metro Operator	EMU Maintainer
Operations	**Below rail maintenance and renewal delivery**		Influences access to network for infrastructure works through timetable committee, and funding available through NMP	Responsible for planning and executing maintenance and renewal programme		Influences access to network for infrastructure works through timetable committee	
	Metro passenger operations		AT is responsible for planning and commissioning metro passenger services	Consulted as access provider, network controller and maintainer		Responsible for delivering metro passenger services.	
	Freight and long distance passenger operations			KR plans and operates freight and long distance passenger services			
	Network access		Member of the network timetable committee, has access rights granted under ANAA	KiwiRail chairs and has majority of representatives on network timetable committee, and controls access to network.		Observed on the network timetable committee	
	Station maintenance		Awards contract for maintenance and renewal works		Pays share of AT operating costs		
	EMU maintenance		Owns rolling stock and has running rights, and contracts CAF to maintain EMUs				Responsible for maintaining EMUs
	DMU maintenance		Contracts KiwiRail to maintain metro passenger DMUs	Responsible for maintaining DMUs			

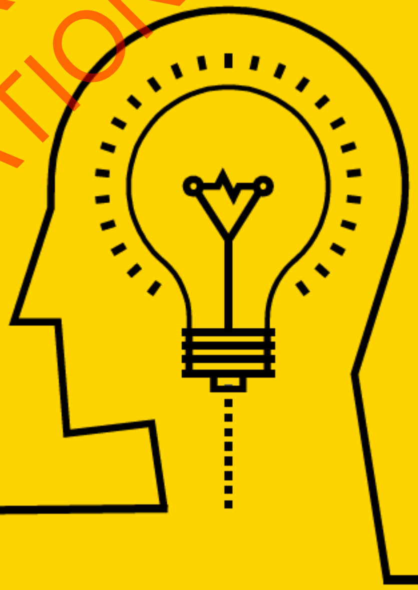
Industry roles and responsibilities

Outline of key accountabilities and responsibilities related to safety and standards

Safety and standards		Crown	Auckland Transport	KiwiRail	Waka Kotahi*	Metro Operator	EMU Maintainer
	NRS Standards & Executive			Convenes NRSS-E, develops standards for interoperability in consultation with other NRSS-E members	Observes NRSS-E	Participates in NRSS-E	Participates in NRSS-E
	National Rail Industry Advisory Forum	Observer (MoT)	Member	Member	Convenor (WKS)	Member	Member
	Track Engineering Standards			KR sets its standards and codes for maintenance and inspection	Some degree of oversight of major changes that relate to KR's safety case		
	Safety regulation	Minister has the power to set rail safety rules	Rail sector participant, but is unlicensed	Owns safety case for the network infrastructure, network control and its freight and long-distance passenger services	Grants safety licences, reviews safety cases, conducts annual audits and conducts safety enforcement activities, facilitates NRIAF, can recommend rail safety rules to the Minister	Owns safety case for metro passenger services	Owns safety case for EMU maintenance

*TAIC and Worksafe are also involved in safety oversight alongside WKS.

System issues



Root causes of RCF

RCF root cause assessment Reports were prepared in 2019 and 2020 by two different consultancies. In 2021, the joint working group examining the technical causes of the accelerated RCF prepared and released a report identifying the technical root causes. The report notes that there was no single outlier cause, but rather a widespread set of localised causes. The closest single root cause could be stated as a missed opportunity during 2014-2017 to implement the 2014 NR recommendations.

ROOT CAUSES OF RCF

Track: Sub-optimal track condition, under-investment and insufficient rail grinding

Track related root causes include:

- Historic under-investment prior to 2014 and through to August 2020, with the report noting that 'a significant underlying cause is most likely to be aged track on historic formation'.
- Insufficient rail grinding from 2015 through to August 2020.
- Suboptimal track condition at multiple sites on the network (including aged sleepers and track, and gauge exceedances)

Auckland's climate was also identified as a partial contributor to the growth of track defects.

Vehicle: High yaw stiffness may increase propensity to create RCF on non-perfect track

Vehicle related root causes include:

- High primary yaw stiffness in the EMUs (to improve passenger comfort), which may increase a vehicle's propensity to cause RCF on non-perfect track, although modelling to demonstrate this was not included in the root cause brief.
- An EMU wheel profile, which was modified from KR's standard profile to counteract wheel flange wear from vehicle stiffness, has a greater propensity to cause RCF formation over the most common KR profile (based on modelling done as part of the root cause analysis). The Root Cause Report also notes the KR profile is unlikely to be the optimal profile.

Wheel rail interface: Neither track nor the wheel profile were optimised from a total cost of ownership (TCO) perspective

WRI related root causes include:

- A lack of comprehensive grinding since 2015.
- A lack of artificial rail inclination on track structures.
- Insufficient emphasis on developing and adopting a wheel / rail profile that optimises the TCO of the holistic rail system.

Source : Auckland Metro RCF Working Group: Root Cause Assessment. Prepared for KiwiRail and Auckland Transport, 17 August – 1 June 2021.

Problems

In 2019, the RNGIM project team of AT, KR and Transdev identified and agreed three problem statements relating to condition and performance of AMRN. These primarily relate to the Track root cause identified by the Auckland Metro RCF Working Group. In addition to the track root cause, the Auckland Metro RCF Working Group identified aspects of the EMUs that may also have contributed to the accelerated RCF experienced on the AMRN.

Problem Statement One - Investment in the underlying rail network has failed to keep pace with growth, risking the success of planned and major projects and asset failure (40%)

Problem Statement Two - Current approaches to operating, maintaining and renewing the network struggle to cope with growth and ageing assets, and are inadequate for a future Metro environment (35%)

Problem Statement Three - Time and access for maintenance is limited and reducing with service growth, leading to inefficiencies and limiting progress on renewals needed prior to major projects (25%)

Source : Rail Network Growth Impact Management (RNGIM) SSBC, WSP | OPUS

ROOT CAUSES OF RCF

Track: Sub-optimal track condition, under-investment and insufficient rail grinding

Vehicle: High yaw stiffness may increase propensity to create RCF on non-perfect track

WRI: Neither track nor the wheel profile were optimised from a total cost of ownership (TCO) perspective

How should a system work?

To frame the system issues it is instructive to think about how the system should have operated to have avoided RCF reaching the point of criticality and safety risk that it did. We have, therefore, considered the characteristics of a well functioning system, and specifically how it manages and addresses risks such as RCF, drawing on the Learning Legacy created by the Crossrail project in UK in relation to risk and assurance ('Three Lines of Defence').

Characteristics of a well functioning system

A starting point for assessing potential system issues is to consider what makes a well functioning system:

- A unified set of system objectives for planning and delivering the desired levels of service (i.e. planning and coordination).
- Appropriate checks and balances to ensure system participants are effectively carrying out their functions (i.e. safeguards and incentives).
- An enabling environment that allows participants to achieve the desired service levels. This would include sufficient funding, capacity and capability, clear accountabilities, and mechanisms to allow the system to respond appropriately to changed needs through time (i.e. minimising constraints or inhibitors on parties delivering the system objectives).

From our document review and materials, we found evidence that the system might not have had these characteristics in relation to RCF. We have categorised these issues into the following three high level buckets to support our analysis of the AMRN system:

- Lack of unifying objectives and planning,
- Ineffective checks and balances, and
- Constraints and inhibitors to the enabling environment.

Checks and balances ('Three Lines of Defence')

- **First line provided by delivery teams' self assurance**
- **Second line provided by internal oversight functions**
- **Third line provided by independent, often external, assurance bodies**

Source : https://learninglegacy.crossrail.co.uk/documents/risk-and-assurance/

Key findings

Our core finding is that a lack of system maturity allowed RCF to worsen and remain unresolved. The AMRN system has grown significantly in usage, in asset value and broader strategic importance. However, unclear roles and responsibilities under MROM, ineffective checks and balances, and insufficient capability, capacity and resource did not enable the system to evolve in line with growing demands. There was a lack of an enduring vision and plan required under a disaggregated model.

Characteristics of a well functioning system		Key system findings with respect to RCF
Unified objectives	A unified set of system objectives for planning and delivering the desired levels of service	1. The AMRN system is fragmented and lacking a unified set of objectives and supporting planning & coordination mechanism that brings all the parties together to agree and maintain those objectives. 2. There is no detailed, and integrated, above and below rail asset management plan for the AMRN system, optimising the total cost of ownership based on agreed levels of service.
Checks and balances	Appropriate checks and balances to ensure system participants are effectively carrying out their functions	3. Maintenance standards did not keep pace with the requirements of a modern metro system, raising questions over how these standards were governed and assured. 4. The safety regulator was passive and lacked the maturity and resourcing to clarify its role and work pro-actively. 5. The ANAA commercial model does not create incentives for the access provider to lift the quality of network access services to that required for a modern metro system. 6. There was an absence of effective industry governance arrangements to raise and resolve system concerns.
Enabling environment	An enabling environment that allows participants to achieve the desired service levels	7. The funding model focused on short term affordability and did not enable catch up renewals or investment in capability and capacity to deliver ongoing maintenance and renewals for the long term. 8. There were competing objectives/priorities within the AMRN system, which led to insufficient access for maintenance. 9. The capacity and tools needed to support an effective cyclical maintenance programme were insufficient given usage growth and the age and condition of assets.

Review terms of reference

The focus of Phase 1 has been to develop an understanding from all involved parties as to the key contributing system factors behind RCF in Auckland. Our terms of reference identify five key system issues for the review to address during this phase. These are outlined below. We use these to categorise the themes that emerged through interviews, our document review, and a workshop with system participants. Pages 40-42 of this report identify these themes and outlines our framework for analysing each of them.

1
MROM roles and responsibilities

Whether the roles, responsibilities and implementation of the metropolitan rail operating model may have contributed to the RCF issue

2
Funding incentives

To what extent the model may have incentivised the right levels and types of funding for the network.

Whether the user charge framework in the ANAA is appropriate to achieve desired network outcomes

3
ANAA incentives

Whether, in practice, the existing network agreements place appropriate incentives on the parties involved.

Addressed under Funding #2

4
Capacity and capability

Whether the system had the right capacity and capability to ensure the network was maintained and safe

5
Other system issues

Any other system-level factors that were key contributors to the extent of the RCF on Auckland's metro network.

Framework for attributing system issues (pre-2018)

ROOT CAUSES OF RCF

SYSTEM ISSUES CONTRIBUTING TO RCF ROOT CAUSES

Track: Sub-optimal track condition, under-investment and insufficient rail grinding

Vehicle: High yaw stiffness may increase propensity to create RCF on non-perfect track

Wheel rail interface: Neither track nor the wheel profile were optimised from a total cost of ownership (TCO) perspective

Lack of unifying objectives and planning

Knowing RCF would occur, why was there no planning and agreement to adequately manage RCF to achieve the system objectives?

Ineffective checks and balances

Why did the system safeguards and incentives not work to escalate the RCF issue for resolution?

Constraints and inhibitors

What factors constrained and inhibited the system from escalating and responding to the RCF issue?

Issues identified are colour-coded to reflect the 5 groups of system issues specified in the terms of reference for the Review

First Line

Second Line

Third Line

Framework for attributing system issues (pre-2018)

ROOT CAUSES OF RCF

Track: Sub-optimal track condition, under-investment and insufficient rail grinding

Vehicle: High yaw stiffness may increase propensity to create RCF on non-perfect track

Wheel rail interface: Neither track nor the wheel profile were optimised from a total cost of ownership (TCO) perspective

Issue requires further validation

Primary driver of root cause

SYSTEM ISSUES CONTRIBUTING TO RCF ROOT CAUSES

Lack of planning and coordination

1. Track Codes and Standards did not change to anticipate increased demands and impacts
2. Lack of detailed network and system level asset management planning
3. Lack of sustainable cyclical maintenance access planning
4. Lack of joined-up objectives between the ANAA parties
5. KR approved EMU running rights but had concerns about the implications for rail maintenance
6. Unclear process and governance for addressing WRI optimization and TCO

First Line

Ineffective safeguards and incentives

7. KR self-manages Track Codes and Standards as part of its Safety Case
8. Unclear oversight of maintenance and updating of Track Codes and Standards
9. The safety regulator historically took a passive, advisory approach to rail safety
10. ANAA KPIs and incentives did not keep pace with growth and customer expectations
11. NRSS governance did not work as intended
12. Issues identified with the currency of standards forming part of the NRSS

Second Line

Third Line

Constraints and inhibitors

13. No clear responsibility for agreement or funding on track catch-up renewals
14. Short-term budget commitment for renewals under ANAA
15. Rail safety regulator was not funded for a more mature role
16. Position of metro network relative to KiwiRail's commercial freight business
17. Position of rail safety regulator within Waka Kotahi
18. Inability of the parties to compromise under the ANAA and agree changes

System issues analysis

For each system issue identified, we provide a description of issues in the lead up to the RCF situation. We also capture subsequent changes and indicate remaining areas of uncertainty.

Description of issues (pre-2018)

Brief description of the system issues identified that may have contributed to the emergence of serve RCF on the AMRN, both through the interviews and the documentation reviewed.

#

Coding highlights connection back to the corresponding system issue on slide 41

Categorisation by relevant issue type and root cause

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective check and balances	
Constraints and inhibitors	

Further developments and changes planned

Brief description of relevant changes that have occurred since 2018, or that are planned, to provide full context, including remaining areas of uncertainty that relate to either the system issues that cause RCF.

Track standards and codes

Why did Track Codes and Standards not keep pace with the changing demands of the Auckland metro rail network, and were inspections sufficient to understand declining asset condition?

Description of issues (pre-2018)

7 8 Codes and standards related to track inspections and maintenance were the sole responsibility of KR. Changes to Track Codes and Standards are approved by KR Professional Heads, who can agree to derogations. WKS reviews adherence to standards, but not the standards themselves.

It is recognised that KR's codes and standards were not up the standard required for a modern
1 metro network. In 2014, there were recommended changes to Track Codes and Standards, including a recommendation for more frequent and detailed inspections (NR 2014). WSP also recommended enhancements to Track Codes and Standards to align with other jurisdictions with metro & mixed traffic (WSP 2019). Several interviewees stated KR maintains the AMRN to a freight standard rather than to a more demanding metro passenger standard.

WKS raised concerns that KR were able to modify their standards to suit business requirements. WK also had concerns about adherence to the standards, adequacy of inspections and understanding of asset condition (SSA 2019).

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective checks and balances	
Constraints and inhibitors	

Further developments and planned changes

As part of the RNGIM programme, funding has been set aside for changes to KR's codes and standards to better align them with equivalent international standards for high-capacity metropolitan and mixed-traffic rail networks (WSP 2019). However, there are multiple elements to the RNGIM programme and we have no information on what progress has been with reviewing and updating relevant codes and standards.

KR have stated that their codes and standards are subject to regular review with independent expertise used at times. KR also states there is regular compliance reporting to the executive. We have not been provided with detailed information on these processes and controls.

A WKS assessment in 2020 identified issues with adherence to codes and standards (2020 SSA). We understand that the appropriateness of the codes and standards themselves may be a future regulatory focus for WKS.

Safety regulator maturity

1

MROM roles and responsibilities

Would a better resourced and mature regulator have created the conditions to enable the issues that lead to accelerated RCF to be identified earlier?

9

Description of issues (pre-2018)

Before 2018, the regulator likely lacked the maturity and resourcing to pro-actively review the currency of KR inspection and maintenance standards and practices. In 2013, an independent review of the WKS rail team found that regulator was perceived as 'soft' and 'passive'. The rail regulatory manager within WKS was a tier 4 role and the regulator had a limited profile in the sector. Compliance assessments were outsourced. The review specifically highlighted the 'limited ability of the rail safety regulator team to conduct safety critical lead indicator "near miss" type incident analysis' to predict emerging issues. While steps were taken to implement this review's findings, a 2018 WK report noted the identified weaknesses were not fully addressed 'due to resourcing constraints'. WKS states it was not aware of any wider systemic AMRN condition issues until it undertook a SSA in response to the draft HLIR report (SSA 2019).

Interviews revealed differences of opinion over WKS' role as safety regulator, and where it should sit on the spectrum between co-regulation and prescriptive regulation.

ISSUE TYPE | **ROOT CAUSE**

Lack of planning and coordination

Ineffective checks and balances

Constraints and inhibitors

Further developments and planned changes

Since 2018, the rail regulator has expanded significantly. It is overseen by a Tier 2 Director of Land Transport, which is a statutory role created in 2020. It adopted a revised Rail Safety Regulatory Operating Model, and then the wider Tū ake, tū māia regulatory strategy. We understand WKS is considering evolutions to their operating model taking account of low probability/high impact rail safety risks, and that a further review may take place. However, we have not been provided with development plans for this model.

In 2019 and 2020, WKS played an active role in overseeing KR's management of the Auckland RCF issues, noting its intervention was prompted by intelligence received from WKI. Interviewees noted that WKS as regulator is increasingly active. However, while the NRIAF was convened by WKS, its purpose is currently under review. We understand one proposed workstream for NRIAF was to examine whether new safety guidance or industry regulations were required. We understand that neither WKS nor MoT are currently pursuing the development of new rail safety regulations.

NRSS governance

What was the role of the NRSS in the approval of the EMU wheel profile and associated running rights approval process?

Description of issues (pre-2018)

11 The National Rail System Standards (NRSS) are used to control operations on KR's National Rail System (NRS), including train interoperability. The NRSS-Executive (NRSS-E) manages the development, amendment, and application of the NRS. As owner and maintainer of the NRS, KiwiRail chairs the NRSS-E and industry licence holders such as CAF and Transdev attend.

We understand NRSS-E had no involvement in the EMU procurement. A derogation was sought from the NRSS in relation to the EMU wheel profile and this was approved by KR in 2014.

12 In 2013, ATRS found that, in relation to the NRSS, 'the current process for the management of a wide range of the standards is in need of a significant overhaul to ensure that standards are kept current through the establishment of a clear management structure and resources to achieve effective oversight.' A 2016 review confirmed the ATRS findings and recommended changes to the governance and operation of the NRSS (MJ 2016). WK also noted that NRS 4 Risk Management had become obsolete and had not been updated for changes in health and safety legislation in 2015 (SSA 2019).

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective checks and balances	✓
Constraints and inhibitors	✓

Further developments and planned changes

While KR stated that they conducted an informal review of the NRSS in 2018, it appears that the recommendations of the 2016 Martin Jenkins review have not been implemented. The NRSS-E has not met since 2019, with KR citing the creation of NRIAF. WK is not actively overseeing the implementation of the MJ recommendations, stating that NRSS is KR's responsibility.

In terms of wider industry groups, in 2020, WK and the industry created a group, the NRIAF, as a forum for the whole industry to identify, discuss and implement solutions to matters of common interest. While it appears that interoperability standards are a potential workstream for NRIAF, NRSS is still separate to NRIAF and NRIAF's purpose/focus is currently under review.

EMU design and WRI optimisation

Did the system lead to the procurement of EMU's without a full understanding of the WOL impact?

Description of issues (pre-2018)

5 The EMUs were introduced without a corresponding change to below rail infrastructure and maintenance practices. The EMU procurement was originally managed by the Auckland Regional Transport Authority, before being transferred to KR in 2009. AT have stated that KR developed the EMU specification and ran the procurement process. The final phase of the procurement process was transferred to AT in 2011. A contemporary document suggests there was a joint AT-KR project governance group for the final stages of the procurement process (AT 2011).

There are differing stakeholder views on whether concerns were raised during the procurement process regarding potential maintenance impacts stemming from the design of the EMUs. The Root Cause Review states that KR raised concerns, during running rights approval, that the EMU wheel profile would impact on rail
6 maintenance requirements. However, AT and CAF both state that they were not aware of KR raising such concerns, and the other issues that were raised at the time were resolved.

ISSUE TYPE | **ROOT CAUSE**

Unifying objectives/ planning

Ineffective checks and balances

Constraints and inhibitors

Further developments and planned changes

We understand a wheel rail interface group was established between 2017 and 2019, including AT, CAF and KR to review WRI issues. This group stopped meeting in late 2019.

The Root Cause Report identified that the concerns related to EMU WRI and yaw stiffness would best be addressed through the establishment of relevant inter-stakeholder technical groups. We are still unsure if such groupings have been established, its membership, and how findings and trade-offs will be agreed and implemented. The previous 2017-19 WRI group was unable to reach agreement on a way forward.

Multiple roles of parties

Did competing interests limit the identification of, and response to, the challenges and pace of change facing the AMRN?

Description of issues (pre-2018)

The effective management of a rail system requires balancing a complex set of interests. Under the MROM, the planning and operation of the AMRN system has been disaggregated across several organisations.

Under the ANAA, there are different interests between AT (access for PT services) and KR's objectives (access for freight and maintenance). Within AT, there is a trade-off between investing for the long term (as it is responsible for the development of Auckland's transport system) and maximising short term performance and maintaining affordability (which may incentivise less maintenance access and investment). Within KR, there is a trade off between balancing access for maintenance and its freight and passenger services, and its metro access seekers. There was
16 concern raised that KR runs freight through blocks of lines (thus compromising the efficiency of works), and concerns regarding the relative position of the AMRN within KR's business.

The dual role of WK as regulator and funder was
17 also highlighted as a potential conflict, noting that WKI had a limited role in the AMRN system prior to 2018.

ISSUE TYPE | **ROOT CAUSE**

- Unifying objectives/ planning
- Ineffective checks and balances
- Constraints and inhibitors

Further developments and planned changes

WKS is now headed by a statutory Director of Land Transport. It was also noted that the dual role was in fact helpful in the regulator becoming aware of issues with the AMRN track infrastructure through access to the 2019 HLIR draft report.

KR, AT and Transdev formed the ANAA Working Group in 2018, which successfully developed a business case and secured funding for the RNGIM programme,. RNGIM has the objective of addressing below rail infrastructure issues and improving asset management practices.

We understand KR has changed its organisational structure to ensure the AMRN is elevated, and that this structure is continuing to evolve. However, we have not been provided with detailed information on how the KR organisational structure has evolved over the past decade.

Responsibility for catch-up renewals

There was no agreed definition or responsibility for funding 'catch-up' renewals between central and local government.

2
Funding incentives

Description of issues (pre-2018)

13 The 2014 review of the AMRN by Network Rail Consulting concluded that the network was not fit for purpose and recommended an investment of ~$100 m. The 2015 RLTP noted that AT and KR had prepared a rail development pathway setting out investments required to deliver a robust and reliable rail system to support growth in both passenger and freight services. However, it noted a lack of funding for catch up renewals with '*no clear avenue for the funding of rail infrastructure improvements. The Transport Agency is currently unable to fund rail infrastructure* [before 2018] *and KiwiRail's investment is limited to freight projects where there is a demonstrated commercial return*'. We understand no formal funding requests were made for these works prior to 2018. KR noted that the national rail network was in managed decline during this period and there was perceived limited appetite for rail investment. A 2017 MoT paper highlighted views that the issue
14 of catch up renewals had not been resolved. Interviewees noted that the ANAA was intended to fund steady state maintenance and renewals, rather than to fund rehabilitation of the AMRN.

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective checks and balances	
Constraints and inhibitors	

Further developments and planned changes

The introduction of the transitional rail activity class in 2018 enabled the RNGIM programme to be funded at 100% FAR, with the programme focused on addressing the WSP recommendations. We understand the programme will likely be insufficient to close the existing infrastructure deficit.

AT and KR are jointly working on a programme business case to identify the ongoing asset management and related funding requirements for the AMRN. However, there is no dedicated funding for further Auckland renewals from the NLTF. Instead, funding must come through the ANAA, and AT's share of this is funded at 51% FAR from the NLTF, which could mean there is an ongoing affordability constraint.

Regulator role limited by funding

Was Waka Kotahi's ability to effectively regulate rail safety limited by funding?

Description of issues (pre-2018)

15 In 2018, it was identified that Waka Kotahi had insufficient funding to effectively carry out the rail safety regulatory function.

While resourcing increased from 10.5 FTE to 15 FTE between 2015 and 2017, the regulator was still not resourced to achieve the intended safety outcomes in its operating model. 'The opportunity cost of this approach is that wider, risk-based activities cannot occur (systems and incident investigations, intelligence regarding critical risk, and management of identified critical risk) all of which are related to avoiding a catastrophic accident occurring.' (Rail Safety Regulator Consultation, 2018).

Operating costs were averaging $2.4 million, while the funding requirement to achieve an efficient and effective rail regulator were estimated at $3.5 million (CRIS 2018)

ISSUE TYPE | **ROOT CAUSE**

Unifying objectives/ planning

Ineffective checks and balances

Constraints and inhibitors

Further developments and planned changes

In 2018, WKS revised their Rail Safety Regulatory Operating Model, which identified the additional resourcing required to enable the rail regulatory function to be carried out effectively. In 2019, the uplift in funding for the rail regulator was approved and implemented.

Since then, there has been a significant uplift in investment in the rail system, including the recent adoption of the Rail Plan and RNIP.

The NRIAF, the purpose and focus of which is currently under review, may also explore whether there is a need for greater regulatory prescription in some areas.

In 2018, it was noted there would be a review of the current WKS funding model and cost requirements commencing in 2020. We understand that such a review will be considered after the current roading fees and funding review is complete. We also understand safer rail team is in the process of reviewing and updating its operating model to align with Tū ake, tū māia. However, we have not seen details of these activities.

Industry governance

Did the effectiveness of governance under the ANAA and the broader industry limit the identification of, and response to, the challenges and pace of change facing the AMRN?

Description of issues (pre-2018)

Rail systems are complex integrated networks. When system responsibilities are disaggregated, like the AMRN, effective governance mechanisms are required to ensure the service outcomes are delivered.

The governance of the AMRN may have
18 contributed to the inability to improve the
underlying asset condition and asset
management practices. Waka Kotahi's 2019 SSA
observed a lack of understanding of each party's
4 needs, constraints and inability to compromise
under ANAA. Under the ANAA, there are different interests between AT (access for PT services) and KiwiRail's objectives (access for freight and maintenance). WK's assessor suggested that the parties would benefit from appointing an independent chair to the ANAA working group (SSA 2019).

Outside of the ANAA we are not aware of a standing forum that existed during this time and involved both WK and the Crown. Interviewees noted that there was an inability to escalate issues beyond the ANAA parties to address issues such as funding.

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective checks and balances	
Constraints and inhibitors	

Further developments and planned changes

The ANAA Working Group was formed in 2018 to address declining network performance, which lead to the High Level Infrastructure Review (HLIR) and RNGIM Business Case. We understand this, and the Network Steering Group, have been largely subsumed into the AMR PcG (see below). ANAA relationship committees and the Network Timetable Committee also function with a more operational focus.

The AMR PcG is focused on providing oversight for the implementation of the Auckland Metro Recovery programme. The Crown attends the PcG. However, WKI does not. KR have stated this group is being folded into a senior stakeholders group.

Another governance group, the Auckland Metro Programme Governance Board, exists to oversee major capital investment in the AMRN, with KR, AT and WKI attending.

We have not been provided with a clear stocktake of all these groups and how they interrelate. We understand AT and KR are jointly considering changes to AMRN governance arrangements.

NRIAF and NRSS have been addressed on slide 44 and 45.

Ability of the ANAA to adapt

The commercial nature of the ANAA means there is limited practical means for agreeing changes to incentives.

Description of issues (pre-2018)

4 The ANAA commercial structure and budgeting arrangements are likely to have had some influence on the state of the asset during this period. Both AT and KR faced affordability constraints. While the ANAA has a triennial basis, budget negotiations between the parties occurred annually. The absence of a long term focus may not have provided an environment for KR to grow its capacity and capability, nor facilitated transparency over asset condition.

10 The ANAA obliges KR to use its best endeavours to meet the KPIs in the agreement, with incentives limited to the performance fee and limited enforcement mechanisms beyond escalating matters to Chief Executive level. The performance fee and ANAA access fee is small relative to the scale of KR's commercial business and Crown funding.

18 Interviewees noted KPI targets do not reflect passenger experience and are not aligned with above rail KPIs. AT stated that KPIs were never fully developed as intended. Agreement of both parties is required to reset KPI targets and change KPIs. KPI bands were tightened ahead of FY 2017-2018.

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective checks and balances	
Constraints and inhibitors	

Further developments and planned changes

We understand the ANAA Working Group attempted to revisit the KPIs in 2018, but this did not progress.

We understand an ANAA 'reset' programme of work is planned by KR to ensure the ANAA is updated for the introduction of CRL. However, this is understood be in its early phases and we have not been provided with detailed information on this work.

We also understand AT and KR are engaging on improvements to the NMP and refinement of KPIs within the current ANAA.

Network access

All independent reviews highlighted the need to improve network access for AMRN maintenance and renewals the productivity of access time.

Description of issues (pre-2018)

3

Under the ANAA, track possession plans are agreed by the Auckland Network Timetable Committee, which includes representatives from KR and AT. We understand that the committee works through unanimity, where the mixed incentives of participants may have impacted maintenance access.

Questions were raised around whether there was sufficient provision, and effective use, of access windows. With increased network use, access windows were reducing. WSP identified that the efficiency of the work programme was being compromised by lack of track access and windows. Questions were raised about the productivity of the block of lines, with freight trains running through and a lack of modern maintenance practices, particularly in relation to equipment. A lack of daylight inspections due to metro services was also identified (interviews and WSP 2019). WKS also raised specific concerns around the lack of daylight inspections (SSA 2019). One interviewee noted that there was lack of cyclical maintenance windows to performance pro-active maintenance.

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective checks and balances	
Constraints and inhibitors	

Further developments and planned changes

Future access requirements will strongly relate to the asset management plan. RNGIM is also funding new equipment, infrastructure and training to improve access productivity.

We have not been provided with information on any planned changes to access arrangements, although interviewees have noted significant access will be needed to the AMRN over the coming years to implement RNGIM, and for NZUP and CRL works.

KR have stated there are ongoing discussion between them and AT on planning for access related to the capital works programme.

Asset management

Systems were in place to collect asset data but a detailed asset management plan for the AMRN has not been developed, asset management practices did not evolve to meet evolving requirements.

2

Description of issues (pre-2018)

The AMRN has lacked a long-term asset management plan, including above and below rail considerations. In 2008, the Auditor-General identified that there was no long-term plan for the rail network and limited network information (OAG 2008).

An asset management system, Maximo, was introduced in 2014 to record below rail asset information and plan maintenance and renewals. However, a detailed asset management plan for the AMRN was not developed.

While the ANMPs contain high level strategies and activities for AMRN, we observed that much of the content of the network management plans has remained largely unchanged since they were first introduced in 2013. KR's asset management practices during this period were primarily reactive (WSP 2019, Root Cause Report).

In 2019, WKS identified that the maintenance programme was not keeping pace and that infrastructure was not being maintained in accordance with KR standards. WKS also expressed concern that the underlying asset condition was not well understood by KR (SSA 2019).

ISSUE TYPE	ROOT CAUSE
Unifying objectives/ planning	
Ineffective checks and balances	
Constraints and inhibitors	

Further developments and planned changes

A key recommendation contained in the Root Cause Report and WSP HLIR is for the ANAA parties to collaborate on the development of a multi-year asset management plan for the AMRN. The RCF working group also recommended the development of a separate 30-year plan for rail grinding as part of a comprehensive AMRN maintenance and renewals regime.

We do now know if this grinding programme has been developed or not.

We understand KR and AT are developing a programme business case for the 30 year development of the AMRN. The Ministry of Transport also understands that a dedicated asset management plan for the AMRN will be created (integrating both above and below rail). However, we do not know if there will be a mechanisms in a refreshed ANAA for keeping this plan current. The shift to a proactive maintenance regime that is necessary for a modern metro system was described by interviewees as a significant challenge.

References

AT 2011 = Business Report – October 2011. Auckland Transport, October 2011.

OAG 2008 = Maintaining and renewing the rail network. Controller and Auditor-General, 2008.

Aurecon 2011 = Track Asset Renewals – Auckland Metro Area TOR – Track Study KiwiRail. Aurecon, November 2011.

ANAA = Auckland Network Access Agreement, executed in 2013.

CRIS 2018 = Stage 2 Cost Recovery Impact Statement Sustainable funding for the rail safety regulator. NZ Transport Agency Waka Kotahi, December 2018.

Rail Safety Regulatory Consultation 2018: Rail Safety: the case for an enhanced New Zealand regulator. NZ Transport Agency Waka Kotahi, October 2018.

Root Cause Report = Auckland Metro RCF Working Group: Root Cause Assessment. Prepared for KiwiRail and Auckland Transport, 17 August – 1 June 2021.

WK 2018 = Rail Safety: the case for an enhanced New Zealand regulator. NZ Transport Agency Waka Kotahi, October 2018.

SSA 2019 = 2019 Special Safety Assessment –Auckland Metropolitan Rail Network Status – Final Report. NZ Transport Agency Waka Kotahi, September 2019.

CP 2010 = Cabinet Paper: Metro Rail Network Costs for One Year [FY2011], April 2010.

MROM 2017 = MROM Review, Phase 1 – Draft Issues paper for consideration and comment. Ministry of Transport, 13 April 2017.

WSP 2019 = Rail Network Growth Impact Management (RNGIM) SSBC. WSP | OPUS, 2019.

WSP HLIR 2019 = Auckland Rail Network High Level Infrastructure Review. WSP | OPUS, 2019.

ANMP 2016 = Auckland Network Management Plan, FY16.

ANMP 2017 = Auckland Network Management Plan, FY17.

ANMP 2018 = Auckland Network Management Plan, FY18.

ANMP 2020 = Auckland Network Management Plan, FY20.

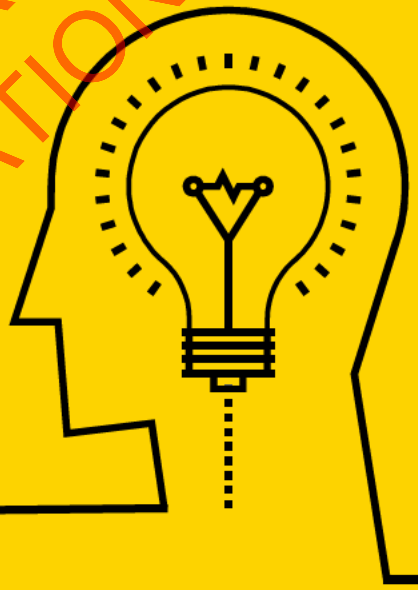
2015 RLTP = Auckland Regional Land Transport Plan 2015-2025.

NR 2014 = Auckland Metro Network Management Plan Track Study, Final Report. Network Rail Consulting, 12 June 2014.

ATRS 2013 = Independent Review Report into Rail Systems Team for NZTA. Australasian Transport Risk Solutions Pty Limited December 2013.

MJ 2016 = Review of the Governance, Operation and Management of the National Rail System Standards, Final Report. Martin Jenkins, 5 December 2016.

Information requested



Further information

A range of further information was requested from the Review participants to confirm and validate some of the system issues identified through interviews and our document reviews. A summary of the information received is outlined below.

Issue	Participant	Information requested	Information received
1 8 7 Track Codes & Standards	KR	• Detail on the process for review and assurance of KR's standards, including interface with WKS and third-party advice and review. • Register of relevant codes and standards, including description of KiwiRail's code and standards taxonomy, and history of reviews and updates going back 2010. • Governance process for compliance management and derogations.	• We have not been provided with detailed information on codes and standards. KR has supplied us with a bullet point overview outlining key roles and responsibilities, the review process, and management of derogations. KR noted it funded a review of its below rail engineering codes and standards framework and content across all disciplines, which took place in 2015.
9 Regulator maturity	WKS	• Clarification of the relationship between the Rail Safety Regulatory Operating Model and the Tū ake, tū māia regulatory strategy. • Details on any areas of consensus within NRIAF for new standards/Railways Act rules. • Details on the governance and oversight of the rail regulatory maturity model, including progress the rail actions in Tū ake, tū māia.	• WKS have stated that its operating model preceded the Tū ake, tū māia regulatory strategy. WKS have stated they are in the process of reviewing and updating their operating model to further align with Tū ake, tū māia and their risk framework. • We have not been provided with detailed information on potential priority areas for new standards or regulations. While there was an initial focus on this in the NRIAF work programme, NRIAF's purpose / focus is currently under review by WKS. • We have not been provided with detailed information on the governance and oversight of rail regulatory maturity model and progress. WKS have stated they report regularly to their board and executive on progress against Tū ake, tū māia.

Further information

A range of further information is required from the Review participants to confirm and validate some of the system issues identified through interviews and our document reviews. A summary of the information received is outlined below.

Issue	Participant	Information requested	Information received
NRSS	KR, WKS, and Ministry of Transport	• Status of the Martin Jenkins recommendations regarding the NRSS. • Clarification of the current relationship between the NRSS-E and NRIAF. • A register of NRSS, including dates of last review and update, particularly for those related to WRI. • Role of NRSS-E during the EMU procurement period, particularly the relationship to specification E1317.	• We have not been provided with detailed information on implementation of the MJ review recommendations. We understand that WKS is not taking an active role in overseeing the review's recommendation. WKS have noted that KR is responsible for reviewing NRSS standards to ensure that are appropriate. KR stated that the NRSS last met in late 2019. • WKS have stated that NRIAF and NRSS-E are two separate groups serving separate functions. NRSS-E focuses on the governance of national standards, its review, appropriateness, application, whereas NRIAF is a forum consisting of members from the rail industry in NZ i.e Metro operators, industrial operators, and the heritage/tourism operators. NRIAF aims to encourage communication and collaboration among the industry members. • Other stakeholder feedback noted that there was discussion around NRSS integrating into NRIAF, but this does not seem to have progressed. WKS have stated that the appropriateness of the NRSS are the NRSS excutives' responsibility and scope, not part of NRIAF's functions or intent. • KR referred us to the NRSS register on their website. Based on the website, the interoperability standard was last reviewed in 2013 although KR noted that an informal review of the NRSS took place within KR in 2018. • KR have stated that NRSS-E had no direct role in the Auckland EMU procurement, noting NRSS-E advises on standards but it is up to the above and below rail operators to deliver against those standards.

11 12

Further information

A range of further information is required from the Review participants to confirm and validate some of the system issues identified through interviews and our document reviews. A summary of the information received is outlined below.

Issue	Participant	Information requested	Information received
EMU design and WRI	KR and AT	• Confirmation of KR's involvement in the final stages of the AM Class EMU procurement, including technical specification. • Confirmation of the process and rationale for permitting the current EMU wheel profile through granting of running rights, including any related derogations and changes to NRSS. • How did KR resolve its concerns related to the potential below rail maintenance impact? • What was the outcome for WRI group between 2017-19?	• AT have stated that KR led the development of the technical specification for, and procurement of, the EMUs prior to this being transferred to Auckland Transport (after contract award). They state KR staff and advisors transferred with the project, and KR remained involved throughout. KR commissioned an independent peer review of the dynamic performance of the unit. This generated a number of queries that CAF were required to respond to, including revalidation of model results. AT states all outstanding items were resolved through clarification, testing or derogation. • AT have stated that while they were not aware of any changes to the NRSS themselves related to the EMUs, noting 'A derogation was formally sought and approved in relation to the wheel profile. This profile was demonstrated to reduce wheel flange wear given rail profile and track geometry in Auckland. [...] Analysis of track forces and track damage exerted by the vehicle was undertaken and shown to be below required limits and therefore accepted. The derogation placed an obligation on AT to revert to the standard profile should issues arise in Auckland. This was not requested and the wheel profile was not identified as an issue by the peer reviewer.' • Both AT and CAF stated that they were not aware of any KR concerns around the EMU's potential below rail maintenance impact at the time of their introduction. KR have not addressed this maintenance impact point in detail in their feedback, but noted that 'at the time of the final approval the EMUs were either complete, or on the water'. • We understand that no conclusions or agreement could be reached from the 2017-19 WRI group.

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Further information

A range of further information is required from the Review participants to confirm and validate some of the system issues identified through interviews and our document reviews. A summary of the information received is outlined below.

	Issue	Participant	Information requested	Information received
16 17	Multiple roles of parties	KR	• How has KR's organisational structure evolved over the period from 2010 to today in relation to the AMRN.	• KR has provided a high level overview and stated that the organisational structure has changed a number of times since 2010, but core responsibilities of the AMRN have stayed relatively constant. We have not been provided with detailed information on this.
13 14	Catch-up renewals	AT, KR	• Confirmation of the KR and AT funding requests to the Crown or WKI for AMRN catch up renewals from 2014-2017. • An estimate of the residual catch up renewals deficit post-RNGIM and the required long-term maintenance and renewals funding requirement.	• WKI have no record of a funding application for the catch up renewals that were included in the 2015-18 RLTP (during the 2014-17 period). KR stated they do not believe there were any formal budget bids related to these renewals during 2014-17. AT stated they assisted KR with a budget bid to the Ministry of Transport in 2018, which then informed the new Transitional Rail activity class. Further, as WKI previously had a limited role in rail funding, there were no applications to WKI directly because under previous GPS'. • AT have stated the original RNGIM business case preferred option did not cover the full workbank identified at the time, and that the RNGIM workbank and costs now appear to be underestimated. KR and AT are developing a programme business case that should identify the residual requirements.
15	Regulatory funding	WKS and Ministry of Transport	• Confirmation of whether there has been a post-2018 rail regulator funding and maturity progress review.	• WKS noted that a 'plan to review rail regulatory funding model will be considered after the roading fees and funding review is complete.' They also note that they continue to develop their regulatory model for the low probability and high impact risks of the rail system.

Further information

A range of further information is required from the Review participants to confirm and validate some of the system issues identified through interviews and our document reviews. A summary of the information received is outlined below.

Issue	Participant	Information requested	Information received

Industry governance	KR and AT	• Confirmation of WKI attendance at the AMR PcG.
		• Information on how the AMR programme governance operates within KR and interface with other industry participants.
		• Clarification on which forums are operational in relation to the AMRN, and how they relate to the ANAA.
			• We have been told that WKI does not attend the AMR PcG.
			• AT have stated 'The AMR project was stood up to deal with the initial urgent works, cutting across the established and funded RNGIM works. AMR reported to KR COO whilst RNGIM dual reported via Network Services and KR CPAD (Capital Projects and Asset Development). […] Other aspects of the RNGIM programme were then subsumed into other workstreams. It is our understanding that KR are currently reviewing existing governance arrangements.'
			• AT have stated: 'significant changes in the funding regime, combined with rapid mobilisation of capital projects and changes in personnel across organisations has resulted in a degree of uncertainty in this area. Governance is currently under review by AT and KiwiRail. In practice:
			  ◦ Business As Usual / Operational Forums - These are primarily based around the contractual requirements of the ANAA and Operator Contract […] The ANAA steering group and ANAA working group was established under this structure, but was overtaken by the Auckland Metro PcG established on the emergence of AMR.
			  ◦ Capital Projects Governance – facilitated by KR CPAD with the established Metro Programme Control Group and Programme Governance Board. The latter includes NZTA and MOT and includes the NZUP projects.'
			• AT have noted there also separate governance forums related to CRL, Future of Rail, and Metro Service Operator Transition.

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Further information

A range of further information is required from the Review participants to confirm and validate some of the system issues identified through interviews and our document reviews. A summary of the information received is outlined below.

Issue	Participant	Information requested	Information received
10 18 ANAA performance	KR and AT	• Details of the ANAA reset workstream. • Information on any requests for changes to the ANAA performance regime.	• No detailed information has been supplied. KR have stated that the ANAA reset is at early stage currently and will be informed by other workstreams, such as the asset management plan and the joint-AT-KR AMRN development programme business case. AT have noted they are currently in discussions with KR regarding improvements to the NMP and refinement of KPIs. However, they are unsure if this is the same ANAA reset workstream reported within KR. • AT have stated that 'the original ANAA network performance KPIs were not fully defined within the ANAA schedules and were intended to be developed further. This was not done. [...] The ANAA Working Group attempted to revisit the KPIs in 2018. This did not progress.' Discussions regarding updates to the KPIs are apparently ongoing, and will involve the new metro service operator. KR has stated that during its ANAA's development, it was acknowledged it would need to be reset for the post CRL world.
2 Asset management	KR	• Details of the status of AMRN asset management plan.	• No detailed information has been supplied. KR have stated that as part of their Auckland Metro Transformation Programme, they are developing 'a fit for purpose asset management system appropriate' for the post-CRL AMRN, and a draft will be completed by the end of 2022. • KR declined to provide us with the results of their asset management maturity assessment.
3 Network access	KR	• Details of any recent or planned changes to the planning and governance of AMRN access arrangements.	• No detailed information has been supplied. KR have stated that there are ongoing discussions between KR and AT on planning access (and ongoing governance) for the capital works programme. This includes communication of the network access requirements for customers.

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Document 27

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

20 December 2021 OC211018

Hon Michael Wood

Minister of Transport

cc Hon Grant Robertson

Minister of Finance

UPDATE ON THE ALLEVIATION OF CURRENT SUPPLY CHAIN ISSUES

Purpose

To outline the Government's ongoing response to help alleviate current supply chain disruption brought on as a result of the COVID-19 pandemic and next steps to address supply chain resiliency issues with Small and Medium-sized Enterprises (SMEs).

Key points

- The Ministry, alongside other agencies, continues to work on short term measures to help alleviate supply chain issues. This includes minimising regulatory barriers, clarifying information, providing advice, and working collaboratively with industry to help facilitate and ease disruption flashpoints, where appropriate.

- Officials are of the view that Government is best placed to shape the long-term supply chain horizon. Policy work also continues on developing those long-term interventions, including the National Freight and Supply Chain Strategy.

- In addition to these long-term interventions, officials are also looking at exploring interim measures that can be implemented in the new year to better support SMEs identify supply chain risks and opportunities. SMEs are most at risk in terms of weathering the impacts of supply chain disruption.

- Officials plan to develop options in early 2022 on next steps for supporting SMEs to better identify supply chain risks and opportunities. s 9(2)(f)(iv) and s 9(2)(g)(i) [redacted] This has met with successful results in test cases such as break-bulk shipping.

- s 9(2)(f)(iv) [redacted]

- Officials intend to report back to Ministers on potential options for progressing this work in due course.

Harriet Shelton
Manager, Supply Chain
..... / ...... / ......

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

Name	Telephone	First contact
Harriet Shelton, Manager, Supply Chain	s 9(2)(a) [redacted]	
Chris Barber, Senior Adviser Supply Chain	s 9(2)(a) [redacted]	✓

UPDATE ON THE ALLEVIATION OF CURRENT SUPPLY CHAIN ISSUES

1 The Ministry has provided regular briefings and situation reports on the ongoing supply chain disruption brought on as a result of the COVID-19 pandemic. While the acuteness of supply chain disruption has abated somewhat, officials still anticipate that congestion issues will continue throughout 2022.

2 Previous briefings from the Ministry have also outlined a range of levers at the government's disposal to address continued supply chain disruption, including **(i) investment levers**; **(ii) regulatory levers**; **(iii) economic incentives & education**; **(iv) influencing the international environment**; and **(v) monitoring, oversight & persuasion**.

3 Agencies are already implementing a range of feasible short-term interventions, but these are limited to mitigating the impacts of supply chain congestion and cannot resolve the underlying drivers of congestion itself. Further proposals for short term interventions have been explored by agencies but deemed infeasible or impractical due to the scale of the global supply chain problem (para 10 refers).

4 The conclusion was that Government intervention was more likely to be effective in the medium to longer term – as such, for example, investment in freight infrastructure and review of policy settings around labour markets. Some of these longer-term settings are being investigated under the National Freight and Supply Chain Strategy.

Officials continue to work on short term measures to help alleviate supply chain issues

5 In the short term, the Government's response is focussed on minimising regulatory barriers, clarifying information, providing advice, and working collaboratively with industry to help facilitate and ease disruption flashpoints, where appropriate.

6 Measures undertaken to date include facilitating the Ports of Auckland's applications to bring in skilled workers to raise productivity, and granting international shipping lines exemptions from cabotage laws to allow more operational flexibility.

7 Officials have also facilitated critical imports, reported on global developments, and provided businesses access to supply chain management experts. The Government has also brought industry together to discuss potential collaboration to address congestion challenges.

8 For example, a break-bulk shipping workshop led by MPI and Seafood NZ in August 2021 resulted in industry collaborating on joint bulk charters. This was done by industry stakeholders themselves, with their feedback stating that no Government interventions were required or appropriate given that industry had found its own solutions.

9 Other agencies are working to assist importers and exporters as part of their 'business as usual' work programmes:

9.1 MPI continues to facilitate border clearance of urgent or essential goods (where appropriate), assist primary sector businesses to navigate immigration and MIQ processes, provide updates on overseas market access requirements arising from COVID-19, and help shipping and forestry companies understand New Zealand's biofouling regulations.

9.2 MFAT and NZTE continue to provide practical assistance to exporters through their overseas networks.

10 s 9(2)(f)(iv) and s 9(2)(g)(i) [redacted]

10.1 s 9(2)(f)(iv) and s 9(2)(g)(i) [redacted]

10.2 s 9(2)(f)(iv) and s 9(2)(g)(i) [redacted]

10.3 s 9(2)(f)(iv) and s 9(2)(g)(i) [redacted]

Officials continue to progress work on medium to longer term measures

11 As previously mentioned, officials are of the view that Government is best placed to shape the long-term supply chain horizon. In addition, to progressing the business-as-usual work identified above, policy work also continues on developing those long-term interventions.

12 This includes exploring options to improve supply chain resiliency and efficiency through coastal shipping. Waka Kotahi recently released the Coastal Shipping Investment Approach State-of-Play report, the first of three reports to assist Waka Kotahi on how best to invest the $30 million in funding that has been allocated to coastal shipping. It is intended to provide Waka Kotahi with an up-to-date view of the sector's shape and the key challenges and opportunities.

13 The Ministry is developing an issues paper, identifying long term policy options to improve supply chain resiliency under the National Freight and Supply Chain Strategy.

14 s 9(2)(f)(iv) [redacted]

Officials are exploring medium term options to support Small and Medium-sized Enterprises (SMEs)

15 As officials develop these longer-term options, the Ministry, alongside a range of agencies, are also looking at exploring interim measures that can be implemented in

the new year to better support SMEs identify supply chain risks and opportunities. SMEs are most at risk in terms of weathering the impacts of supply chain disruption.

16 Recently, Maersk, the largest shipping line operating in New Zealand, announced that it will no longer accept long-term contracts from freight forwarders in any of their global markets, forcing them to rely on the spot price for shipping rates. [redacted]

s 9(2)(g)(i)

17 Work is already underway in this space. In engaging private sector external supply chain expertise, NZTE has undertaken supply chain reviews that have been well received by customers in its focus portfolio.[1] NZTE is currently uploading supply chain content onto its myNZTE website and is expanding this online offering to provide regular updates, information, and practical tools and resources applicable to a customer's export stage.

18 Officials plan to develop options in the new year through interagency consultation on next steps for supporting SMEs to better identify supply chain risks and opportunities. [redacted]

s 9(2)(f)(iv) and s 9(2)(g)(i)

19 Officials intend to report back to Ministers on potential options for progressing this work in due course.

[1] NZTE's "Focus" cohort of approximately 1400 exporters are those who receive the most intensive level of support.

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

21 December 2021 OC211004

Hon Michael Wood

Minister of Transport

DEVELOPMENT OF THE 2023 – 2025 *ROAD TO ZERO* ACTION PLAN

Purpose

Provide you with an update of the development of the 2023 – 2025 *Road to Zero* Action Plan.

Key points

- The initial *Road to Zero* Action Plan was released in December 2019. The plan covers the first three years (1 January 2020 to 31 December 2022) of implementing the *Road to Zero* Strategy. A new Action Plan is needed to drive a programme of activity that targets a 40 percent reduction in death and serious injuries (DSIs) (from 2018 levels) on our roads by 2030.

- The new Action Plan will highlight what has been achieved under the initial Action Plan. Some of the initial actions will need to be re-phased and carried over into the new plan. We will also include new actions which are likely to deliver transformational change or involve piloting new initiatives to test or build an evidence-based for their effectiveness at reducing DSIs on New Zealand roads.

- Given that we propose to refresh (rather than extensively reshape) the action plan, we will undertake targeted stakeholder engagement as the work progresses. Stakeholders have been invited to contribute ideas for new actions to include in the next plan. We are working on a separate plan to engage Māori on the development of the plan, and on other key *Road to Zero* projects that Te Manatū Waka is leading.

- A key risk for this project is to ensure that new actions focus on transformational change that deliver a significant reduction in DSIs, while continuing to deliver existing actions that will roll over from the initial Action Plan. We will manage this risk through a robust assessment and refinement process as we develop the Action Plan.

- In terms of next steps, we will work towards providing a draft Action Plan to the *Road to Zero* Ministerial Oversight group for its June 2022 meeting. Following targeted consultation on the draft plan, we will bring the final version back to the Ministerial Oversight Group, with an accompanying draft Cabinet paper, for discussion at the group's September 2022 meeting. This will allow time for Cabinet approval of the new plan before the end of the year.

- We propose one change to the Ministry's 2021/22 Output Plan to reflect the involvement of the newly established *Road to Zero* Ministerial Oversight Group in the development of the Action Plan. The Output Plan has Cabinet approving consultation on the draft Action Plan in Quarter 3 (January – March 2022). We propose to replace this with the Ministerial Oversight Group approving targeted stakeholder engagement on the draft Action Plan in Quarter 4 (April – June 2022).

Recommendations

We recommend you:

1 **note** that the Ministry's 2021/22 Output Plan includes a draft Cabinet paper seeking approval to consult on the draft *Road to Zero* Action Plan as a deliverable in Quarter 3 (January – March 2022)

2 **note** that the recently established *Road to Zero* Ministerial Oversight Group is an appropriate forum to approve targeted stakeholder engagement on the draft Action Plan

3 **agree** to change the Output Plan deliverable mentioned in recommendation one to: *Briefing to Road to Zero Ministerial Oversight Group seeking approval to engage with targeted stakeholders on the draft Action Plan* in Quarter 4 (April – June 2022) Yes / No

4 **note** that Cabinet approval for the 2023-2025 *Road to Zero* Action Plan will be sought in October 2022.

Robert Anderson **Manager, Mobility and Safety** 20 / 12 / 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

Contacts

Name	Telephone	First contact
Robert Anderson, Manager, Mobility and Safety	s 9(2)(a) [redacted]	✓
Jo Gould, Principal Adviser	s 9(2)(a) [redacted]	

DEVELOPMENT OF THE 2023 – 2025 *ROAD TO ZERO* ACTION PLAN

Work has commenced on developing a new *Road to Zero* Action Plan

1 Work is underway in Te Manatū Waka Ministry of Transport on a new *Road to Zero* Action Plan for 2023 – 2025. We are working closely with Waka Kotahi NZ Transport Agency in the development of the new plan.

2 The Action Plan will build on the initial Action Plan 2020 – 2022 which sets out a programme of work to deliver on the road safety strategy *Road to Zero*. As you are aware, the strategy lays out a vision of a New Zealand where no one is killed or injured on New Zealand roads. The initial target is a 40 percent reduction (from 2018 levels) in death and serious injuries (DSIs) on our roads by 2030.

3 The initial Action Plan covers three years (1 January 2020 to 31 December 2022). By the end of 2022, we expect that some of the 15 actions contained in the initial plan will have advanced significantly, with implementation progressing once new legislative or regulatory settings are in place.

4 Other actions in the initial Action Plan will be tracking to expected timeframes that extend beyond 2022, while others will need to be re-phased due to the impact of COVID-19 and other challenges. We will provide you with an update on progress against the various actions ahead of the first *Road to Zero* Ministerial Oversight Group meeting on 14 February 2022.

5 The development of a new Action Plan provides an opportunity to:

- highlight what has been achieved under the initial Action Plan, and our progress towards the targeted 40 percent reduction in DSIs by 2030
- help us identify and prioritise work on initiatives that are expected to significantly improve road safety
- build stakeholder support for the overall programme of work contained in the new Action Plan.

6 Following earlier discussions with you, our plan is to refresh (rather than extensively reshape) the action plan. In addition to carrying over some of the actions from the initial plan, we will be looking to include new actions which are likely to deliver transformational change. We could also include pilots for new initiatives to test or build an evidence-base for their effectiveness at reducing DSIs on our roads. The new action plan should be ambitious, but should also carefully balance the need to deliver existing actions.

We have developed criteria to assess any proposed new actions

7 We will need to assess any possible new actions against criteria that will include:

- Effectiveness: the degree to which the action promotes safety in road usage and achieves reductions in DSIs in line with *Road to Zero* targets

- Ease of implementation: the cost/ease of implementing the action
- Equity: the degree to which the action can be applied fairly, equitably and impartially across all groups, without unfairly disadvantaging or adversely impacting particular groups
- Strategic alignment: the possible contribution the action will make to other government strategic priorities for land transport, including developing a low carbon transport system and providing people with better transport options.

We will need to ensure that we don't overcommit to new actions, at the risk of not progressing existing initiatives

8 A key risk for this project is ensuring that new actions focus on transformational change that deliver a significant reduction in DSIs, while ensuring that we continue to deliver existing actions that will roll over from the initial Action Plan. We will manage this risk through careful stakeholder management and a robust assessment process as we develop the Action Plan.

We have invited key stakeholders to contribute ideas for new actions to be included in the plan

9 There was extensive public engagement during the development of the *Road to Zero* Strategy, which fed into the initial action plan. This included establishing reference groups, holding regional roadshows, and meetings with road safety experts, special interest groups, Iwi and Māori. We consulted the public on the draft road strategy and set of initial actions in 2019, which attracted over 1,300 submissions. The strategy and action plan were released in late 2019.

10 Given that we will be refreshing the action plan, we will undertake targeted stakeholder engagement as the work progresses. We have engaged with partner agencies that are responsible or closely involved in delivering actions under the current action plan (Waka Kotahi, New Zealand Police and ACC). Their input will be needed to rescope and/or rephase existing actions. We have also invited submissions on new actions to include in the Action Plan.

11 We have also recently contacted key stakeholders (listed in Annex One) to invite their ideas for new actions. We have sought their feedback by early February 2022, and have indicated that we can meet to discuss the work and any feedback they have. Depending on their responses and level of interest, we may hold joint meetings or workshops in the New Year.

12 Reaching out to stakeholders in the lead-up to the summer holiday period runs the risk that we will not get a response by the indicative timeframe we have given them to respond (early February 2022). We will follow up with those key stakeholders we have not heard from by mid-late January 2022. We have built some flexibility into our timeframe to account for stakeholder follow-up and late submissions (see paragraph 16 below).

We will develop a plan to engage with Māori on the action plan, and other *Road to Zero* projects

13 In the New Year, we will work on a plan to engage with Māori on the development of the Action Plan and other *Road to Zero* projects we are leading (including the work on reviewing road safety offence penalties and the graduated driver licensing system).

14 We have had initial discussions with the engagement team at the National Road Policing Centre, Te Puni Kōkiri and Te Arawhiti about this work. We are keen to align our engagement activities where possible, to help improve the efficiency of the process for Māori.

15 The current Action Plan includes an action to work with Māori to understand their road safety aspirations. As part of this work, Waka Kotahi published *He Pūrongo Whakahaumaru Huarahi Mō Ngā Iwi Māori | Māori road safety outcomes report* in June 2021. Waka Kotahi is working to partner with Iwi Māori to explore the specific road safety risks identified in the report and work together to determine how to improve Māori road safety outcomes. This action will be carried forward into the next Action Plan.

We will involve the *Road to Zero* Ministerial Oversight Group as the new Action Plan develops next year

16 Table One summarises the indicative timeframe for the development of the new Action Plan, including the involvement of the *Road to Zero* Ministerial Oversight Group. The group consists of you (as both Ministers of Transport, and Minister of Workplace Relations and Safety), the Ministers of Police and ACC, and other Ministers as required. In addition to its first meeting in February 2022, the Ministerial Oversight Group is scheduled to meet in June and September 2022 (as highlighted below).

Table One: Timeframe for development of 2023 - 2025 Road to Zero Action Plan

Action	Timeframe
Initial engagement with stakeholders to seek their early input/ideas for the new Action Plan	December 2021 – February 2022
Māori engagement plan developed and implementation underway	February 2022
Analysis of suggestions for new actions completed and existing actions re-scoped	April 2022
Draft Action Plan developed	May 2022
Road to Zero Chief Executive Governance Group meeting: consideration of draft Action Plan	13 May 2022
Road to Zero Ministerial Oversight Group meeting: approval to engage with stakeholders on the draft Action Plan	2 June 2022
Targeted stakeholder engagement on draft Action Plan completed	Mid July 2022
Road to Zero Chief Executive Governance Group meeting: consideration of draft Cabinet paper and Action Plan	4 August 2022

Road to Zero Ministerial Oversight Group meeting: consideration of draft Cabinet paper and Action Plan	1 September 2022
Consultation on draft Cabinet paper completed	End September 2022
Cabinet approval of the Action Plan	October 2022
Action Plan published	November 2022

17 The Ministry's Output Plan 2021/22 includes the following item that is due in Quarter 3 (January – March 2022): *Draft Cabinet Paper prepared seeking approval to consult on the draft Road to Zero Action Plan.*

18 The Output Plan was developed before the *Road to Zero* Ministerial Oversight Group was established. This group is an appropriate forum to approve targeted consultation on the draft Action Plan, as it provides all Ministers who have an interest in the Action Plan the opportunity to contribute and comment.

19 We seek your agreement to change the Output Plan item to: *Briefing to Road to Zero Ministerial Oversight Group seeking approval to engage with targeted stakeholders on the draft Action Plan* in Quarter 4 (April – June 2022).

20 We intend to seek Cabinet's approval for the 2023-2025 *Road to Zero* Action Plan in October 2022.

ANNEX ONE: STAKEHOLDERS WE HAVE ENGAGED WITH ON THE DEVELOPMENT OF THE 2023 – 2025 *ROAD TO ZERO* ACTION PLAN

Partner agencies	ACC
	National Road Policing Centre, PNHQ New Zealand Police, Policy Group
	Waka Kotahi NZ Transport Agency
Government agencies	Ministry for Pacific Peoples
	Ministry of Business, Innovation and Employment
	Ministry of Ethnic Communities
	Ministry of Health
	Ministry of Justice
	Ministry of Social Development
	Te Arawhiti
	Te Puni Kōkiri
	WorkSafe New Zealand
Local and regional government	Auckland Transport
	Local Government New Zealand
	Local Government Transport Special Interest Group (TSIG)
	New Zealand Local Authority Traffic Institute (Traffinz)
Key industry and advocacy groups	Automobile Association AA
	Bike Auckland
	Bus and Coach Association
	Cycling Action Network
	Ia Ara Aotearoa Transporting New Zealand
	Imported Motor Vehicle Industry Association
	Institute of Road Transport Engineers of New Zealand
	Living Streets Aotearoa
	Motorcycle Safety Advisory Council
	Motor Industry Association
	Motor Trade Association
	Rental Vehicle Association
	Safe and Sustainable Transport Association
	Students Against Dangerous Driving
	Taxi Federation
	Uber
	Vehicle Inspection New Zealand
	Vehicle Testing New Zealand
Broader interest groups	Brake
	CCS Disability Action
	Disabled Persons Assembly

	Insurance Council of New Zealand
	National Trauma Network
Unions	Amalgamated Workers Union NZ Inc
	E Tū
	FIRST Union
	New Zealand Council of Trade Unions
	Rail & Maritime Transport Union
	Tramways Union

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

22 December 2021 OC211016

Hon Michael Wood

Minister of Transport

RESEARCH INTO THE USE AND EFFECTIVENESS OF ALCOHOL INTERLOCKS

Purpose

Update you on research into the use and effectiveness of alcohol interlock sentences.

Key points

- Since the introduction of mandatory alcohol interlock sentences for serious and repeat drink driving offenders in 2018, the number of these sentences imposed by the courts has increased significantly.

- However, research conducted by the Automobile Association (AA) shows that only around a half of those offenders eligible for the sentence actually receive it. Of those, only around two-thirds go on to have an alcohol interlock device installed in their vehicles.

- Responsibility for installing an alcohol interlock device rests with the person subject to the sentence. There is no legal timeframe in which the device must be fitted. If the person does not apply for an alcohol interlock licence and get the device installed, they remain disqualified from driving.

- Unlike other sentences imposed by the courts, the alcohol interlock sentence requires offenders to pay costs associated with the installation and monitoring of the alcohol interlock devices. Subsidies are available through Waka Kotahi NZ Transport Agency for those who meet the financial eligibility criteria, but monthly fees of around $110 - $150 must still be paid by the individual.

- A number of aspects of the alcohol interlock sentence warrant further work. From Te Manatū Waka's perspective, the biggest risk lies with the fact that no agency has responsibility for following up with offenders that do not get the device installed in their vehicle. We will raise this issue with Waka Kotahi in the first instance, to determine what response can be taken to strengthen oversight of the regime. We will report back to you in early 2022.

- Given that alcohol consumption is a contributing factor to a large number of deaths and serious injuries on our roads, we will consider including a review of the alcohol interlock sentence regime in the 2021 – 2025 *Road to Zero* Action Plan. Work on this

Action Plan is currently under development, and a draft will be provided to you in May 2022.

Recommendations

We recommend you:

1 **note** that Te Manatū Waka will consider a review of the alcohol interlock sentence regime in the 2021 – 2025 *Road to Zero* Action Plan, with a particular focus on strengthening the accountability and oversight of the regime.

Robert Anderson **Manager, Mobility and Safety** 22/12/2021	Hon Michael Wood **Minister of Transport** ..... / ...... / ......

Minister's office to complete: ☐ Approved ☐ Declined

☐ Seen by Minister ☐ Not seen by Minister

☐ Overtaken by events

Comments

Contacts

Name	Telephone	First contact
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Jo Gould, Principal Adviser	s 9(2)(a) [redacted]	

RESEARCH INTO THE USE AND EFFECTIVENESS OF ALCOHOL INTERLOCKS

Alcohol interlock sentences became mandatory for repeat and serious drink driving offenders from July 2018

1 From 1 July 2018, the Land Transport Act 1998[1] was amended to make alcohol interlock sentences mandatory for anyone convicted of two or more drink driving offences within a five-year period. The sentence also became mandatory for anyone convicted of driving with alcohol in their system that exceeded a certain threshold (800 micrograms per litre of breath or 160 milligrams per 100 millilitres of blood, which is over three times the legal limit).[2]

2 A person subject to an alcohol interlock sentence can only drive a vehicle that has had an alcohol interlock device fitted. The device acts like an in-vehicle breathalyser. If the device detects alcohol on the driver's breath, the car will not start. The driver also needs to provide a breath sample at random times while the vehicle is in use. The device must be installed for at least 12 months in every vehicle the driver has access to.

3 When Cabinet agreed to make the alcohol interlock sentence mandatory, Cabinet noted international literature that showed these devices can reduce reoffending by an average of around 60 percent while the devices were fitted. The literature also pointed to the devices having a small residual effect on reducing reoffending once the device is removed, particularly when the sentence is integrated with rehabilitation measures.

There are limited exceptions set out in legislation which can result in the alcohol interlock sentence not being imposed

4 The court does not have to impose an alcohol interlock sentence in certain circumstances, even when the offender has been convicted of the qualifying offences. These include where the offender:[3]

- has a medical condition that means they are incapable of providing a valid breath sample to activate an alcohol interlock device
- does not have lawful possession of a motor vehicle, or
- usually lives in a "non-serviced area"[4] and is not prepared to drive to a serviced area for the alcohol interlock to be installed.

[1] Land Transport Act 1998, section 65AB.
[2] The alcohol limit for drivers aged 20 years and over is 250 micrograms of alcohol per litre of breath and the blood alcohol limit is 50 milligrams per 100 millilitres of blood.
[3] Land Transport Act 1998, section 65AB (2).
[4] A non-serviced area is defined in the Land Transport Act 1998 (section 2) as being 70 km or more from an approved provider's service centre.

For those sentenced to an alcohol interlock, there is no legal timeframe in which the interlock device must be fitted

5 Under the relevant provisions in the Land Transport Act 1998:[5]

- an alcohol interlock sentence disqualifies the person from obtaining a driver licence for a period of at least 28 days
- after the disqualification period, the person is *authorised* to apply for an alcohol interlock licence. This licence requires the person to only drive a motor vehicle that has an alcohol interlock device fitted
- if the person does not apply for the alcohol interlock licence, they will continue to be disqualified from holding or obtaining a driver licence.

The offender must pay for the installation and ongoing monitoring of the alcohol interlock device

6 A person sentenced to an alcohol interlock sentence must pay to have the device installed. There are currently two approved providers that can install the devices (the third provider is currently inactive due to global COVID-19 restrictions). These providers have agents in most towns and cities.

7 The offender must also pay monthly service and rental fees to the installer, as well as the cost of removing the device at the end of the sentence.

8 These fees collectively amount to between $2,000 to over $2,500 per annum, depending on the provider and the complexity of the fitting. This must be paid in addition to any fine imposed by the court for the underlying offence.

9 In making the sentence mandatory, the extra financial burden was acknowledged by Cabinet and it was agreed that a subsidy would be made available. The subsidy is funded through the Road Safety Activity class of the National Land Transport Fund. Those eligible for the subsidy still have to pay part of the rental and servicing costs of around $110 to $150 per month (depending on the provider).

10 The subsidy is available for a 15-month period, which allows the offender time to meet the exit criteria for the alcohol interlock sentence. After the 15-month period, an offender is liable for the full cost of the monthly rental.

11 Requiring offenders to pay the costs associated with a sentence is unusual. Offenders sentenced to imprisonment, community sentences or home detention are not required to contribute to the costs of their sentences.

Recent research on the use and effectiveness of alcohol interlocks

Research shows that while the number of alcohol interlock sentences has increased significantly, only around two-thirds of offenders have the devices installed

12 The Ministry of Justice publishes annual statistics on the number of people who received an alcohol interlock sentence. The sentence was first introduced in

[5] Land Transport Act 1998, section 65AC(2).

September 2012. Annual data is currently available for the financial years from 2012/13 until 2020/21.

13 As indicated in the table below, the number of people who received an alcohol interlock sentence in 2020/21 was over 10 times greater than the number of people who received the sentence in 2017/18. This shows the impact of the legislative change that made these sentences mandatory from July 2018 for repeat and serious drink driving offenders:[6]

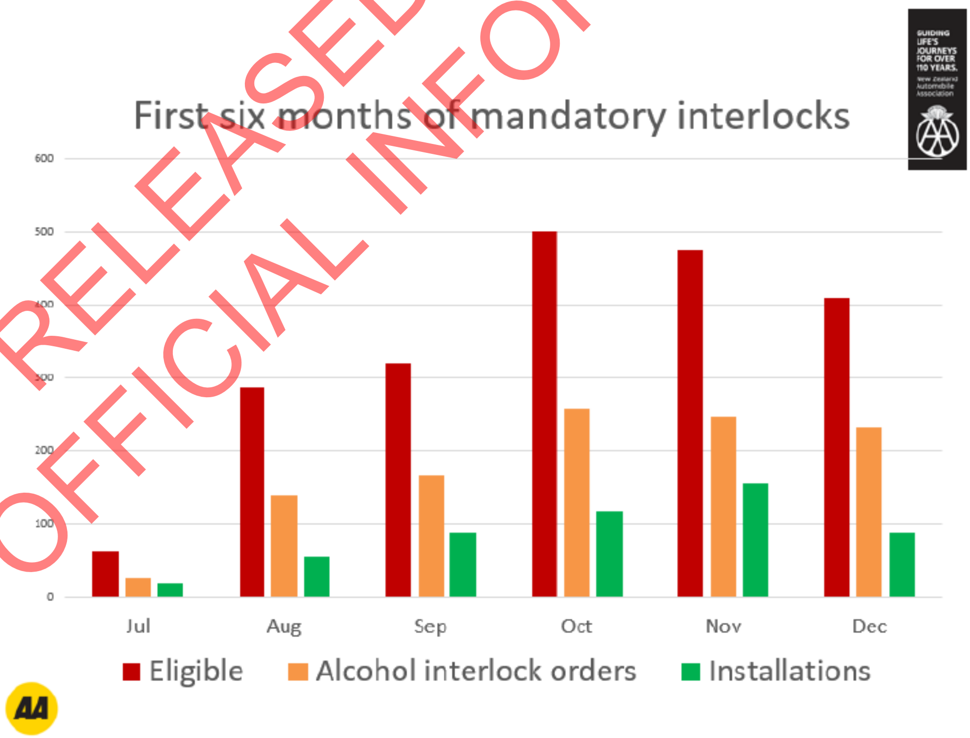
Table 1: Number of people who received an alcohol interlock sentence from 2012/13 to 2020/21

2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
151	251	260	364	303	371	3,563	3,575	4,138

14 The Automobile Association (AA) has published two research reports into alcohol interlock sentences.[7] The research shows that just over half of those eligible for the mandatory sentence actually receive the order. Of those sentenced to an alcohol interlock, only around two-thirds install an alcohol interlock device in their vehicles.

15 The following graph from the AA research illustrates these trends, covering the six months following the introduction of the mandatory sentence in July 2018.

Graph: Number of people eligible for an alcohol interlock sentence from July 2018 – December 2018, and the number that went on to be sentenced to an alcohol interlock and had the device installed



[6] From *Driving under the influence data tables*, available at: www.justice.govt.nz/justice-sector-policy/research-data/justice-statistics/data-tables/

[7] Waters, Gerald (2019) *The Mandatory Alcohol Ignition Interlock Sentence in New Zealand* and Waters, Gerald (2019) *The New Zealand Alcohol Interlock Programme – A Process Review*, both available at www.aa.co.nz/about/aa-research-foundation/programmes/driver-impairment/

16 In a press release issued earlier this month, the AA highlighted that in 2020 alcohol interlocks stopped 37,061 attempts to use a vehicle because alcohol was detected on the breath of the driver.[8] This amounts to around 100 attempts per day.

17 While highlighting the success of the devices in preventing those potentially over the legal alcohol limit from driving, the AA also pointed to the fact that around one in three people sentenced to an alcohol interlock did not end up with a device installed in their car. The AA criticised the lack of follow-up in the current system to ensure that the devices were fitted into vehicles.

Research into the effectiveness of alcohol interlocks will be published in early 2022

18 Te Manatū Waka has commissioned an evaluation of the impact of the alcohol interlock sentence on reoffending. The evaluation is expected to be published in early 2022. The evaluation compares reoffending data for those given an alcohol interlock sentence with those who were eligible but did not receive the sentence between 2013 – 2017 (before the sentence became mandatory). The Ministry of Justice provided the data, which included sample matching and reoffending analysis.

19 While there are some limitations with the data, the draft report shows that the group subject to the alcohol interlock sentence had lower reoffending rates for drink driving and disqualified driving over a two to four-year period. It is not possible to verify, however, whether those subject to the sentence actually had an interlock device installed.

Some aspects of the alcohol interlock sentence warrant further work

20 There are some aspects of the alcohol interlock sentence that require further consideration:

- The responsibility for installing an alcohol interlock device rests with the offender. Some offenders may be unable to afford to install the device, or may be struggling with other issues (including alcohol addiction) so do not complete the sentence. While they remain disqualified from driving, a number may continue to drive. There is no follow-up with the offenders by any agency. In Te Manatū Waka's view, this poses a significant risk. Accountability and oversight of the regime should be strengthened. We will raise this issue with Waka Kotahi in the first instance, to determine what response can be taken to strengthen oversight of the regime. We will report back to you in early 2022 on next steps.

- When Cabinet approved the introduction of the mandatory alcohol interlock sentence, officials were directed to monitor uptake rates and identify any barriers to the sentence. Officials were also directed to review the regime's effectiveness, including whether the mandatory sentence should be extended to further groups of offenders, once three years of data become available after the legislative changes came into force. Although the three-year timeframe has now been reached, this review has not yet commenced.

[8] Available at: www.aa.co.nz/about/newsroom/media-releases/safety/alcohol-interlocks-prevent-near-40000-attempts-to-drive/ [7 December 2021]

- The level of uptake of the alcohol interlock device subsidy has been lower than expected. The Waka Kotahi Board has recently approved an annual subsidy of $0.7 million for the next three years. Work on developing a business case for the subsidy will continue, which could include consideration of whether the current subsidy level is sufficient. While an increase in the subsidy amount could lead to an increased installation rate by those who receive the sentence, there is a question about whether the financial eligibility thresholds should also be reviewed. Having offenders pay a portion of the cost was considered to be an appropriate incentive when the scheme was designed.

- Waka Kotahi has raised a number of technical issues with some of the alcohol interlock provisions in the Land Transport Act 1998 that need to be worked through to ensure that the legislation is effective and fit-for-purpose. These issues include looking at whether the sentence's objective should be included in the legislation, and looking at the criteria that offenders must meet to progress off the alcohol interlock sentence.

We will consider including a review of the alcohol interlock sentence in the next Road to Zero Action Plan

21 Given that alcohol consumption is a contributing factor to a large number of deaths and serious injuries on our roads, we will consider including a review of the alcohol interlock sentence regime in the next *Road to Zero* Action Plan for 2023 – 2025.

22 We have just started work on the development of the 2023 – 2025 *Road to Zero* Action Plan. As outlined in our recent briefing on the Action Plan (OC211004), we propose to seek the approval of the draft Action Plan at the June 2022 *Road to Zero* Ministerial Oversight Group meeting. We will provide you with the draft Action Plan in May 2022.

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

22 December 2021 OC211020

Hon Michael Wood

Minister of Transport

COVID-19 - UPDATE ON DEVELOPMENT OF MIAC EXIT STRATEGY

Purpose

The purpose of this briefing is to provide you with an update on the development of the exit strategy for the Maintaining International Air Connectivity (MIAC) scheme. The briefing sets out the work completed to date and provides an overview of the current thinking and options for the development of the exit framework.

Key points

- The Ministry of Transport has developed a Terms of Reference for the MIAC exit strategy work in consultation with the Treasury and the Department of Prime Minister and Cabinet. A range of other agencies are also involved in the development of advice for the exit strategy.
- The Ministry considers that Reconnecting New Zealanders creates a good opportunity to put in place a smooth exit framework from the MIAC scheme. Advice will be provided to Ministers which contains a range of options and trade-offs.
- A key determinant of MIAC exit strategy decisions will be the forecast passenger numbers, based on the Reconnecting New Zealanders strategy. Given the significant uncertainty in timing of Reconnecting New Zealanders, and the further uncertainty in how these decisions will impact passenger travel demand; the Ministry anticipates recommending an exit framework that is capable of managing this uncertainty with exit being determined by actual passenger numbers.

This is a noting briefing and has no recommendations – but please advise us if you wish to discuss further.

Brent Lewers
Programme Manager, Reconnecting New Zealanders
22 / 12 / 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

Contacts

Name	Telephone	First contact
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COVID-19 - UPDATE ON DEVELOPMENT OF MIAC EXIT STRATEGY

Background

1 MIAC was established in May 2021, with current MIAC contracts with airlines set to expire on 31 March 2022 (with the exception of the trans-Tasman routes which are funded separately, and currently expire in January 2022[1]).

2 On 22 September 2021 [DEV-21-MIN-0186], Cabinet invited the Minister of Transport to report back to Cabinet in February 2022 with a strategy for exiting the MIAC scheme, incorporating the Reconnecting New Zealanders approach and forecast traveller scenarios.

3 This briefing provides an update on how the exit strategy is being developed, including an overview of key considerations that will frame the exit strategy.

The Ministry has developed a Terms of Reference in consultation with Treasury and DPMC

The Terms of Reference sets out the key path for developing the exit strategy

4 In line with Cabinet expectation [DEV-21-MIN-0186], the Ministry of Transport (the Ministry) has developed a Terms of Reference for the MIAC exit strategy. This Terms of Reference has been consulted with the Treasury, the Department of Prime Minister and Cabinet (DMPC) – and was also provided for comment by the Ministry of Foreign Affairs and Trade (MFAT), the Ministry of Business, Innovation, and Employment tourism (MBIE), New Zealand Trade and Enterprise (NZTE), and the Ministry of Primary Industries (MPI).

5 The Terms of Reference outline the scope for developing the exit strategy, particularly through the establishment of the problem definition. In particular, the following key settings form the basis for the exit strategy development:

- Reconnecting New Zealanders will open borders, and that will deliver increased passenger numbers, therefore flights, and freight capacity which can be sold at rates which freight customers can be expected to pay without government support, but not necessarily at pre-COVID levels;
- Those increased passenger numbers (and the consequences outlined above) will be delivered progressively, over time, with considerable variation between routes; and
- There is unavoidable uncertainty around the timetable for those border openings and the resultant increased freight capacity.

[1] Note: the Ministry is currently working to gain approval to transfer funding to enable the extension of the trans-Tasman contract in line with the other agreements – this will require Cabinet approval and is the subject of a separate briefing to the Minister of Transport

6 Based on the above, the key problem definition for the exit strategy to solve is stated as: *Given the context above, what is the best framework for exiting the MIAC scheme?*

7 To support this, the Terms of Reference also outline a set of key questions to be answered in the advice to Ministers. These are:

- What is an acceptable minimum level of connectivity? (Note that this should be considered for each route / market)
- What changes could or should be expected from the aviation sector? What are the risks, and where does the risk sit?
- What is the potential impact of a return of widespread passenger travel in the rest of the world on New Zealand's connectivity? In particular, how does the opening of the Australian market impact New Zealand exporters / importers?
- How does seasonality of passenger demand align with export demand?
- Are there other important market considerations which are outside MIAC scheme control / influence?
- Ultimately, what is an appropriate level of government intervention and how and when should the MIAC scheme wind-down?

8 Additionally, the Terms of Reference also outline a range of out-of-scope areas for consideration. These areas generally refer to other support options beyond the MIAC, noting that the intention of the exit strategy development is not to undertake a first-principles review of the MIAC, but to outline the framework within which MIAC support is best turned off.

s 9(2)(g)(i)

9 [redacted]

s 9(2)(g)(i)

10 [redacted]

The Terms of Reference also cover the timeline and expected stakeholder engagement

11 The Terms of Reference provide a clear timeline for the development of the exit strategy. More detail on the timeline and relevant factors is provided at the end of this briefing.

12 There is a wide range of agencies who will be consulted in the development of the exit strategy. Comments from each agency are expected to be included in the final advice provided to Ministers. Additionally, the Ministry will engage, in a limited manner, with industry participants as needed to inform the exit strategy.

13 In line with this approach, the Ministry has already commenced engagement with the key agencies – including through a workshop to provide a base understanding to each agency of the current situation of the MIAC scheme (particularly noting recent trends and projections in the airfreight / air passenger markets). This workshop was also designed to test some early Ministry thinking regarding key considerations of the framework.

14 s 6(a) [redacted]

Ensuring the exit strategy can respond to complexity and uncertainty is a key focus for the Ministry's advice

The MIAC scheme has needed flexibility to operate effectively

15 The MIAC has focussed on ensuring a minimum level of airfreight connectivity is maintained with key markets for New Zealand exports and imports. While difficult to objectively determine the Ministry estimates that this level is around 10-20% of pre-COVID flight levels. This is the current level of air freight availability[2], of which the MIAC scheme is responsible for supporting approximately 50% (the remainder is provided by operators outside of the MIAC scheme).

16 s 9(2)(b)(ii) [redacted] As borders are opened and passenger demand increases (passengers provide significantly more revenue to operators), we would expect to see a significant reduction and then elimination in funding required on MIAC routes.

17 s 9(2)(b)(ii) [redacted]

18 These mechanisms provide a good ability for the MIAC to manage volatile market conditions and ensure that where support remains in place as passenger numbers start to recover, the Crown is not at risk of paying support for flights that are commercially viable.. s 9(2)(b)(ii) [redacted] Flight capacity was able to be maintained in the following period when Quarantine Free Travel was suspended.

Passenger recovery will differ across different markets

19 While the MIAC utilises a core set of principles and similar contractual terms across every supported market, each market is highly complex and impacted by its own set

[2] Note: due to the much lower availability of airfreight, there is currently significantly higher freight rates than pre-COVID – around 2-3 times the pre-COVID prices.

of external factors. In particular, the passenger demand for each market depends on both the New Zealand border settings and dynamics (e.g. willingness to travel) and the border settings and dynamics within the other market.

20 This is likely to lead to significant discrepancies in the return of passenger travel between different markets. For example, given the priority of Australia under the Reconnecting New Zealanders strategy and the significant number of New Zealanders travelling to and from Australia, it is expected that the Australian market will recover rapidly. s 9(2)(g)(i) [redacted]

21 To ensure that sufficient connectivity is able to be maintained overall, the Ministry considers that decision-making regarding MIAC support arrangements is best made on the individual market basis, rather than at the aggregate level. s 9(2)(g)(i) [redacted] This information will be a key consideration in the advice on the exit strategy.

22 s 9(2)(g)(i) [redacted]

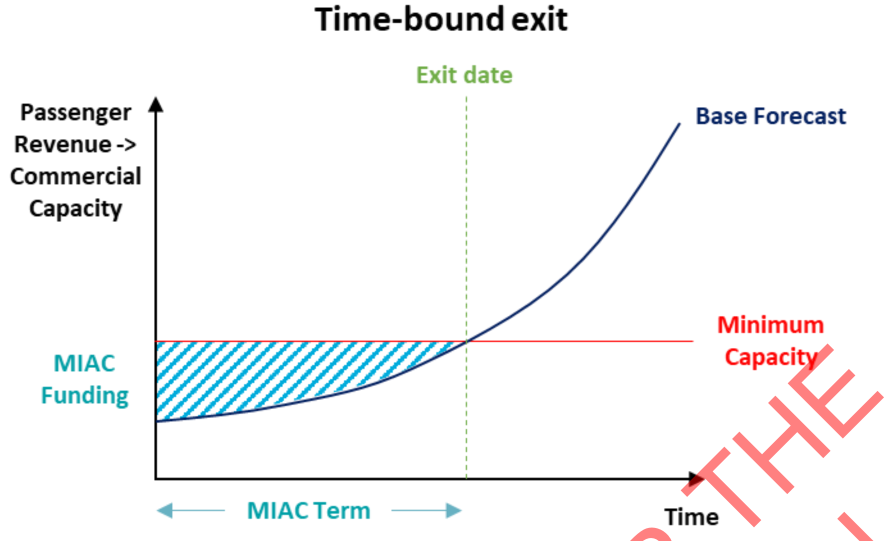
The exit strategy will provide options to Ministers on how to respond to this uncertainty

23 The Ministry's advice on the exit strategy will outline a framework for exiting the MIAC based on the return of passenger revenue. Within this framework, the Ministry's advice will include a range of options to managing risks across the MIAC exit.

24 One key dimension of options within the exit strategy will be whether decisions are based on an exit date or will be 'recovery-driven'. In the absence of a date-based exit strategy, the Ministry will recommend a clear back-stop date, which will allow sufficient time for a further review of MIAC settings and policy objectives. This review will be focussed the management of fiscal risk to the Crown and potential market distortions from long-term government intervention in the air freight market.

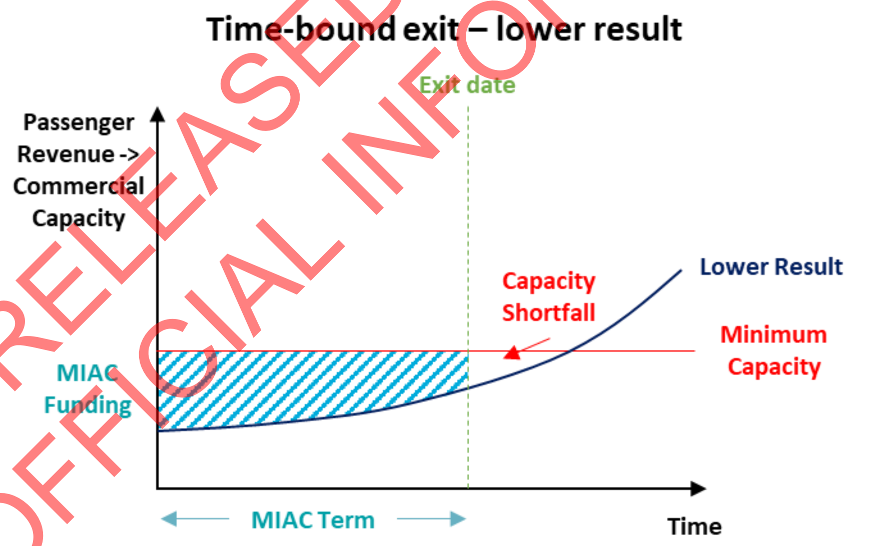
25 To illustrate the potential differences in these approaches, the Ministry has prepared a collection of theoretical diagrams. These diagrams are conceptual only and do not represent the forecast passenger demand other than reflecting the expectation of a general upward trend. For each diagram, the y-axis represents the level of passenger revenue for a market, and therefore also represents the level of commercial airfreight capacity offered. The MIAC currently provides funding (the shaded area) that adds to the commercial capacity to reach a minimum capacity.

Diagram 1: Time-bound exit



26 Under this model, a specified exit date is set at which point MIAC support ceases. The graph above shows that the date aligning perfectly with the increase in passenger revenue / commercial capacity, which means that the exit occurs at exactly the right time. Freight users will see consistent then rising freight capacity, but this is driven by increased passenger numbers so is commercially provided.

Diagram 2: Time-bound exit – passenger growth lower than forecast

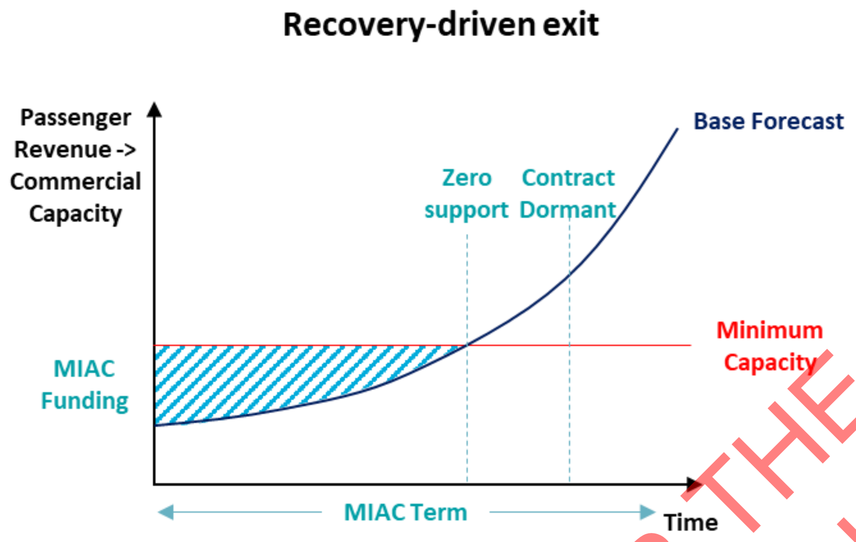


27 As with the previous scenario, an exit date was set ahead of time. However, the passenger recovery eventuated later than the specified exit date.

28 In this instance, there would be expected to be a capacity shortfall until passenger growth crosses over the previously supported minimum level.

29 s 9(2)(b)(ii) [redacted]

<u>Diagram 3: Recovery-driven exit</u>

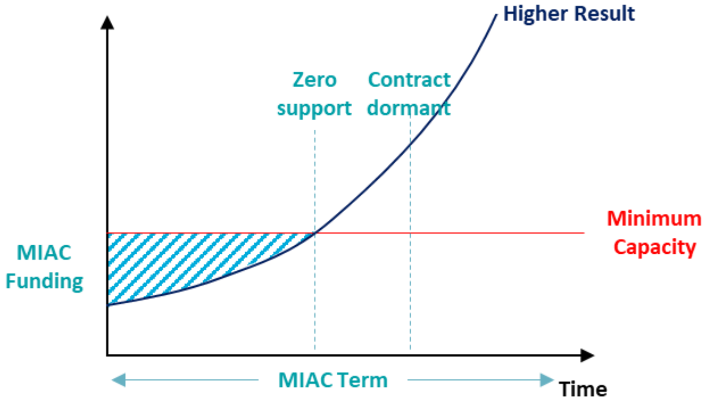


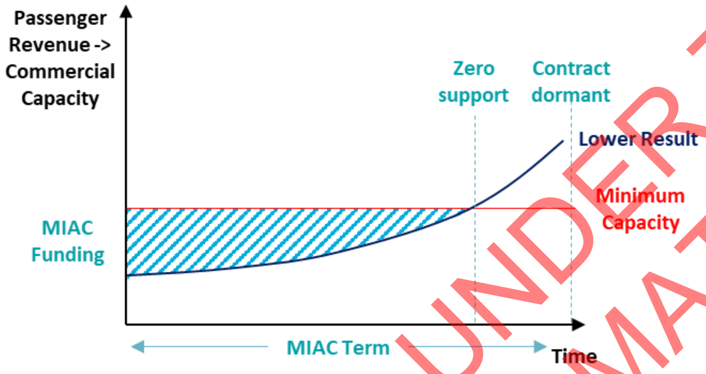
30 In this model, instead of an end date set at the expected point that support can be ceased, a 'recovery-driven' exit model is used. Under this model, the contracts are extended beyond the anticipated date of passenger recovery. s 9(2)(b)(ii) [redacted]

- s 9(2)(b)(ii) [redacted]
- s 9(2)(b)(ii) [redacted]
- s 9(2)(b)(ii) [redacted]

31 From freight users' point of view, this model will operate in the same was as the time-bound exit model in diagram 1, where the exit date is predicted accurately. Freight users will only consistent then increasing freight capacity, but that increased capacity will be delivered by the market without government support.

Diagram 4 and 5: Recovery-driven exit – passenger growth above and below forecast





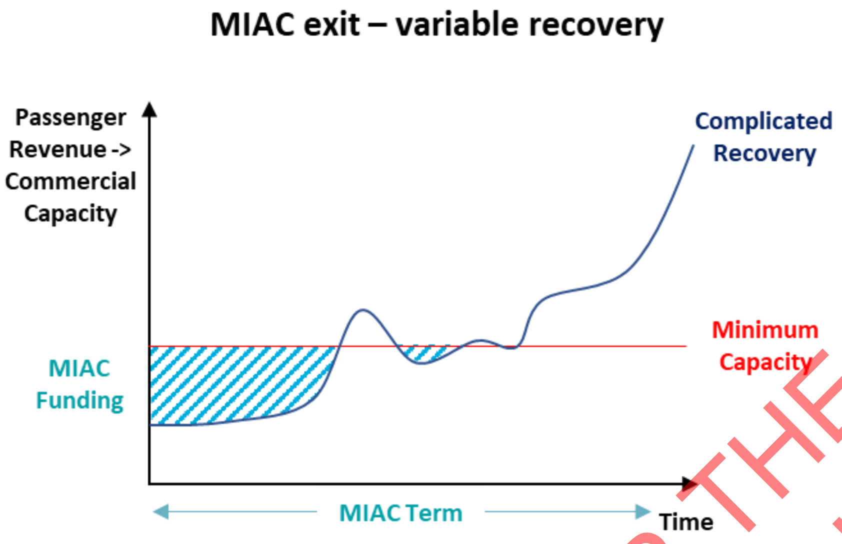
32 These diagrams show the impact of different scenarios using the recovery-driven exit model. They show that under this model:

- if passenger recovery happens earlier than expected (top diagram), the government's payment obligation finishes early, with no unnecessary amount needing to be paid
- if passenger recovery happens later than expected (bottom diagram), the government's payment obligation continues, increasing the scheme's cost, but no capacity shortfall arises.

33 s 9(2)(f)(iv) [redacted]

34 Other considerations for the exit strategy will include how best to manage the agreements in the likely event that passenger demand is not an easy conceptual growth such as outlined above. For example, the actual passenger revenue curve may look something like this:

Diagram 6: Complex passenger revenue



35 s 9(2)(b)(ii) [redacted]

36 Overall, the Ministry considers that the development of a suitable exit strategy will be complex and critically will require Ministers to determine the best set of trade-offs, particularly between fiscal cost risk and the risk of sustained capacity shortages.

37 While the Ministry's advice has yet to be finalised, the expected recommendation will be for an exit strategy that utilises the existing contractual mechanisms to respond to the growth in passenger demand, while remaining flexible to support markets in the event of an uneven recovery. This is effectively the 'capacity bound' exit outlined in diagram 3.

38 The Ministry's recommendations will also include specific measures taken to limit fiscal risk from the MIAC scheme, including a contract end date and review period, which can be targeted at markets that have not yet (or will not) recover in the short-medium term.

Development timeframes are tight

39 The Terms of Reference also outline the timeline for developing the MIAC exit strategy. This timeline is provided in **Appendix 1**.

40 The development timeline is challenging, driven in part by the summer holiday and the need for engagement with the other agencies. This has resulted in the final briefing and cabinet paper being expected to be lodged on 3 March 2022 – which is slightly beyond the Cabinet expectation of February 2022. However, Ministerial consultation is scheduled to occur in late February 2022.

41 This timeline could be reworked to provide the briefing and cabinet paper earlier, however this would mean that the engagement with the agencies would be more limited. As previous reviews of the MIAC scheme have found, this up-front

engagement with the agencies is critical to ensure robust and consistent advice is provided to Ministers representing all relevant interests.

42 If the timeline for the development and agreement of the exit strategy is not able to be met, there may need to be a short-term extension of one to two months to the existing MIAC scheme and contracts. In this situation the Ministry will prepare a brief Cabinet paper to seek agreement to the short-term extension.

43 It is important to note that if there are significant changes in the settings of Reconnecting New Zealanders, there will be a likely timeline impact on the development of the exit strategy s 9(2)(g)(i) [redacted]

Appendix 1

Table 1: Exit strategy development timeline

Activity	Timing	Responsibility
Briefing and Cabinet paper		
Initial workshops with Agencies	Complete	Ministry of Transport
Develop initial draft briefing	w/e 24 Dec	Ministry of Transport
Agency consultation on initial draft	w/e 21 Jan	Public Sector Stakeholders
Develop final draft briefing and Cabinet Paper	w/e 28 Jan	Ministry of Transport
Final comments from Agencies on briefing and Cabinet Paper	w/e 4 Feb	Public Sector Stakeholders
Briefing & draft Cabinet paper provided to Minister of Transport	w/e 11 Feb	Ministry of Transport
Minister advises decision	w/e 18 Feb	Minister of Transport
Updated Cabinet Paper provided to Minister's Office	Contingent on decision	Ministry of Transport
Minister's Office consultation on Cabinet paper	Through to lodging	Minister's Office
Cabinet Paper lodged	3 Mar	Minister's Office
Cabinet Committee	DEV 9 Mar	Minister of Transport
Cabinet decision	14 Mar	Minister of Transport
If required: Extending contracts	14 Mar – end Mar	Ministry of Transport
If required: New contractual period	From 1 Apr	Ministry of Transport