

OC230789

30 October 2023

Tēnā koe

I refer to your email dated 1 September 2023 requesting the following under the Official Information Act 1982 (the Act):

*“a copy of all reports, briefings and advice but excluding OIA requests and proactive release briefings, that the Ministry provided to the Minister of Transport in August 2023, excluding Weekly Reports.”*

On 27 September 2023 we advised you of an extension to the time period for responding to your request. The extension was due to consultations necessary to make a decision on your request being such that a proper response could not reasonably be made within the original time limit. We have now completed the necessary consultations.

There were 40 documents in scope of your request:

- 21 are released with some information withheld or refused
- eight are withheld (three of which also have their titles withheld)
- 10 are refused
- one is not provided in this response as it has been given to you in a previous response.

As noted above, I am withholding the titles of three briefings. Both the titles and the contents of these briefings remain under active consideration, therefore no further detail about them has been provided to you in this response.

Certain information is withheld and documents are refused under the following sections of the Act:

9(2)(a)	to protect the privacy of natural persons
9(2)(b)(ii)	to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
9(2)(ba)(i)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or

	members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
9(2)(h)	to maintain legal professional privilege
18(d)	the information requested is or will soon be publicly available

The document schedule at Annex 1 summarises the above information.

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 to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman's website [www.ombudsman.parliament.nz](http://www.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 website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā



Hilary Penman  
**Manager, Ministerial Services**

## Annex 1 - Document Schedule

Doc #	Reference	Document	Decision on release
1	OC230675	Regulatory Work Programme Quarterly Update: April to June 2023	Refused under Section 18(d).  When published, this briefing will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
2	OC230676	Waka Kotahi NZ Transport Agency Board- Update and Next Steps	Withheld in full under Section 9(2)(f)(iv).
3	OC230683	Review of Rapid Transit Functions Held by Waka Kotahi	Released with some information withheld under Section 9(2)(a).
4	OC230640	Civil Aviation Act 2023 Implementation Programme Update	Released with some information withheld under Section 9(2)(a).
5	OC230685	Further Advice on Funding for Six-Month Impoundment	Refused under Section 18(d).  This is one of a tranche of papers relating to the Road Safety Bill that is being prepared for proactive release. When published, it will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
6	OC230665	Key Issues Update for Incoming Associate Minister	Released with some information withheld under Section 9(2)(a).  Annex 1 is refused under Section 18(d) and is available here: <a href="https://www.transport.govt.nz/assets/Uploads/HIGHLIGHTED-FOR-PROACTIVE-RELEASE-Key-Issues-Briefing-for-Acting-Minister-of-Transport-Final_Redacted.pdf">https://www.transport.govt.nz/assets/Uploads/HIGHLIGHTED-FOR-PROACTIVE-RELEASE-Key-Issues-Briefing-for-Acting-Minister-of-Transport-Final_Redacted.pdf</a>
7	OC230713	Aide Memoire: Six-Month Impoundment Funding	Refused under Section 18(d).  This is one of a tranche of papers relating to the Road Safety Bill that is being prepared for proactive release. When published, it will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
8	OC230691	Air New Zealand- Kiwi Shareholder	Released with some information withheld under Section 9(2)(a).
9	OC230445	Proposal to Increase Board Fees for Transport Boards Covered by the Cabinet Fees Framework	Released with some information withheld under Section 9(2)(a).
10	OC230615	Port Nelson Limited: Constitution Amendments and Exemption from Port Companies Act Requests	Released with some information withheld under Sections 9(2)(a) and 9(2)(h).

Doc #	Reference	Document	Decision on release
11	OC230668	Government's Response to Interregional Passenger Rail Inquiry Report	Refused under Section 18(d). When published, this briefing will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
12	OC230687	Background on the Milford Opportunities Project	Released with some information withheld under Section 9(2)(a).
13	OC230705	Meeting with the Transport Accident Investigation Commission on 16 August 2023	Released with some information withheld under Sections 9(2)(a), 9(2)(ba)(i), 9(2)(f)(iv) and 9(2)(g)(i).
14	OC230671	Meeting with the Chair and Chief Executive of City Rail Link Limited on 17 August 2023	Released with some information withheld under Sections 9(2)(a), 9(2)(ba)(i), 9(2)(b)(ii) and 9(2)(g)(i).
15	OC230704	Progressing Funding Options and Early Abandonment of Vehicles	Refused under Section 18(d). This is one of a tranche of papers relating to the Road Safety Bill that is being prepared for proactive release. When published, it will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
16	OC230700	Consultation with Waka Kotahi Board on GPS 2024	Released with some information withheld under Section 9(2)(a). The attachment to the letter is refused under Section 18(d) and is available here: <a href="https://www.transport.govt.nz/assets/Uploads/Draft-Government-Policy-Statement-on-land-transport-2024.pdf">https://www.transport.govt.nz/assets/Uploads/Draft-Government-Policy-Statement-on-land-transport-2024.pdf</a>
17	OC230715	Vote Transport Contingent Assets and Liabilities Sign Off as at 30 June 2023	Released with some information withheld under Section 9(2)(a).
18	OC230716	Removal of Financial Assurance Regime from Land Transport (Road Safety) Amendment Bill	Refused under Section 18(d). This is one of a tranche of papers relating to the Road Safety Bill that is being prepared for proactive release. When published, it will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
19	OC230730	Land Transport (Road Safety) Amendment Bill - Policy Change to Remove Financial Assurance	This document is not provided to you as you received it on 19 September 2023 under a separate request (reference OC230782).
20	OC230592	Advice on the Northport Dry Dock: Supporting the Blue Economy Business Case	Refused under Section 18(d). When published, this briefing will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>



Doc #	Reference	Document	Decision on release
21	OC230733	Kiwirail – Draft Cabinet Paper Regarding Project IREX	Withheld in full under Sections 9(2)(f)(iv) and 9(2)(b)(ii).
22	OC230722	Regulation of Public Transport Bill - Supplementary Order Paper	Released with some information withheld under Section 9(2)(a).  Annex 1 is refused under Section 18(d) and is available here:  <a href="https://www.legislation.govt.nz/sop/government/2023/04/19/latest/LMS879302.html">https://www.legislation.govt.nz/sop/government/2023/04/19/latest/LMS879302.html</a>
23	OC230729	Meeting with the Chair of Waka Kotahi to Discuss the Draft GPS 2024: 23 August 2023	Released with some information withheld under Section 9(2)(a).
24	OC230742	Aide Memoire: Meeting with Auckland Light Rail Limited Chair, Dame Fran Wilde	Withheld in full under Section 9(2)(f)(iv).
25	OC230746	Annual Report Estimates Measure for Ministerial Satisfaction	Released with some information withheld under Section 9(2)(a).
26	OC230747 BR/23/80GA	Land Transport (Road Safety) Amendment Bill - Options for Commencement Date	Refused under Section 18(d).  This is one of a tranche of papers relating to the Road Safety Bill that is being prepared for proactive release. When published, it will be available here:  <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
27	OC230433	Outcome of the Consultation on Moving to the Euro 6/VI Noxious Exhaust Emissions Standards	Released with some information withheld under Section 9(2)(a).
28	OC230659 23-B-0383	Issue of Consent Under the Wildlife Act 1953 to Waka Kotahi for Mount Messenger Bypass	Released with some information withheld under Sections 9(2)(a) and 9(2)(h).
29	OC230669	Quarterly Report on Implementation Progress of the Emissions Reduction Plan Transport Chapter Actions- April-June 2023	Released with some information withheld under Sections 9(2)(a), 9(2)(f)(iv) and 9(2)(h).
30	OC230756	Additional Advice on Next Steps for Auckland Light Rail	Withheld in full under Section 9(2)(f)(iv)
31	OC230761	Speaking Notes for 30 August Meeting with Auckland Light Rail Sponsors Karen Wilson and Paul Majurey	Released with some information withheld under Sections 9(2)(a) and 9(2)(g)(i).
32	OC230757	Meeting with the Automobile Association	Released with some information withheld under Sections 9(2)(a) and 9(2)(f)(iv).
33	OC230724	Land Transport (Road Safety) Bill 2023 Implementation – Notices to Approve New Vehicle	Refused under Section 18(d).

Doc #	Reference	Document	Decision on release
		Surveillance Equipment and Point-To-Point Average Speed System	This is one of a tranche of papers relating to the Road Safety Bill that is being prepared for proactive release. When published, it will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
34	OC230764 BR/23/83GA	Land Transport (Road Safety) Amendment Bill - Additional Supplementary Order Papers	Refused under Section 18(d).  This is one of a tranche of papers relating to the Road Safety Bill that is being prepared for proactive release. When published, it will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
35	OC230674 BR/23/82GA	Road to Zero Quarterly Ministerial Update April - June 2023	Released with some information withheld under Sections 9(2)(a), 9(2)(f)(iv) and 9(2)(g)(i).
36	OC230688	Creation of Six Marine Reserves in the Southeast of the South Island Under The Marine Reserves Act 1971	Withheld in full under Section 9(2)(f)(iv).
37	OC230633	Seeking Agreement to Meet with Civil Aviation Authority Regarding Airport Security Screening Operations	Released with some information withheld under Sections 9(2)(a), 9(2)(g)(i) and 9(2)(h).

2 August 2023

OC230683

**Hon David Parker****Minister of Transport**

## **REVIEW OF RAPID TRANSIT FUNCTIONS HELD BY WAKA KOTAHI**

### **Purpose**

- 1 The purpose of this briefing is to inform you that under the Crown Entities Act 2004, you are required to review rapid transit functions that were afforded to Waka Kotahi in 2018. This briefing also seeks your agreement to undertake consultation with affected parties and agree timeframes for the review process

### **Key points**

- 2 A direction was issued in May 2018 under the Crown Entities Act 2004 that afforded Waka Kotahi the ability to “*plan, fund, design, supervise, construct and maintain rapid transit networks and/or projects, including light rail*” (see Appendix 1).
- 3 The policy and regulatory context surrounding rapid transit has evolved since the direction was issued in 2018 and since then the Government’s approach to rapid transit has evolved. It is now timely to review this direction.
- 4 We propose that a review is undertaken over several months, with a view to a final decision being made in early 2024. We propose a review that takes account of the roles and responsibilities of local and central government organisations with responsibility for rapid transit projects. There is a range of workstreams underway across government that could have implications for how rapid transit projects are governed, delivered and funded. A review of the CEA direction should take these workstreams into account. The implementation of spatial planning will also be a relevant issue to consider.
- 5 This timeframe will also enable the Ministry to work with Waka Kotahi and consult other relevant local and central government agencies, which should ensure you have sufficient information to make an informed decision.
- 6 Relying on its function, Waka Kotahi has applied, under the Resource Management Act 1991, to become a rapid transit requiring authority. The Ministry for the Environment is considering this application and will provide advice to the Minister for the Environment in due course. Should this application be approved, we would note that the requiring authority role may need to be reconsidered once the direction has been clarified.

## Recommendations

7 We recommend you:

- |   |  |          |
|---|--|----------|
| 1 | <b>direct</b> the Ministry of Transport to provide advice regarding Waka Kotahi's rapid transit functions in early 2024  | Yes / No |
| 2 | <b>direct</b> the Ministry of Transport, for the purposes of reviewing Waka Kotahi's rapid transit function, to consult on your behalf with Waka Kotahi and other affected parties | Yes / No |



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Daniel Cruden  
**Acting Manager, Placemaking and Urban Development**

**Ministry of Transport**

02/8/2023

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Hon David Parker  
**Minister of Transport**

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**Minister's office to complete:**

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

**Comments**

**Contacts**

Name	Telephone	First contact
Marieka Curley, Senior Adviser, Placemaking and Urban Development	s 9(2)(a)	
Daniel Cruden, Acting Manager, Placemaking and Urban Development		✓
Siobhan Routledge, Director, System Strategy and Investment		

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# REVIEW OF RAPID TRANSIT FUNCTIONS HELD BY WAKA KOTAHI

## Background

- 8 Waka Kotahi has a range of functions related to rapid transit that arise from a direction issued on 14 May 2018 by the former Minister of Transport (Hon Phil Twyford) under section 112 of the Crown Entities Act 2004 (the CEA). The direction is broadly framed and gives Waka Kotahi the ability *“to plan, fund, design, supervise, construct and maintain rapid transit networks and/or projects, including light rail”* (see Appendix A).
- 9 Waka Kotahi separately holds functions and requiring authority status under the Resource Management Act 1991 (RMA) for state highways and shared path facilities.
- 10 Section 115A of the CEA requires you to review the CEA direction, given it did not specify an expiry date and five years have passed since it was issued. This briefing seeks your agreement to complete that review early in 2024, and to the Ministry consulting with affected organisations in local and central government on your behalf as it conducts the review. Waka Kotahi is seeking to retain its existing rapid transit functions.

*The existing direction was issued in 2018 to reflect the needs of the Auckland Light Rail project at that time*

- 11 The 2018 CEA direction was issued a week after Cabinet had agreed that Waka Kotahi would lead the delivery of light rail in Auckland<sup>1</sup>, and the direction specifically mentioned light rail. Notwithstanding the Auckland context that led to the direction, it was drafted to be mode-neutral and to have general effect at the national level. Since the direction was given, the policy context has evolved both in respect of the Auckland Light Rail project.
- 12 In the Auckland Light Rail context, the key change was a Cabinet decision in late June 2020 that the proposal by Waka Kotahi to be the preferred delivery partner would not be taken further, and that the project would instead be taken forward through a public service delivery approach<sup>2</sup>. Cabinet agreed to set up an Establishment Unit for the project in March 2021<sup>3</sup>, followed by a decision in December 2021 to progress the Auckland Light Rail project and establish Auckland Light Rail Limited (ALR Ltd)<sup>4</sup>. ALR Ltd superseded the Establishment Unit and was tasked with the responsibility of advancing the Auckland Light Rail project through the detailed planning phase and developing a business case to enable the Crown to make a final investment decision.
- 13 Cabinet's March 2021 decision included a specific decision to rescind Waka Kotahi's role with light rail. Although it was clear what this meant for the Auckland Light Rail project, its implications for Waka Kotahi's broader national rapid transit function were not

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<sup>1</sup> DEV-18-MIN-0059

<sup>2</sup> CAB-20-MIN-0300 refers

<sup>3</sup> CBC-21-MIN-0036 refers

<sup>4</sup> CAB-21-MIN-0531 refers

addressed at the time. Ultimately no formal steps were taken to amend or revoke the existing direction meaning it remains in effect.

*The regulatory and policy context has evolved since the CEA direction was given to Waka Kotahi in 2018*

- 14 Since the direction was put in place, there have also been a range of policy and institutional changes relevant to the planning and delivery of rapid transit, including a strengthened focus on urban development, and emissions and congestion reduction. The funding context has also become more challenging. Accordingly, any direction should be fit for purpose for today's circumstances and be enduring over the next five or more years.
- 15 Key policy and institutional changes since 2018 include:
  - 15.1 The establishment of the Ministry of Housing and Urban Development in 2018 and Kāinga Ora in 2019, as well as the advent of Urban Growth Partnerships (which include Waka Kotahi), have made central government a more active partner in decision-making regarding planning for growth. The Government's reforms to the resource management system continue this trend, particularly through the development of regional spatial strategies and participation in joint regional spatial planning committees.
  - 15.2 Changes to the regulatory context through (for example) the Medium Density Residential Standards, National Policy Statement on Urban Development (NPS UD), amendments to the Climate Change Response Act 2002 and Land Transport Management Act 2003. These set stronger national direction for land use, urban development, and infrastructure decisions (which are in turn critical to the planning, funding and delivery of rapid transit projects).
  - 15.3 There are also increasing pressures on the investment system with increasing demands for expenditure. The National Land Transport Fund (NLTF) was initially considered a key source of funding for mass rapid transit projects. However, due to recent severe weather events and other funding pressures, using the NLTF to fund rapid transit projects is no longer realistic and direct Crown funding may play a greater role. Work is underway across central government agencies to determine a national approach to funding and financing rapid transit projects.

*Waka Kotahi is directly involved in rapid transit projects across New Zealand, and has recently applied to become a requiring authority for rapid transit*

- 16 Waka Kotahi has used the CEA direction extensively over the past five years to plan and/or investigate several rapid transit projects, in collaboration with partners<sup>5</sup>. By

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<sup>5</sup> Examples include Waitematā Harbour Connections, Northwest rapid transit, Airport to Botany, and rapid transit corridors that form part of greenfield growth networks in Auckland, as well as Let's Get Wellington Moving and Christchurch Mass Rapid Transit.

necessity, this includes partnership and engagement with other government agencies, regional and local authorities, and a wide range of other key stakeholders.

- 17 With reference to its rapid transit functions, and citing its involvement in current rapid transit projects, Waka Kotahi applied to become a requiring authority for rapid transit projects under Section 167 of the RMA in May 2023.
- 18 The Ministry for the Environment (MfE) is currently reviewing this application and intends to provide advice to you (as Minister for the Environment) regarding this application in the coming weeks.

### Consultation with affected parties

*If you consider an organisation is affected by the review, you are required to consult with it to the extent you consider necessary*

- 19 When reviewing a direction issued under s112, the CEA requires that the relevant Minister:  
  
*... must, to the extent that they consider it necessary in the circumstances,--*
  - a) *consult the Crown entity or entities to which the direction applies; and*
  - b) *consult any persons that they consider are representative of the interests of persons likely to be substantially affected by the direction<sup>6</sup>.*
- 20 This sets a clear requirement that, at a minimum, Waka Kotahi itself be consulted on the review, and we will consult with them while preparing advice on it. At a later stage in the process, you may wish to write to the Waka Kotahi Board seeking its view on the functions as well.
- 21 You have wider discretion about who you consider “*likely to be substantially affected by the direction*.” If you do consider an organisation substantially affected, you are required by the CEA to consult with them to the extent you consider necessary.

*Several local and central government organisations are likely to have an interest in Waka Kotahi’s rapid transit function, and therefore should be considered for consultation*

- 22 Several organisations across local and central government have functions that are essential to rapid transit. Responsibility for managing transport planning issues across a region and delivery of public transport services rests with **regional councils**, and **territorial authorities** are responsible for planning local transport issues. These organisations work with Waka Kotahi and other partner agencies in undertaking these functions.

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<sup>6</sup> CEA, s115A(3).

- 23 In the case of Auckland, specific council-controlled organisations (CCOs) also have responsibilities that closely relate to rapid transit. **Auckland Transport**, on behalf of Auckland Council, supports the planning and delivery of the public transport network, and has been closely involved in planning key rapid transit projects, like Auckland Light Rail and City Rail Link. Rapid transit projects also have implications for regional growth planning, and as a result have a direct impact on a wide range of parties in the urban development sector, including Auckland Council's urban development CCO, **Eke Panuku**.
- 24 In central government, **Kāinga Ora** has wide-ranging urban development functions that include land and infrastructure planning, funding, and development (including land acquisition). **KiwiRail** owns, operates and maintains New Zealand's rail network.
- 25 Ministry officials will need to work with affected organisations and Waka Kotahi during the review process to understand the impact of the functions.
- 26 We therefore recommend you direct us to consult on your behalf with the organisations listed above to the extent we consider necessary in supporting your decision. In practice, this could mean anything between light engagement with representatives of one or two high-growth councils, to a more wide-ranging and deeper exercise involving multiple councils and KiwiRail and Kāinga Ora. Officials will liaise with your office regarding which parties to consult with.

## Timeline

*A review is not bound by a specific timeline*

- 27 Under section 115A(2) of the CEA, a direction that does not specify its expiry date must be reviewed by the Minister five years after it was given. The CEA does not state a timeline for completing the review.
- 28 The function has no expiry date and will remain in effect until you make an active decision to retain, amend or withdraw it. The fact that the review is ongoing is therefore not expected to affect Waka Kotahi's ability to progress rapid transit projects in the meantime.

*By early 2024 the Government is likely to be in a better position to determine what rapid transit functions it wants Waka Kotahi to have*

- 29 A range of workstreams are currently underway across government that could all affect the governance, funding and allocation of roles and responsibilities for rapid transit, both between local and central government, and within central government. A decision taken in the next few weeks or months to retain the existing function may be premature because it may need to be revised in light of the impact of those workstreams on rapid transit projects. In particular, the work that the Ministry is currently leading regarding the development of a national approach to rapid transit projects could result in a clearer

allocation of roles and responsibilities between central and local government for planning rapid transit projects, as well as a consistent approach to funding and financing.

- 30 Work is also underway on the future ownership and operational arrangements for Auckland Light Rail, and the delivery entity for that project, which could have some bearing on institutional arrangements at the national level.
- 31 Therefore, we consider a review of Waka Kotahi's rapid transit functions should take place over several months, with a view to a decision being made in early 2024. We do not consider any active rapid transit projects will experience disruption or delay in the interim as several projects are still going through the business case process.

### **Next steps**

- 32 If you agree to the recommendations in this briefing, you will receive notification of which organisations we plan to consult later this year, and advice regarding the outcome of the review in early 2024.
- 33 If the application made by Waka Kotahi to become a rapid transit requiring authority is approved prior to the completion of the review of the CEA direction, MfE may need to reconsider it following the completion of the review.
- 34 If you would prefer to make a decision about Waka Kotahi's rapid transit functions sooner, and without consultation with affected parties beyond Waka Kotahi, we can provide advice regarding that option by early September 2023.
- 35 Regardless of when you complete the review of Waka Kotahi's rapid transit functions, consultation with the Ministers of/for Finance, Housing, Infrastructure and Local Government is likely to be required as you make your decision.



**Appendix A:** 2018 CEA Direction Letter from Minister of Transport to Waka Kotahi Chair

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14 May 2018

Mr Michael Stiassny  
Chair  
New Zealand Transport Agency

Dear Michael

## Auckland City-to-Māngere Light Rail Link

Thank you for your letter dated 24 April 2018 outlining your proposed approach to the New Zealand Transport Agency (NZTA) leading delivery of the Auckland City-to-Māngere Light Rail Link.

On 7 May 2018 Cabinet considered my Cabinet paper *Proposed Approach for Auckland's Rapid Transit Network Programme*. I **enclose** Cabinet's Minute. **Note: the minute was not enclosed**

Particularly, Cabinet agreed that the:

- 1 New Zealand Transport Agency (NZTA) will lead the development of the city-to-Māngere and North-West light rail lines (Auckland Light Rail Project).
- 2 city-to-Māngere light rail transit be prioritised and delivered on an accelerated schedule (referred to as the "city-to-Māngere link");
- 3 NZTA will lead the preparation of a single stage business case (including economic, financial and commercial aspects) for the the city-to-Māngere link and all subsequent projects within the RTN programme, for consideration by the Government;
- 4 NZTA, in conjunction with the Ministry of Transport and the Treasury, jointly establish a process that can be used to assess all potential proposals, and report back to the Minister of Finance and Minister of Transport; and
- 5 NZTA, in conjunction with the Ministry of Transport and the Treasury, jointly establish and report back to the Minister of Finance and Minister of Transport on:
  - a process to engage with a range of prospective partners; and
  - potential procurement options, including how partnership opportunities can be considered.

NZTA is to lead this process. I expect NZTA to work closely with the Ministry of Transport and the Treasury as it progresses this work, and in partnership with key agencies. I expect the Ministry to work with you on the report back to the Cabinet Economic Development Committee seeking approval of funding and governance arrangements.

I expect NZTA to continue their work on the Auckland Light Rail Project concurrently with the above process.

I intend for NZTA to lead projects in the rapid transit activity class of the draft Government Policy Statement on Land Transport, including the Auckland Light Rail Project. To that end, I make the following direction pursuant to Section 112 of the Crown Entities Act 2004 as permitted by Section 96(1)(j) of the Land Transport Management Act 2003:

*Effective immediately, the New Zealand Transport Agency has the following function:*

*"to plan, fund, design, supervise, construct and maintain rapid transit networks and/or projects, including light rail"*

These functions are intended to be enabling and do not prescribe which functions would be appropriate for any particular project. As this, and other rapid transit work, progresses it may be necessary to add an additional function(s) to the NZTA to enable it to participate fully in the development of light rail in Auckland or elsewhere.

In relation to the urban development associated with the light rail proposals, I expect NZTA to lead on developments that are within its functions as set out in the Land Transport Management Act, and the direction I have given you in this letter, and take a coordinating role with other agencies, including those with statutory powers relating to urban development and resource management. I expect the business case process will assist in identifying responsibilities for different aspects.

The Ministry of Transport is responsible for preparing advice on legislative proposals needed to deliver the light rail proposals on an accelerated basis. The Ministry will continue to work with you and other agencies on its advice.

Yours sincerely



Hon Phil Twyford  
**Minister of Transport**

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3 August 2023

OC230640

**Hon David Parker**

**Minister of Transport**

## **CIVIL AVIATION ACT 2023 IMPLEMENTATION PROGRAMME UPDATE**

### **Purpose**

Update you on work to implement the Civil Aviation Act 2023 by 5 April 2025.

### **Key points**

- The Civil Aviation Act 2023 (the 2023 Act) received Royal assent on 5 April 2023. It comes into force on 5 April 2025 unless brought in sooner by Order in Council.
- It will repeal and replace the Civil Aviation Act 1990 and the Airport Authorities Act 1966. Some elements of the Airport Authorities Act 1966 will remain in force for an additional five years, to 5 April 2030.
- We provided an outline of the programme to the previous Associate Minister in August 2022 [OC220734 refers]. We noted at the time that the scope of the programme would be limited to work that is necessary to give effect to statutory requirements or required to facilitate smooth transition to “business as usual” when the Act commences.
- Implementation will require some secondary legislation to be remade and other relevant systems to be put in place. You may be required to take some initial decisions in late 2023 to progress this work.
- We will continue to engage with the sector in the interim. The Ministry and the CAA agree that this engagement is key to the programme’s success.
- Delivery will be constrained by timing and access to subject matter experts. A governance group of senior officials is overseeing programme risks and the responses to them.



## Recommendations

We recommend you:

1 **indicate** if you would like to discuss this programme of work with officials

Yes / No



Tom Forster  
**Manager Economic Regulation**  
 3 August 2023

Hon David Parker  
**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 System and Regulatory Design	s 9(2)(a)	✓
Tom Forster, Manager Economic Regulation		
Eve Tucker, Senior Adviser		



# CIVIL AVIATION ACT 2023 IMPLEMENTATION PROGRAMME UPDATE

## Key points on the Civil Aviation Act 2023

- 1 The objective of the 2023 Act is to provide a single, modern statute that will provide a platform for safety and security within (and appropriate regulation of) the civil aviation system now and well into the future.
- 2 The 2023 Act will give effect to a range of substantive policy decisions. For example, key new provisions:
  - set out the responsibilities for the operation of new and emerging technologies and provide new intervention powers to respond to the serious misuse of remotely piloted aircraft.
  - strengthen the management of the risk of drug and alcohol impairment in the commercial aviation sector (this responds to the issues raised by the Carterton balloon incident in 2012).
  - clarify the powers, protections and tools that are available to aviation security officers at security designated aerodromes and expand the aviation security regime to enable short-term additional security measures in temporary “landside security areas” at airports when needed to respond to a heightened threat environment.
  - introduce a modern registration regime for airports (replacing the current Airport Authorities process). For some airports this includes a requirement called a regulatory airport spatial undertaking (RASU).
  - introduce a process for aviation participants to seek independent review of decisions made by or on behalf of the Director of Civil Aviation.
- 3 The civil aviation regulatory system is also underpinned by secondary legislation, much of which will need to be made or remade to carry over existing settings and reflect drafting and policy changes in the 2023 Act.

## Implementation approach

- 4 The programme and its workstreams are limited to delivering statutory requirements and work that is necessary to transition to the new regime. For the most part, outputs are therefore linked to one or more of the following:
  - The development and implementation of secondary legislation (new or remade).
  - Communications and engagement (external and internal).
  - Creation of new systems, processes, and functions (establishment).
  - Updating systems, processes, and training to support business continuity (transition).
- 5 Our focus is on ensuring implementation can be achieved by 5 April 2025 and avoiding scope creep that would introduce undue risk to or within the regulatory system.

- 6 As a key example, we intend to advise the responsible Minister at the appropriate time to remake the current Civil Aviation Rules and associated offences and infringement penalties to reflect the current settings.
- 7 This means we will only make necessary adjustments to reflect the new law (such as drug and alcohol management plans and references to the Act), rather than proposing new frameworks. We won't propose changes to fee and fine levels in secondary legislation, or other work that would be better suited to dedicated policy analysis at a later date.
- 8 We also propose to carry over the current monopoly settings for aviation security services and Airways services, noting these can be reviewed outside this programme of work.
- 9 This approach will maximise our ability to deliver on time and minimise the risk of introducing errors during the rule and regulation making process. It will also provide necessary continuity for the sector, who would otherwise need to have substantial input on changes that might affect the way they operate within the system.

#### **Interagency work programme**

- 10 Te Manatū Waka - Ministry of Transport (the Ministry) and the Civil Aviation Authority (CAA) are continuing to work closely together on implementation of the 2023 Act.
- 11 The Ministry is leading work on:
  - new or updated functions for the Secretary for Transport (such as airport registration) and associated Ministry governance arrangements
  - establishing the new independent review function, and
  - ensuring the regulations and *Gazette* notices are aligned with the new law.
- 12 The CAA will lead:
  - end-to-end delivery of the drug and alcohol management regime
  - work to deliver the 2023 Act's regulatory security and safety requirements, and
  - any other operational changes that affect its processes and the sector.
- 13 We will work together on realigning the Civil Aviation Rules with the new law.

#### **Governance arrangements**

- 14 The implementation programme is working with some constraints, including the time available to deliver the necessary work (must be completed by 5 April 2025) and access to subject matter experts.
- 15 To date, the implementation programme has been overseen by an interagency Steering Group of senior officials. This is being strengthened by the addition of two internal governance groups to oversee each organisation's deliverables.

#### **Ministerial and government decisions required for implementation**

- 16 Your main role in the implementation programme is:
  - decision maker for rulemaking and notices
  - Minister responsible for taking regulations, appointments, and related material to Cabinet, and

- support to set sector expectations and hold the Ministry and CAA to account.
- 17 By 5 April 2025, government decisions will be required to:
- certify and remake all the current Civil Aviation Rules, realigned with the 2023 Act
  - make new rules regarding the 2023 Act's drug and alcohol management requirements
  - make regulations to set out the corresponding regulation-level offences and penalties, including carrying existing penalties under the current Act over to the 2023 Act regime
  - make new regulations outlining which regulatory decisions are in scope of the Act's new independent review function
  - appoint an independent reviewer or reviewers, and
  - issue notices to carry over the current settings for aviation security services and certain airways services.
- 18 Other decisions may be identified in the course of our work, some of which is still in the scoping phase. You will be notified of any changes by way of the Weekly Report as they arise.

#### **Sector engagement**

- 19 We will engage with the sector where appropriate to inform statutory updates, system design and other elements of the programme before we seek formal decisions.
- 20 We are currently engaging with the sector on the design of Regulatory Airport Spatial Undertakings. We are also scheduled to begin targeted early engagement shortly on the independent review function [OC230494 refers] and drug and alcohol management plans.



4 August 2023

OC230665

**Hon Damien O'Connor**

**Associate Minister of Transport**

cc Hon David Parker

Minister of Transport

## KEY ISSUES UPDATE FOR INCOMING ASSOCIATE MINISTER

### Purpose

This briefing updates you on the transport portfolio matters that you will need to consider as Associate Minister of Transport.

### Key points

- At your request, Te Manatū Waka Ministry of Transport (the Ministry) has prepared this briefing to update you on the key issues that fall within your delegations from the Minister of Transport, Hon David Parker. The key issues are set out in Annex 1 and a copy of your delegations' letter is attached at Annex 2.
- We understand that you have read the Briefing for the Incoming Associate Minister that we prepared for Hon Kiri Allan last February. Because your delegations are similar to Minister Allan's except for aviation matters, this report updates relevant material that has changed from her February briefing.
- This briefing should be read in conjunction with other briefing material you receive and your Weekly Report.
- In addition to matters raised in this briefing, you may receive papers of a procedural and technical nature for your action. Papers of this nature will be provided to your office as required, but are not discussed in this briefing.

- Officials from the Ministry are available to meet with you to discuss this briefing and how you would like to work with us while in your new role.



Brent Johnston  
Chief of Staff

4 / 8 / 23

Hon Damien O'Connor  
Associate 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 Johnston, Chief of Staff	s9(2)(a)	✓
Alec Morrison, Policy Delivery Lead, Strategy		
John Edwards, Principal Adviser, Strategy		

Annex 1 is refused under Section 18(d)



**Hon David Parker** BCom, LLB

Attorney-General

Minister for the Environment

Minister of Transport

Associate Minister of Finance



2 August 2023

Hon Damien O'Connor

Associate Minister of Transport

## Delegated functions and responsibilities

1 Congratulations on your appointment as Associate Minister of Transport

### *Role and responsibilities*

2 In your capacity as Associate Minister of Transport, I delegate to you the following functions and responsibilities of the Transport portfolio:

2.1 All matters relating to:

- 2.1.1 The Land Transport (Road Safety) Amendment Bill and any matters concerning fleeing drivers;
- 2.1.2 Roadside drug testing and the drug driving regime;
- 2.1.3 The maritime sector, including maritime security and oversight of Maritime New Zealand, but not including any concurrence or other functions under the Marine Reserves Act 1971;
- 2.1.4 Oversight of Search and Rescue (SAR);
- 2.1.5 Initiatives and policy concerning the Chatham Islands;
- 2.1.6 Management of the Regulatory Systems (Transport) Amendment Bill No. 2, and responsibility for its implementation;
- 2.1.7 Initiatives relating to bilingual signage;
- 2.1.8 The towage and storage policy review;
- 2.1.9 Overseeing speed limits on local roads;
- 2.1.10 Driver licensing.

2.2 Working with me on:

- 2.2.1 The Milford Opportunities Project, including matters relating to the Milford Aerodrome;

2.3 You will have a particular role in helping to develop and communicate the government's transport policy for and to regional communities and councils. This will specifically include:

- 2.3.1 Working with me on plans to make the regional roading network more resilient.

- 2.3.2 Working with me to ensure that there is a strong regional perspective in GPS 2024-27, noting that I will retain overall content of the GPS.
- 2.3.3 Engaging with regional and district Councils and communities about the government's transport policies and projects, both to communicate our policies and hear their views.
- 2.4 Replying to Ministerial correspondence and Parliamentary Questions on issues relation to the above;
- 2.5 Attending transport sector events on my behalf and/or at my request;
- 2.6 Engaging with officials and me on Budget initiatives that are relevant to your areas of delegation;
- 3 I may also ask you to assist me on other matters relating to the Transport portfolio from time to time.
- 4 The above delegations are subject to the conditions set out in this letter. Please also refer to paragraphs 2.35 to 2.40 of the Cabinet Manual, which deal with the relationship between Ministers and Associate Ministers.

***Financial and statutory responsibilities***

- 5 As portfolio Minister, I have final responsibility for, and overall control of the Ministry of Transport and over all Crown entities within the portfolio. I am also responsible for Vote Transport and for any relevant statutory functions of the Minister.
- 6 Where it is required for the purpose of the delegated functions, or whenever I am absent, you may sign documents or authorisations on my behalf. You should show clearly that you are signing on my behalf, by signing "for the Minister of Transport".

***Policy***

- 7 Although you will have responsibility for matters of policy in relation to the above, any significant policy decisions should be discussed with me.

***Public statements***

- 8 I expect you to take responsibility for all communications regarding your areas of responsibility, including Ministerial correspondence, press statements and public announcements.
- 9 Ministerial correspondence concerning significant policy issues should be prepared by the Ministry of Transport and/or Waka Kotahi for my signature, where appropriate. Any significant public announcements should be discussed with me prior to release and, in some cases, may be made either by me or the Prime Minister.
- 10 My office can provide assistance with media, communication strategies or speech notes, if you require.

### ***Relations with the Department/Ministry***

- 11 You may contact the Ministry of Transport and/or Waka Kotahi on all matters for which you have delegated responsibility. All such inquiries should be made via the relevant Chief Executive or a designated contact person.
- 12 I expect to be kept fully informed of all significant issues and the relevant Chief Executive is, of course, free to raise any matter concerning your delegated functions with me.
- 13 You are welcome to attend regular briefing sessions with departmental officials that are held in my office. You may arrange, through my office, to have your own regular briefing sessions or ad hoc meetings with departmental officials to discuss matters relating to your areas of responsibility. A designated member of my office may attend any such meeting.

### ***Communications between us***

- 14 You should ensure that I am fully briefed on the actions that you think are necessary to undertake in relation to your delegated responsibilities. All significant papers, letters and directions to the Department should be copied to me for my information. In particular, you need to ensure I receive the earliest warning of any issues that have the potential to become controversial. In turn, I will keep you informed of my actions in relation to your areas of responsibility.
- 15 I will also consult with you on policy issues, and on matters related to the implementation of policy initiatives within the Transport portfolio where relevant to your delegation.
- 16 To ensure maximum co-operation and co-ordination, I propose that we meet regularly to coordinate our actions, and to share views and ideas.

### ***Cabinet and Cabinet committee papers***

- 17 The rules on the submission of papers to Cabinet and Cabinet committees are set out in Chapter 5 of the Cabinet Manual. In particular, in terms of paragraph 5.42, you may submit papers to Cabinet and Cabinet committees within your designated areas of responsibility, provided that the submission clearly indicates that I have been consulted and have agreed that the paper may be lodged.
- 18 You will have access (for example, via CabNet) to all submissions and minutes, of those Cabinet committees of which you are a member. You will also have access to those submissions relating to your delegated responsibilities that are dealt with at any other Cabinet committee.

### ***Information held by you as Associate Minister***

- 19 Under the Official Information Act 1982, all papers held by you in relation to your Associate Minister responsibilities within this portfolio are deemed to be held on my behalf. Similarly, you will be treated as my agent, where necessary, for the purposes of the Privacy Act 1993.

- 20 You will be responsible for all Official Information Act requests in the areas of your delegated responsibility.

***Parliamentary responsibilities***

- 21 Parliamentary questions relating to your delegated areas of responsibility will be addressed to you. In my absence, you may also be required to answer oral Parliamentary questions on my behalf.

***Next steps***

- 22 A summary of the above delegations will be published on the Department of the Prime Minister and Cabinet's website, and included in a *Schedule of Responsibilities Delegated to Associate Ministers and Parliamentary Under-Secretaries*. The Schedule will be presented to the House of Representatives to clarify Ministerial accountability so that, for example, Parliamentary questions can be directed to the appropriate Ministers for answer.
- 23 I look forward to working with you in the Transport portfolio. Please do not hesitate to discuss these delegations with me at any time

Yours sincerely



Hon David Parker  
Minister of Transport

cc Secretary of the Cabinet  
Chief Executive, Ministry of Transport  
Chief Executive, New Zealand Transport Agency Waka Kotahi

9 August 2023

OC230691

 Hon David Parker  
**Minister of Transport**
**Action required by:**  
 Monday, 21 August 2023

## AIR NEW ZEALAND- KIWI SHAREHOLDER

### PURPOSE

Advise you of the steps necessary for you, in your role as Minister of Transport, to take over the rights and responsibilities of the Kiwi Shareholder in Air New Zealand.

### Key points

- The Kiwi Share is a special rights convertible preference share issued by Air New Zealand to the Crown.
- It confers certain rights and responsibilities on the holder. Its primary intent is to protect Air New Zealand's access to other countries under inter-government air services agreements, by ensuring that "substantial ownership and effective control" of the airline remains in New Zealand hands
- Among other things, the consent of the Kiwi Shareholder is required for certain changes in the ownership of Air New Zealand.
- At present, MP Kiri Allan, the former Associate Minister of Transport, is the Kiwi Shareholder.

### Recommendations

We recommend you:

- |   |   |          |
|---|---|----------|
| 1 | <b>sign</b> the attached letter to the Prime Minister which proposes that you be the person entitled to exercise the rights and powers of the Kiwi Shareholder in accordance with Article 3.5 of Air New Zealand Limited's constitution<br><br>and, if the Prime Minister agrees with the above proposal, | Yes / No |
| 2 | <b>sign</b> the attached letter to Air New Zealand, notifying the company that you are the person entitled to exercise the rights and powers of the Kiwi Shareholder.   | Yes / No |




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 Tom Forster  
**Manager, Economic Regulation**

8 August 2023

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 Hon David Parker  
**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)	✓
Ken Hopper, Senior Licensing Adviser		

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## AIR NEW ZEALAND: KIWI SHAREHOLDER

**The Kiwi Shareholder is a mechanism to protect Air New Zealand's rights as a New Zealand airline**

- 1 The Kiwi Share is a single \$1 special rights convertible preference share issued by Air New Zealand to the Crown. It confers certain rights and responsibilities on the holder.
- 2 The primary intent is to protect Air New Zealand's access to other countries by ensuring that "substantial ownership and effective control" of the airline remains in New Zealand hands. This is a requirement of many of the air services agreements under which Air New Zealand operates.
- 3 Air New Zealand's constitution sets out the rights and powers of the Kiwi Share and the Kiwi Shareholder.
- 4 Among other things, the written consent of the Kiwi Shareholder is required for any amendment, removal, or alteration in effect of specified provisions in the constitution. These include the name of the company, its place of incorporation, its principal place of business, the location of its head office and the nationality of its directors. In addition, the rights attaching to the Kiwi Share itself are entrenched and cannot be changed without the consent of the Kiwi Shareholder.
- 5 The consent of the Kiwi Shareholder is also required in relation to specified circumstances or events, including:
  - a) for an owner or operator of an airline business to hold or have an interest in an equity security in the company; and
  - b) for a non-New Zealand national to hold or have an interest in shares that confer 10 per cent or more of the total voting rights in the company.
- 6 The Kiwi Shareholder's role is separate from the ownership rights exercised by the Minister of Finance. The Minister of Finance holds 51 percent of the ordinary shares in Air New Zealand on behalf of the Crown.

### **We propose that you become the Kiwi Shareholder**

- 7 Air New Zealand's constitution provides that any Minister may give written notice to the Company Secretary of the person who can exercise the rights and powers of the Kiwi Shareholder.
- 8 Long-standing practice has been for the Minister of Transport to be assigned the rights and responsibilities of the Kiwi Shareholder in accordance with Air New Zealand's constitution, provided they held no personal shareholding in the airline.
- 9 At present, MP Kiri Allan, the former Associate Minister of Transport, is the named person.

- 10 We propose that you, in your role as Minister of Transport, take on the role of Kiwi Shareholder. It fits closely with your delegated function as the airline's licensing authority under the Civil Aviation Act 1990.

#### **Next Steps**

- 11 If you agree to the proposal, please sign the attached letter to the Prime Minister proposing that you be assigned the responsibility of Kiwi Shareholder.
- 12 If the Prime Minister agrees to the proposal, we have prepared a further letter for your signature. This letter advises Air New Zealand, in accordance with Article 3.5(a) of the company's constitution, that you are the person entitled to exercise the rights and powers of the Kiwi Shareholder.
- 13 We will provide you with a briefing if Air New Zealand proposes an amendment to its constitution requiring your consent, or a specified event occurs that triggers the requirement for the consent of the Kiwi Shareholder. This may necessitate seeking external legal advice. Applications for consent have, in the past, been very infrequent.

#### **Consultation**

- 14 We consulted The Treasury, which supports our recommendation that you become the Kiwi Shareholder.

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**Office of Hon David Parker** BCom, LLB

Attorney-General

Minister for the Environment

Minister of Transport

Associate Minister of Finance



M####

Rt Hon Chris Hipkins  
Prime Minister  
Level 9  
**EXECUTIVE WING**

Dear Prime Minister

I have been advised that arrangements need to be made to reassign Ministerial responsibility for the Kiwi Share in Air New Zealand Limited.

The Kiwi Share in Air New Zealand is a single \$1 special rights convertible preference share issued to the Crown. It is primarily intended to give the Government the ability to maintain "substantial ownership and effective control" of the airline in New Zealand.

The Air New Zealand Constitution provides that any Minister may from time to time give written notice to the Company Secretary of the name of the person who may exercise the rights and powers of the Kiwi Shareholder. At present that person is MP Kiri Allan, the former Associate Minister of Transport.

Since 1990, the normal practice has been for the Minister of Transport to be the person assigned the rights and responsibilities of the Kiwi Shareholder.

Accordingly, and if you agree to me undertaking the role of Kiwi Shareholder, I will write to Air New Zealand informing them of the same.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Hon David Parker  
Minister of Transport  
Executive Offices  
Parliament Buildings  
**WELLINGTON**

Dear Minister

By letter of X month 2023, you sought my agreement to your assuming the function of Kiwi Shareholder in Air New Zealand Limited.

I agree to you assuming the function of Kiwi Shareholder in Air New Zealand Limited and to you advising the airline's Company Secretary accordingly

Yours sincerely

Rt Hon Chris Hipkins  
**Prime Minister**

**Office of Hon David Parker** BCom, LLB

Attorney-General

Minister for the Environment

Minister of Transport

Associate Minister of Finance



M####

Ms Jennifer Page  
Company Secretary  
Air New Zealand Limited  
Private Bag 92007  
**AUCKLAND**

Dear Ms Page

With reference to Article 3.5(a) of the Constitution of Air New Zealand Limited, notice is hereby given that I, David Parker, Minister of Transport, am henceforth the person entitled to exercise the rights and powers of the Kiwi Shareholder in Air New Zealand Limited on behalf of the Crown.

Yours sincerely

Hon David Parker  
**Minister of Transport**

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10 August 2023

OC230445

**Hon David Parker**  
**Minister of Transport****Action required by:**  
Monday, 28 August 2023**Hon Damien O'Connor**  
**Associate Minister of Transport**

## **PROPOSAL TO INCREASE BOARD FEES FOR TRANSPORT BOARDS COVERED BY THE CABINET FEES FRAMEWORK**

### **Purpose**

Seeks your direction on whether you wish to increase board fees for transport boards covered by the Cabinet Fees Framework (the Framework). A letter to the Minister for the Public Service is included, should you agree to a ten percent fee increase for the transport boards covered by the Framework.

### **Key points**

- Board fees for Waka Kotahi NZ Transport Agency, the Civil Aviation Authority, Maritime New Zealand, as well as the Aviation Medical Conveners and the Ministry's Risk and Assurance Committee are all set in accordance with the Framework.<sup>1</sup> The Framework sets the bands on how these boards should be paid, to enable consistent application across Crown boards.
- Fees are intended to be reviewed regularly, including before an appointment is made, or if there have been significant changes to an entity. Increases are allowed under the Framework, but the Framework recommends that changes occur no more than once per annum.
- It has been over a decade since some of the transport board fees were adjusted, and previous efforts by the Ministry to realign board fees more closely to public sector counterparts were put on hold because of the onset of COVID-19 and subsequent public sector pay restraint. The combination of delays mean that transport board fees are significantly lower than both public and private sector counterparts (even after factoring in a 'public sector discount') and have not moved to match the substantial shifts in the scopes of each entity. The requirements on governance have also increased during this time.

<sup>1</sup> Cabinet Office Circular 22 (1): Revised Fees Framework for members appointed to bodies in which the Crown has an interest – available here: <https://www.dpmc.govt.nz/publications/co-22-2-revised-fees-framework-members-appointed-bodies-which-crown-has-interest>



- The Ministry is interested in a substantive realignment of board fees and has received requests from several transport boards to review them this year, particularly following Cabinet's September 2022 decision to increase the fee bands by ten percent (APH-22-MIN-0195 refers) and lifting the pay restraint. Given the timing of the General Election and the Government's cost of living focus, we seek your approval for a modest fee increase. Options for a proposed increase are either within your delegations for approval (an increase of up to five percent), or the Minister for the Public Service's delegations (an increase of up to ten percent).

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## Recommendations

We recommend you:

	Minister of Transport	Associate Minister of Transport
1 <b>agree</b> to seek the Minister for the Public Service's approval for a board fee increase of ten percent for the following boards in the transport system (recommended): a) Waka Kotahi NZ Transport Agency b) Civil Aviation Authority c) Maritime New Zealand d) Aviation Medical Conveners e) Ministry of Transport's Risk and Assurance Committee	Yes / No Yes / No Yes / No Yes / No	Yes / No
<i>If there is agreement to seek a ten percent increase</i>		
2 <b>sign and send</b> the <b>attached</b> letter to the Minister for the Public Service on behalf of Transport Ministers	Signed / Not Signed	N/A
3 <b>note</b> that the Secretary for Transport has approved a 3% increase in the fees for the Ministry's Risk and Assurance Committee, but is seeking approval for a higher increase		
4 <b>note</b> that the Ministry of Transport intends to explore options for a longer-term adjustment of fees for transport boards covered by the Crown Fees Framework		
5 <b>advise</b> in the comments below if there are any changes you wish to make, or if you would like to discuss this matter further.		



Harriet Shelton  
**Manager, Governance**  
10 / 08 / 2023

Hon David Parker  
**Minister of Transport**  
..... / ..... / .....

Hon Damien O'Connor  
**Associate 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
David Wood, Deputy Chief Executive, System Performance and Governance	s 9(2)(a)	
Harriet Shelton, Manager, Governance		✓
Jono Reid, Principal Adviser, Governance		

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## PROPOSAL TO INCREASE BOARD FEES FOR TRANSPORT BOARDS COVERED BY THE CROWN FEES FRAMEWORK

### What the Fees Framework covers

- 1 The Cabinet Fees Framework (the Framework) covers most Crown bodies and committees established for delivering public services, conducting reviews, or providing independent advice or assurance to either Ministers or Ministries. The Framework provides a basis for judgement in setting fees for Crown bodies that:
  - 1.1 ensures a consistent approach to remuneration across all statutory and other Crown bodies
  - 1.2 supports the appointment of appropriately qualified and diverse body members
  - 1.3 contains expenditure of public funds within reasonable limits
  - 1.4 provides flexibility within clear criteria.
- 2 The Framework recommends that fees are reviewed regularly, but not more than once a year. As the responsible Minister, you may approve increases in fees of up to five percent annually, if they are within the applicable fee range. Increases of up to ten percent and within the fee ranges may be agreed with the Minister for the Public Service. Proposals for any larger increases, or increases taking fees above the range, must be consulted with the Minister for the Public Service and referred to Cabinet's Appointments and Honours Committee.
- 3 The Framework sets annual fee levels for members of governance boards as a base rate, on the assumption that members work around 30 days a year and a chair works around 50 days a year (where a day is regarded as eight hours).
- 4 Fee ranges for chairs are approximately twice those of members, though this may be marginally higher or lower depending on the level. Deputy chairs can be paid an additional 25 percent of the member rate. The chair of a sub-committee is also entitled to receive an additional ten percent of the member rate, provided they are not the chair or deputy chair.
- 5 Waka Kotahi NZ Transport Agency, Civil Aviation Authority, Maritime New Zealand, the Aviation Medical Conveners and the Speed Management Committee are the ministerially appointed bodies covered by the Framework. The Ministry of Transport's Risk and Assurance Committee is also covered by this Framework.
- 6 The Transport Accident Investigation Commission (TAIC), the Oil Pollution Advisory Committee (OPAC), Auckland Light Rail Limited (ALR Limited) and City Rail Link Limited (CRLL) are excluded from the Framework. TAIC is covered by the Remuneration Authority and OPAC members do not receive fees. ALR Limited and CRLL board fees are set in accordance with the Treasury Crown Companies methodology.

*Factors to consider when reviewing fees*

- 7 The Ministry of Transport is responsible for facilitating fee reviews for boards under the Framework where you are the responsible Minister. In setting or reviewing fees, the following considerations need to be balanced:
  - 7.1 Personal contributions and intangible benefits of members.
  - 7.2 The complexity of the functions and expertise required.
  - 7.3 Recruitment and retention issues.
  - 7.4 The extent to which an individual member needs to insure against personal liability.
  - 7.5 The degree to which the role is in the public eye.
  - 7.6 Affordability.
  - 7.7 The period since the fees were last reviewed.
- 8 Fees are also expected to be set on a fair but conservative basis to reflect the element of public service involved. The Framework does not specify the exact rate for a 'public sector discount', but the practice outlined in recent assessments of the Crown Companies methodology (which compared Treasury boards alongside many other government and not-for-profit boards) is a discount of ten percent of comparable private sector fees. This discount methodology was applied when Auckland Light Rail Limited was established (OC220905 refers).

**It has been a long time since the fees were last adjusted**

- 9 The last completed reviews of transport board fees were conducted in stages between 2013 and 2015. These reviews did not result in substantive changes and the fees across the Crown entity boards have largely remained the same for over 15 years.
- 10 However, the last 15 years have not remained static in terms of entity growth and governance, with all entities experiencing significant movements in funding and organisational growth which outstrip inflation.<sup>2</sup> This growth is generally either a product of wider shifts in operations (e.g. movements towards risk-based regulation and the growth of regulatory activity in light of specific events) or a result of increased functions (particularly in the case of Waka Kotahi who have taken on a number of large Crown investment programmes as well as additional functions covering cycling, rapid transit, coastal shipping and emission reduction).

<sup>2</sup> Inflation data is an assessment of June quarters since 2010 against the Consumer Price Index. This identifies a mean average of 2.54% growth.



- 11 A summary of growth across the transport Crown entities is reflected in the table below, with the most recent entity data from their 2021/22 Annual Reports. A comparative analysis of each entity's fees against public sector counterparts is included as an **Annex**.

Entity	Last fee adjustment (approximate)	Key organisational changes since the last adjustment
Waka Kotahi NZ Transport Agency	2015/16 financial year	<ul style="list-style-type: none"> <li>• Growth in entity revenue from \$2.4 billion to \$4.8 billion per annum.</li> <li>• Growth in assets from \$32.3 billion to \$75.5 billion.</li> <li>• Total employees has increased from 1392 to 2375.8 full time equivalents (FTE), with employee costs growing by \$160 million.</li> <li>• Significant growth in responsibilities relating to rail and walking and cycling (the walking and cycling function was only added in 2015).</li> <li>• Rebuild and growth of the land transport regulator by over \$100 million.</li> <li>• General growth in day-to-day work programme over time.</li> <li>• Additional functions added by Ministerial direction:               <ul style="list-style-type: none"> <li>○ Plan, fund, design, supervise, construct and maintain rapid transit networks and/or projects, including light rail.</li> <li>○ Administration of the Clean Car Discount Scheme and other additional linked activities.</li> <li>○ Managing the delivery of any activities approved under section 20 of the Land Transport Management Act 2003 which are funded or to be funded out of the Coastal Shipping Activity Class in the National Land Transport Plan.</li> </ul> </li> </ul>
Civil Aviation Authority	2013/14 financial year	<ul style="list-style-type: none"> <li>• Growth in entity revenue from \$116.7 million to \$176.2 million per annum.</li> <li>• Total employees increased from 929.6 to 1536 FTEs, with employee costs growing by \$61.2 million.</li> <li>• Wider maturity shift towards risk-based regulation. This shift included the development of the New Southern Skies Programme, Safety Management System and Health and Safety at Work Act designations.</li> <li>• General growth in day-to-day work programme over time.</li> <li>• Increased international responsibilities.</li> <li>• Large increases in emerging technologies.</li> <li>• Impacts of major security or aviation accident including helicopter accidents at Fox Glacier, and the Christchurch terror attacks.</li> </ul>



<b>Maritime New Zealand</b>	2008/9 financial year	<ul style="list-style-type: none"> <li>• Growth in entity revenue since 2010/11 from \$29.8 million to \$72.9 million per annum.</li> <li>• Growth in assets from \$19.5 million to \$24.8 million.</li> <li>• Total employees have increased from 149.6 to 343 FTEs, with employee costs growing by \$27 million.</li> <li>• Wider maturity shift towards risk-based regulation. The shifts include implementation or refreshes of the Maritime Operator Safety System, Seafarer Certification, Health and Safety at Work Act designations, Maritime Labour Convention, and the Port Harbour Maritime Safety Code.</li> <li>• General growth in day-to-day work programme over time.</li> <li>• Increased international responsibilities.</li> <li>• Impacts of the Rena grounding on Maritime NZ's operations.</li> </ul>
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- 12 Governance obligations have also grown significantly during this time, particularly regarding health and safety, good employer obligations and reporting, and these levels of overall growth place much stronger expectations on board directors. The high workload and liability risk levels is a regular topic of discussion for our board members, with many directors advising the Ministry that their counterparts do not take on Crown governance roles because they do not feel their contributions are adequately recognised or remunerated for (even after accounting for an expected public sector discount).
- 13 With support of the previous Minister of Transport, the Ministry was in the process of a more substantive revision of the fees. However, this process was put on hold due to the onset of COVID-19 and remained on hold through the subsequent public sector pay restraint period. Recent Cabinet decisions have increased the overall fee bands by ten percent, but these changes did not result in automatic fee increases (APH-22-MIN-0195 refers).

### **Proposal for a modest fee increase**

- 14 Transport board fees are significantly lower than public and private sector counterparts. For example, Waka Kotahi NZ Transport Agency board members receive approximately \$15,000 less per annum than boards of equivalent complexity, such as Kāinga Ora, Accident Compensation Corporation, and even Auckland Transport. Estimates against private sector benchmarks from a 2019 review of Treasury board fees show that many transport board fees are possibly as low as 40 percent of market rates.
- 15 The Ministry considers there is a strong case for a substantive fee review for the transport boards, particularly Waka Kotahi NZ Transport Agency, Maritime NZ Authority and Civil Aviation Authority, for the following reasons:
- 15.1 **Board members have increasing responsibilities in today's environment:**  
The Ministry consider that board members are currently not adequately compensated for the risks they take on when agreeing to serve on public sector

boards. A larger adjustment is ultimately required, followed by a system that allows regular review and incremental increases.

**15.2 The scope of responsibilities for these boards has increased significantly:**

The total changes which have occurred since the last review in 2015 are wide ranging and include increased responsibilities and/or expectations around: Health and Safety at Work Act obligations, Crown-Māori relations, diversity and inclusion programmes, closing gender and ethnic pay gaps, the Carbon Neutral Government Programme and Emissions Reduction Plan, as well as workforce changes following COVID-19. Experienced chairs and members are also asked to devote additional time to support initiatives which lift the capacity of public sector governance.

For transport, the reviews into the regulatory failures at Waka Kotahi NZ Transport Agency and organisational culture of the Civil Aviation Authority affirmed the need for highly competent directors who possess a strong understanding of their entities and can effectively govern all areas of an entity's business. For more experienced directors where finances are a contributing factor, higher fees enable a greater level of choice in the number of portfolios a director can take and the time that can be devoted to a role.

**15.3 Recruitment and retention:** Low fees (even after considering a public service element) are often seen as a disincentive for high-calibre applicants to apply for Crown appointments and can result in less qualified or experienced people applying for vacant positions.

Fee levels are an even more important tool for improving diversity levels on boards. Māori directors are particularly in high demand, and higher fee levels will go some way towards attracting people to serve on transport boards.

Low fee levels across Crown boards in general can also create a risk of 'over-boarding' for some candidates who take on more board roles than is desired (most directors hold between three to five roles, with this number decreasing if there are higher levels of responsibility). This can create the risks of diluting the quality of decision-making, with directors not having adequate capacity to consider matters properly.

Historic exit interviews, and discussions with current board members have also indicated that the transport sector is a more complex subject than many others, requiring more time to come up to speed, highlighting the need to attract highly qualified and experienced candidates.

**15.4 Addressing the delay since the last review:** Previous efforts by the Ministry to realign board fees more closely to public sector counterparts were put on hold because of the onset of COVID-19 and subsequent public sector pay restraint.

**15.5 Parity needs to be reached with comparable entities:** The Ministry considers that at a minimum, fees should match other public sector boards of an equivalent size and complexity.



In terms of the Medical Convener fees, both Conveners have noted there have been significant increases in the fees for other senior medical consultants.

- 16 The proposed increase options are listed in the table below, which outlines the classification for each board and current fee levels. The increase options listed are within the allowed range for yourself as Responsible Minister (five percent), or with the approval of the Minister for the Public Services (ten percent). The Speed Management Committee is not included as it was only established this year.

Board Classification	Classification Fee Range	Current Fees	5% increase	10% increase (recommended)
<b>Waka Kotahi NZ Transport Agency</b> Group 3a, Level 1	\$40,596 - \$90,123 (Chair) \$20,295 - \$44,655 (Members)	\$71,400 (Chair) \$44,625 (Deputy) \$35,700 (Members)	\$74,970 \$46,857 \$37,485	\$78,540 \$49,088 \$39,270
<b>Civil Aviation Authority</b> CAA fees are broken down into the two organisational components – the regulatory Authority and Aviation Security Services. These entities have been classified separately historically.				
Sub-Entity Classification	Fee Range	Current Fees	5% increase	10% increase (recommended)
<b>Civil Aviation Authority</b> Group 3a, Level 4	\$28,655 - \$40,117 (Chair) \$14,328 – \$20,251 (Members)	\$33,600 (Chair) <sup>3</sup> \$18,750 (Deputy) \$15,000 (Members)	\$35,280 \$19,688 \$15,750	\$36,960 \$20,625 \$16,500
<b>Aviation Security Services</b> Group 3a, Level 4	\$28,655 - \$40,117 (Chair) \$14,328 – \$20,251 (Members)	\$15,000 (Chair) \$10,625 (Deputy) \$8,500 (Members)	\$17,850 \$11,156 \$8,925	\$18,700 \$11,688 \$9,350
<b>Total</b>		\$48,600 (Chair) \$29,375 (Deputy) \$23,500 (Members)	\$51,030 \$30,844 \$24,675	\$53,460 \$32,313 \$25,850
<b>Maritime New Zealand</b> Group 3a, Level 3	\$31,042 - \$53,730 (Chair) \$15,521 - \$26,829 (Members)	\$39,000 (Chair) \$24,375 (Deputy) \$19,500 (Members)	\$40,950 \$25,594 \$20,475	\$42,900 \$26,813 \$21,450
<b>Medical Conveners</b> Group 4, Level 2	\$693 - \$1,018 per day	\$1,375 per day (exception to fee agreed in July 2015, fee made a standing exception in October 2022)	\$1,444	\$1,513

<sup>3</sup> The CAA component of the Chair's fee is slightly higher than for members. This is historical and the Ministry will explore the reasons in more detail as part of a wider review. In the interest of this being an expedited review, we intend to maintain the current fee structures.



<b>MoT Risk and Assurance Committee</b> Group 4, Level 1	Standard	\$1,236 (Chair)	\$1,298	\$1,360
	Exception: Up to \$1,430 per day for the Chair and \$1,195 per day for members.	\$1,030 (Member)	\$1,081	\$1,133

- 17 Please note that the total fee for CAA is calculated from a combination of fees allocated to both the Civil Aviation Authority's and Aviation Security Services' aspects of the business. These entities have been classified separately historically and, as part of the longer-term review, the Ministry intends to seek a combined classification. A combined classification will ultimately need to be in place by 2025 when the new Civil Aviation Act comes into force.
- 18 The Medical Conveners fee is a standing exception on the basis that these roles required highly specialised medical professionals, where there is a limited pool of professionals available. The role they hold in reviewing medical determinations made by the Director of Civil Aviation places them in a position where they can be highly scrutinised by members of the aviation community, which can carry reputational risks. The standing exception was agreed to in October 2022 [APH-22-MIN-0221 refers].

*A ten percent increase provides an interim balance given the upcoming General Election*

- 19 Ideally there would be a more substantive realignment of board fees which enables a greater parity with other comparable roles. However, given both the Government's focus on the cost of living and the upcoming General Election preventing a full exceptions process, we consider that seeking approval to a ten percent increase is the most appropriate option. Such a process across all the boards listed above only requires the approval of the Minister for the Public Services. Early conversations with the Public Service Commission indicate that the Minister is agreeable to such increases at present.
- 20 The total costs of the increases are expected to be relatively small for the transport Crown entities, with board fees being a very small percentage of total business costs. This is outlined by the below table, which includes the amounts spent by each entity on board fees in 2021/22 and the forecasted impact of this fees review:

Entity	2021/22 Total Fees	Estimated cost of a five percent increase	Estimated cost of a ten percent increase
<b>Waka Kotahi NZ Transport Agency</b>	\$353,000	\$370,650 (increase of \$17,650 per annum)	\$388,300 (increase of \$35,300 per annum)
<b>Civil Aviation Authority</b>	\$150,000	\$157,500 (increase of \$7,500 per annum)	\$165,000 (increase of \$15,000 per annum)
<b>Maritime New Zealand</b>	\$123,000	\$129,150 (increase of \$6,150 per annum)	\$135,300 (increase of \$12,300 per annum)
<b>Aviation Medical Conveners</b>	~\$160,000-200,000 – Convener work is caseload dependent.	~\$168,000-\$210,000	~\$176,000-\$220,000
<b>MOT Audit and Risk Committee</b>	~\$13,200 Assuming 4 meetings per year including preparation	~\$13,860	~\$14,520

## Consultation

- 21 The Ministry has sought feedback from the Chairs of Waka Kotahi, CAA and Maritime NZ; the Medical Conveners; and the Public Service Commission in the development of this paper:
- 21.1 The Chair of Waka Kotahi has indicated that he is supportive of the proposals in the paper given the context of the recommendations, but considers that a larger increase is required over time to ensure greater parity for the Waka Kotahi boards against comparable roles.
- 21.2 The CAA Chair is supportive of the proposals.
- 21.3 The Maritime NZ Chair has been overseas and unable to comment, but she has been a strong advocate for fee changes over the years. The Ministry expects she will be supportive of the proposals, with a view that larger increases are required over time.
- 21.4 The Medical Conveners have indicated their support for the proposals contained with this briefing. Engagement with them has noted that there is not a truly comparable role to assess their fees against, and a broader interest in the support structures which underpin the servicing of their role (for example, reimbursement of costs which they only incur). The Ministry intends to assess this further as part of a more substantive review.
- 22 The Fees Framework also encourages early engagement with the Public Service Commission when developing fee proposals for consideration. Public Service Commission officials have indicated they consider the proposals to be modest and reasonable in the context in which they are framed. There was also agreement that the scope of changes within many of the organisations, particularly Waka Kotahi, does necessitate further revision and there was agreement to do further work with the Ministry on this matter.

## Next steps

- 23 Should you agree with the Ministry's proposal, we have included a letter for you to send to the Minister for the Public Service that seeks his approval to the fee increase (**Appendix One**). If the Minister agrees, we can then draft further letters to board chairs once a final increase has been determined.
- 24 Ministry staff are also available to discuss this proposal further if needed.



## ANNEX: COMPARISON OF TRANSPORT CROWN ENTITY BOARDS

Below is a comparative analysis of the transport Crown entities against other comparable entities by size or scope. For entities where a private sector fee comparator is shown, this data is taken from the *2019 Review and Update of Director Fee Methodology* document the Treasury commissioned from Strategic Pay. The fee for Auckland Light Rail Limited was determined against this document, and the Ministry has completed an internal assessment of the transport Crown entities covered by the Fees Framework against that methodology.

The placement of the transport entities on the table shows where our analysis puts each board against the companies assessed by Strategic Pay. Other comparable public entities which were not assessed have been included in the bottom half of the table.

The Strategic Pay review benchmarked the Treasury boards against 214 listed and unlisted private sector companies which are not subject to either government influence (i.e., not Council Controlled Organisations) or non-financial outcomes. Strategic Pay's methodology is logarithmic, and points based.

*Waka Kotahi NZ Transport Agency*

Organisation	Type of Entity	Current Member Fees	Private Sector Fees	Comparatio	Private Sector less 10%	Comparatio
Mercury Energy	Mixed model ownership company	\$98,000	\$103,030	95.1%	\$92,727	105.7%
Genesis Energy	Mixed model ownership company	\$90,000	\$99,349	90.6%	\$89,414	100.7%
NZ Post	State-Owned Enterprise	\$52,865	\$96,298	54.9%	\$86,668	61.0%
Transpower	State-Owned Enterprise	\$54,567	\$92,857	58.8%	\$83,571	65.3%
Waka Kotahi NZ Transport Agency	Crown Agent	\$35,700	\$91,917	38.8%	\$82,723	43.2%
Accident Compensation Corporation	Crown Agent	\$50,225	\$88,613	56.7%	\$79,752	63.0%
KiwiRail	State Owned Enterprise	\$44,109	\$84,563	52.2%	\$76,107	58.0%
Auckland Light Rail Limited	Crown Entity Company	\$41,220	\$45,800	90%	\$41,220	100%
Auckland Transport	Council Controlled Organisation	\$54,400	Not analysed.	Not analysed.	Not analysed.	Not analysed.
Eke Panuku	Council Controlled Organisation	\$54,400	Not analysed.	Not analysed.	Not analysed.	Not analysed.
Kāinga Ora	Crown Agent	\$49,000	Not analysed.	Not analysed.	Not analysed.	Not analysed.
City Rail Link Limited	Schedule 4A Public Finance Act Company	\$49,000	Not analysed.	Not analysed.	Not analysed.	Not analysed.



## Civil Aviation Authority

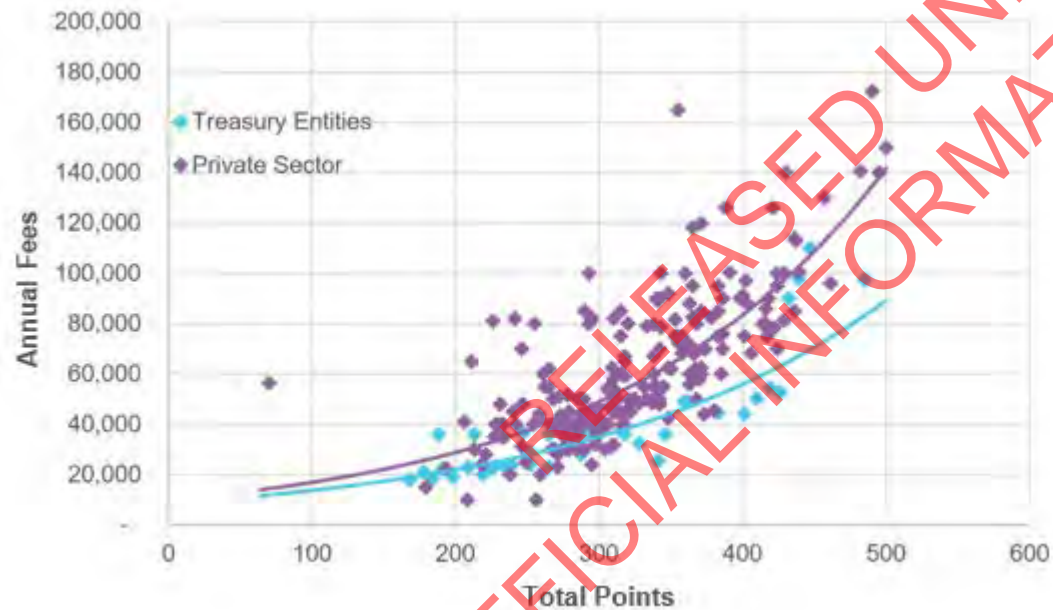
Organisation	Type of Entity	Current Member Fees	Private Sector Fees	Comparatio	Private Sector less 10%	Comparatio
Earthquake Commission	Crown Agent	\$36,000	\$63,535	56.7%	\$57,182	63.0%
Reserve Bank of New Zealand	Body Corporate	\$25,500	\$61,905	41.2%	\$55,715	45.8%
Airways New Zealand Limited	State-Owned Enterprise	\$32,461	\$57,860	56.1%	\$52,074	62.3%
AsureQuality New Zealand Limited	State-Owned Enterprise	\$36,000	\$54,929	65.5%	\$49,436	72.8%
AgResearch Limited	Crown Research Institute	\$37,372	\$54,079	69.1%	\$48,672	76.8%
Crown Infrastructure Partners	Schedule 4A Public Finance Act Company	\$31,582	\$52,419	60.2%	\$47,177	66.9%
Civil Aviation Authority (including AvSec)	Crown Agent	\$23,500	\$52,147	45.1%	\$46,932	50.1%
Government Superannuation Fund Authority	Autonomous Crown Entity	\$30,800	\$52,147	59.1%	\$46,932	65.6%
Plant & Food Research	Crown Research Institute	\$36,000	\$50,023	72.0%	\$45,021	80.0%
Otakaro	Crown Research Institute	\$35,000	\$48,740	71.8%	\$43,866	79.8%
Landcorp Farming Limited	State-Owned Enterprise	\$37,612	\$48,235	78.0%	\$43,412	86.6%
New Zealand Lotteries Commission	Autonomous Crown Entity	\$29,000	\$47,243	61.4%	\$42,519	68.2%

## Maritime New Zealand

Organisation	Points	Current Member Fees	Private Sector Fees	Comparatio	Private Sector less 10%	Comparatio
Landcorp Farming Limited	State-Owned Enterprise	\$37,612	\$48,235	78.0%	\$43,412	86.6%
New Zealand Lotteries Commission	Autonomous Crown Entity	\$29,000	\$47,243	61.4%	\$42,519	68.2%
Public Trust Limited	Autonomous Crown Entity	\$28,000	\$46,754	59.9%	\$42,079	66.5%
Auckland Light Rail Limited	Crown Entity Company	\$41,220	\$45,800	90%	\$41,220	100%
Maritime New Zealand	Crown Agent	\$19,500	\$45,562	42.3%	\$41,006	47.6%
Kordia Group Limited	State-Owned Enterprise	\$36,000	\$45,084	79.9%	\$40,575	88.7%
National Provident Fund	Statutory Corporation	\$23,200	\$41,702	55.6%	\$37,532	61.8%
National Institute of Water and Atmospheric Research (NIWA)	Crown Research Institute	\$36,000	\$41,702	86.3%	\$37,532	95.9%

Institute of Environmental Science and Research (ESR)	Crown Research Institute	\$24,032	\$38,977	61.7%	\$35,079	68.5%
Landcare Research New Zealand	Crown Research Institute	\$23,944	\$38,977	61.4%	\$35,079	68.3%
Scion (Forest Research)	Crown Research Institute	\$29,000	\$38,977	74.4%	\$35,079	82.7%
Tamaki Redevelopment	Schedule 4A Public Finance Act Company	\$36,500	\$37,977	96.1%	\$34,179	106.8%
New Zealand Trade and Enterprises	Crown Agent	~\$24,500	Not analysed.	Not analysed.	Not analysed.	Not analysed.
WorkSafe New Zealand	Crown Agent	~\$24,300	Not analysed.	Not analysed.	Not analysed.	Not analysed.
Museum of New Zealand Te Papa Tongarewa	Autonomous Crown Entity	\$16,500	Not analysed.	Not analysed.	Not analysed.	Not analysed.

Comparative Analysis completed for The Treasury





Hon Andrew Little  
Minister for the Public Service  
Parliament Buildings

Dear Andrew

I am writing to seek your approval for a modest board fee increase of ten percent for boards within the transport portfolio covered by the Cabinet Fees Framework. This is intended to match the ten percent increase to the bands within the Cabinet Fees Framework to which Cabinet agreed in September 2022 (APH-22-MIN-0195 refers). The effect of this proposed increase for each transport board is outlined in the table on the following page.

The proposed changes to these fees consider the Cabinet Fees Framework guidance, as well as advice from the Ministry of Transport, Public Service Commission and Crown entities. I propose an increase in board fees for the following reasons:

- **Transport Board members have increasing responsibilities in today's environment:** Attached to this letter is a table summarising the extent of changes across the transport Crown Entities since the last fees review. I consider that transport board members are currently not adequately compensated for the risks they take on when agreeing to serve on these boards. The reviews conducted by my predecessors into the regulatory failures at Waka Kotahi NZ Transport Agency and organisational culture of the Civil Aviation Authority affirmed the need for highly competent directors who possess a strong understanding of their entities and can effectively govern all areas of an entity's business.
- **The scope of responsibilities for board members has increased significantly:** The total changes in Crown governance that have occurred since the last review in 2015 are wide-ranging and include increased responsibilities and/or expectations around: Health and Safety at Work Act obligations, Crown-Māori relations, diversity and inclusion programmes, closing gender and ethnic pay gaps, Carbon Neutral Government Programme and Emissions Reduction Plan, as well as workforce changes following COVID-19. Experienced chairs and members are also asked to devote additional time to support initiatives which lift the capacity of public sector governance.
- **Recruitment and retention:** Low fees (even after considering the element of public service) are often seen as a disincentive for high-calibre applicants to apply for public sector boards and can result in less qualified or experienced people applying for roles. Fee levels are an even more important tool for improving diversity levels on boards. Higher fee levels will go some way towards attracting people to serve on transport boards.



## Current and Proposed Fee Increases for Transport Boards

Board Classification	Classification Fee Range	Current Fees (Annual)	10% Proposed Increase
<b>Waka Kotahi NZ Transport Agency</b> Group 3a, Level 1	\$40,596 - \$90,123 (Chair) \$20,295 - \$44,655 (Members)	\$71,400 (Chair) \$44,625 (Deputy) \$35,700 (Members)	\$78,540 (Chair) \$49,088 (Deputy) \$39,270 (Members)
<b>Civil Aviation Authority (CAA)</b> CAA fees are broken down into the two organisational components – the regulatory Authority and Aviation Security Services. These entities have been classified separately historically.			
Sub-Entity Classification	Fee Range	Current Fees (Annual)	10% Proposed Increase
<b>Civil Aviation Authority</b> Group 3a, Level 4	\$28,655 - \$40,117 (Chair) \$14,328 – \$20,251 (Members)	\$33,600 (Chair) \$18,750 (Deputy) \$15,000 (Members)	\$36,960 (Chair) \$20,625 (Deputy) \$16,500 (Members)
<b>Aviation Security Services</b> Group 3a, Level 4	\$28,655 - \$40,117 (Chair) \$14,328 – \$20,251 (Members)	\$15,000 (Chair) \$10,625 (Deputy) \$8,500 (Members)	\$18,700 (Chair) \$11,688 (Deputy) \$9,350 (Members)
<b>Total</b>		\$48,600 (Chair) \$29,375 (Deputy) \$23,500 (Members)	\$53,460 (Chair) \$32,313 (Deputy) \$25,850 (Members)
Board Classification	Classification Fee Range	Current Fees (Annual)	10% Proposed Increase
<b>Maritime New Zealand</b> Group 3a, Level 3	\$31,042 - \$53,730 (Chair) \$15,521 - \$26,829 (Members)	\$39,000 (Chair) \$24,375 (Deputy) \$19,500 (Members)	\$42,900 (Chair) \$26,813 (Deputy) \$21,450 (Members)
<b>Medical Conveners</b> Group 4, Level 2	\$693 - \$1,018 per day	\$1,375 per day (exception to fee agreed in July 2015, fee made a standing exception in 2022)	\$1,513 per day
<b>MOT Risk and Assurance Committee</b> Group 4, Level 1	<b>Standard Exception:</b> Up to \$1,430 per day for the Chair and \$1,195 per day for members.	\$1,236 per day (Chair) \$1,030 per day (Member)	\$1,360 per day \$1,133 per day

Historic exit interviews, and discussions with current board members have indicated that the transport sector is a more complex subject than many others, requiring more time to come up to speed, highlighting the need to attract highly qualified and experienced candidates.

- **Addressing the delay since the last review:** Previous efforts by the Ministry of Transport to realign board fees more closely to public sector counterparts were put on hold because of the onset of COVID-19 and subsequent public sector pay restraint.
- **Parity needs to be reached with comparable entities:** I consider that at a minimum, fees should match other public sector boards of an equivalent size and complexity. Regarding the Medical Convener fees, both Conveners have noted there have been significant increases in the fees for other senior medical consultants.

I would appreciate your feedback by Monday 28 August 2023, so that any changes can be finalised in advance of the General Election.

Yours sincerely

Hon David Parker  
**Minister of Transport**

**Copy to:** Hon Damien O'Connor, Associate Minister of Transport  
Audrey Sonerson, Chief Executive, Ministry of Transport

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**Annex: Summary of key organisational changes within the transport Crown entities since the last fee adjustment**

Entity	Last fee adjustment (approximate)	Key organisational changes since the last adjustment
<b>Waka Kotahi NZ Transport Agency</b>	2015/16 financial year	<ul style="list-style-type: none"> <li>• Growth in entity revenue from \$2.4 billion to \$4.8 billion per annum.</li> <li>• Growth in assets from \$32.3 billion to \$75.5 billion.</li> <li>• Total employees has increased from 1392 to 2375.8 full time equivalents (FTE), with employee costs growing by \$160 million.</li> <li>• Significant growth in responsibilities relating to rail and walking and cycling (the walking and cycling function was only added in 2015).</li> <li>• Rebuild and growth of the land transport regulator by over \$100 million.</li> <li>• General growth in day-to-day work programme over time.</li> <li>• Additional functions added by Ministerial direction: <ul style="list-style-type: none"> <li>○ Plan, fund, design, supervise, construct and maintain rapid transit networks and/or projects, including light rail.</li> <li>○ Administration of the Clean Car Discount Scheme and other additional linked activities.</li> <li>○ Managing the delivery of any activities approved under section 20 of the Land Transport Management Act 2003 which are funded or to be funded out of the Coastal Shipping Activity Class in the National Land Transport Plan.</li> </ul> </li> </ul>
<b>Civil Aviation Authority</b>	2013/14 financial year	<ul style="list-style-type: none"> <li>• Growth in entity revenue from \$116.7 million to \$176.2 million per annum.</li> <li>• Total employees increased from 929.6 to 1536 FTEs, with employee costs growing by \$61.2 million.</li> <li>• Wider maturity shift towards risk-based regulation. This shift included the development of the New Southern Skies Programme, Safety Management System and Health and Safety at Work Act designations.</li> <li>• General growth in day-to-day work programme over time.</li> <li>• Increased international responsibilities.</li> <li>• Large increases in emerging technologies.</li> <li>• Impacts of major security or aviation accident including helicopter accidents at Fox Glacier, and the Christchurch terror attacks.</li> </ul>
<b>Maritime New Zealand</b>	2008/9 financial year	<ul style="list-style-type: none"> <li>• Growth in entity revenue since 2010/11 from \$29.8 million to \$72.9 million per annum.</li> </ul>



- 
- Growth in assets from \$19.5 million to \$24.8 million.
  - Total employees have increased from 149.6 to 343 FTEs, with employee costs growing by \$27 million.
  - Wider maturity shift towards risk-based regulation. The shifts include implementation or refreshes of the Maritime Operator Safety System, Seafarer Certification, Health and Safety at Work Act designations, Maritime Labour Convention, and the Port Harbour Maritime Safety Code.
  - General growth in day-to-day work programme over time.
  - Increased international responsibilities.
  - Impacts of the Rena grounding on Maritime NZ's operations
- 

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OFFICIAL INFORMATION ACT 1982

10 August 2023

OC230615

**Hon Damien O'Connor**  
**Associate Minister of Transport****Action required by:**  
Thursday, 17 August 2023cc Hon David Parker  
Minister of Transport

## **PORT NELSON LIMITED: CONSTITUTION AMENDMENTS AND EXEMPTION FROM PORT COMPANIES ACT REQUESTS**

### **Purpose**

Seeks your agreement for Port Nelson Limited (PNL) to amend its constitution and to exempt PNL's holding company Infrastructure Holdings Limited (IHL) from section 20(1) of the Port Companies Act 1988 (the Act).

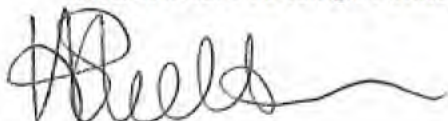
### **Key points**

- PNL seeks written approval from the Minister of Transport for minor changes to its constitution, which is required under section 4 of the Act. You have delegated authority to approve these changes on behalf of the Minister.
- On 1 July 2023, PNL's shareholdings (previously held equally by Nelson City Council and Tasman District Council) were transferred to the holding company, IHL, and these constitutional amendments reflect the change in ownership structure. We recommend you agree to these changes as they are consistent with the purpose of the Act.
- PNL has subsequently requested that the Minister of Transport provides an exemption for IHL from the provisions of section 20(1) of the Act, which would apply additional requirements for IHL. This is a more complicated issue, as under section 20(3) of the Act you (on behalf of the Minister) must be satisfied that IHL does not carry on activities that if carried on by a Harbour Board would constitute a port-related commercial undertaking or would otherwise be likely to be carried on by a port company.
- The Ministry sought additional information from PNL to inform your decision. PNL has advised that IHL is a funding vehicle only and does not intend to engage in port-related operational activity as described in the Act.
- Based on the information provided by PNL to date and considering arrangements for other port holding companies, we recommend you (on behalf of the Minister) provide IHL an exemption from the provisions of section 20(1) of the Act.

## Recommendations

We recommend you:

- 1 **agree** to the proposed amendments to Port Nelson Limited's constitution Yes / No
- 2 **agree** that you are satisfied that Infrastructure Holdings Limited does not carry on activities, that if carried on by a Harbour Board, would constitute a port-related commercial undertaking or would otherwise be likely to be carried on by a port company Yes / No
- 3 *(if you agree to Recommendation 2)* **agree** to exempt Infrastructure Holdings Limited from the application of section 20(1) of the Port Companies Act 1988 Yes / No
- 4 *(if you agree to recommendations 1 to 3 inclusive)* **sign** the attached letter to Port Nelson Limited and accompanying consent forms, approving the proposed amendments to Port Nelson Limited's constitution and an exemption for Infrastructure Holdings Limited from section 20(1) of the Port Companies Act 1988 Yes / No



Harriet Shelton  
Manager, Governance

10 / 08 / 2023

Hon Damien O'Connor  
For the 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, Governance	s 9(2)(a)	✓
Kayla Herbert, Senior Solicitor		
Wayne Church, Senior Advisor, Governance		

## Background: PNL's ownership structure has changed

1. Up until 1 July 2023, PNL was owned equally by Nelson City Council and Tasman District Council. It operated as a company with its own board of directors.
2. In 2022, the two shareholding councils agreed to set up a holding company which they would own in equal shares. The holding company (IHL) would hold and administer investments in entities in which the two councils have a substantial interest for the benefit of the Nelson and Tasman regions, being PNL and Nelson Airport Limited.
3. In January 2023, Nelson City Council and Tasman District Council incorporated IHL by resolution. On 1 July 2023, shares in PNL and Nelson Airport were transferred from the two councils to IHL. IHL is recognised as a council-controlled trading organisation for the purposes of the Local Government Act 2002.
4. The diagrams below show previous and current ownership structures involving PNL. There is essentially no change to the control of PNL as its ultimate shareholders are the same.

### Previous ownership structure



### Current ownership structure



Source: Nelson City Council and Tasman District Council Joint Shareholders Committee Meeting  
7 June 2022

**PNL has requested approval of amendments to its constitution.**

5. On 28 June 2023, PNL wrote to Hon David Parker, in his capacity as Minister of Transport, seeking approval for changes to PNL's constitution. Under section 4 of the Act, no amendment may be made to the constitution of a port company without the prior written approval of the Minister of Transport.
6. As Associate Minister of Transport, you have been delegated decision-making powers relating to the maritime sector. Where it is required for the purposes of those delegated functions, you may sign documents and authorisations on behalf of the Minister.

7. s 9(2)(h)



8. The proposed amendments to PNL's constitution are summarised in **Appendix One**, together with the Ministry's advice on each of the proposed changes. A copy of PNL's existing constitution showing the proposed changes is attached as **Appendix Two**.

*The Ministry recommends you approve these amendments.*

9. The Ministry recommends that you approve the proposed amendments to PNL's constitution. We consider the changes to be technical in nature and consistent with the Act. They will simplify, in a positive way, the appointment and removal process for directors which reflects the change to IHL, the holding company, becoming the shareholder of PNL.

**PNL has also requested that IHL is exempt from the provisions of section 20(1) of the Act.**

10. PNL's 28 June 2023 letter was referred to the Ministry with a request to provide advice to the Minister on the changes to the constitution. On 4 July 2023, the Ministry wrote to PNL querying whether PNL had considered the application of section 20 of the Act on IHL. Section 20 requires any related and associated companies of a port company to comply with the relevant sections of the Act, unless the Minister notifies in writing that the company is exempt from these provisions (under section 20(2)).
11. The Ministry's view is that section 20 applies to IHL as it falls within the definition of a related company (as defined in section 2(3) of the Companies Act 1993 (Companies Act)). In response, PNL agreed with the Ministry's view that section 20 of the Act applies to IHL.
12. PNL has requested that the Minister provide written notice, in accordance with section 20(2) of the Act, that IHL is exempt from the provisions of section 20(1)<sup>1</sup>. PNL considers that this would be appropriate for the following reasons:
  - 12.1 IHL does not carry on any activities that, if carried on by a Harbour Board, would constitute a port-related commercial undertaking or would otherwise be

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<sup>1</sup> Sections 4, 5, 6, 7, 15, and 18 of the Act would apply. These are discussed in paragraphs 19-24.

likely to be carried on by a port company. PNL states that IHL's sole purpose and role is to provide a funding vehicle to enable a reduction in finance costs and increase shareholder returns from PNL and Nelson Airport Limited (by securing and providing funding to PNL and Nelson Airport Limited).

- 12.2 All decisions regarding the management of Port Nelson and the assets and operation of PNL will continue to be made at the PNL board level.
- 12.3 Compliance with the requirements of section 20(1) of the Act, particularly the requirement for IHL to have a minimum of six directors, would drive additional and unnecessary costs into a structure established purely as a cost-saving measure. They do not consider that the appointment of additional directors to the board of IHL would provide any additional value, given that company's very limited purpose.

s 9(2)(h)

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s 9(2)(h)

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### Next steps

25. If you agree to approve the proposed changes to PNL's constitution and are satisfied that the test for an exemption for IHL from the application of section 20(1) of the Act has been met, a letter to PNL and accompanying consent forms are attached as **Appendix Three**.

## APPENDIX ONE: PORT NELSON LIMITED'S PROPOSED NEW CONSTITUTION

Provision	Wording in current constitution	Wording in proposed new constitution	Explanation of / Rationale for change as provided by Port Nelson Limited	Ministry advice [legally privileged]
<b>Qualification of Director</b>	"Not more than two directors may be members or employees of any shareholding local authority at the same time as they hold office as directors of the company." (clause 43.1)	"No director may be a member or employee of any shareholding local authority at the same time as her or she holds office as a director of the company" (clause 43.1)	Amended to provide that no director may be a member or employee of any shareholding local authority at the same time as they hold office as a director of the company (currently restriction is that no more than two directors may).	s 9(2)(h)

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Provision	Wording in current constitution	Wording in proposed new constitution	Explanation of / Rationale for change as provided by Port Nelson Limited	Ministry advice [legally privileged]
<b>Appointment and Removal by Notice</b>	<p>"The Nelson City Council shall be entitled to appoint one (1) director at any time and may likewise remove and/or replace that one (1) director at any time, in each case by notice in writing to the Company signed by a duly authorised officer of the Nelson City Council." (clause 44.1)</p> <p>"The Tasman District Council shall be entitled to appoint one (1) director at any time and may likewise remove and/or replace that one (1) director at any time, in each case by notice in writing to the Company signed by a duly authorised officer of the Tasman District Council." (clause 44.2)</p> <p>"The Nelson City Council and the Tasman District Council shall be jointly entitled to appoint, remove and replace up to five (5) directors at any time by notice in writing to the Company signed by both a duly authorised officer of the Tasman District Council and a duly authorised officer of the Nelson City Council." (clause 44.3)</p> <p>"A notice given under clauses 44.1, 44.2 or 44.3 of this constitution takes effect upon receipt of it at the registered office of the company (including receipt by way of letter, facsimile, electronic mail, or other similar means of communication) unless the notice specifies a later time at which the notice will take effect (in which case it takes effect at such later time so specified). The notice may comprise one or more similar documents separately</p>	<p>"Directors may be appointed by ordinary resolution. [Section 153 of the Act]." (clause 44.1)</p> <p>"A director holds office until his or her resignation, retirement, disqualification or removal in accordance with this constitution. [Section 157 of the Act]." (clause 44.2)</p>	<p>Amended to provide that director appointments and removals are to be made by way of ordinary resolution (rather than by the two Councils, Nelson City Council and Tasman District Council).</p>	<p>s 9(2)(h)</p>

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Provision	Wording in current constitution	Wording in proposed new constitution	Explanation of / Rationale for change as provided by Port Nelson Limited	Ministry advice [legally privileged]
	signed by shareholders giving the notice.” (clause 44.4)  “A director holds office until his or her resignation, retirement, disqualification or removal in accordance with this constitution. [Section 157 of the Act].” (clause 44.5)			
<b>No Appointment or Removal of Directors by Resolution</b>	“Directors may not be appointed or removed by a resolution of Shareholders. [Section 155 and section 156 of the Act].” (clause 45.1)	“Directors may be removed by ordinary resolution. [Section 156 of the Act].” (clause 45.1)	Amended to provide that director appointments and removals are to be made by way of ordinary resolution (rather than by the two Councils, Nelson City Council and Tasman District Council).	s 9(2)(h)
<b>Rotation: Exceptions to Rotation Policy</b>	“The Nelson City Council and Tasman District Council may, by way of a notice in writing to the company signed by both a duly authorised officer of the Tasman District Council and a duly authorised officer of the Nelson City Council, jointly direct that the retirement procedure set out in clauses 47.1 and 47.2 be varied in respect of one or more annual general meetings (for example, by directing that a particular director shall not be required to retire by rotation at a particular annual general meeting) and such notice shall be effective and binding upon the company and its directors notwithstanding clauses 47.1 and 47.2.” (clause 47.3)	“The shareholders of the Company may, by way of a notice in writing to the company signed by the holder of a majority of the shares in the Company, direct that the retirement procedure set out in clauses 47.1 and 47.2 be varied in respect of one or more annual general meetings (for example, by directing that a particular director shall not be required to retire by rotation at a particular annual general meeting) and such notice shall be effective and binding upon the company and its directors notwithstanding clauses 47.1 and 47.2.” (clause 47.3)	Amended to provide that the shareholder of PNL may direct exceptions be made to the rotation policy (rather than by the two Councils, Nelson City Council and Tasman District Council).	s 9(2)(h)

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IN CONFIDENCE

Provision	Wording in current constitution	Wording in proposed new constitution	Explanation of / Rationale for change as provided by Port Nelson Limited	Ministry advice [legally privileged]
<b>Disqualification and Removal</b>	<p>"A person will be disqualified from holding the office of director if he or she is removed under clause 44 or 46 of this constitution or he or she:</p> <p>(a) Dies; or</p> <p>(b) Becomes subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988; or</p> <p>(c) Is an undischarged bankrupt; or</p> <p>(d) Is prohibited by the Companies Act 1955 from being a director or officer or promoter or would be so prohibited but for the repeal of that Act; or</p> <p>(e) Is prohibited by the Companies Act 1993 from being a director or officer or promoter or taking part in the management of the company; or</p> <p>(f) Resigns in writing; or</p> <p>(g) Is absent without permission of the directors from three (3) consecutive meetings of the directors; or</p> <p>(h) Becomes a member or employee of any shareholding local authority if there are already two directors who are members or employees of shareholding local authorities. Where two (2) or more directors are elected as members of shareholding local authorities at the same election and the effect is that there would be more than two directors who are also members or employees of shareholding</p>	<p>"A person will be disqualified from holding the office of director if he or she is removed under clause 44 or 46 of this constitution or he or she:</p> <p>(a) Dies; or</p> <p>(b) Becomes subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988; or</p> <p>(c) Is an undischarged bankrupt; or</p> <p>(d) Is prohibited by the Companies Act 1955 from being a director or officer or promoter or would be so prohibited but for the repeal of that Act; or</p> <p>(e) Is prohibited by the Companies Act 1993 from being a director or officer or promoter or taking part in the management of the company; or</p> <p>(f) Resigns in writing; or</p> <p>(g) Is absent without permission of the directors from three (3) consecutive meetings of the directors; or</p> <p>(h) Becomes a member or employee of any shareholding local authority; or</p> <p>(i) He or she is an executive director and ceases to be employed by the company." (clause 48.1)</p>	<p>Clause 48.1 is amended to reflect the change in approach taken in clause 43.1.</p>	<p>s 9(2)(h)</p>

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IN CONFIDENCE

Provision	Wording in current constitution	Wording in proposed new constitution	Explanation of / Rationale for change as provided by Port Nelson Limited	Ministry advice [legally privileged]
	<p>local authorities, the directors so elected to the shareholding local authorities shall determine which of them is or are not to hold office as directors or are to vacate membership of the shareholding local authorities. In the absence of agreement the matter shall be determined by lot with the losing director or directors having the option to relinquish either the directorship of the company or the membership of the local authority or local authorities concerned: or</p> <p>(i) He or she is an executive director and ceases to be employed by the company.” (clause 48.1)</p>			

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# CONSTITUTION OF PORT NELSON LIMITED

## CERTIFICATE

I certify that this document was adopted as the Constitution of Port Nelson Limited by Special Resolution on December 9, 2019



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Company  
Secretary

**PITT & MOORE**  
Solicitors  
Nelson

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# CONSTITUTION OF PORT NELSON LIMITED

## pursuant to the Companies Act 1993

### PART I

#### INTERPRETATION

##### 1. DEFINITIONS

- 1.1 In this constitution unless the context otherwise requires the following words and expressions have the meanings given to them in this clause:

**"Act"** means the Companies Act 1993 and includes amendments and any act in substitution.

**"amalgamation"** means the completed act of the company and another company amalgamating to form a new company in their place. **[Section 219 of the Act]**

**"assets"** include property of any kind, whether tangible or intangible.

**"balance date"** means the close of 31 March or such other date as the board adopts as the company's balance date. **[Section 41 of the Financial Reporting Act 2013]**

**"call"** means a resolution of the board pursuant to clause 15 of this constitution requiring shareholders to pay all or part of the unpaid amount of the issue price of any shares referred to in the resolution held by the shareholder, and where the context requires means the obligation of a shareholder to meet the amount due pursuant to such a resolution.

**"chairperson"** means the chairperson of the board elected pursuant to clause 1 of Schedule 2 of this constitution.

**"company"** means Port Nelson Limited.

**"director"** means a person appointed and continuing in office for the time being, in accordance with this constitution, as a director of the company.

**"general meeting"** means any meeting of shareholders, other than a meeting of an interest group

**"major transaction"** means:

- a. the acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than half the value of the company's assets before the acquisition; or
- b. the disposition of, or an agreement to dispose of, whether contingent or not, assets of the company the value of which is more than half the value of the company's assets before the disposition; or
- c. a transaction that has or is likely to have the effect of the company acquiring rights or interests or incurring obligations or liabilities the value of which is more than half the value of the company's assets before the transaction. **[Section 129(2) of the Act]**

**"month"** means calendar month.



**"office"** means the registered office for the time being of the company.

**"ordinary share"** means a share which confers on the holder:

- (a) the right to vote at meetings of shareholders and on a poll to cast one vote for each share held; and
- (b) subject to the rights of any other class of shares, the right to an equal share in dividends and other distributions made by the company; and
- (c) subject to the rights of any other class of shares, the right to an equal share in the distribution of the surplus assets of the company on its liquidation.

**"share"** means a share in the capital of the company the issue of and rights attaching to which are provided for by this constitution.

**"shareholder"** means a person:

- (a) registered in the share register as the holder of one or more shares; and
- (b) until such time as his, her or its name is entered in the share register, a person named as a shareholder in the application for registration of the company at the time of the incorporation of the company; and
- (c) until such time as his, her or its name is entered in the share register, a person who is entitled to have that person's name entered in the share register under a registered amalgamation proposal as a shareholder in an amalgamated company.

**"shareholding local authority"** means any territorial authority, regional authority or unitary authority that, directly or indirectly, holds any equity securities (as defined in the Financial Markets Conduct Act 2013) in the company in any class that confers the right to vote at any general meeting of the company.

**"working day"** means a day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day and Waitangi Day; and
- (b) if Anzac Day or Waitangi Day fall on a Saturday or Sunday, the following Monday; and
- (c) A day in the period commencing on 25 December in any year and ending on 2 January in the following year; and
- (d) If the 1st day of January in any year falls on a Friday, the following Monday; and
- (e) If the 1st day of January in any year falls on a Saturday or a Sunday, the following Monday and Tuesday.

1.2 **"writing"** includes all modes of representing or reproducing words, figures or symbols in a visible form including reproduction by facsimile machine, by electronic mail, or other similar means of communication.

1.3 Words importing the singular number also include the plural number and vice versa.

1.4 A reference to a person includes any firm, company or other body corporate.

- 1.5 Words importing one gender include the other genders.
- 1.6 Expressions contained in this constitution bear the same meaning as in the Act at the date on which this constitution becomes binding on the company.
- 1.7 A reference to a clause means a clause of this constitution.
- 1.8 Except to the extent modified by this constitution the Act applies to the company.

## 2. **PORT COMPANIES ACT**

- 2.1 This company is a port company within the provisions of the Port Companies Act 1988 and all the obligations and duties of the Board (in the Port Companies Act 1988 called "the directorate") and any other person under that Act shall continue in full force and effect. The Board shall so manage the company as to achieve the principal objectives described in Section 5 of the Port Companies Act 1988.

## **PART II CAPITAL SHARES AND DIVIDENDS**

### 3. **CLASSES OF SHARES**

- 3.1 Different classes of shares may be issued including without limitation shares which:

- (a) are redeemable within the meaning of the Act; or
- (b) confer preferential rights to distributions of capital or income; or
- (c) confer special, limited, or conditional voting rights; or
- (d) do not confer voting right **[Section 37 of the Act]**

- 3.2 The company has the power to redeem a redeemable share:

- (a) at the option of the company: or
- (b) at the option of the holder of the share; or
- (c) on a date specified in this constitution;

for a consideration that is specified or to be calculated by reference to a formula or required to be fixed by a suitably qualified person who is not associated with or interested in the company.

### 4. **SHARE ISSUES AND CONSIDERATION**

- 4.1 The issue of shares by the company, including the consideration for any share issue and certain matters which the board must attend to in relation to every proposed share issue, are governed by sections 42 to 51 (inclusive) and section 107 of the Act.

## 5. **AMOUNT OWING ON ISSUE OF SHARES**

- 5.1 Where money or other consideration is due to the company on shares in accordance with their terms of issue such an amount does not comprise a call and no notice is required to be given to the holder or other person liable under the terms of issue in order for the company to enforce payment of the amount due. **[Sections 97 to 100 of the Act]**

## 6. **BONUS SHARES**

- 6.1 The board may authorise the allotment to shareholders of shares issued as fully or partly paid up from the assets of the company.

## 7. **COMPANY PAYING UP PARTLY PAID SHARES**

- 7.1 Subject to the company being able to meet the solvency test immediately after the distribution, the board may authorise payment from the assets of the company of any amount unpaid on shares already issued by the company.

## **COMPANY PURCHASING ITS OWN SHARES**

### 8. **PURCHASE BY COMPANY OF ITS OWN SHARES**

- 8.1 The company may, in accordance with and subject to sections 52, 59 to 66, 107 and 110 to 112 of the Act, purchase or otherwise acquire and hold its own shares and, subject to section 60 of the Act, offer to acquire its own shares. **[Sections 58 and 59 of the Act]**
- 8.2 The Board may purchase or otherwise acquire shares issued by the company from such shareholders and in such numbers or proportions as it thinks fit and on terms and conditions which it considers to be in the interest of the company.

### 9. **TREASURY STOCK**

- 9.1 Shares acquired by the company under clause 8 of this constitution may be held by the company in accordance with section 67A-67C of the Act. **[Section 67A-67C of the Act]**

## **TRANSFER OF SHARES**

### 10. **TRANSFERS OF SHARES**

- 10.1 Section 84 of the Act governs the transfer of shares in the company, including requirements as to the execution of any form of transfer.

### 11. **BOARD'S RIGHT TO REFUSE REGISTRATION OF TRANSFER**

- 11.1 The board may, within 30 working days of the receipt of a transfer of shares by the company, refuse or delay the registration of the transfer if:
- (a) The holder of the shares has failed to pay an amount due to the company in respect of those shares; or

- (b) The board considers that to effect the transfer would result in a breach of the law; or
- (c) The board considers that it is not in the best interests of the company to register the transfer; or
- (d) The board considers that the transfer document is not in any usual or common form or otherwise in a form prescribed by the board from time to time (if any);
- (e) Section 95 of the Act has not been complied with, or the share transfer has not been properly executed or does not comply with section 84(2) of the Act.

11.2 Any resolution of the board to refuse or delay the registration of a transfer of shares must set out in full the reason under clause 11.1 of this constitution for doing so, and must be sent to the transferor and transferee within 5 working days of the date of the resolution. **[Section 84(4)(b) of the Act]**

## 12. REGISTRATION OF TRANSFER

12.1 Subject to clause 11 (board's right to refuse registration of transfer) of this constitution, on receipt of a duly completed form of transfer the company must enter the name of the transferee on the share register as holder of the shares. **[Section 84(4) of the Act]**

## 13. SHARE REGISTER AND SHARE CERTIFICATES

13.1 The Company must maintain a share register in accordance with sections 87 to 94 (inclusive) of the Act.

13.2 The Company must issue and deal with share certificates in accordance with section 95 of the Act.

## TRANSMISSION OF SHARES

### 14. TRANSMISSION

14.1 In the event of the death of a shareholder the survivor, where the deceased was a joint holder, or the legal personal representative of the deceased, where the deceased was a sole holder, will be the only persons recognised by the company as having any title to the deceased's interest in the shares. Nothing contained in this clause 14.1 will release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by the deceased with other persons.

## CALLS ON SHARES

### 15. BOARD MAY MAKE CALLS

15.1 Subject to the terms of issue of any shares the board may resolve to require the holders of unpaid or partly paid shares to pay all or part of the amount unpaid on the shares. The terms of the resolution of the board will constitute the terms of the obligation to pay the call including payment by instalments. The call may be revoked or postponed at any time by the board.



## 16. NOTICE OF CALLS

- 16.1 Subject to the terms of issue of any class of shares and to clause 18 of this constitution, unless all the holders of a class of shares subject to a call unanimously agree, a call or the postponement or revocation of a call will apply to all the holders of shares of the class equally.
- 16.2 Notice of the call must be given to the shareholders at the time of the call, or to a subsequent holder. Failure to give notice to a shareholder will not invalidate a call but it will not be payable by that shareholder until the notice has been served on the shareholder.
- 16.3 Notice of a call sent by post to a shareholder to the address recorded in the share register as the address of the shareholder will be deemed to have been received by the shareholder 48 hours following the date of the posting of the notice.

## 17. LIABILITY FOR CALLS

- 17.1 The joint holders of shares are jointly and severally liable to pay all calls in respect of the shares.
- 17.2 If a call is not paid before or on the day appointed for payment the person from whom the sum is due will be liable to pay interest on the sum from the day appointed for payment to the time of actual payment at such rate as the board determines either at the time of the call or subsequently.
- 17.3 The liability for a call which has become due and payable attaches to the shareholder for the time being recorded in the share register and not a prior shareholder, notwithstanding that at the date of the call, or the date the call fell due for payment, another person was the shareholder or that the notice of the call was served on the previous and not the current shareholder. **[Section 100 of the Act]**
- 17.4 Following the registration in the share register of a change of ownership of shares in respect of which a call has been made, a notice of the call is not required to be served on the new shareholder.

## 18. AGREEMENT TO DIFFERENTIATE CALLS

- 18.1 The board may, on the issue of shares, by agreement with the shareholders concerned, differentiate between the shareholders of the same class as to the amount to be paid on the shares and the times of payment.

## SUSPENSION OF RIGHT TO DIVIDENDS AND LIEN

### 19. NOTICE OF SUSPENSION OF RIGHTS TO DIVIDEND

- 19.1 If a shareholder fails to pay any call or instalment of a call on the day appointed for payment, the board may, at any time after that date, while any part of the call or instalment payable by the shareholder remains unpaid, serve a notice on the shareholder requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued and all expenses that may have been incurred by the company by reason of such non-payment.

- 19.2 The notice must state a further date (not earlier than the expiration of 5 days from the date of service of the notice) on or before which the payment required by the notice is to be made and state that, in the event of non-payment at or before the time appointed, the right to dividends in respect of the shares subject to the call will be suspended.

## **20. APPLICATION OF SUSPENDED DIVIDENDS**

- 20.1 All dividends which would have been payable in respect of shares which are subject to a suspension of the right to dividends must be withheld and applied by the company to reduce the amount owing under the call.
- 20.2 The amount owing under the call, for the purposes of clauses 20 and 22 of this constitution may include any interest which may have accrued and all expenses which may have been incurred by the company by reason of non-payment by the shareholder under the call.

## **21. LIABILITY NOT DISCHARGED BY SUSPENSION OF RIGHT TO DIVIDENDS OR TRANSFER OF SHARES**

- 21.1 A shareholder whose shares are the subject of a suspension of the right to dividends remains liable to the company for all money owing under the call, and that liability is not extinguished by a transfer of the shares subject to the suspension to a third party.

## **22. LIFTING OF SUSPENSION OF RIGHT TO DIVIDENDS**

- 22.1 When the total dividends withheld and applied under clause 20 of this constitution equal the total amount owing under the call, including amounts owing under clause 20.2 of this constitution, or when the shares are transferred to a third party, the suspension of the right to dividends will be lifted and all rights to be paid dividends on the shares will resume.

## **23. LIENS**

- 23.1 The company has a first and paramount lien upon every share registered in the name of a shareholder (whether solely or jointly with others) and upon the proceeds of sale of those shares, for all money (whether presently payable or not) payable in respect of shares held by the shareholder, and for all other money presently payable by the shareholder to the company on any account whatever, and also for such amounts (if any) as the company may be called upon to pay under any statute or regulation in respect of shares of a deceased or other shareholder, whether the period for the payment, fulfilment or discharge respectively has actually arrived or not.
- 23.2 The lien extends to all dividends from time to time declared in respect of the shares.

## **24. SALE ON EXERCISE OF LIEN**

- 24.1 The company may sell, in such manner as the board thinks fit, any shares on which the company has a lien, but no sale may be made unless a sum in respect of which the lien exists is due and payable, nor until the expiration of 14 days after a notice in writing, which states and demands payment of the amount due and payable in respect of which the lien exists, has been given to the registered shareholder for the time being or the person entitled to that share by reason of the registered shareholder's death or bankruptcy.

- 24.2 The net proceeds of the sale of any shares sold for the purpose of enforcing a lien is to be applied in or towards satisfaction of any unpaid calls, instalments or any other money payable by the shareholder in respect of which the lien existed. The residue, if any, is to be paid to the former shareholder.
- 24.3 A certificate signed by a director stating that the power of sale provided in this clause 24 of this constitution has arisen and is exercisable by the company under this constitution will be conclusive evidence of the facts stated in the certificate.
- 24.4 In order to give effect to any sale enforcing the lien in the exercise of the powers given to it under clause 24.1 of this constitution the board may authorise any person to execute a transfer of the shares to the purchaser. The purchaser will be registered as the shareholder of the shares which are transferred, and will not be bound to see to the application of the purchase money. The purchaser's title to the shares will not be affected by any irregularity or invalidity in the proceedings in reference to the sale. The remedy of any person aggrieved by the sale will be in damages only and against the company exclusively. If the certificate for the shares is not delivered up to the company the board may issue a new certificate distinguishing it as the board thinks fit from the certificate not delivered up.

## DISTRIBUTIONS

### 25. SOLVENCY TEST

- 25.1 Subject to clause 26 of this constitution, the board may authorise a distribution by the company at a time, and of an amount, and to any shareholders it thinks fit if it is satisfied on reasonable grounds that the company will, immediately after the distribution, satisfy the solvency test. **[Sections 4 and 52(4) of the Act]**
- 25.2 The directors who vote in favour of a distribution must sign a certificate stating that in their opinion the company will, immediately after the distribution, satisfy the solvency test and stating the grounds for that opinion. **[Sections 4 and 52 of the Act]**
- 25.3 For the purpose of this clause in applying the solvency test "debts" and "liabilities" have the meaning given to them in section 52(4) of the Act.

### 26. DIVIDENDS PAYABLE PARI PASSU

- 26.1 Subject to clause 26.3 of this constitution the board must not authorise a dividend:
- (a) In respect of some but not all the shares in a class; or
  - (b) That is of a greater value per share in respect of some shares of a class than it is in respect of other shares in that class,

unless the amount of the dividend in respect of a share of that class is in proportion to the amount paid to the company in satisfaction of the liability of the shareholder under the constitution of the company or under the terms of issue of the share or is required, for a portfolio tax rate entity, as a result of section HL 7 of the Income Tax Act 2004.

**[Section 53 of the Act]**

- 26.2 A shareholder may, by notice in writing signed by or on behalf of the shareholder and given to the company, waive his or her entitlement to receive a dividend. **[Section 53(3) of the Act]**

- 26.3 If all the shareholders of the same class have agreed or concur in writing, a dividend may be authorised otherwise than in accordance with clause 26.1 of this constitution. **[Section 107(1) of the Act]**

## 27. **SHARES IN LIEU OF DIVIDEND AND SHAREHOLDER DISCOUNTS**

- 27.1 The board may issue shares in lieu of a proposed dividend or proposed future dividends and may offer shareholders discounts in respect of some or all of the goods sold or services provided by the company in accordance with sections 54 and 55 of the Act respectively.

## 28. **FINANCIAL ASSISTANCE ON ACQUISITION OF SHARES**

- 28.1 The company may, subject to and in accordance with sections 52, 76, 77, 78 and 107(1)(e) of the Act, give financial assistance to a person for the purpose of, or in connection with, the purchase of a share issued or to be issued by the company, or by its holding company, whether directly or indirectly. **[Section 76 of the Act]**

# **PART III SHAREHOLDERS' RIGHTS AND OBLIGATIONS**

## **EXERCISE OF POWERS RESERVED TO SHAREHOLDERS**

### 29. **POWERS RESERVED TO SHAREHOLDERS**

- 29.1 Powers reserved to shareholders of the company by the Act or by this constitution may be exercised:

- (a) At an annual meeting or a special meeting; or
- (b) By a resolution in lieu of a meeting pursuant to clause 35. **[Section 104 of the Act]**

- 29.2 Unless otherwise specified in the Act or this constitution, a power reserved to shareholders may be exercised by an ordinary resolution. **[Section 105 of the Act]**

### 30. **SPECIAL RESOLUTIONS**

- 30.1 When shareholders exercise a power to approve any of the following, that power may only be exercised by a special resolution:

- (a) An alteration to or the revocation of this constitution or the adoption of a new constitution; or
- (b) A major transaction; or
- (c) An amalgamation; or
- (d) The liquidation of the company.



- 30.2 Any decision made by special resolution pursuant to subclauses a. b. and c. of this clause may be rescinded only by a special resolution; a decision made by special resolution pursuant to subclause d. of this clause cannot be rescinded. **[Section 106 of the Act]**

### 31. **MANAGEMENT REVIEW BY SHAREHOLDERS**

- 31.1 The chairperson of a meeting of shareholders of the company must allow a reasonable opportunity for shareholders at the meeting to question, discuss, or comment on the management of the company.
- 31.2 Notwithstanding anything in the Act or any other clause of this constitution, and subject to clause 31.3 of this constitution, a meeting of shareholders may pass a resolution relating to the management of the company.
- 31.3 A resolution relating to the management of the company passed at a meeting of shareholders is not binding on the board. **[Section 109 of the Act]**

## **MEETING OF SHAREHOLDERS**

### 32. **ANNUAL MEETING**

- 32.1 The board must, in accordance with Section 120 (Annual meeting of shareholders) of the Act, call an annual meeting of shareholders to be held:
- (a) Once in each calendar year other than the year of its registration; and
  - (b) Not later than 6 months after the balance date of the company; and
  - (c) Not later than 15 months after the previous annual meeting, or in respect of its first annual meeting not later than 18 months after its date of registration.
- 32.2 The company must hold the annual meeting on the date on which it is called to be held. **[Section 120 of the Act]**

### 33. **SPECIAL MEETINGS**

- 33.1 A special meeting of shareholders entitled to vote on an issue:
- (a) May be called at any time by the board or a person who is authorised by this constitution to call the meeting; and
  - (b) Must be called by the board on the written request of shareholders holding not less than 5% of the voting rights entitled to be exercised on the issue. **[Section 121 of the Act]**

### 34. **PROCEDURE FOR MEETINGS OF SHAREHOLDERS**

- 34.1 The provisions of Schedule 1 to this constitution govern proceedings at and in relation to meetings of shareholders of the company. Schedule 1 of the Act shall accordingly not apply to the Company.

### 35. RESOLUTION IN LIEU OF MEETING

- 35.1 Subject to sections 122(2) and (3) of the Act, a resolution in writing signed by not less than 75% of the shareholders who would be entitled to vote on that resolution at a meeting of shareholders who together hold not less than 75% of the votes entitled to be cast on that resolution is as valid as if it had been passed at a meeting of those shareholders. Such a resolution may consist of several documents in like form (including letters, facsimiles, electronic mail, or other similar means of communication), each signed by one or more shareholders. **[Section 122 of the Act]**

## PART IV THE BOARD

### POWERS AND DUTIES OF THE BOARD

#### 36. POWERS OF THE BOARD

- 36.1 The business and affairs of the company must be managed by or under the direction or supervision of the board.
- 36.2 The board has, and may exercise, all the powers necessary for managing, and for directing and supervising the management of, the business and affairs of the company, except to the extent that this constitution or the Act expressly requires those powers to be exercised by the shareholders or any other person. **[Section 128 of the Act]**

#### 37. DELEGATION BY THE BOARD

- 37.1 The board may delegate to a committee of directors, a director, or an employee of the company, or any other person, any one or more of its powers other than the following powers:
- (a) Section 23(1)(c) (change of company names):
  - (b) Section 42 (issue of shares):
  - (c) Section 44 (shareholder approval to the issue of shares):
  - (d) Section 47 (consideration for the issue of shares):
  - (e) Section 49 (consideration in relation to issue of options and convertible financial products):
  - (f) Section 52 (distributions):
  - (g) Section 54 (issue of shares in lieu of dividends):
  - (h) Section 55 (shareholder discounts):
  - (i) Section 60 (offers to acquire shares):
  - (j) Section 61 (special offers to acquire shares):
  - (k) Section 63 (stock exchange acquisitions subject to prior notice to shareholders):
  - (l) Section 65 (stock exchange acquisitions not subject to prior notice to shareholders):
  - (m) Section 69 (redemption of shares at the option of a company):

- (n) Section 71 (special redemptions of shares):
- (o) Section 76 (provision of financial assistance):
- (p) Section 78 (special financial assistance):
- (q) Section 80 (financial assistance not exceeding 5 percent of shareholders' funds):
- (r) Section 84(4) (transfer of shares):
- (s) Section 187 (change of registered office):
- (t) Section 193 (change of address for service):
- (u) Section 221 (manner of approving an amalgamation proposal):
- (v) Section 222 (short form amalgamations).

**[Section 130 and Second Schedule to the Act]**

37.2 The board is responsible for the exercise by any delegate of a power delegated under this clause 37 as if the power had been exercised by the board, unless the board:

- (a) Believed on a reasonable grounds at all times before the exercise of the power that the delegate would exercise the power in conformity with the duties imposed on the directors by the Act and this constitution; and
- (b) Has monitored, by means of reasonable methods properly used, the exercise of the power by the delegate. **[Section 130 of the Act]**

**38. DIRECTORS TO ACT IN GOOD FAITH**

38.1 A director, when exercising powers or performing duties, must act in good faith and in what the director believes to be in the best interests of the company.

38.2 If the company is a wholly-owned subsidiary, a director may when exercising the powers or performing duties as a director, act in a manner which he or she believes is in the best interests of the company's holding company even though it may not be in the best interests of the company.

38.3 If the company is a subsidiary (but not a wholly-owned subsidiary) a director may, when exercising powers or performing duties as a director, with the prior agreement of the shareholders (other than its holding company), act in a manner which he or she believes is in the best interests of the company's holding company even though it may not be in the best interests of the company.

38.4 If the company is incorporated to carry out a joint venture between its shareholders the director may, when exercising powers or performing duties as a director in connection with the carrying out of the joint venture, act in a manner which he or she believes is in the best interests of a shareholder or shareholders, even though it may not be in the best interests of the company. **[Section 131 of the Act]**

**39. MAJOR TRANSACTIONS**

39.1 The board may not procure or permit the company to enter into a major transaction unless the transaction is:

- (a) Approved by special resolution; or
- (b) Contingent on approval by special resolution. **[Section 129 of the Act]**

## 40. PROCEEDINGS OF BOARD

- 40.1 The provisions of Schedule 2 to this constitution govern proceedings at and in relation to meetings of the board. Schedule 3 of the Act shall accordingly not apply to the company.

## DIRECTORS

### 41. NUMBER OF DIRECTORS

- 41.1 The minimum number of directors is six (6) and the maximum number is seven (7), provided that any directors appointed in accordance with clause 46.1(b) shall not be taken into account when determining whether such minimum or maximum has been exceeded.

### 42. EXISTING DIRECTORS TO CONTINUE

- 42.1 The persons holding office as directors on the date of adoption of this constitution continue in office and are deemed to have been appointed as directors pursuant to this constitution.

### 43. QUALIFICATION OF DIRECTOR

- 43.1 Not ~~more than two~~ directors may be ~~a~~ members or employees of any shareholding local authority at the same time as ~~they~~ her or she holds office as ~~a~~ directors of the company.

### 44. APPOINTMENT ~~AND REMOVAL BY NOTICE~~

- ~~44.1 The Nelson City Council shall be entitled to appoint one (1) director at any time and may likewise remove and/or replace that one (1) director at any time, in each case by notice in writing to the Company signed by a duly authorised officer of the Nelson City Council.~~

- ~~44.3 The Tasman District Council shall be entitled to appoint one (1) director at any time and may likewise remove and/or replace that one (1) director at any time, in each case by notice in writing to the Company signed by a duly authorised officer of the Tasman District Council.~~

- ~~44.5 The Nelson City Council and the Tasman District Council shall be jointly entitled to appoint, remove and replace up to five (5) directors at any time by notice in writing to the Company signed by both a duly authorised officer of the Tasman District Council and a duly authorised officer of the Nelson City Council.~~

- ~~44.744.1 Directors may be appointed by ordinary resolution. [Section 153 of the Act] A notice given under clauses 44.1, 44.2 or 44.3 of this constitution takes effect upon receipt of it at the registered office of the company (including receipt by way of letter, facsimile, electronic mail, or other similar means of communication) unless the notice specifies a later time at which the notice will take effect (in which case it takes effect at such later time so specified). The notice may comprise one or more similar documents separately signed by shareholders giving the notice.~~

- ~~44.844.2~~ A director holds office until his or her resignation, retirement, disqualification or removal in accordance with this constitution.  
[Section 157 of the Act]

#### 45. ~~NO APPOINTMENT OR REMOVAL OF DIRECTORS BY RESOLUTION~~

- 45.1 Directors may ~~not be appointed or removed by~~ a ordinary resolution of Shareholders.  
[Section ~~155 and section~~ 156 of the Act]

#### 46. APPOINTMENT OF DIRECTORS TO FILL TEMPORARY VACANCY

- 46.1 In addition to the appointment or removal of directors under clause 44 of this constitution, the board may
- (a) appoint any person to be a director to fill a temporary vacancy in (and only in) circumstances where the number of directors falls below the minimum number set out in clause 41 above and with written approval of the shareholders holding in aggregate a majority of the voting shares; and/or
  - (b) at any time during the three month period prior to the Company's next annual general meeting (but not otherwise) appoint up to two persons to be directors.
- 46.2 Subject to their earlier resignation, retirement, disqualification or removal in accordance with this constitution, any director appointed under this clause 46 will cease to hold office at the commencement of the next annual meeting of the company or at the next special general meeting whichever is earlier.
- 46.3 Subject to the Act and this constitution that director will be eligible for re-appointment as a director.

#### 47. ROTATION

##### 47.1 Number to Retire

Subject to clause 47.3, at the annual general meeting of the company in each year, one third of the directors for the time being, or if their number is not a multiple of three then the number nearest to one third, shall retire from office. A retiring director shall hold office until the dissolution or adjournment of the annual general meeting. A retiring director shall be eligible for re-appointment unless he/she is disqualified under this constitution.

##### 47.2 Directors to Retire

Subject to clause 47.3, the directors to retire at an annual general meeting shall be those directors who have been longest in office since their last appointment. As between persons who became directors on the same day those who retire shall, unless they otherwise agree among themselves, be determined by lot.

##### 47.3 Exceptions to Rotation Policy

~~The Nelson City Council and Tasman District Council~~The shareholders of the Company may, by way of a notice in writing to the company signed by ~~both a duly authorised officer of the Tasman District Council and a duly authorised officer of the Nelson City Council~~the holder of a majority of the shares in the Company, jointly direct that the retirement procedure set out in clauses 47.1 and 47.2 be varied in respect of one or more annual general meetings (for example, by directing that a particular director shall not be required to retire by rotation at a particular annual general meeting) and such notice shall be effective and binding upon the company and its directors notwithstanding clauses 47.1 and 47.2.



## 48. DISQUALIFICATION AND REMOVAL

48.1 A person will be disqualified from holding the office of director if he or she is removed under clause 44 or 46 of this constitution or he or she:

- (a) Dies; or
- (b) Becomes subject to a property order made under section 30 or section 31 of the Protection of Personal and Property Rights Act 1988; or
- (c) Is an undischarged bankrupt; or
- (d) Is prohibited by the Companies Act 1955 from being a director or officer or promoter or would be so prohibited but for the repeal of that Act; or
- (e) Is prohibited by the Companies Act 1993 from being a director or officer or promoter or taking part in the management of the company; or
- (f) Resigns in writing; or
- (g) Is absent without permission of the directors from three (3) consecutive meetings of the directors; or
- (h) ~~Becomes a member or employee of any shareholding local authority if there are already two directors who are members or employees of shareholding local authorities. Where two (2) or more directors are elected as members of shareholding local authorities at the same election and the effect is that there would be more than two directors who are also members or employees of shareholding local authorities, the directors so elected to the shareholding local authorities shall determine which of them is or are not to hold office as directors or are to vacate membership of the shareholding local authorities. In the absence of agreement the matter shall be determined by lot with the losing director or directors having the option to relinquish either the directorship of the company or the membership of the local authority or local authorities concerned:~~ or
- (i) He or she is an executive director and ceases to be employed by the company.

## 49. SHAREHOLDING QUALIFICATION

49.1 A director is not required to hold shares.

## 50. INDEMNITY OF DIRECTORS AND EMPLOYEES

50.1 For the purpose of clauses 50 and 51 "director" includes a former director and "employee" includes a former employee.

50.2 The board may cause the company to indemnify a director or employee of the company or a related company for any costs incurred by him or her in any proceeding:

- (a) That relates to liability for any act or omission in his or her capacity as a director or employee; and
- (b) In which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued.  
**[Section 162(3) of the Act]**

50.3 The board may cause the company to indemnify a director or an employee of the company or a related company in respect of:

- (a) Liability to any person other than the company or a related company for any act or omission in his or her capacity as a director or employee; or
- (b) Costs incurred by the director or employee in defending or settling any claim or proceeding relating to any liability under subparagraph a. above not being criminal liability or liability in respect of a breach, in the case of a director, of the duty specified in section 131 of the Act or, in the case of an employee, of any fiduciary duty owed to the company or related company. **[Section 162(4) of the Act]**

## 51. INSURANCE OF DIRECTORS AND EMPLOYEES

51.1 The board may, subject to section 162 of the Act, cause the company to effect insurance for a director or for an employee of the company or a related company in respect of:

- (a) Liability, not being criminal liability for any act or omission in his or her capacity as a director or employee; or
- (b) Costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability under subclause a; or
- (c) Costs incurred by that director or employee in defending any criminal proceedings in which he or she was acquitted. **[Section 162(5) of the Act]**

51.2 The directors who vote in favour of authorising the effecting of insurance under clause 52.1 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the company **[Section 162(6) of the Act]**

51.3 The board must ensure that particulars of any indemnity given to, or insurance effected for, any director or employee of the company or related company, are forthwith entered in the company's interests register **[Section 162(7) of the Act]**.

## REMUNERATION OF DIRECTORS

### 52. AUTHORITY TO REMUNERATE DIRECTORS

52.1 The Board may not exercise the power conferred by section 161 of the Act to authorise any payment or other benefit of the kind referred to in that section to or in respect of a Director in his or her capacity as such, without the prior approval of all Shareholders. For the avoidance of doubt, such approval may express the Directors' remuneration as either:

- (a) a monetary sum per annum payable to all Directors taken together; or
- (b) a monetary sum per annum payable to each person from time to time holding office as a Director.

52.2 The Board must ensure that it complies with the provisions of section 161 of the Act whenever it exercises a power conferred by that section to authorise any payment or other benefit of the kind referred to in that section.

### 53. OTHER OFFICES WITH COMPANY HELD BY DIRECTOR

- 53.1 Any director may act by himself or herself or by the director's firm in a professional capacity for the company, and the director or the director's firm will be entitled to remuneration for professional services as if the director were not a director. Nothing in this clause authorises a director or the director's firm to act as auditor to the company.
- 53.2 A director may hold any other office or place of profit in the company (other than the office of auditor) in conjunction with the director's office of director for such period and on such terms (as to remuneration and otherwise) as the board may determine.
- 53.3 Other than as provided in clause 54 a director is not disqualified by virtue of his or her office from entering into any transaction with the company. Any such transaction will be valid and enforceable to the same extent as if he or she were not a director and not in a fiduciary relationship with the company.

## INTERESTED DIRECTORS

### 54. NOTICE OF INTEREST TO BE GIVEN

- 54.1 A director must, forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the company, cause to be entered in the interests register, and, if the company has more than one director, disclose to the board of the company:
- (a) If the monetary value of the director's interest is able to be quantified, the nature and monetary value of that interest; or
  - (b) If the monetary value of the director's interest cannot be quantified, the nature and extent of that interest
- 54.2 For the purposes of clause 54.1 a general notice entered in the interests register or disclosed to the board to the effect that a director is a shareholder, director, officer or trustee of another named company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that company or person, is a sufficient disclosure of interest in relation to that transaction. **[Section 140 of the Act]**

### 55. RIGHT OF INTERESTED DIRECTOR TO VOTE

- 55.1 A director may vote in respect of any transaction in which the director is interested, and if the director does so the director's vote will be counted and the director will be counted in the quorum present at the meeting.  
**[Section 144 of the Act]**

## MISCELLANEOUS

### 56. DIRECTORS NOT TO SELL MAIN UNDERTAKING

- 56.1 Without limiting Section 129 of the Act (which requires approval of a major transaction by a special resolution) the directors shall not sell, lease, let, exchange or otherwise dispose of (other than by way of charge) twenty percent (20%) or more of the total

assets in aggregate of the company either absolutely or conditionally without the prior approval of the company in general meeting.

## 57. **RESTRICTION ON CERTAIN DEALINGS WITH ASSETS**

57.1 Without limiting Section 129 of the Act (which requires approval of a major transaction by a special resolution) neither the company nor any of its subsidiaries shall, without the prior approval of the company in general meeting, enter into any agreement for the acquisition or disposition of assets with a value in excess of twenty percent (20%) of the total assets in aggregate of the company at the date to which the last audited accounts were made up where the vendor or purchaser is or was at any time during the six months immediately preceding the date of the agreement:

- (a) a director or officer of the company or any of its subsidiaries; or
- (b) the beneficial owner of 10% or more of the company's issued voting capital; or
- (c) a person or company associated with either the company or any of its subsidiaries or any of their directors or officers.

The notice of meeting containing the resolution to approve any intended transaction of this kind shall contain all reports, valuations and other material prepared by independent experts as are necessary to enable the shareholders to decide whether the transaction price is a fair price. Nothing in this clause shall apply to the transfer of financial instruments, stock in trade, or current assets between a bank and any company related to that bank.

## 58. **AUDIT**

58.1 The auditors of the company shall be the Auditor General as provided in Section 19 of the Port Companies Act 1988 or such other auditor as may be permitted by legislation regulating the company.

## 59. **NOTICES**

### 59.1 **Service**

Notice may be served by the company upon any director or shareholder, either personally by pre-paid courier delivery, by post or by fastpost in a pre-paid envelope or package addressed to such director or shareholder at such person's last known address or by delivery to a document exchange or by facsimile to the facsimile number of such director or shareholder or by electronic means.

### 59.2 **Time of Service by Facsimile**

A notice served by facsimile is deemed to have been served on the day following completion of its transmission.

### 59.3 **Time of Service by Post**

A notice sent by post or delivered to a document exchange is deemed to have been served:

- (a) In the case of a person whose last known address is in New Zealand, at the end of 48 hours after the envelope or package containing the same was posted or delivered in New Zealand; and
- (b) In the case of a person whose last known address is outside New Zealand, at the expiration of 7 days after the envelope or package containing the same was posted by fastpost in New Zealand.

#### 59.4 Time of service by electronic means

A notice sent by electronic means is deemed to have been served when an acknowledgement of receipt sent by the recipient of the notice and transmitted by electronic means has been received.

#### 59.5 Proof of Service

In proving service by post or delivery to a document exchange, it is sufficient to prove that the envelope or package containing the notice was properly addressed and posted or delivered with all attached postal or delivery charges paid. In proving service by facsimile, it is sufficient to prove that the document was properly addressed and sent by facsimile. In proving service by electronic means, the acknowledgement of receipt from the recipient of the notice is sufficient proof of service.

#### 59.6 Service on Joint Holders

A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder first named in the share register in respect of the share.

#### 59.7 Service of Representatives

A notice may be given by the company to a person or persons entitled to a share in consequence of the death or bankruptcy of a shareholder by addressing it to such person or persons by name or by title or by any appropriate description, at the address (if any) within New Zealand supplied for the purpose by the person or persons claiming to be so entitled, or (until such time an address has been supplied) by giving the notice in any manner in which it might have been given if the death or bankruptcy had not occurred.

### 60. REMOVAL FROM THE NEW ZEALAND REGISTER

#### 60.1 In the event that:

- (a) The company has ceased to carry on business has discharged in full its liabilities to all known creditors and has distributed its surplus assets in accordance with this constitution and the Act; or
- (b) The company has no surplus assets after paying its debts in full or in part and no creditor has applied to the Court under section 241 of the Act for an order putting the company into liquidation:

the board of directors may, in the prescribed form, request the Registrar of Companies to remove the company from the New Zealand register.

### 61. METHOD OF CONTRACTING

#### 61.1 A contract or other enforceable obligation may be entered into by a company as follows:



- (a) An obligation which, if entered into by a natural person, would, by law, be required to be by deed may be entered into on behalf of the company in writing signed under the name of the company by:
  - (i) two or more directors of the company; or
  - (ii) if there is only one director, by that director whose signature must be witnessed; or
  - (iii) a director, or other person or class of persons whose signature or signatures must be witnessed, provided that such persons signing on behalf of the company must first be approved by the board; or
  - (iv) one or more attorneys appointed by the company in accordance with section 181 of the Act.
- (b) An obligation which, if entered into by a natural person, is, by law, required to be in writing, may be entered into on behalf of the company in writing by a person acting under the company's express or implied authority.
- (c) An obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the company in writing or orally by a person acting under the company's express or implied authority. **[Section 180 of the Act]**

61.2 Clause 61.1 applies to a contract or other obligation:

- (a) whether or not that contract or obligation was entered into in New Zealand; and
- (b) whether or not the law governing the contract or obligation is the law of New Zealand.

## 62. APPOINTMENT OF ATTORNEY

- 62.1 The company may by instrument in writing executed in accordance with section 180(1)(a) of the Act appoint a person as its attorney either generally or in relation to a specified matter and the provisions of section 181 of the Act will apply. **[Section 181 of the Act]**

## **SCHEDULE 1**

### **PROCEEDINGS FOR MEETINGS OF SHAREHOLDERS**

#### **1. CHAIRPERSON OF MEETINGS OF SHAREHOLDERS**

- 1.1 The chairperson of the board, if one has been elected and is present at a meeting of shareholders, must chair the meeting.
- 1.2 If no chairperson has been elected or if, at any meeting of shareholders, the chairperson is not present within 15 minutes of the time appointed for the commencement of the meeting, the shareholders present may choose one of their number to chair the meeting.

#### **2. NOTICE OF MEETINGS**

- 2.1 Written notice of the time and place of a meeting of shareholders must be given to every shareholder entitled to receive notice of the meeting, and to every director and an auditor of the company not less than 10 working days before the meeting. With the consent of all shareholders entitled to attend and vote at a meeting it may be convened by such shorter notice and in such manner including the contents of the notice as those shareholders agree.

#### **3. CONTENTS OF NOTICE**

- 3.1 The notice referred to in clause 2 of this Schedule must state:
  - (a) The nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it; and
  - (b) The text of any resolution to be submitted to the meeting; and
  - (c) The postal address to which postal votes may be sent and the name or office of the person to whom they may be sent; and
  - (d) That the postal vote must be received by the person referred to in paragraph c. at least 48 hours prior to the time of the meeting.

#### **4. IRREGULARITIES IN NOTICE**

- 4.1 The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a shareholder does not invalidate the proceeding of that meeting.
- 4.2 Notwithstanding clause 3 of this Schedule, an irregularity in a notice of a meeting required by clause 2 of this Schedule is waived if all the shareholders entitled to attend and vote at the meeting do attend the meeting without protest as to the irregularity, or if all such shareholders agree to the waiver.

## 5. METHOD OF HOLDING MEETING

- 5.1 A meeting of shareholders, where notice of the meeting has been given, may be held either:
- (a) By a number of shareholders, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
  - (b) By means of audio, audio and visual, or electronic communication by which all shareholders participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
  - (c) By a combination of both of the methods described in sub-clauses (a) and (b) above.

## 6. ADJOURNMENTS

- 6.1 If a meeting of shareholders is adjourned for less than 30 days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned provided that except for adjournments later that same day any director not present is to be advised of the date, time, place and business left unfinished which is to be transacted at the adjourned meeting.

## 7. MINUTES

- 7.1 The board must ensure that minutes are kept of all proceedings at meetings of shareholders.
- 7.2 Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

## 8. QUORUM

- 8.1 A quorum for a meeting of shareholders is present if those shareholders or their proxies who are present or who have cast postal votes are between them able to exercise a majority of the votes to be cast on the business to be transacted by the meeting.
- 8.2 No business may be transacted at a meeting of shareholders if a quorum is not present.
- 8.3 If a quorum is not present within 30 minutes after the time appointed for the meeting:
- (a) In the case of a meeting called pursuant to a requisition of shareholders under clause 33.1(b) of this constitution the meeting is dissolved;
  - (b) In the case of any other meeting, the meeting is adjourned to the same day in the following week at the same time and place, or to such other date, time, and place as the directors may appoint, and if at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the shareholders present or their proxies are a quorum.
- 8.4 To avoid doubt, a shareholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

## 9. VOTING

- 9.1 In the case of a meeting of shareholders held under clause 5.1(a) of this Schedule, unless a poll is demanded, voting at the meeting must be by whichever of the following methods is determined by the chairperson of the meeting:
- (a) Voting by voice; or
  - (b) Voting by show of hands.
- 9.2 In the case of a meeting of shareholders held under clause 5.1(b) or 5.1(c) of this Schedule, unless a poll is demanded, voting at the meeting must be by the shareholders signifying individually their assent or dissent by voice.
- 9.3 A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 9.4 of this Schedule.
- 9.4 At a meeting of shareholders a poll may be demanded by:
- (a) The chairperson; or
  - (b) Not less than 5 shareholders having the right to vote at the meeting; or
  - (c) A shareholder or shareholders representing not less than 10% of the total voting rights of all shareholders having the right to vote at the meeting; or
  - (d) By a shareholder or shareholders holding the shares that confer a right to vote at a meeting and on which the aggregate amount paid up is not less than 10% of the total amount paid up on all shares that confer that right.
- 9.5 A poll may be demanded either before or after the vote is taken on a resolution.
- 9.6 If a poll is taken, votes must be counted according to the votes attached to the shares of each shareholder present in person or by proxy and voting.
- 9.7 The chairperson of a shareholders' meeting is not entitled to a casting vote.

## 10. PROXIES AND REPRESENTATIVES

- 10.1 A shareholder may exercise the right to vote either by being present in person or by proxy.
- 10.2 A proxy for a shareholder is entitled to attend, be heard and vote at a meeting of shareholders as if the proxy were the shareholder.
- 10.3 A proxy must be appointed by notice in writing signed by the shareholder and the notice must state whether the appointment is for a particular meeting or a specified term not exceeding 12 months. The notice must (so far as the subject matter and form of the resolutions to be passed at the relevant meeting reasonably permit) provide for either way voting on all resolutions, enabling the appointor to instruct the proxy as to the casting of the vote.
- 10.4 The company shall send a form of notice of appointment of proxy to every shareholder entitled to attend and vote at a meeting with the notice convening the meeting.

10.5 No proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by the person referred to in clause 3.1(c) of this Schedule at least 48 hours before the start of the meeting. The chairperson may generally or in respect of any particular shareholder waive the requirements of this clause 10.5.

10.6 A body corporate which is a shareholder may appoint a representative to attend a meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy.

## 11. POSTAL VOTES

11.1 A shareholder may exercise the right to vote at a meeting by casting a postal vote in accordance with the provisions of this clause 11.

11.2 To avoid doubt, a postal vote may be cast using electronic means permitted by the board.

11.3 The notice of a meeting at which shareholders are entitled to cast a postal vote must state the name of the person authorised by the board to receive and count postal votes at that meeting.

11.4 If no person has been authorised to receive and count postal votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, every director is deemed to be so authorised.

11.5 A shareholder may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which the shareholders' shares are to be voted to a person authorised to receive and count postal votes at that meeting. The notice must reach that person not less than 48 hours before the start of the meeting.

11.6 Any person authorised to receive and count postal votes at a meeting:

- (a) Must collect together all postal votes received by him or her or by the company; and
- (b) In relation to each resolution to be voted on at a meeting, must count:
  - (i) The number of shareholders voting in favour of the resolution and the number of votes cast by each shareholder in favour of the resolution; and
  - (ii) The number of shareholders voting against the resolution, and the number of votes cast by each shareholder against the resolution; and
- (c) Must sign a certificate that he or she has carried out the duties set out in paragraphs a. and b. of this clause and which sets out the results of the counts required by paragraph b. of this clause; and
- (d) Must ensure that the certificate required by paragraph c. of this clause is presented to the chairperson of the meeting.

11.7 If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting must:

- (a) On a vote by show of hands, count each shareholder who has submitted a postal vote for or against the resolution; and



- (b) On a poll count the votes cast by each shareholder who has submitted a postal vote for or against the resolution.

- 11.8 The chairperson of a meeting must call for a poll on a resolution on which the chairperson receives the certificate provided in clause 11.6.d indicating sufficient postal votes that the chairperson believes that if a poll were taken the result could differ from that obtained on a show of hands.
- 11.9 The chairperson of a meeting must ensure that a certificate of postal vote held by the chairperson is annexed to the minutes of the meeting.

## 12. SHAREHOLDER PROPOSALS

- 12.1 A shareholder may give written notice to the board of a matter the shareholder proposes to raise for discussion or resolution at the next meeting of the shareholders at which the shareholder is entitled to vote.
- 12.2 The notice must be received by the board not less than 10 working days before the last day on which notice of the relevant meeting of shareholders is required to be given by the board.
- 12.3 The board must give notice of a shareholder proposal and the text of a proposed resolution received by it under clause 12.1 of this Schedule in the notice of the meeting given to shareholders, and, if the directors intend that shareholders may vote on that proposal by proxy or by postal vote, they must give the proposing shareholder the right to include in the notice of meeting a statement of not more than 1000 words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.
- 12.4 The costs incurred or to be incurred by the board under clause 12.3 of this Schedule must be met by the proposing shareholder by depositing with or tendering to the company a sum sufficient to meet those costs.
- 12.5 The board is not required to include in the notice of meeting a statement prepared by a shareholder which the board considers to be defamatory, frivolous or vexatious

## 13. VOTES OF JOINT HOLDERS

- 13.1 Where 2 or more persons are recorded in the register as the holder of a share, the vote of the person named first in the register and voting on a resolution will be accepted to the exclusion of the votes of the other joint holders.

## 14. UNPAID SHARES

- 14.1 If a sum due to the company in respect of a share has not been paid, that share may not be voted at a shareholders' meeting other than at a meeting of an interest group.

## 15. OTHER PROCEEDINGS

- 15.1 Except as provided in this Schedule, and subject to the constitution of the company, a meeting of shareholders may regulate its own procedure.

**16. SHAREHOLDER PARTICIPATION BY ELECTRONIC MEANS**

- 16.1 For the purposes of this Schedule, a shareholder, or the shareholder's proxy or representative, may participate in a meeting by means of audio, audio and visual, or electronic communication if—
- (a) the board approves those means; and
  - (b) the shareholder, proxy, or representative complies with any conditions imposed by the board in relation to the use of those means (including, for example, conditions relating to the identity of the shareholder, proxy, or representative and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means).
- 16.2 To avoid doubt, participation in a meeting includes participation in any manner specified in this schedule or permitted by the remainder of this constitution

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT 1982

## SCHEDULE 2 PROCEEDINGS FOR MEETINGS OF THE BOARD

### 1. CHAIRPERSON

- 1.1 The directors may elect one of their number as chairperson of the board and determine the period for which the chairperson is to hold office.
- 1.2 The director elected as chairperson holds that office until he or she dies or resigns or the directors elect a chairperson in his or her place.
- 1.3 If no chairperson is elected, or if at a meeting of the board the chairperson is not present within 5 minutes after the time appointed for the commencement of the meeting, the deputy chairperson (if elected and present) shall be chairperson of the meeting, or if a deputy chairperson has not been elected or is not present the directors present may choose one of their number to be chairperson of the meeting.

### 2. DEPUTY CHAIRPERSON

- 2.1 The directors may elect one of their number as deputy chairperson of the board and determine the period for which the deputy chairperson is to hold office.
- 2.2 The director elected as deputy chairperson holds that office until he or she dies or resigns or the directors elect a deputy chairperson in his or her place.

### 3. NOTICE OF MEETING

- 3.1 A director or, if requested by a director to do so, an employee of the company, may convene a meeting of the board by giving notice in accordance with this clause 3 of this Schedule 2.
- 3.2 Not less than 2 days' notice of a meeting of the board must be given to every director who is in New Zealand, and the notice must include the date, time and place of the meeting and the matters to be discussed.
- 3.3 An irregularity in the notice of a meeting is waived if all directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all directors entitled to receive notice of the meeting agree to the waiver.
- 3.4 Notice of a meeting may be given by any means, including by telephone. Notice given by a letter addressed to a director at his or her last known residential address will be deemed to have been received by the director the day following the date the letter is posted.

### 4. MEETINGS OF BOARD

- 4.1 A meeting of the board may be held either:
  - (a) By a number of directors sufficient to form a quorum being assembled together at the place, date and time appointed for the meeting; or

- (b) By means of audio, or audio and visual communication by which all the directors participating in the meeting and constituting a quorum can simultaneously hear each other throughout the meeting; or
- (c) by a combination of both of the methods described in sub-clauses (a) and (b) above.

## 5. **QUORUM**

- 5.1 A quorum for a meeting of the board is a majority of the directors.
- 5.2 No business may be transacted at a meeting of directors if a quorum is not present.

## 6. **VOTING**

- 6.1 Every director has one vote.
- 6.2 The chairperson does not have a casting vote.
- 6.3 A resolution of the board is passed if it is agreed to by all directors present without dissent or if a majority of the votes cast on it are in favour of it.
- 6.4 A director present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless he or she expressly dissents from or votes against the resolution at the meeting.

## 7. **MINUTES**

- 7.1 The board must ensure that full and accurate minutes are kept of all proceedings at meetings of the board.

## 8. **UNANIMOUS RESOLUTION**

- 8.1 A resolution in writing, signed or assented to by all directors is as valid and effective as if it had been passed at a meeting of the board duly convened and held.

Any such resolution may consist of several documents (including letters, facsimiles, electronic mail, or other similar means of communication) in like form each signed or assented to by one or more directors. A copy of any such resolution must be entered in the minute book of board proceedings.

## 9. **CONTINUING DIRECTORS**

- 9.1 Notwithstanding any vacancy in the number of directors, the board will continue to comprise the continuing directors, but, if their number is reduced below the number fixed by or pursuant to this constitution as the minimum number of directors, the continuing directors may act only for the purpose of increasing the number of directors to the minimum number, or for summoning a general meeting of the company.

## 10. **OTHER PROCEEDINGS**

- 10.1 Except as provided in clauses 1 to 9 of this Schedule 2 the board may regulate its own procedure.

# Office of Hon Damien O'Connor

MP for West Coast-Tasman

Minister of Agriculture  
Minister for Biosecurity  
Minister for Land Information  
Minister for Trade and Export Growth  
Associate Minister of Transport



Daryl Wehner  
Chief Financial Officer  
Port Nelson Limited  
Daryl.Wehner@portnelson.co.nz

Dear Daryl

Thank you for your letter to Hon David Parker dated 28 June 2023, seeking approval for changes to Port Nelson Limited's constitution. I am responding as I have been delegated decision-making powers from the Minister of Transport relating to the maritime sector in my role as Associate Minister of Transport.

I also acknowledge your further request to the Ministry of Transport on 6 July 2023, asking for Infrastructure Holdings Limited to be exempt from the application of section 20(1) of the Port Companies Act 1988 (the Act). As these two requests are interrelated, I have considered them together.

Under section 4 of the Act and for the Minister of Transport, I approve the requested changes to Port Nelson Limited's constitution in accordance with the attached consent notice.

Based on the information provided by Port Nelson Limited to date, I am satisfied that Infrastructure Holdings Limited does not carry on activities that if carried on by a Harbour Board would constitute a port-related commercial undertaking or would otherwise be likely to be carried on by a port company. Under section 20(2) of the Act and for the Minister of Transport, written notification is given in accordance with the attached consent notice that Infrastructure Holdings Limited is exempt from the provisions of section 20(1) of the Act.

Yours sincerely

Hon Damien O'Connor  
**Associate Minister of Transport**

Copied to: Hon Dr Nick Smith, Mayor of Nelson  
Tim King, Mayor of Tasman



**To: Port Nelson Limited**

**Background:**

Port Nelson Limited has requested that the Minister of Transport agree to changes to Port Nelson Limited's constitution.

In accordance with section 4 of the Port Companies Act 1988 (the Act), the Minister of Transport must give prior written approval for any amendments to a port company's constitution.

**THE MINISTER:**

**AGREES**, in accordance with section 4 of the Act, to the changes to the constitution of the company as shown in the attached copy of the amended constitution.

Dated 2023

**SIGNED BY** the Associate Minister of Transport:  
**Hon Damien O'Connor**  
for the Minister of Transport

---

**To: Infrastructure Holdings Limited**

**Background:**

Port Nelson Limited has requested that the Minister of Transport exempt Infrastructure Holdings Limited, the holding company for, and a related company to, Port Nelson Limited, from the provisions of section 20(1) of the Port Companies Act 1988 (the Act) which would apply additional requirements under the Act to Infrastructure Holdings Limited.

In accordance with section 20(3) of the Port Companies Act, the Minister of Transport must be satisfied that Infrastructure Holdings Limited does not carry on activities that if carried on by a Harbour Board would constitute a port-related commercial undertaking or would otherwise be likely to be carried on by a port company, before providing an exemption from the Port Companies Act for that company.

**THE MINISTER:**

Being satisfied of the matters in section 20(3) of the Act, **NOTIFIES**, in accordance with section 20(2) of the Act, that Infrastructure Holdings Limited is exempt from the provisions of section 20(1) of the Act.

Dated

2023

**SIGNED BY** the Associate Minister of Transport:  
**Hon Damien O'Connor**  
for the Minister of Transport

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10 August 2023

OC230687

**Hon David Parker****Minister of Transport**

cc Hon Damien O'Connor

Associate Minister of Transport

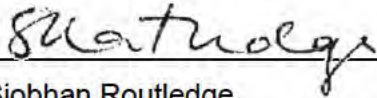
## BACKGROUND ON THE MILFORD OPPORTUNITIES PROJECT

### Purpose

This paper provides an update on background and decisions to date related to the Milford Opportunities Project (**MOP**), with a focus on 'first-order' policy issues and those relevant to transport. Recent Board membership changes are outlined, as well as timing of the forward work programme.

### Key points

- The Milford Opportunities Project aims to address the challenges facing Milford Sound Piopiotahi (**Piopiotahi**) due to rising visitor numbers.
- MOP announced a Masterplan in 2021 after consideration by Cabinet. The Masterplan made recommendations designed to preserve Piopiotahi's world heritage status, cultural and conservation values and improve the visitor experience. The Masterplan also includes recommendations to change to road, air, and sea access to the area. Feasibility testing of recommendations in the Masterplan is now underway.
- A paper was submitted to Cabinet in June outlining first-order policy issues concerning recommendations in the Masterplan [ENV-23-MIN-0030 refers]. This paper includes a summary of that advice with a focus on the transport workstreams.
- There have been recent changes to Board membership. Cabinet Appointments and Honours Committee (**APH**) is scheduled to consider these changes on 16 August 2023.
- The Board and officials will report back to the Ministerial Group by the end of 2023, so Cabinet can consider further policy decisions and a draft public consultation document, to be released in the first quarter of 2024.



Siobhan Routledge  
Director, System Strategy and  
Investment

.10. / .August. / .2023.

Hon David Parker  
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
Siobhan Routledge, Director, System Strategy and Investment	s 9(2)(a)	✓
Sophie MacDonald, Adviser, Placemaking and Urban Development		

## BACKGROUND ON THE MILFORD OPPORTUNITIES PROJECT

### Context

- 1 The MOP is a collaboration between Te Rūnanga o Ngāi Tahu (Ngāi Tahu), central and local government, and local businesses to address and resolve fundamental challenges facing tourism, conservation, and transport in the Piopiotahi area due to rising visitor numbers. A Ministerial Group, consisting of the Minister of Conservation, Tourism, and Associate Minister of Transport, provides oversight to the MOP.
- 2 Rapidly increasing visitor numbers, particularly prior to the COVID-19 pandemic, exacerbated congestion along the Milford Road and placed pressure on ageing infrastructure. As international travel resumes, visitor numbers are expected to reach pre-pandemic levels this summer and increase further in future years.
- 3 A Masterplan for the Piopiotahi area was announced in May 2021 after consideration by Cabinet. A summary of the Masterplan is attached in **Annex 1**. The Masterplan includes a vision of how Piopiotahi could be physically laid out to improve the visitor experience, and identifies policy issues and potential new infrastructure, as well as recommendations for how existing infrastructure is used. The Masterplan also identified potential future revenue streams. Maps of the proposed access and layout of Piopiotahi are attached in **Annex 2** and **3**.
- 4 The key recommendations from the Masterplan are introducing a managed access and transport system; charging international visitors an access fee; establishing a new management and governance model; developing new nature experiences along the Milford Road corridor; improving infrastructure and reorganising the layout of Piopiotahi; closing the aerodrome; and preventing cruise ship access in the area.
- 5 On receiving the Masterplan, Cabinet agreed to the formation of a dedicated MOP Ministerial Advisory Committee (the Board) and Unit to commence stage three of the project, to feasibility test the Masterplan's recommendations [DEV-21-MIN-0135 refers]. Cabinet also approved \$15 million of funding to support this over two years [CAB-21-MIN-0111 refers]. The Department of Conservation (DOC) host the Unit and administer the funding. Te Manatū Waka Ministry of Transport (the Ministry), DOC and the Ministry of Business, Innovation and Employment (MBIE) support the Unit for the feasibility testing.

*The Ministerial Group has directed focus on five first-order policy issues*

- 6 Following the Cabinet direction to undertake feasibility testing, Ministers have asked the Board to prioritise feasibility on five first-order policy issues: the Treaty partnership approach, managing access, charging visitors, concessions, and governance arrangements. These five areas require policy decisions to shape future consultation and decisions. There are significant dependencies between these workstreams. Initial advice on the feasibility of the aerodrome and cruise ship recommendations will also be provided within the feasibility testing stage of the project.



## Initial advice presented to Cabinet

- 7 Initial feasibility testing findings on the recommendations in the Masterplan were provided to Cabinet in the paper, Milford Opportunities: Initial Policy Decisions, in June [ENV-23-MIN-0030 refers]. Findings included that there are challenges associated with implementing the Masterplan recommendations through either existing legislation or legislative amendments.
- 8 The Unit, supported by agencies, is now looking into the potential design of options, including alternatives in some workstreams, to deliver responses to the five first-order policy issues and how they compare to the Masterplan recommendations.

### *Approach to Treaty partnership*

- 9 The Masterplan recommendations have significant implications for Ngāi Tahu, as a Treaty of Waitangi partner and as mana whenua over Piopiotahi. Ngāi Tahu also hold many commercial operations and concessions in the area.
- 10 The MOP provides an opportunity to take a Treaty partnership approach. Te Rūnanga o Ngāi Tahu views were sought and provided throughout the Cabinet paper. As feasibility testing and options development continue, engagement with Ngāi Tahu and active consideration of their rights and interests is of critical importance.

### *Charging visitors for access*

- 11 The Masterplan proposed that international visitors be charged a fee to access Piopiotahi, with free access maintained for New Zealanders. The revenue from the charge is intended to enable Piopiotahi to transition to a regenerative tourism model, including the preservation of conservation values, with potential to be self-funding.
- 12 Charging for access is not enabled by current legislation. Bespoke legislative change would be required to implement an access charge. Officials are aware that applying an access charge to some visitors but not others may have human rights implications. These are being fully assessed.
- 13 Officials and the Board were directed to develop options for how a charge could be implemented. These options will be linked to the preferred managed access option. As such, these workstreams are being considered alongside each other.

### *Concessions*

- 14 Concessions, administered by DOC, authorise a range of commercial activities and infrastructure in Piopiotahi. The concessions system is complex, with a high level of inconsistency between concession terms and conditions, is difficult to manage, and creates challenges for DOC and concessionaires. It has been argued that current arrangements do not provide sufficient incentives for concessionaires to provide improved infrastructure and services.
- 15 The Masterplan recommends a more strategic approach to concessions and increased use of terms and conditions to achieve intended outcomes in Piopiotahi. If implemented, concession holders would be impacted to varying degrees. Initial findings show that while this new approach could be achieved through current

frameworks, the extent to which conditions placed on concessions holders can be used to influence outcomes is untested and unclear.

- 16 Hon O'Connor, as Associate Minister of Transport with portfolio responsibilities for MOP, will soon receive a letter from the Minister of Conservation regarding DOC's proposed approach to managing concessions and applications for concessions during the feasibility testing stage. Further advice from the Board and officials will also be provided to the Ministerial Group in coming months on how the framework for concessions in Piopiotahi can be improved to achieve the desired outcomes of the Masterplan. This includes the provision of improved infrastructure and services.

#### *Governance and management arrangements*

- 17 Many decision-making frameworks apply in Piopiotahi, with decisions often made in isolation of each other. Many entities are involved, including central and local government and Ngāi Tahu. The Masterplan identified these complex arrangements as unlikely to support MOP outcomes. Stakeholder consultation to date has indicated low confidence that positive changes could be achieved within the status quo.
- 18 The Masterplan recommends two options for governance and management arrangements in Piopiotahi: enhancing the status quo by strengthening DOC's role in management, coupled with a dedicated interagency governance group; or, creating a new statutory entity responsible for strategy, planning and management.
- 19 The work to finalise advice on these options continues alongside other workstreams. Ngāi Tahu have indicated an interest in management and governance arrangements.

#### **Managing access**

##### *The Milford Road*

- 20 The Milford Road (a large section of State Highway 94) is the only road access to Piopiotahi. Due to the terrain and frequent inclement weather, Milford Road can be dangerous for drivers unaccustomed with New Zealand's driving conditions. KiwiRAP (New Zealand Road Assessment Programme) Highway Safety Ratings included the road as one with persistently high personal risk across the 15-year period from 2002 to 2016.<sup>1,2</sup>
- 21 The number of visitors self-driving also leads to congestion at the Homer Tunnel portals at peak times (due to it being managed as a one lane tunnel). This causes sitting cars to be at risk of rock fall.
- 22 The Milford Road Alliance (a partnership between Waka Kotahi and Downer NZ) manages the road. Their role includes avalanche and rockfall control, incident response, managing the Homer Tunnel and general maintenance of the route. Operational costs are estimated at \$10 million per year, funded from the National Land Transport Fund. The Government is also funding a \$25 million upgrade to the Homer Tunnel.

<sup>1</sup> Meaning the risk to an individual being involved in a crash was high.

<sup>2</sup> KiwiRAP. *Highway Safety Ratings*. 2018. Table 4, 12.

*The Masterplan recommends a managed access and transportation model for Piopiotahi*

- 23 The Masterplan recommends managing access to the Milford Road corridor using a permit and public transport system whereby:
- New Zealanders would be required to book a free permit to access the area.
  - Parking would be limited and required to be booked in advance during peak periods to limit self-driving.
  - International visitors would be required to use a park and ride bus service. New Zealanders would be able to self-drive.
- 24 The expectation is that managing access this way would ease congestion by smoothing the flow of visitors into Piopiotahi and shifting a portion of self-drivers onto buses. During peak season there is significant congestion at the Homer Tunnel and at Piopiotahi, with visitors 'racing' to boat cruises departing between 1pm-2pm. The Masterplan identifies this as a detraction from the visitor experience.

*There are significant legal and operational challenges associated with this recommendation*

- 25 Current legislation does not provide mechanisms to limit access to the road for tourism purposes. As a State Highway, the Milford Road is a public road. The public has a common law right to freedom of movement on public roads, except in limited circumstances when access needs to be restricted for safety reasons.
- 26 Initial findings suggest that managing road access as the Masterplan envisions would require legislative change to create a bespoke type of road. Such legislation would need to override the public's right to freedom of movement while maintaining existing funding and management arrangements. The threshold to enable an override of the public's right of access is expected to be high. This would also require effective design, operation, and enforcement, which is likely to incur significant costs and risks.
- 27 Access to private roads can be restricted, however these roads are typically funded and managed privately. Previous policy work has suggested against another agency (such as DOC) taking over funding and management arrangements, as it would be unsuitable for Milford Road given its operational and funding needs and may impact the Milford Road Alliance.
- 28 Officials are not convinced at this stage that the objectives of the Masterplan provide a strong enough case to justify the legal, operational, and cost implications of restricting access to the road. The Ministry considers that any changes to access to the Milford Road should retain current funding and operational arrangements to ensure the roads' continued safe and efficient management.

*Alternatives are being considered*

- 29 As directed by Cabinet in June [ENV-23-MIN-0030], the Board and officials are now considering alternative options to managing access. These alternatives include enabling DOC to manage access to the national park; managing access through concession conditions; and incentivising visitors to shift from private vehicles to public transport through parking limits and pricing at Piopiotahi. Some of these alternatives could be achieved under current legislation.

## Aerodrome

### *Recommendation to remove the Piopiotahi aerodrome*

- 30 The Piopiotahi aerodrome assets are owned and operated by the Ministry and are located on DOC-owned land. The Masterplan recommends removing the aerodrome so its land can be repurposed, with a new heliport operating in a different location. The Masterplan envisions this would enable a significant reorganisation of infrastructure and improved visitor experience of proposed services and attractions. Historically, visitors arriving by fixed-wing aircraft to Piopiotahi account for 5% of total visitors, while the aerodrome takes up a large portion of the land available in Piopiotahi.
- 31 As Piopiotahi is at risk to a number of natural hazards, ensuring that air emergency and Search and Rescue capability remains is a key consideration for the Ministry. The associated carbon emissions, space allocated to the proposed helipad, and other relevant factors will need to be assessed to ensure it is an appropriate choice for servicing the needs of emergency rescue, residents, and visitors to Piopiotahi.
- 32 The recommendation has generated media coverage since it was announced. Commercial fixed-wing aircraft operators who use the aerodrome have expressed strong opposition to the recommendation. Many have made significant investments in aircraft in recent years. Destination Milford Sound (**DMS**), a group that represents operators in Piopiotahi, including some air, sea, and land transport operators, has indicated it is opposed to the recommendation to close the aerodrome.
- 33 Ngāi Tahu hold a Right of First Refusal over the aerodrome assets. The Crown must satisfy its obligations to uphold this as stated in the Ngāi Tahu Claims Settlement Act 1998.
- 34 Initial feasibility findings have not been provided on this recommendation yet as first-order policy issues have been prioritised. Advice will be provided to Ministers before the end of 2023. Ministry officials will work alongside the MOP Unit to inform this advice.
- 35 While we await the outcome of feasibility testing, the operation of the aerodrome continues. This includes meeting the requirements for a Qualifying Aerodrome under Civil Aviation Rule Part 139 and contracting day-to-day management activities to a specialist third party.

## Cruise Ships

### *Recommendation to prevent cruise ships in Piopiotahi*

- 36 The Masterplan recommends preventing cruise ships in Piopiotahi on the basis that they cause visual impacts not in keeping with the natural setting. As with all other recommendations, a change in approach to cruises ships must be feasibility tested.
- 37 Ministry officials are keen to ensure views the views of local authorities and cruise ship operators are obtained on the implications of such a ban. We note the recommendation is likely to generate some concern amongst stakeholders, including the impact on schedules and desirability of sailing to New Zealand. DMS has

expressed opposition to the recommendation to manage cruise ships visits to Piopiotahi.

- 38 As with the aerodrome recommendation, initial feasibility findings have not yet been developed on this recommendation and will be provided to Ministers before the end of 2023.

## Kantar survey

*Research suggests support from New Zealanders and international visitors*

- 39 The MOP Board commissioned a survey by Kantar / Tourism New Zealand to gain understanding of the public opinion toward the Masterplan. We understand that the full survey results will be released soon. A summary is provided in **Annex 4**.
- 40 The results highlight that, in relation to transport, there is support from both International and New Zealanders for the management of visitor numbers and an access system which improves visitor experience and environmental and safety outcomes. However, New Zealanders view this as an approach to manage international visitors, rather than themselves. Further consultation will be conducted to assess public attitudes to more detailed options next year.

## Board membership and appointments

- 41 The Board is made up of independent, Ngāi Tahu and ex-officio members. Dr Keith Turner, the Board Chair since its inception, retired on 31 March 2023. The tourism representative on the Board, Michelle Trapski, resigned on 22 February 2023 to join the MOP Unit as Tourism and Commercial Lead.
- 42 Key attributes for the role of chair include a strong understanding of machinery of government, strong stakeholder engagement capability, a strategic outlook, and the ability to motivate and support the Board and Unit.
- 43 Officials provided advice about potential nominees for the Board positions. Jenn Bestwick was identified as a preferred Chair replacement. Arihia Bennett and Dave Bamford were identified to replace Michelle as tourism/general representatives. APH is scheduled to consider these replacements on 16 August. A profile of each of the proposed candidates is attached in **Annex 5**.

## Future work programme and upcoming decisions

*Several key decisions are due within the next year*

- 44 Detailed options on first-order policy issues and the aerodrome and cruise ship recommendations are being developed. The Board and officials will report back to the Ministerial Group by the end of 2023, so Cabinet can consider further policy decisions and a draft public consultation document, to be released in the first quarter of 2024. This work will inform the development of an indicative business case on the proposed policy pathways, to be delivered in mid-2024.



- 45 Timeframes are relatively constrained, and the work programme remains complex. As advised in the June Cabinet paper, the Ministry supports a continued focus on first-order policy issues, which will inform subsequent workstreams.

*Investment in infrastructure identified in the Masterplan may require initial funding*

- 46 Initial estimates made during the development of the Masterplan, identified one-off investment costs in the order of \$450-500 million, associated with new infrastructure, transport services, visitor facilities and experiences, and roadside developments.
- 47 These costs – and whether they are considered capital or operating expenditure costs – could be met in a range of ways, including a mix of direct Crown investment and commercial delivery by private interests. Any budget or legislative drafting decisions will be sought following receipt of the business case.

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## Annex 1 - Milford Opportunities Project Masterplan Summary

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# MILFORD OPPORTUNITIES PROJECT (MOP)

Our vision:

Our 7 pillars:

PIOPIOTAHİ—NEW ZEALAND AS IT WAS, FOREVER.



## 01. WHAT IS MOP?

**The problem:** Milford Sound Piopiotahi is Aotearoa New Zealand's premier visitor attraction and world class destination. It is located in our largest National Park and holds UNESCO World Heritage status.

The current Milford Road corridor and Milford Sound Piopiotahi are under stress. This requires new thinking to safeguard the core character and values of the places, its World Heritage status, and improve conservation values and the visitor experience.

**Our purpose:** MOP is a multi-agency project looking at how visitors are managed into the future at Milford Sound Piopiotahi and along the Milford Road Corridor. MOP ensures Milford Sound Piopiotahi:

- Maintains its status as a key Aotearoa New Zealand visitor 'icon'.
- Upholds the World Heritage status, national park and conservation values.
- Provides a 'world class' visitor experience that is accessible.
- Adds value to Southland and Aotearoa New Zealand Inc.

**Through a collaborative process**

- Independent Board with mana whenua representation, independent expertise, and non-voting support from key central and local government agencies.
- Independent MOP unit, hosted by DOC and working in close collaboration with DOC, MBIE, MOT, and Waka Kotahi.
- A close and ongoing partnership with Ngāi Tahu, including two members on the Board and a dedicated Partnership and Heritage workstream.

## 02. PROCESS TO DATE

**Stage 1: Gap analysis** Established context, vision and objectives; and was completed in September 2018. Key to this stage was the development of MOP's working vision and seven pillars.

**Stage 2: Masterplan**

- 10 detailed research and technical reports to support issue identification and option development.
- Extensive engagement with the community, key stakeholders, national interest groups and the public, including two nationwide surveys.
- Longlisting and shortlisting of options, with final decisions by a governance group.
- Delivery of a cohesive and aspirational Masterplan in June 2021.

**Stage 3: Feasibility** We are now testing the feasibility and implications of the Masterplan proposals and providing advice on options to government—with a full business case due in 2024.

## 03. THE MASTERPLAN IDENTIFIED A RANGE OF ISSUES

- 01** The core wilderness experience and conservation values are being compromised by increasing visitor numbers.
- 02** There is limited acknowledgment of Ngāi Tahu identity and its cultural heritage.
- 03** Milford Sound Piopiotahi is not well organised for the spectacular experience it offers.
- 04** Key experiences on the Milford Road are often missed, with many visitors on an all-day return trip from Queenstown.
- 05** The pattern of visitation creates congestion between 11am and 3pm, both along the corridor (at the Homer tunnel), and in Milford Sound village itself.
- 06** Milford Road is one of New Zealand's most challenging, and costly to maintain.
- 07** Milford Sound Piopiotahi has numerous natural hazards that are not known by visitors and place a huge risk to safety.
- 08** Some activities detract from the beautiful natural setting.
- 09** The Milford Sound Piopiotahi aerodrome is not in a sustainable condition.
- 10** Most infrastructure in the village is old and in poor condition.
- 11** Visitor spending is not being maximised throughout the Southland region despite the significant numbers of visitors going to Milford Sound Piopiotahi.
- 12** Conservation and national park values are not always the main focus of private sector operations in Milford Sound Piopiotahi.
- 13** Funding mechanisms to support investment, including in conservation management, are not optimal.

## 04. THE MASTERPLAN PROPOSES 10 KEY CONCEPTS

- 01** Recognise and develop landscape, conservation and cultural experiences.
- 02** Establish a new governance model to deliver the Masterplan proposals.
- 03** Facilitate broader Murihiku and Southland benefits.
- 04** Introduce a managed access and transportation model.
- 05** Charge international visitors an access fee.
- 06** Establish new Te Anau hub and enhanced developments.
- 07** Develop multiple experiences along the corridor structured around key nodes.
- 08** Redevelopment to encourage sustainable practices, use of green technology, and minimise visitor risk from natural hazards.
- 09** Reorganise Milford Sound Piopiotahi to remove visitor conflicts.
- 10** Modernise infrastructure at Milford Sound Piopiotahi.

## 05. MASTERPLAN OUTCOMES

- The Masterplan intends to achieve the following outcomes:
- Protection of the essential character of the place by managing access through time distribution.
  - Ngāi Tahu culture and history is woven through a fully immersive experience of place and people.
  - A world class experience for all visitors that will provide a deeper and richer encounter.
  - Improved governance and management of Milford Sound Piopiotahi activities and related infrastructure.
  - Funding for Fiordland improvements and support of the World Heritage National Park.
  - Zero emissions tourism.

## 06. NEXT STEPS

**What is feasibility testing?**

We are now testing the Masterplan recommendations and preparing for implementation. This includes:

- exploring the implications of different Masterplan proposals and assessing policy, regulatory and, commercial options for achieving the Masterplan objectives, and
- testing the technical elements of key infrastructure and transport related proposals.

**Partnerships and engagement** Partnership with Ngāi Tahu and ongoing engagement with stakeholders and the community remain key.

- Key factors to consider:**
- Final decisions for government, to be informed by:
- How to approach Treaty partnership arrangements for Piopiotahi in the context of the wider Māori-Crown relationship?
  - How to manage access, including whether to manage access to the Milford Highway, and on what basis?
  - How to approach existing and future concession arrangements?
  - How to approach management and governance, from planning, to implementation and delivery?
  - The financial sustainability of the commercial model and charging regime, and level of direct investment the Crown is prepared to invest.





## Annex 2 - Proposed attractions along the Milford Road

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## MILFORD SOUND PĪOPIOTAHĪ HUB

FIORDLAND  
NATIONAL  
PARK

THE CHASM

CLEDDAU CIRQUE  
GETRUDE VALLEY

THE DIVIDE / WHAKATIPU  
TRAILS HEAD

ŌTĀPARA CASCADE CREEK  
& MISTAKE CREEK

TE HUAKAUE KNOBS FLAT

MIRROR LAKES WAIWHAKAATA

EGLINTON REVEAL

TE RUA o TE MOKO  
FIORDLAND NATIONAL PARK  
GATEWAY

TE ANAU HUB

### KEY

#### Te Anau Hub

- Node 1: Te Rua o Te Moko Fiordland National Park Gateway
- Node 2: Eglinton Reveal
- Short stop: Mirror Lakes Waiwhakaata
- Node 3: Te Huakaue Knobs Flat
- Node 4: Ōtāpara Cascade Creek / Mistake Creek Overnight Walk
- Node 5: The Divide / Whakapū Trails Head
- Node 6: Getrude Valley
- Node 7: Cleddau Cirque
- Short stop: The Chasm

Milford Sound Pīopiotahi Visitor Hub  
and Freshwater Basin, Deepwater  
Basin and Cleddau Delta Nodes

State Highway 94 / Milford Road

Eglinton Valley shared trails:

Northern Section

Southern section (community initiated)



## Annex 3 - Proposed layout of Piopiotahi

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# KEY

- |   |                                      |
|---|--------------------------------------|
| 1 Lower Bowen Falls link                                  | 8 Visitor car parking                |
| 2 Bowen Falls cable car                                   | 9 Bus layover area                   |
| 3 Upper Hine-Te-Awa Bowen Falls walk and viewing platform | 10 Helipad                           |
| 4 Staff accommodation and parking                         | 11 Long stay boat trailer park       |
| 5 Barren Peak Spur viewing platform                       | 12 Boat parking                      |
| 6 Bus terminal  | 13 Visitor viewing area & food carts |
| 7 Regenerative landscape spine                            | 14 Boat ramp/turnaround area         |
|   | 15 Kayak launch/ramp & storage       |

Existing buildings

Proposed buildings

Boardwalks

Covered walkways

Paths & trails

Viewing areas

Public gathering areas

Shelters

Refuges

Existing vegetation

DEEPWATER BASIN

COMMERCIAL WHARF

CLEDDAU DELTA

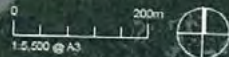
FRESHWATER BASIN

VISITOR CENTRE & HOTEL

TOURIST BOAT TERMINAL & COVERED JETTES

HINE-TE-AWA BOWEN FALLS

Figure 4: Milford Sound Pōpiotahi Masterplan



## Annex 4 - Kantar survey Summary

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# Kantar insights: People's view on the Milford Opportunities Masterplan



## BACKGROUND

Milford Sound / Piopiotahi is Aotearoa New Zealand's premier visitor attraction and an iconic destination.

The area had been attracting around 870,000 visitors a year before the Covid-19 pandemic and projected to grow to 1.1 million visitors by 2030.

This growth is putting pressure on the natural environment, local infrastructure and roads.

A Masterplan was launched in 2021, and the Milford Opportunities Project is now feasibility testing the proposals.

870,000

visitors a year



1.1 million

visitors by year 2030

## THE SURVEYS

Milford Opportunities partnered with Tourism NZ to commission leading data, insights and consulting company Kantar to undertake research into international visitor and local resident perspectives of the Masterplan, and its perceived impacts on the area.

### International visitor survey

Approximately 4,900 survey responses across key markets (Australia, USA, United Kingdom, Germany, China, Japan, India). Approximately 700 respondents per market. Mix of future visitors to New Zealand and previous visitors (in the last seven years).

### Domestic visitor survey

1000 survey responses representative of New Zealand demographics, including 150 residents of Southland region, 150 residents of Queenstown Lakes district, 100 New Zealanders identifying as Māori.

### Qualitative insight

13 focus groups covering 45 participants (three each for US, China, and Australia, and four for New Zealand).

## MILFORD OPPORTUNITIES MASTERPLAN

The Masterplan is widely perceived to have a positive impact on the four capitals – Nature, Economy, Culture, and Society, with the majority of NZers believing it will lead to significant improvements in the area.

However, it must have a meaningful impact on restoring the environment.

75%  
of New Zealanders

91%  
of internationalists

like the  
Masterplan  
and its ideas

## PLACE

- NZ New Zealanders take pride in the natural beauty of the place. Piopiotahi is an icon of New Zealand (86% positive, strong positive) and pride fuels determination to preserve for the future.
- V Visitors see Piopiotahi as the epitome of everything NZ has to offer – it is vital to retain this sense of raw, untouched nature, unique experience, and connection to indigenous and local culture.

86%  
86% of New Zealanders agree that Milford Sound Piopiotahi is an icon of New Zealand

## CONSERVATION AND CHARGING FOR ACCESS

- NZ Protecting the environment and a world class experience are well received. Participation in preserving place important (incl. from Southland, Queenstown).
- V Strong support for an access charge, seen as "overdue", with willingness to pay in the range of \$90-\$110 per person, although lower from AU visitors.
- V Visitors bring existing expectations to pay a fee for UNESCO World Heritage Sites and for National Parks.
- V Minimal deterrence to visiting NZ (<1%).



79% of international visitors support an access fee as proposed in the Masterplan

\$90-\$110  
range of willingness to pay

- NZ Expectation for reflects environmental impact of visit and includes risk based or differential pricing.
- NZ Strong expectation on funds are invested into conservation in place, that investment is clear and visible.

## IWI, HERITAGE AND CULTURE

- V Strong support for indigenous and NZ culture experience in place.
- NZ Connection to culture is a way to enrich the experience and promote connection to place. Most involve iwi and be authentic, and represented well.
- NZ Some resistance for mosaic emphasis – belief place is a natural icon, visitors experience culture in other places (Rotorua).

89%  
89% of international visitors like the proposed enhancements to landscape, conservation and cultural experiences

## EXPERIENCE

- NZ Over-commercialisation is a strong concern, change must lead to less development, less on visitors and result in better experience and conservation.
- V Ideal experience is less development, less environment impact, fewer visitors and basic amenities.
- NZ Strong expectations to cap/manage numbers through a booking system.
- V Strong support for park and ride option, due to environment, safety and experience impacts. NZ belief that it is more for international visitors.

Piopiotahi is seen by both visitor and local as a natural and untouched experience.

## LOCAL IMPACTS

Financial cost to New Zealand is a concern

- NZ Concern about additional costs from change to Te Anau and wider NZ. This includes concern about cost of living impacts of change to community.
- NZ Concern about impacts to local businesses from any changes from the Masterplan.

37%  
37% of Southlanders see Te Anau becoming too expensive to live for locals

81%  
81% like introducing sustainable practices and technology, safeguarding the place for generations to come

68%  
The majority (68%) of NZers agree that the Masterplan will stimulate economic growth and create employment opportunities in the area

## ACCESS BY CRUISE AND AIR

More work needed on access by cruise and air

- NZ Strong support to phase out cruise ships from Piopiotahi. Some limited support for maintaining cruise ship access appears to be driven by belief that cruise provides direct Te Anau benefit. Fact base needed.
- NZ Aviation results are not clear. Some concern that rotary aircraft are worse for the place, and not understanding the case for using the land differently.

## Key implications for our work

The themes from this research will help inform the next phases of work, supporting the case for change and how to approach options.



**Built infrastructure**  
Must achieve the right balance of infrastructure, with a focus on less and better

### Managing access

New transport models (e.g. park and ride) are assumed as just do it with a focus on international users



**Risk of over-commercialisation**  
We need to prioritise nature and culture

### Funds for conservation

Important people to see a clear vision for where the money goes and why



**Aerodrome**  
Need to clarify the why and gain peoples' perspectives on this

**Benefit to Southland**  
Need to consider benefits and the impact on Te Anau (housing, roads, rates) and operators



**Willingness to pay**  
Support for an international charge but must cater for all users

## Annex 5 - Proposed Board appointees

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s 9(2)(a)

This photo is withheld due to an error which led to the wrong person's photo being inserted

**Jenn Bestwick** is the independent Chair of Tonkin + Taylor, independent Director of Invercargill City Holdings Ltd, Commissioner of Tertiary Education Commission, Chair of National Science Challenge: Resilience to Nature's Challenges, Board member of New Zealand Qualifications Authority, independent Director of Arrow Irrigation Company, PIF Reviewer and a director several other boards. She took part in the review of Tourism New Zealand in 2019 and was Chair of NZ Cycle Trails Inc, demonstrating relevant tourism experience. Jenn is also based in Queenstown so is relatively local to the project. She has no known conflicts of interest relative to the Milford Opportunities Project.



**Arihia Bennett** has extensive experience in executive and board roles, has managed two tourism businesses in Fiordland and has strong connections to te ao Māori. She has been the Chief Executive Officer of Te Rūnanga o Ngāi Tahu since 2012. Ngāi Tahu mana whenua representatives on the MOP Board have nominated her for the position of tourism lead on the Board.



**Dave Bamford** is a respected independent tourism thought leader. He is a consultant on tourism, protected areas and recreation with 30 years' experience throughout the Pacific. He has been involved in many planning exercises and reviews, feasibility studies, and tourism and recreation business advisories.

10 August 2023

OC230705

**Hon David Parker**  
**Minister of Transport****MEETING WITH THE TRANSPORT ACCIDENT INVESTIGATION  
COMMISSION ON 16 AUGUST 2023****Snapshot**

You are meeting with the Transport Accident Investigation Commission's (TAIC or the Commission) Chief Commissioner, Deputy Chief Commissioner and Chief Investigator of Accidents on 16 August 2023.

Given this is your first meeting with the Commission since taking on the role, the Ministry of Transport (the Ministry) has provided a general overview of the Commission and key areas of interest that you may wish to discuss.

<b>Time and date</b>	5:15 - 5:45 pm, 16 August 2023
<b>Venue</b>	Executive Wing 4.1
<b>Attendees</b>	Jane Meares, Chief Commissioner, TAIC Stephen Davies Howard, Deputy Chief Commissioner, TAIC Naveen Mathew Kozhuppakalam, Chief Investigator of Accidents, TAIC
<b>Officials attending</b>	David Wood, Deputy Chief Executive, System Performance and Governance Harriet Shelton, Manager, Governance
<b>Agenda</b>	N/A – Introductory Meeting. See <i>Key Points</i> for discussion themes. s 9(2)(g)(i)

**Contacts**

Name	Telephone	First contact
David Wood, Deputy Chief Executive, System Performance and Governance	s 9(2)(a)	
Harriet Shelton, Manager, Governance		✓

# MEETING WITH THE TRANSPORT ACCIDENT INVESTIGATION COMMISSION ON 16 AUGUST 2023

## Key points

- You are meeting with Jane Meares (Chief Commissioner), Stephen Davies Howard (Deputy Chief Commissioner) and Naveen Mathew Kozhuppakalam (Chief Investigator of Accidents) from TAIC on 16 August 2023.
- This is your first meeting with the Commission since you took on the role of Minister of Transport. Given this, the Ministry has included a general overview of the Commission's functions, and key issues that are either underway or of concern to the Commission.
- We recommend you use this engagement to discuss matters that are top of mind for all parties in the lead up to the General Election. Possible discussion items include:
  - furthering your understanding of the dual role Commissioners hold as both board members and commissioners of inquiry;
  - key risks across the transport modes at present – particularly within the rail and maritime modes;
  - how TAIC is positioned overall in the lead up to the General Election.

- s 9(2)(g)(i)

## Overview of TAIC's functions

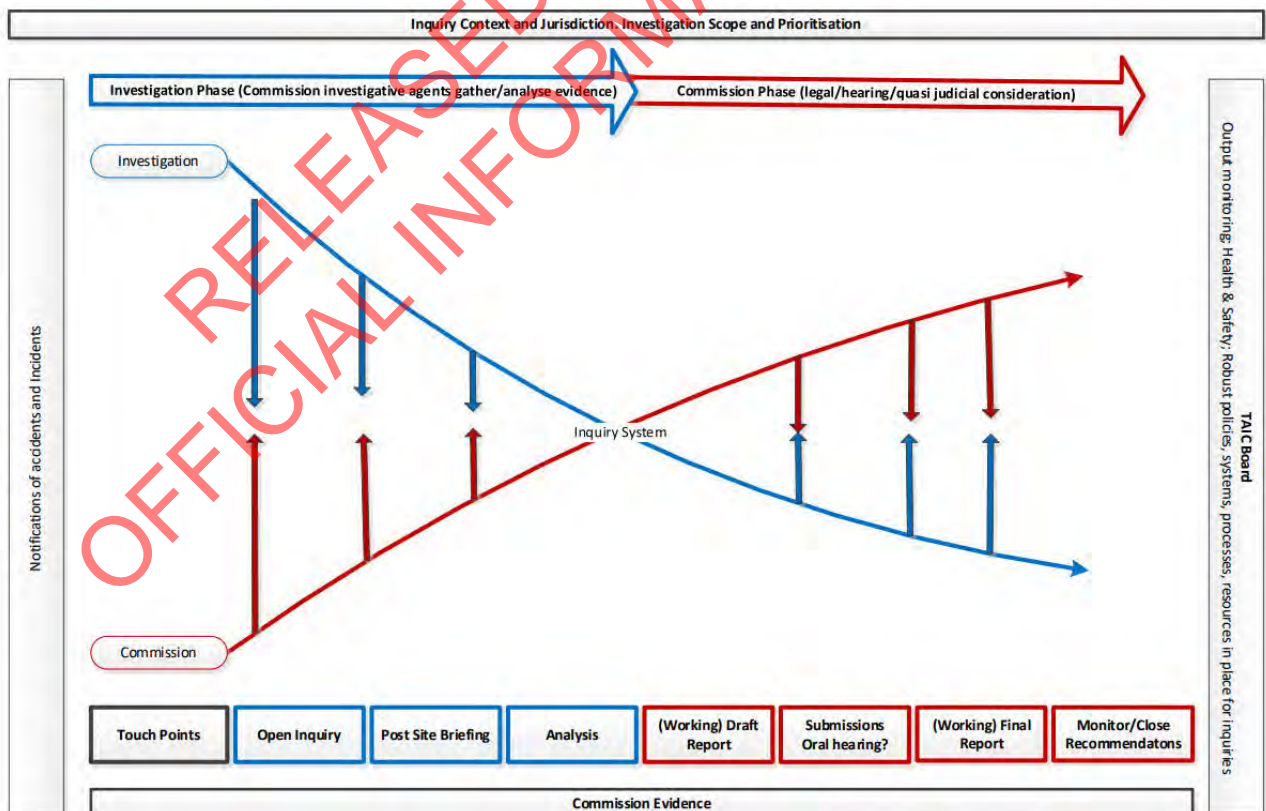
- 1 TAIC's statutory purpose is to determine 'the circumstances and causes of transport accidents and incidents with a view to avoiding similar occurrences in the future, rather than to ascribe blame to any person' (section 4, Transport Accident Investigation Commission Act 1990).
- 2 TAIC conducts investigations into aviation, maritime and rail related accidents and incidents (together referred to as occurrences).
- 3 The TAIC Act requires TAIC to investigate certain transport occurrences and then inform transport system participants – domestically and internationally – of what happened, the lessons identified, and what might need to change to help avoid a recurrence. To achieve this, TAIC must:
  - 3.1 **decide whether to investigate.** The Commission must do so if it believes an accident or incident has significant implications for transport safety or that an inquiry would allow it to make recommendations that would improve transport safety. TAIC is mostly notified of occurrences by modal regulators; however, it does not investigate all occurrences it is notified about.

<sup>1</sup> <https://www.taic.org.nz/inquiry/ao-2019-006>



- 3.2 **co-ordinate and direct the investigations it initiates and decide which other parties (if any) should be involved in its investigations.**
- 3.3 **consider evidence gathered by investigators, advice from experts, and the submissions of consulted people and organisations; and hold private or public hearings.** TAIC has broad investigative powers under the TAIC Act, including powers of entry and inspection; and the power to seize, remove, and protect evidence. It also has wide powers under the Commissions of Inquiry Act 1908.
- 3.4 TAIC inquiries are detailed and lengthy, and the Commissioners are involved throughout the process. **Figure One** demonstrates the investigative process in more detail, with the Commissioner involvement being represented in red. This high level of involvement means that the Commissioners have a different relationship with their organisation compared to other transport sector boards.
- 3.5 **publish its findings and recommendations.** TAIC has power to issue recommendations only. Most recommendations are issued to modal regulators as they have the greatest ability to affect change and prevent further occurrences.
- 3.6 the Ministry is an occasional recipient of TAIC recommendations. The Secretary for Transport also receives copies of any preliminary reports or recommendations that have major consequences for transport safety.

*Figure One: The inquiry process and relationships between investigators and Commissioners*



- 4 TAIC may also investigate accidents or incidents at the same time as coroners, NZ Police, the transport regulators, or Worksafe. Each investigation has a separate

purpose (i.e. WorkSafe New Zealand may be investigating for Health and Safety at Work Act breaches), however there can be some information sharing between parties.

- 5 TAIC closed 15 domestic inquiries, issued one preliminary report, and assisted with 11 overseas inquiries during 2022/23. The Commission casebook includes an average of around 25 open domestic inquiries. There are 27 domestic inquiries open at present.

### **TAIC enables New Zealand to meet international obligations regarding accident investigation**

- 6 International rules outline who is responsible for investigating aviation and maritime accidents and incidents, and who can participate in those investigations. These rules require that the investigations are conducted with a view to understanding what caused the accidents or incidents and making recommendations to avoid them being repeated, rather than for the purposes of ascribing blame
- 7 To comply with these rules, nations must possess an independent body that is capable of conducting those types of investigations. TAIC is New Zealand's entity responsible for delivering these functions and is one of three bodies in the south-western Pacific region with such capabilities (the others being Australian and Papua New Guinean bodies).
- 8 TAIC leads any inquiries that occur within New Zealand's jurisdiction. TAIC will support overseas inquiries where:
  - 8.1 New Zealanders or New Zealand-based companies are involved;
  - 8.2 assistance is required to gather evidence from New Zealand-based companies;
  - 8.3 an international partner agency, or another International Civil Aviation Organization (ICAO) or International Maritime Organization (IMO) overseas signatory does not possess the relevant expertise for an inquiry and requests assistance
- 9 TAIC has seconded investigators on occasions where support or services are necessary. Examples over recent years are secondments of investigators to Governments in the Cook Islands and Kiribati (2022 and 2018 respectively); training to their peer agency in Singapore on digital evidence (2019); and regional training in Fiji under the IMO on implementation of the IMO's Casualty Investigation Code (2018).

### **Themes from recent inquiries**

- 10 TAIC will identify key trends across each of the modes they investigate, and they provide useful insights given their unique role. TAIC publishes a *Watchlist*<sup>2</sup>, which identifies a number of core safety issues they consider are pressing.

---

<sup>2</sup> <https://www.taic.org.nz/watchlist>



- 11 Current *Watchlist* items include:
- 11.1 improving education around the use of technologies to track and locate;
  - 11.2 improving systems relating to recreational boating;
  - 11.3 improving regulation around substance use;
  - 11.4 reducing mast bumping incidents for Robinson helicopters;
  - 11.5 improving safety at railway level crossing; and
  - 11.6 improving navigation within pilotage waters.
- 12 *Watchlist* items are developed independently from Government priorities. The transport agencies are working together to address a number of the *Watchlist* items (e.g. rail level crossings, safety around substance use, and track and locate technologies). However, there can be items outside of the control of New Zealand regulators (e.g. the changes relating to Robinson Helicopters require approval by the United States Congress) or items where the Government has previously not adopted specific TAIC recommendations (e.g. recreational boating improvements).
- 13 Below are some of the emerging themes from recent TAIC inquiries.
- Rail safety has been of increasing concern in the last few years*
- 14 The increased emphasis on rail means more passengers are using rail, creating greater potential for accidents and incidents and for the consequences of accidents to be more severe. In 2021/22 TAIC recorded a 33% increase in notifications of serious rail-related occurrences
- 15 Key themes across recent inquiries are:
- 15.1 **level crossing safety:** TAIC generally has at least one active inquiry involving an accident or incident at a level crossing. Level crossing safety is a priority issue for the Commission and has been on TAIC's *Watchlist* since 2016.
  - 15.2 **safety of workers in the rail corridor:** a large proportion of recent inquiries have either involved workers on the tracks, or at worksites where tracks are present. s 9(2)(ba)(i), s 9(2)(f)(iv)
  - 15.3 **derailments and network resilience:** TAIC's current casebook includes three derailments that occurred either during or immediately following bad weather. Wider network resilience and the risks it brings have also been recent discussion items.
- 16 TAIC received additional funding of around \$1.1 million per annum in Budget 2023 to increase their resourcing to respond to this increased activity. This increased funding allowed for five additional staff across their investigative function, with some staff offering wider benefits beyond rail inquiries.

*There are a number of open maritime inquiries with high public interest*

- 17 No particular themes have arisen through TAIC's recent maritime inquiries. However, TAIC currently has a number of significant inquiries in this mode, including:

17.1 **the wider events surrounding the losses of propulsion steering aboard the *MV Shiling* on 15 April 2023 and 11 May 2023:** the reported circumstances were that on 15 April 2023, the Singapore-flagged container ship *Shiling* was departing Wellington Harbour when it experienced a loss of propulsion and steering. As a result, the vessel veered off the recommended track and headed towards shallow water. The vessel received assistance from tugs, which helped it reach a berth in Wellington and it next departed Wellington on 10 May after undergoing necessary repairs.

On 11 May, during rough weather conditions approximately 22 nautical miles northwest of Farewell Spit it experienced a second propulsion and steering failure. On the morning of 12 May it issued a MAYDAY distress call and was rescued and towed towards safety that evening.

17.2 **an inquiry into the loss of power aboard the *Kaitaki* on 28 January 2023:**

s 9(2)(ba)(i)

This incident has also experienced high levels of public interest to date. In May 2023, TAIC published an interim report that identified urgent safety issues relating to rubber expansion joints.

17.3 **two Port-operations related deaths that occurred in April 2022:** in addition to what was being undertaken by the Port Safety Working Group, Hon Michael Wood directed TAIC under section 13(2) of the TAIC Act to open an inquiry into these two accidents. The TAIC Act allows the Commission to open an inquiry if directed by the Responsible Minister, so the Commission offered their services to the Minister. TAIC is in the latter stages of this inquiry.

- 18 Maritime inquiries are currently the highest proportion of open inquiries with 10 out of 27 open inquiries relating to this mode.

*Aviation has traditionally been a high workload area, but the proportion of recent inquiries has decreased compared to other modes*

- 19 Aviation has traditionally represented the highest workload for the Commission and the majority of overseas inquiries that TAIC supports are generally in aviation. Currently eight out of the 27 open inquiries are in aviation. These numbers have dropped recently due to TAIC closing several older investigations.
- 20 Aviation investigations tend to take the longest amount of time and, as a result, are generally the most costly investigations. This is due to a combination of factors including: salvage and evidence gathering costs tends to be greater, wreckage is more likely to be damaged or destroyed leading to more difficult analyses, fatalities are more likely to occur, and multiple jurisdictions often have to be involved for matters such as parts.
- 21 In recent years, the Commission has paid particular attention to accidents involving helicopters. These accidents continue to feature regularly on the Commission's casebook and form half of the current open cases.

## Key issues faced by TAIC over the next 12 months

### *Funding and resourcing remains a challenge*

- 22 TAIC is a small organisation, with five Commissioners, the Chief Executive and 31 staff (staff numbers are as at 30 June 2022). TAIC is almost exclusively funded by the Crown (\$7.092m out of a budgeted \$7.143m in 2021/22) and, as such, is vulnerable to cost pressures.
- 23 The 2023/24 Budget submitted for this year's Pre-Election Economic and Fiscal Update is \$9.273m with a one off \$500,000 capital injection to cover an onerous lease (refer to paragraph 25.3 below for an explanation).
- 24 TAIC had three successful cost pressure bids in Budget 2023 – each of which had strong support from Minister Wood and the Ministry:
- 24.1 **a bid for five further FTEs to respond to increased rail activity:** the challenges in rail are noted above, and this bid will enable TAIC to ultimately carry out a further four inquiries per annum. Three of the new staff employed through this bid would also offer wider benefits across TAIC's investigations team.
- 24.2 **a bid to cover wage pressures and the costs of an additional Commissioner:** this enables continued retention of experienced staff, as well as a small increase in baseline funding to cover instances where five commissioners are been appointed.
- 24.3 **a bid to cover an onerous lease provision:** TAIC moved offices to 10 Brandon Street approximately 12 months ago. They intended to sub-lease their original premises, but a subsequent reassessment of the National Building Standard rating for that building resulted in TAIC being unable to sublease. Funding was sought to recover lost cash reserves.

- 25 TAIC's investigative staff are highly specialised and require approximately two years of training to become fully effective (including overseas training at specialist universities). s 9(2)(b)(ii) s 9(2)(g)(i)

- 26 s 9(2)(b)(ii) s 9(2)(g)(i)

### *Workload*

- 27 TAIC recently reached a peak of 30 open domestic inquiries, following a spate of new inquiries over summer. While TAIC's performance expectations are for 30 open domestic inquiries on average, the rolling average over the past three years has generally been 25 open at one time.
- 28 TAIC has managed this peak with internal resources, and current workloads are back to normal following closure of a large number of inquiries in the last six months.

s 9(2)(ba)(i), s 9(2)(g)(i)

29

s 9(2)(f)(iv)

s 9(2)(f)(iv)

30

s 9(2)(f)(iv)

31

32

33

#### *Major Accident Risk*

- 34 Further support would be expected for TAIC if a major accident occurs. There is a \$10 million guarantee from the Minister of Finance for use in the event of a major transport accident.

#### **Overview of Governance arrangements**

- 35 TAIC is governed by up to five Commissioners, who hold a dual role as a Commissioner and a Board member. The TAIC Act allows for between three and five commissioners to serve at one time. Commissioners are appointed for a term of up to five years, and there is no limit on the number of terms a member can serve. At least one member of the Commission must be “a barrister or solicitor of the High Court who

*has held a practising certificate as such for not less than 7 years, or a District Court Judge.”*

- 36 In December 2022, TAIC extended its membership to five Commissioners to increase diversity of thought on the Commission and to enable succession planning. In addition to general governance competencies, the Commission’s technical skillsets comprises three lawyers (Jane Meares, David Clarke and Bernadette Arapere), expertise in aviation (Stephen Davies Howard), and regulation (Paula Rose). Ms Meares, Mr Davies Howard and Ms Rose have all served between six and eight years on the Commission; while Mr Clarke and Ms Arapere were both appointed in December 2022.

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OFFICIAL INFORMATION ACT 1982



## Biographies

### Jane Meares, Chief Commissioner



Jane Meares is a commercial barrister based at Clifton Chambers, Wellington. She is a leading legal adviser with an extensive range of advisory experience in both the public sector and the corporate world.

Alongside her legal practice, Jane has a number of significant governance roles including deputy chair of the Electoral Commission, chair of Financial Services Complaints Limited, and chair of the Royal New Zealand Ballet Foundation. She is also a board member of the New Zealand Film Commission and a member of Land Information New Zealand's risk and assurance committee.

Jane Meares was first appointed to the Commission in February 2015 and appointed Chief Commissioner in November 2016. Her current term as Chief Commissioner is scheduled to expire in November 2026.

### Stephen Davies Howard



Stephen Davies Howard is a Wellington based company director. He flew fighters for the Royal Air Force (including the F4 Phantom and Tornado F3) and also served in the Royal New Zealand Air Force as the Training Group Commander. He attained the rank of Group Captain in both services. His strategic international experience includes being an accredited attaché to the British Embassy to the United States. He retains a commercial pilot licence and a commercially endorsed Ocean Yachtmaster's certificate.

Stephen Davies Howard was first appointed as a Commissioner in June 2015. He was appointed Deputy Chief Commissioner from 1 November 2018, and was recently reappointed until 30 June 2028.

### Naveen Mathew Kozhupakalam, Chief Investigator of Accidents



As the Chief Investigator of Accidents, Naveen leads the conduct of aviation, rail and marine inquiries opened by the Commission and leads TAIC's team of 15 specialist investigators. Prior to this position, Naveen managed rail and marine investigations. He joined the Transport Accident Investigation Commission as a marine investigator in 2011.

Before TAIC, Naveen's maritime career included working in shipyards across Japan and the Philippines overseeing the sea trials and delivery of car carrier ships and Capesize and Handymax bulk carriers, and nearly 10 years as a senior marine engineering officer on board commercial vessels plying international trade. Naveen is a Chartered Engineer; he also holds a Master's degree in naval architecture from the University of Southampton.

10 August 2023

OC230671

Hon David Parker  
 Minister of Transport

## MEETING WITH THE CHAIR AND CHIEF EXECUTIVE OF CITY RAIL LINK LIMITED ON 17 AUGUST 2023

### Snapshot

You are scheduled to meet with City Rail Link Limited's (CRL's) Chair and Chief Executive on 17 August 2023. Biographies of the Chair John Bridgman and Chief Executive Sean Sweeney are provided below on page 5.

To support you in your meeting, we have provided suggested talking points in **Annex One**.

<b>Time and date</b>	3:30 – 4pm, 17 August 2023
<b>Venue</b>	Zoom
<b>Attendees</b>	John Bridgman, Chair, City Rail Link Limited Dr Sean Sweeney, Chief Executive, City Rail Link Limited
<b>Officials attending</b>	David Wood, Deputy Chief Executive, System Performance and Governance Stephen Moore, Principal Adviser, Programme Assurance and Commercial
<b>Agenda</b>	<ul style="list-style-type: none"> <li>• Project overview, including budget and schedule</li> <li>• Day One Readiness</li> <li>• Workforce update including Health and Safety</li> <li>• Update on the Targeted Hardship Fund</li> </ul>
<b>Talking points</b>	Talking points are attached in <b>Annex One</b> .

### Contacts

Name	Telephone	First contact
Stephen Moore, Principal Adviser, Programme Assurance and Commercial	s 9(2)(a)	✓
Sarah Mackenzie, Adviser, Governance		

## Meeting with the Chair and Chief Executive of City Rail Link Limited on 17 August 2023 OC230579

### Agenda One: Project overview including budget and schedule

*Earlier this year Sponsors approved an increase to the project costs following a negotiated settlement between CRLL and the Link Alliance*

- 1 CRLL's request for additional funding of \$1.074 billion was approved by project Sponsors Auckland Council and the Crown in April 2023 [CAB-23-MIN-0111 refers].
- 2 The funding request followed a negotiated settlement of claims for COVID-19 related cost increases between CRLL and the Link Alliance. The Link Alliance is a group of local and international companies who are delivering CRLL's single largest contract for stations, tunnels, and rail systems. This is known as Contract Three (C3).
- 3 You recently signed the amended Project Delivery Agreement which incorporates the updated project cost and practical completion date (OC230579 refers).

*The project is entering a more complex phase as civil construction ends and fitout begins*

- 4 Heavy civil construction of tunnels and stations is essentially complete, and the project has now moved to the most complex phase – installation of rail and safety systems, fit out of stations, integration with the existing networks, and testing and commissioning of the railway.
- 5 This phase requires significant engagement and investment by Auckland Transport and KiwiRail to mitigate the risks of delay and cost increases.

*The Link Alliance have produced a new programme schedule for C3 works*

- 6 The latest schedule is known as Target Alliance Programme, Revision 7 (TAP Rev.7).  
s 9(2)(ba)(i)
- 7 Following practical completion, stations and tunnels will be handed over to Auckland Transport and KiwiRail who will then undertake the testing, commissioning, and training work required before the City Rail Link (CRL) can open to passengers. Dependent on this work, public operations could start by mid 2026.
- 8 The Link Alliance are transitioning from self delivery to a greater use of sub contractors for the installation of rail and safety systems and fit out of station buildings. The buy in of those subcontractors is critical to success against TAP Rev 7. CRLL report that key sub contractors have confirmed their ability to resource the programme.

- 9 s 9(2)(ba)(i), s 9(2)(g)(i)



*Following settlement of the COVID-19 claims the Link Alliance have updated their budget*

- 10 The updated project cost of \$5.493 billion is a P50 figure, so there remains a fifty percent chance that it will be exceeded. The Anticipated Final Cost of the project in s 9(2)(ba)(i)

- 11 s 9(2)(ba)(i)

## **Agenda Two: Day one readiness**

- 12 A substantial amount of work is required to prepare the Auckland Metro network for when the CRL opens, and for KiwiRail and Auckland Transport themselves to be able to own and operate the expanded network.

*A new one client approach*

- 13 CRLL are working with Auckland Transport, Auckland One Rail and KiwiRail to establish a One Client approach to delivering all requirements to achieve successful day one operations. This work is developing and will be of key interest to Sponsors as a way to mitigate risks to day one operations.

*C8 Henderson*

- 14 s 9(2)(b)(ii), s 9(2)(ba)(i)

- 15

## **Agenda Three: Workforce update including Health and Safety**

- 17 The risk profile of the project is changing as the Link Alliance move to greater use of subcontractors. s 9(2)(ba)(i)

- 18 s 9(2)(ba)(i)

## **Agenda Four: Targeted Hardship Fund Update**

- 19 In September 2021 the Targeted Hardship Fund for C3 works (THF or the Fund) was established by Sponsors to provide financial assistance to businesses impacted by severe and prolonged construction disruption.

- 20 The THF is funded equally by Sponsors, with a \$12 million envelope. This was an initial funding amount for the first two years, but CRLL predict that it will be sufficient to see the Fund to the end of disruption. As at 30 June 2023 \$5.6 million has been spent from the THF.
- 21 CRLL administer the THF in line with the Sponsors' High Level Guidelines, which were recently reviewed. Following feedback from affected stakeholders Sponsors decided to make changes to the guidelines to soften the restriction the Fund places on applications from owner occupiers and businesses outside of a defined affected area (OC230425 refers).
- 22 Some businesses and inner-city business representative group Heart of the City had requested more significant changes to the Fund, with the main issue being the start date for financial support, which is February 2021. Businesses requested that the Fund begin payments from October 2019, when C3 construction began.

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## Biographies

### John Bridgman



John Bridgman was appointed as the Chair of CRL at the beginning of this year, replacing Sir Brian Roche who had been the Chair since the inception of the company.

John Bridgman has had significant experience in engineering and project management roles for over 35 years, across Australasia and Asia. He was, until the end of March 2023, the Chief Executive of Ōtākaro Limited, a Government entity delivering Crown-led anchor projects in Christchurch, which is being repurposed as a central Crown Infrastructure Delivery agency.

John has held a variety of senior leadership positions and governance roles including at global infrastructure building company AECOM (as Industry Director – Civil Infrastructure in Australia and as Managing Director for the New Zealand business), as well as governance and leadership roles on major infrastructure projects in New Zealand, Australia, Asia, and the United Kingdom. He is also a director of Waka Kotahi – NZ Transport Agency and Kainga Ora – Homes and Communities.

### Dr Sean Sweeney



Sean Sweeney is an engineer with a PhD in construction economics from the University of Melbourne. He has been the Chief Executive since June 2018.

After graduating in engineering from the University of Auckland, Dr Sweeney spent seven years working on the development of Te Papa in Wellington before heading overseas to work in the USA and Europe and then settling in Australia.

In Australia, he delivered a programme of major public infrastructure in Victoria and ran a top tier Australian construction firm. More recently he established and implemented a \$2.5bn prison construction programme for New South Wales.

## Annex 1: Talking Points

Item	Proposed talking points
<b>Project overview including budget and schedule</b>	<ul style="list-style-type: none"> <li>In your view, what are the biggest risks to the success of the project?</li> <li>How confident are you that there will be no further cost escalation?</li> <li>s 9(2)(g)(i)</li> </ul>
<b>Day One Readiness</b>	<ul style="list-style-type: none"> <li>s 9(2)(g)(i)</li> <li>How is the new One Client Group working so far?</li> </ul>
<b>Workforce update including health and safety</b>	<ul style="list-style-type: none"> <li>s 9(2)(g)(i)</li> </ul>
<b>Update on the Targeted Hardship Fund</b>	<ul style="list-style-type: none"> <li>How are your efforts to reduce street level disruption proceeding?</li> <li>How are your stakeholder engagement efforts being received?</li> </ul>

14 August 2023

OC230700

**Hon David Parker**

**Action required by:**

**Minister of Transport**

Friday, 18 August 2023

## **CONSULTATION WITH WAKA KOTAHI BOARD ON GPS 2024**

### **Purpose**

To initiate formal consultation with Waka Kotahi on GPS 2024.

### **Key points**

- The Land Transport Management Act 2003 requires that before issuing a Government Policy Statement on land transport (GPS) the Minister must consult Waka Kotahi about the proposed GPS.
- Waka Kotahi officers have contributed to the development of a draft GPS 2024, including through the provision of information and feedback on earlier drafts of the document. There have also been a number of Ministerial discussions on GPS 2024 issues with the Waka Kotahi Chair and Chief Executive. However, neither of these constitute formal consultation on the GPS.
- Now that a draft GPS 2024 has been approved by Cabinet for public consultation it is timely for you to commence formal consultation with the Waka Kotahi Board.
- We have appended a letter to the Board Chair to enable you to initiate that consultation (Annex 1). The letter points to a few issues that are likely to be particularly salient to Waka Kotahi and invites general feedback.

## Recommendations

We recommend you:

- 1 **agree** to meet with Chair of the Waka Kotahi Board for an initial discussion on the draft GPS 2024 Yes / No
- 2 **indicate** whether you wish to meet with the full Waka Kotahi Board, noting the next scheduled Board dates of 17 August and 28 September Yes / No
- 3 **sign** the attached letter to the Chair of the Waka Kotahi Board to commence formal consultation on GPS 2024 Yes / No



Tim Herbert  
Manager, Investment  
14 August 2023

Hon David Parker  
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
Tim Herbert, Manager, Investment	s 9(2)(a)	✓

## CONSULTATION WITH WAKA KOTAHI BOARD ON GPS 2024

### You are required to consult with Waka Kotahi before finalising the GPS

- 1 The Land Transport Management Act 2003 (the Act) requires that before issuing a Government Policy Statement on land transport (GPS) the Minister must consult Waka Kotahi about the proposed GPS.
- 2 Waka Kotahi officers have made many contributions to the development of the Draft GPS 2024, including through the provision of information, discussion on policy issues, and feedback on earlier drafts of the document. However, they have been careful to note that these processes have not included time for their Board to be consulted and that their feedback should not be construed as representing the Board's position or be read as fulfilling the formal consultation provisions in the Act.
- 3 There have also been Ministerial discussions with the Waka Kotahi Chair and Chief Executive on a number of GPS 2024 related issues. However, these also do not amount to formal consultation on the GPS.
- 4 Therefore, we recommend that you write to the Chair of Waka Kotahi, providing him with a copy of the Draft GPS 2024 and seeking the Board's feedback before you finalise GPS 2024.

### The letter identifies a few issues likely to be particularly salient to Waka Kotahi

- 5 We expect that Waka Kotahi will be particularly interested to hear from you on the following aspects of the GPS:
  - The relationship between the six strategic priorities and the NLTF focus on maintenance and continuing activities
  - The overall level of revenue/expenditure
  - The proposed debt financing arrangements, including restructure of the existing \$2 billion loan and the new loan
  - Ringfencing of CERF and infringement fee revenue
  - The Strategic Investment Programme
  - Ministerial expectations around:
    - investment prioritisation and performance reporting
    - building back better with maintenance and renewal investment, including provisioning for future public transport needs in today's infrastructure planning (eg changes to the layout of the State Highway Network)
    - investing in sector capability
    - adopting a National Land Transport Programme that makes an appropriate contribution to the Government's climate change objectives.
- 6 These items are highlighted in the letter.



**We recommend you meet with the Chair for an initial, informal discussion before the formal feedback is due**

- 7 We suggest that it would be useful for you to meet with the Chair of Waka Kotahi to discuss the GPS and clarify any issues before the formal feedback from Waka Kotahi is due. Given the relatively short consultation period (consultation closes on September 15), we suggest that you propose a suitable meeting time in the letter. You may wish to use the next scheduled monitoring meeting, which is set down for 23 August at 12.15pm.
- 8 You may also want to consider meeting with the Waka Kotahi Board. Unfortunately, timing for that may be difficult as their next two Board meetings are scheduled for 17 August and 28 September.
- 9 Once consultation has closed, where required, the Ministry will work with Waka Kotahi officials on matters that are raised. An initial summary of feedback, including that from Waka Kotahi, will be provided to your office in late September. We expect that a formal summary of submissions will be published on the Ministry's website early in 2024.

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**ANNEX 1 – LETTER TO THE WAKA KOTAHI BOARD**

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT 1982



[Date]

Dr Paul Reynolds  
Chair, Waka Kotahi New Zealand Transport Agency  
Victoria Arcade, 50 Victoria Street  
Wellington 6141  
New Zealand

[by email: s 9(2)(a)]

Dear Paul

Please find attached a copy of the draft Government Policy Statement 2024 (GPS 2024) for the Waka Kotahi Board's consideration and feedback.

I would like to start by thanking the Board and staff of Waka Kotahi for your cooperation in the development of the GPS 2024 to this point. I note discussions that you have already had with the previous Minister and me. I am also advised that your officials have been working closely and collegially with the Ministry of Transport and my office in the development of the GPS and supporting documents. Please convey my thanks for those efforts to all those involved.

I am pleased to advise that Cabinet has approved the release of a draft GPS 2024 for consultation that identifies a record \$20.8 billion of NLTF revenue for the 2024/25-2026/27 period. This is an increase of 34 percent above the revenue available to the NLTF to deliver GPS 2021.

The draft GPS 2024 identifies six strategic priorities. I note that these represent the government's overall land transport investment strategy, which will be funded from a number of sources, not just the NLTF. The GPS says that maintenance and other "continuing activities" will be the first priority for NLTF funding. The other priorities should be advanced by the NLTF to the greatest extent possible within the remaining NLTF funding. I expect that the other priorities will also continue to be advanced through direct Crown funding, such as the existing New Zealand Upgrade Programme, the Climate Emergency Response Fund (CERF) initiatives and other annual government Budget announcements.

Revenue to support GPS 2024 is being drawn from a variety of sources, including the CERF and traffic infringement fees. In obtaining Cabinet agreement to the use of the CERF funds in this way, I committed to linking this revenue to the amount of expenditure in the Walking and Cycling activity class. To that end, in the Draft GPS 2024 the lower bound of the Walking and

Cycling activity class has been set to exceed the amount that will be received from the CERF. This will ensure I can be confident that expenditure which will reduce emissions (i.e., expenditure on Walking and Cycling) will exceed the amount received from the CERF.

Similarly, I made a commitment to link traffic infringement fee revenue to expenditure in the Safety activity class, and I have set the lower bound of the Safety activity class to deliver that.

In both cases I also committed to requiring reporting to show how the expenditure has been used to support the relevant government objectives. I ask that your officials work with the Ministry of Transport to identify and agree the relevant reporting format and metrics.

The draft GPS 2024 proposes a restructuring of the existing \$2 billion loan and a new loan facility. The restructuring is to allow Waka Kotahi to start paying down principal on the \$2 billion loan, to avoid the unsustainable impost on the NLTF that will otherwise occur if all of the principal must be repaid in the tenth year after drawn-down.

As part of the \$20.8 billion of revenue, the government is proposing to offer Waka Kotahi a new loan of up to \$3.1 billion. It is expected that the proposed FED/RUC increases will provide sufficient revenue to repay that loan over its term. As part of Waka Kotahi feedback on the draft GPS 2024 I seek your in-principle agreement to this loan, subject of course to agreement on the detailed terms and conditions. These will need to be worked through with Treasury and Ministry of Transport officials.

While this funding package represents a real revenue increase to the NLTF, I acknowledge that there is still work to do to guarantee the long-term sustainability of land transport investment funding. As you know the Ministry of Transport is leading work on the Future of the Revenue System. I have asked the Ministry to expedite this work to ensure that Ministers have officials' advice in time to enable solutions to be put in place for the next GPS (GPS 2027).

GPS 2024 introduces a Strategic Investment Programme, which is a group of transport corridors and other initiatives that it considers of strategic importance. These initiatives present an opportunity for transformational change, and to develop an integrated, sustainable, resilient, safe, and low-carbon land transport network. Acknowledging Waka Kotahi's statutory autonomy in determining the National Land Transport Programme (NLTP), the government is asking that projects in the Strategic Investment Programme be given particular consideration during NLTP development, given their alignment and potential impact on the wider government priorities outlined in GPS 2024.

As you know, there are significant cost pressures facing the sector and greater demands to deliver the infrastructure necessary to achieve the government's development, emissions and resilience objectives. In keeping with that, the Expectations section of the draft GPS 2024 focuses on how to get the most from the funding that is available. This includes:

- Ensuring value for money and maximising available revenue sources

- investment prioritisation and reporting on performance expectations
- building back better so that investment in maintenance and renewals is fit for the future (not just replacing like for like)
- investing in sector capability to lift planning and investment performance
- Making an appropriate contribution to the Government's climate change objectives through the NLTP

Finally, I suggest that it would be useful for you and me to meet to discuss the draft GPS 2024 before Waka Kotahi finalises its feedback. I suggest we do this at 12:15pm on 23 August 2023.

I will then look forward to receiving the Board's formal feedback by 15 September 2023.

Yours sincerely

Hon David Parker  
**Minister of Transport**

cc

Nicole Rosie ([Nicole.Rosie@nzta.govt.nz](mailto:Nicole.Rosie@nzta.govt.nz))  
Audrey Sonerson ([A.Sonerson@transport.govt.nz](mailto:A.Sonerson@transport.govt.nz))  
Tim Herber ([t.herbert@transport.govt.nz](mailto:t.herbert@transport.govt.nz))

The draft GPS referred to on page 1 of the letter is refused under Section 18(d)



14 August 2023

OC230715

**Hon David Parker****Action required by:****Minister of Transport**

Friday, 18 August 2023

## **VOTE TRANSPORT CONTINGENT ASSETS AND LIABILITIES SIGN OFF AS AT 30 JUNE 2023**

### **Purpose**

Seek your Ministerial certification of the register of contingent assets and liabilities for Vote Transport as at 30 June 2023 **by 18 August 2023**.

### **Key points**

- Te Manatū Waka must maintain a register of Vote Transport's contingent assets and liabilities. This register covers both Crown and departmental (Ministry) contingencies.
- Six-monthly Ministerial certification of the contingencies is part of the financial reporting requirements for Crown reporting entities. The Ministry provides a copy of your certification to the Treasury.
- By signing the attached certification of contingent assets and liabilities, you are certifying that you are not aware of any omissions from the register.
- There are three new entries on the register from the previous six-monthly sign-off (31 December 2022). These relate to the Clean Car Standard scheme which became effective from 1 January 2023, non public-private partnerships roading claims estimated at \$114 million and eight legal claims involving City Rail Link Limited which are before the courts or awaiting judgment. All three new entries meet the reporting requirements as contingent liabilities.
- One contingent liability has now been removed from the Crown register since 31 December 2022. This Crown contingent liability related to the City Rail Link Limited (CRL) COVID-19 additional cost claims which have now been settled as part of the recent funding agreement.
- Five other Crown contingent liabilities remain on the register from the previous six-monthly sign-off. Only one Crown contingent liability meets the reporting requirements as it is not considered remote. This is the emergency guarantee of up to \$10 million provided to the Transport Accident Investigation Commission if it needs to obtain specialist recovery equipment for use after a major marine, air or rail accident.

## Recommendations

We recommend you:

- 1 **note** the three new entries in the Vote Transport register of contingent assets and liabilities as at 30 June 2023, relating to the Clean Car Standard scheme which become effective from 1 January 2023, non public-private partnerships roading claims estimated at \$114 million and eight legal claims involving City Rail Link Limited
- 2 **note** the one entry that has been removed from the Vote Transport register of contingent assets and liabilities as at 30 June 2023, relating to City Rail Link Limited COVID-19 additional cost claims
- 3 **agree** that you are not aware of any contingent assets or liabilities that have been omitted from the Vote Transport register of contingent assets and liabilities as at 30 June 2023 Yes / No
- 4 **sign** the attached certificate of contingent assets and liabilities to that effect by, 18 August 2023, for Te Manatū Waka to forward on to the Treasury.



Paul Laplanche  
Chief Financial Officer  
14 / 08 / 2023

Hon David Parker  
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
Alice Kavwenje, Acting Financial Controller	s 9(2)(a)	✓
Paul Laplanche, Chief Financial Officer		

## **VOTE TRANSPORT CONTINGENT ASSETS AND LIABILITIES SIGN OFF AS AT 30 JUNE 2023**

### **A register of contingent assets and liabilities is required to be maintained**

- 1 Te Manatū Waka must maintain a register of Vote Transport's contingent assets and liabilities. This register covers both Crown and departmental (Ministry) contingencies.
- 2 The definition of a contingency, for accounting purposes, is where there is a possible asset or liability arising from a past event, but the existence of this asset or liability will be confirmed only by the occurrence of uncertain events not wholly within the control of the entity.
- 3 Contingencies are not recognised in the financial statements. However, an entity is required to disclose information in its financial statements about any contingencies, unless the possibility of the triggering event is remote.
- 4 Six-monthly Ministerial certification of the contingencies is part of the financial reporting requirements for Crown reporting entities. The Ministry provides a copy of your certification to the Treasury, with the 30 June 2023 sign-off required to be provided to the Treasury.
- 5 By signing the attached certificate of contingent assets and liabilities, you are certifying that you are not aware of any omission from the register.

### **There are four changes to the Crown contingency register since the previous sign-off was completed**

- 6 There are no contingent assets on the Crown register.
- 7 One contingent liability has now been removed from the Crown register. The City Rail Link Limited (CRL) COVID-19 additional cost claims have now been settled as part of the recent funding agreement. The claims included costs and delays relating to Covid-19 working restrictions (including lockdowns), global supply chain constraints, increasing material costs and key resource skills shortages. The settlement of these claims was made in April 2023.
- 8 The Ministry has included three new contingent liabilities to the register since the previous sign-off was completed (as at 31 December 2023). The new contingent liabilities are for:
  - 8.1 Clean Car Standard - Credits: The Clean Car Standard scheme become effective from 1 January 2023. Cars that are imported with a CO<sub>2</sub> level above the Government mandated standard pay a cash charge. Cars that are imported with a CO<sub>2</sub> level below the Government mandated standard receive a credit. The credit can either be used to offset a current charge, kept to offset future charges or sold to another importer. As at June 2023, there were charges of \$44 million and credits of \$108 million. The surplus credits of \$64 million are a contingent liability. Waka Kotahi's judgement is that it is more probable than not that the excess credits will not be utilised to offset future charges. Given that

the probability is not remote, then Waka Kotahi had determined the credit surplus is deemed to be a contingent liability on future C02 trading patterns.

- 8.2 However, as the scheme is new this year Waka Kotahi and the Ministry are still working with our auditors as to the accounting of the Clean Car Standards scheme to determine whether the credit surpluses are liabilities to the Crown or contingent liabilities. For completeness, we have included them in the return.
  - 8.3 Waka Kotahi other roading claims: There are a number of other roading claims (non public-private partnerships (PPP)), totalling approximately \$114 million, that have also been received by Waka Kotahi and are currently being validated.
  - 8.4 It is not possible to judge whether the likelihood of an event that would trigger the liability is remote or not, and so the contingency is disclosed in the financial statements.
  - 8.5 City Rail Link Limited (CRL) legal claims: As of 30 June 2023, there were eight claims before the courts or awaiting judgment (including the Land Valuation Tribunal (LVT)) where CRL is either directly or indirectly involved as a party. The claimants are seeking compensations payable under sections 60, 62 and 63 of the Public Works Act 1981 (PWA) and an Environment Court proceeding relating to ventilation arrangements for the City Rail Link.
  - 8.6 It is not possible to judge whether the likelihood of an event that would trigger the liability is remote or not, and so the contingency is disclosed in the financial statements.
- 9 The five other contingent liabilities are entries that have been on the register for a number of years. Only one of them meets the criteria to be disclosed in the financial statements. None of the contingencies have been called upon to date.

#### *Transport Accident Investigation Commission (TAIC)*

- 10 An emergency guarantee of up to \$10 million if TAIC needs to obtain specialist recovery equipment for use after a major marine, air or rail accident. The occurrence must be beyond TAIC's normal range of capabilities, and the usual channels for accessing emergency funding cannot be used. This guarantee has been in place since December 2001.
- 11 It is not possible to judge whether the likelihood of an event that would trigger the liability is remote or not, and so the contingency is disclosed in the financial statements.

#### *New Zealand Oil Pollution Fund (NZOPF)*

- 12 An indemnity for costs of a rapid response to an oil spill. The indemnity only applies if the reserves of the NZOPF are less than \$2 million, and is for the amount by which the reserves are less than \$2 million. This has been in place since November 2013.
- 13 The Ministry and Maritime New Zealand (as the organisation administering the NZOPF) consider the likelihood of an event that would trigger the liability to be remote, and so the contingency is not disclosed in the financial statements.

#### *Waka Kotahi, in respect of the Transmission Gully project*

- 14 An indemnity for an unquantified amount to give financiers assurance that the Crown will meet any repayment obligations should Waka Kotahi default on its commitments. The Crown provided the guarantee in July 2014.
- 15 The Ministry and Waka Kotahi consider the likelihood of an event that would trigger the liability to be remote, and so the contingency is not disclosed in the financial statements.

*Waka Kotahi, in respect of the Puhoi to Warkworth project*

- 16 An indemnity for an unquantified amount to give financiers assurance that the Crown will meet any repayment obligations should Waka Kotahi default on its commitments. The Crown provided the guarantee in November 2016.
- 17 The Ministry and Waka Kotahi consider the likelihood of an event that would trigger the liability to be remote, and so the contingency is not disclosed in the financial statements.

*Waka Kotahi, in respect of Public-Private Partnership cost claims*

- 18 Waka Kotahi is a party to two public-private partnerships (PPPs), Transmission Gully and Pūhoi to Warkworth). Both are subject to disputes and settlements, largely related to COVID-19 impacting progress and causing delays (totalling approximately \$295 million). Waka Kotahi is currently working through these disputes with the contractors, including using independent reviewers, but has not been presented with evidence to indicate an amount of the claim with any certainty to allow a liability to be measured and recognised.
- 19 It is not possible to judge whether the likelihood of an event that would trigger the liability is remote or not, and so the contingency is disclosed in the financial statements.

**Contents of the Ministry of Transport's Register**

- 20 There are no contingent assets and liabilities in the Ministry's register as at 30 June 2023.



## **VOTE TRANSPORT – REGISTER OF CONTINGENT ASSETS AND LIABILITIES AS AT 30 JUNE 2023**

### **MINISTRY**

The Ministry has no contingent assets or liabilities at 30 June 2023.

### **CROWN**

The Crown has no contingent assets at 30 June 2023.

### **Recognised as contingent liabilities**

Date Notice Received	Ref:	Correspondent Party	Nature of Liability	How Resolved	Date Resolved	Amount \$000	Settlement Amount \$000
Dec-2001	1	Transport Accident Investigation Commission (TAIC)	Emergency guarantee for costs of specialist recovery equipment hire			10,000 maximum	
Feb-2023	2	Waka Kotahi New Zealand Transport Agency	Public-Private Partnership claims, primarily due to COVID-19			295,000 maximum	
Feb-2023	3	City Rail Link Limited	City Rail Link Limited COVID-19 additional cost claims		Apr-2023	Unable to be quantified	Unknown
Jun-2023	4	City Rail Link Limited	Eight legal claims involving City Rail Link Limited			Unable to be quantified	
Jun-2023	5	Waka Kotahi New Zealand Transport Agency	Clean Car Standard credits scheme			\$64,000 maximum	

Jun-2023	6	Waka Kotahi New Zealand Transport Agency	Non public-private partnerships roading claims			114,000 maximum	
<b>TOTAL OF RECOGNISED CONTINGENT LIABILITIES</b>						<b>483,000 maximum</b>	

#### Not recognised as contingent liabilities

Date Notice Received	Ref:	Correspondent Party	Nature of Liability	Amount \$000	Reason unrecognised
Nov-2013	7	New Zealand Oil Pollution Fund (NZOPF)	Indemnity for costs of rapid response to an oil spill	2,000 maximum	Remote likelihood.
Jul-2014	8	Waka Kotahi NZ Transport Agency (Waka Kotahi)	Indemnity for repayment obligations for the Transmission Gully project	Unknown	Remote likelihood.
Nov-2016	9	Waka Kotahi NZ Transport Agency (Waka Kotahi)	Indemnity for repayment obligations for the Puhoi to Warkworth project	Unknown	Remote likelihood.

#### **Detail of Crown Vote Transport contingent liabilities**

1. The Minister of Finance has issued a \$10 million guarantee to TAIC. This is expected to be a near permanent guarantee.

It is to be used in the event of a major transport accident (marine, air or rail), if the occurrence is beyond TAIC's normal range of capabilities, and the usual channels for accessing emergency funding cannot be used. The guarantee will only be used to fund the first three weeks of the investigation, where TAIC needs to assure suppliers of specialist recovery equipment that funds are available to pay for the supply of that equipment.

It is difficult to judge whether the likelihood of the event that would trigger the liability is remote or not, and so it is recognised as a contingency for prudence. It is recognised at its maximum value of \$10 million.



2. Waka Kotahi is a party to two public-private partnerships (PPPs), Transmission Gully and Pūhoi to Warkworth. Both have been subject to disputes and settlements, largely related to COVID-19 impacting progress and causing delays.

Waka Kotahi is currently working through these disputes with the contractors, including using independent reviewers, but has not been presented with evidence to indicate an amount of the claim with any certainty to allow a liability to be measured and recognised. As of 30 June 2023, the Pūhoi to Warkworth component is estimated at \$295 million.

3. This contingent involved City Rail Link Limited (CRL) COVID-19 additional cost claims which have now been settled as part of the recent funding agreement. The claims included costs and delays relating to Covid-19 working restrictions (including lockdowns), global supply chain constraints, increasing material costs and key resource skills shortages. The settlement of these claims was made in April 2023.

This contingent liability has now been removed from the Crown register.

4. As of 30 June 2023, there were eight claims before the courts or awaiting judgment (including the Land Valuation Tribunal (LVT)) where City Rail Link Limited is either directly or indirectly involved as a party. The claimants are seeking compensations payable under sections 60, 62 and 63 of the Public Works Act 1981 (PWA) and an Environment Court proceeding relating to ventilation arrangements for the City Rail Link.

It is difficult to judge whether the likelihood of the event that would trigger the liability is remote or not, and so it is recognised as a contingency for prudence.

5. The Clean Car Standard scheme became effective from 1 January 2023. Cars that are imported with a CO<sub>2</sub> level above the Government mandated standard pay a cash charge. Cars that are imported with a CO<sub>2</sub> level below the Government mandated standard receive a credit. The credit can either be used to offset a current charge, kept to offset future charges or sold to another importer. As at June 2023, there were charges of \$44 million and credits of \$108 million. The surplus credits of \$64 million are a contingent liability. Waka Kotahi's judgement is that it is more probable than not that the excess credits will not be utilised to offset future charges. Given that the probability is not remote, then Waka Kotahi had determined the credit surplus is deemed to be a contingent liability on future CO<sub>2</sub> trading patterns.

However, as the scheme is new this financial year, Waka Kotahi and the Ministry are still working with our auditors as to the accounting of the Clean Car Standards scheme to determine whether the credit surpluses are liabilities to the Crown or contingent liabilities. For completeness, we have included them in the return.

It is difficult to judge whether the likelihood of the event that would trigger the liability is remote or not, and so it is recognised as a contingency for prudence. It is recognised at its maximum value of \$64 million.

6. As at 30 June 2023, there are a number of other roading claims (non public-private partnerships (PPP)), that have also been received by Waka Kotahi and are currently being validated.

It is difficult to judge whether the likelihood of the event that would trigger the liability is remote or not, and so it is recognised as a contingency for prudence. It is recognised at its maximum estimated value of \$114 million

7. An indemnity has been provided by the Crown to the NZOPF for costs of a rapid response to an oil spill.

The amount of the indemnity is the amount by which the reserves of the fund are less than \$2 million (a maximum indemnity of \$2 million). The possibility of this indemnity being called upon is considered remote as the likelihood of a significant oil spill is considered remote.

8. An indemnity has been provided by the Crown to Waka Kotahi in respect of the Transmission Gully project to give financiers an assurance that the Crown will meet any repayment obligations should Waka Kotahi default on its commitments.

The value of the liability will depend on the circumstances of the claim. The possibility of this indemnity being called upon is considered remote.

9. An indemnity has been provided by the Crown to Waka Kotahi in respect of the Puhoi to Warkworth project to give financiers an assurance that the Crown will meet any repayment obligations should Waka Kotahi default on its commitments.

The value of the liability will depend on the circumstances of the claim. The possibility of this indemnity being called upon is considered remote.



## **CONTINGENT LIABILITIES AND CONTINGENT ASSETS – 30 JUNE 2023**

In accordance with Cabinet Expenditure Control Committee minute ECC(91) M21/4 of 7 May 1991, I hereby certify that I am unaware of any contingent liability or asset that has been omitted from the Statement of Contingent Liabilities and Contingent Assets as reported in the register at 30 June 2023 prepared by the Ministry of Transport.

Name of Ministry: Ministry of Transport

Minister: Hon David Parker, Minister of Transport

Signed:

Date:

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18 August 2023

OC230722

Hon David Parker

Action required by:

Minister of Transport

Tuesday, 22 August 2023

## REGULATION OF PUBLIC TRANSPORT BILL - SUPPLEMENTARY ORDER PAPER

### Purpose

To seek your approval for minor and technical changes to the Land Transport Management (Regulation of Public Transport) Amendment Bill (the Bill) by Supplementary Order Paper (SOP). To provide you with Q&A speaking points on the Bill in preparation for addressing the Committee of the Whole House.

### Key points

- The Bill was reported back to the House by the Transport and Infrastructure Committee (the Committee) on 28 July 2023. The Second Reading took place on 17 August 2023.
- It is currently awaiting the Committee of the whole House stage.
- Since report back by the Committee, a number of provisions requiring minor drafting amendments have been identified. These proposed changes do not require Cabinet approval as they are minor and technical in nature<sup>1</sup>. The proposed changes include:
  - improving wording consistency across provisions
  - ensuring close alignment with the policy intent
  - other minor clarifications.
- A summary of the proposed changes can be found in Appendix 1.
- We propose you put forward a technical SOP for consideration at the Committee of the whole House stage. The SOP is provided in Annex 1.
- To support the Committee of the Whole House process we have provided:
  - Q&A speaking points in [Annex 2]

<sup>1</sup> Cabinet Manual para 7.80 – an SOP that serves a mechanical purpose or promotes minor technical improvements need not be submitted to the Cabinet Legislation Committee for approval.

- A summary of key changes to the Bill following Select Committee in [Annex 3]
- A table of contentious issues raised through the Select Committee process [Annex 4]
- An explanation of key clauses of the Bill [Annex 5].
- We note that although we have provided a summary of contentious issues, the majority of submitters supported the Bill. Of the 54 submitters, 44 submitters supported and seven opposed the Bill. Three submitters did not clearly support or oppose the Bill.

## Recommendations

We recommend you:

- 1 **note** that the proposed amendments in the Supplementary Order Paper are minor and technical in nature
- 2 **note** that final copies of the Supplementary Order Paper will be sent to the Tables Office from the Parliamentary Counsel Office once you have agreed to the changes proposed
- 3 **agree** to the proposed amendments to the Land Transport Management (Regulation of Public Transport) Amendment Bill as set out in the draft Supplementary Order Paper (Annex 1 refers) Yes / No



Helen White  
Manager, Mobility and Safety

18 / 08 / 2023

Minister's office to complete:

- ☐ Approved  
☐ Seen by Minister  
☐ Overtaken by events

Hon David Parker  
Minister of Transport

..... / ..... / .....

- ☐ Declined  
☐ Not seen by Minister

## Comments

## Contacts

Name	Telephone	First contact
Helen White, Manager, Mobility and Safety	s 9(2)(a)	
Jacob McElwee, Principal Adviser, Mobility and Safety		✓



## APPENDIX 1: SUPPLEMENTARY ORDER PAPER - SUMMARY OF CHANGES TO REGULATION OF PUBLIC TRANSPORT BILL

Clause/Section	Description of amendments	Comment/Rationale
Clause 4 – Section 5 – Interpretation	<ul style="list-style-type: none"> <li>In the definition of ‘subsidy’ replace ‘<b>in relation to a public transport service</b>’ with ‘<b>in Part 5</b>’</li> </ul>	This clarifies that the definition of ‘subsidy’ only applies to the use of the term in Part 5 of the Act.
Clause 8 – New section 114B – Meaning of unit	<ul style="list-style-type: none"> <li>Various minor amendments to the wording of s114(B)(3) – for example, ‘<b>or</b>’ is replaced by ‘<b>:</b>’ at the end of each sub-section.</li> </ul>	The changes improve consistency of terminology in the section.
Clause 13 – Section 120 – Contents of regional public transport plans	<ul style="list-style-type: none"> <li>Various minor amendments to the wording of s120(1) – for example, in s120(1)(a)(i) ‘<b>those public transport services</b>’ is replaced by ‘<b>the services identified under subparagraph (i)</b>’.</li> </ul>	The changes improve the consistency of the language used in the section.
Clause 15 – Section 125 – Preparation of regional public transport plans	<ul style="list-style-type: none"> <li>In s125(1)(b)(iii) replace ‘<b>public transport operator</b>’ with ‘<b>operator of a public transport service</b>’</li> </ul>	The change improves the clarity of the sub-section.
Clause 17 – Section 130 – Exempt services must be registered to operate	<ul style="list-style-type: none"> <li>In s130(2)(b) insert ‘<b>; or</b>’ between subparagraphs (i) and (ii)</li> </ul>	The change clarifies that commercial on-demand services operated using less than 10 vehicles <b>or</b> using vehicles with less than 9 seats do not need to be registered. This ensures the provision achieves the policy intent.
Clause 18 – Section 139 – Withdrawal of exempt services	<ul style="list-style-type: none"> <li>Various minor amendments to the wording of s139(1) and (1A) – for example, in s139(1) ‘<b>it</b>’ is replaced by ‘<b>the operator</b>’.</li> </ul>	The changes improve the clarity of drafting.
Clause 19 – Section 150 – Regulations relating to exempt services	<ul style="list-style-type: none"> <li>Various minor amendments to the wording of s150(2) and s150(3) – for example in s150(2) ‘<b>:</b>’ is replaced by ‘<b>;</b>’ and ‘<b>and</b>’ at the end of each subsection.</li> <li>Inserts new s150(3A), which clarifies the application of subsections (2) and (3) in the case of inter-regional services.</li> </ul>	<p>The changes improve the clarity and consistency of the provisions.</p> <p>The new s150(3A) clarifies the process and criteria to add or remove an exemption where the service is an inter-regional public transport service. This is consistent with the change to the status of inter-regional services that was recommended by the Transport and Infrastructure Committee.</p>

Clause/Section	Description of amendments	Comment/Rationale
Clauses 23, 26, 31 (Part 2 of the Bill)	<ul style="list-style-type: none"> <li>Minor changes to wording in sections 131, 135, 147, 148 – for example, in s131 and s135 'route' is replaced by 'route or routes'.</li> </ul>	The changes improve the clarity and consistency of the provisions.
Schedule - New Part 3 inserted into Schedule 1AA	<ul style="list-style-type: none"> <li>In schedule section 12(2) replace 'the subsidy' with 'a subsidy'</li> </ul>	The change ensures flexibility around the level of subsidy that can be provided to an existing subsidised, but exempt, inter-regional public transport service. The provision was intended to allow flexibility around the level of subsidy.

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**ANNEX 1 SUPPLEMENTARY ORDER PAPER**

This annex is refused under Section 18(d)

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## ANNEX 2 QUESTIONS AND ANSWERS SPEAKING POINTS

Attached at back

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**ANNEX 3 SUMMARY OF KEY CHANGES TO THE BILL FOLLOWING  
SELECT COMMITTEE**

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**ANNEX 4 TABLE SUMMARY OF CONTENTIOUS ISSUES RAISED  
THROUGH THE SELECT COMMITTEE PROCESS**

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## ANNEX 5 EXPLANATION OF KEY CLAUSES OF THE BILL

Attached at back

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## **ANNEX TWO: QUESTION AND ANSWER SPEAKING POINTS - LAND TRANSPORT MANAGEMENT (REGULATION OF PUBLIC TRANSPORT) AMENDMENT BILL**

### **General background**

#### ***Q: What does the Bill do and what are the main changes it makes?***

- The Bill amends the Land Transport Management Act 2003, replacing PTOM with the Sustainable Public Transport Framework.
- The framework takes a different approach to the commerciality and competition focus of PTOM, instead realigning with Government objectives to support workforce recruitment and retention, and prioritise fair and equitable treatment of employees, mode shift and environmental and health outcomes.
- This Bill does this in several ways, including:
  - establishing new governing principles
  - creating greater flexibility around asset ownership and service provision models
  - enabling innovation in the types of services that can be provided, including supporting the provision of on-demand public transport services
  - creating new transparency and planning requirements
  - altering and clarifying the regulation of exempt service.
- The successful components of PTOM have been retained.

#### ***Q: Why are these changes needed?***

- The PTOM approach rewarded operators with lower wage costs and the result is operators have struggled to recruit and retain drivers. PTOM's guiding principles no longer align with Government objectives. The new model will enable more responsive services and greater innovation, while also supporting improved environmental, health and social outcomes. Additionally, public transport authorities need flexibility to meet the needs of their communities. The SPFT provides this flexibility.

#### ***Q: Why is the Bill necessary when these changes can be made through contract variations?***

- The Bill formalises the desired outcomes and provides a stronger imperative for the sector to achieve them. PTOM has been in place for almost 10 years now and there has been plenty of opportunity to try and find solutions through contract variations and other mechanisms. We need to embed improved outcomes in legislation to realign planning and provision of services, rather than relying on ad hoc measures to address systemic issues.



**Q: This Bill replaces PTOM with the SPTF – does this mean that the Government believes PTOM failed?**

- PTOM was intended to increase the commerciality of public transport services and reduce subsidies by ensuring competition for the provision of services. However, this came at the cost of bus driver wages and conditions and service reliability. Change is required to address these issues, while retaining regional council responsibility for planning and providing services.

**Q: What changes were made following the Select Committee process?**

- The Transport and Infrastructure Committee were invaluable to the development of the Bill and changes were made in line with their recommendations.
- These recommendations include:
  - removing the automatic exemption for inter-regional services
  - clarifying the types of exempt services that do not need to be registered
  - ensuring sufficient regional council funding is available before the Minister recommends the removal of a service exemption
  - clarifying that the release of commercially sensitive information will not be required under the new transparency requirements
  - including equitable access and coordination of public transport services with land use in the guiding principles
  - ensuring public transport planning aligns with the guiding principles and includes input from workers and unions

**Q: Why has an SOP been introduced?**

- An SOP has been required to make minor and technical changes to the Bill. These changes include ensuring there is consistency of wording across provisions or making minor clarifications, for example changing references of “every public transport operator in the region” to “every operator of a public transport service in the region” since the term public transport operator is not defined in the Bill. This change also ensures consistency with other provisions.

## **Bus driver workforce**

### ***Q: How will the Bill impact the bus driver shortage?***

- The Bill will mean the planning and provision of public transport services is guided by an objective of fair and equitable treatment of the public transport workforce. This will ensure a sustainable workforce in the long-term - making it easier to recruit and retain drivers, allowing frequent and reliable services.

### ***Q: Why is the Bill necessary when bus driver wages and immigration settings are already being improved under the existing legislation?***

- The Government is funding improvements to bus driver wages as a short-term measure to address severe and chronic bus driver shortages. The immigration settings are also a temporary measure to allow the recruitment of more bus drivers from overseas. However, it is critical the public transport workforce remains sustainable in the long-term. This means the planning, procurement, and operating arrangements all need to factor in how to improve outcomes for the workforce.

## **In-house service provision and asset ownership**

### ***Q: If councils bring services in-house, how will we know whether they are providing value for money?***

- The Bill requires transparency around planning, procurement and operation of services, including in relation to operating costs, service performance, and the financial performance of operators. This transparency is required regardless of who operates services. This will allow benchmarking across different delivery pathways.

### ***Q: Why is in-house provision and public asset ownership enabled when it is likely that public transport authorities will be unable to afford associated costs and do not have the necessary expertise to maintain assets and operate services?***

- The Bill enables in-house service provision and asset ownership rather than requiring it. This provides PTAs with greater flexibility and the ability to choose service provision and asset management methods that best suit the needs of their community. If a PTA is interested in operating a service or owning assets, they can build up their capability over time.
- With regard to service provision, this will provide more competition within the sector by enabling a different delivery model, not focussed on profit, to provide a point of comparison in the delivery of services and innovative practice. A larger council could, for example, have a mix of contracted and in-house services depending on which best suited each unit.
- PTAs will need to demonstrate their capability and the value for money of whichever option they choose before receiving any co-investment from the National Land Transport Fund. PTAs will continue to be required to review the cost-effectiveness of

current arrangements prior to changing service delivery arrangements. On this point, however, I note that value for money can be demonstrated without necessarily needing competition and access to markets.

***Q: Why are you enabling in-house provision without requiring a tendering process when officials predicted that this would lead to worse performance than the status quo?***

- Enabling in-house provision without requiring a tendering process gives greater flexibility and choice to regional councils. To ensure any in-house service operation can be compared with outsourced services, the Bill establishes new transparency requirements, including in relation to operating costs, service performance, and the financial performance of operators. These requirements apply to all service operators – whether they be public or private.

***Q: This Bill increases centralised planning and control. Why has this decision been made when nationalisation is never successful?***

- Public transport authorities are already responsible for planning and provision of services. This Bill gives regional councils greater choice around who operates services. It enables them to decide which service provision and asset ownership arrangements best meet the needs of their community
- Allowing in-house provision will support greater competition in the sector by enabling not-for-profit provision of services.

### **Procurement**

***Q: Why is regard for competition and efficiency being removed by the Bill when this is vital for achieving value for money?***

- Efficiency and value for money will remain key drivers of investment decisions and competitive procurement will continue to be an important tool to achieve value for money. However, the proposed changes are more enabling of alternative approaches to achieve these outcomes.

### **Exempt services**

***Q: The treatment of inter-regional rail has been amended in response to submissions – what is the effect of these changes?***

- Following the Committee's recommendation, we have removed the automatic exemption for inter-regional services. With this change, inter-regional services will be treated the same as services within a region and will only be exempt if they are not identified as integral and operate without a subsidy.

- This change reflects that inter-regional services are already a critical part of the public transport system, and makes it clear there should be collaboration across regional boundaries to plan and deliver these services.

***Q: How will the Bill impact commercially operated exempt services like the Fullers Waiheke ferry?***

- The Bill does not impact the status of existing exempt service. Instead, it is clarifying the process to add or remove an exemption and increasing the notice period an operator must give before withdrawing an 'integral' service. Waka Kotahi is separately reviewing the exemption for the Fullers Waiheke service. This is happening in parallel with the passage of the Bill.

**Value for money**

**Q: Does this Bill mean investment in public transport services no longer needs to achieve value for money?**

- Value for money is an overarching consideration for all Waka Kotahi investment decisions. This is not changing. The Bill makes it clear that in the case of investment in public transport services, value for money extends to broader outcomes, like improving the terms and conditions of employees. The Bill also makes it clear that outsourcing through competitive tender is not the only way to achieve value for money.

***Q: How can the Government justify a new transport operating model that shifts away from a focus on value for money when we are in a cost-of-living crisis?***

- Value for money remains an important element of investment and procurement decisions in the Bill. However, PTOM, which focused on competition and commerciality, has seen negative outcomes for bus drivers, severe bus driver shortages, and ultimately an unsustainable system.
- Continued action is going to be required to meet our emissions reduction targets, to improve working conditions for drivers, and to improve service reliability and frequency. The Bill reflects that our public transport system should support these outcomes in a way that achieves value for money.

***Q: Why did the decisions around ensuring access to public transport markets differ from the advice of officials?***

- The previous transport minister, Minister Wood, wanted the Sustainable Public Transport Framework to enable different delivery pathways. I agree with this approach. The current access to market objective essentially means services must be outsourced by competitive tender, but PTAs should have the option of other procurement, contracting and operating arrangements.

## Key Changes to the Regulation of Public Transport Bill Following Select Committee

Issue	Clause	Committee recommendation
Defining the term subsidy	4/8/10	<p>The Bill should more clearly state what a subsidy is.</p> <p>Recommended amending clause 4 of the Bill to insert a definition of "subsidy" (at the time of review, the Bill only defined what a subsidy was not)</p> <p>Recommended deleting the section in clause 8 which defined what a subsidy was not as it would then be unnecessary</p> <p>Recommended amending clause 10 to insert a section to make clear that a subsidy may only be provided to a service that is identified as integral in an RPTP and operated in a unit, or part of a unit.</p>
Removing the automatic exemption for inter-regional services	8	<p>The automatic exemption for inter-regional services should be removed to give regional councils more flexibility to work collaboratively across regional boundaries.</p> <p>Recommended amending clause 8 so that inter-regional services would be treated the same as services within a region. They would only be automatically exempt if they are not identified as integral in an RPTP and operate without a subsidy, or if the regions they operate between are not required to have RPTPs.</p> <p>Recommended including a new clause to ensure this change does not affect funding arrangements for existing exempt inter-regional services that receive a subsidy (such as Capital Connection).</p>
Consultation requirements when establishing an inter-regional service	15	<p>A regional council that wishes to propose an inter-regional service should be required to consult with the relevant local authorities in the other regions the service would operate in.</p> <p>Recommended amending clause 15 to require regional councils to consult with other relevant local authorities when proposing an inter-regional service.</p>



Issue	Clause	Committee recommendation
Clarifying which exempt services do not need to be registered	17	<p>The exception from registration requirements for exempt services were too broad and might unintentionally allow scheduled exempt services to avoid the requirement to register.</p> <p>Recommended amending clause 17 to better reflect the policy intent of allowing some on-demand services and shuttle services to operate without having to register with regional councils.</p>
Regulation-making powers relating to exempt services: resolving circular nature of power to recommend an exemption	19	<p>The regulations for making a service exempt should not be circular. The drafting of the Bill viewed by the Committee required the Minister to be satisfied that the service satisfies the criteria in proposed section 114A (clause 8), however one criterion in this section is that a service would be exempt if it is specified as such by regulations made under section 150.</p> <p>Recommended amending clause 19 to ensure there is no circular nature of power to recommend an exemption.</p>
Regulation-making powers relating to exempt services: ensuring funding is available before recommending an exempt service be operated as part of a unit	19/13	<p>The Minister should ensure that funding is available to support a service's operation before an exemption is removed.</p> <p>Recommended inserting a new section to require the Minister to be satisfied that a regional council has funding available to support a service's operation before making a recommendation to remove an exemption.</p> <p>Recommended inserting a clause to ensure that this change was prospective.</p>
Guiding principles: public transport should support equitable access	9	<p>Equitable access is a key function of public transport and the Bill ought to reflect this. The Committee was concerned that, in its current form, prioritising mode shift could detract from the access needs for those without alternatives or who cannot drive.</p> <p>Recommended amending clause 9 (proposed section 115(1)(b)) to require services to support equitable access as well as mode shift.</p>
Guiding principles: public transport should integrate with land use planning	9	<p>The principles should recognise that public transport planning should be integrated with land use planning.</p>

Issue	Clause	Committee recommendation
		Recommended amending clause 9 (proposed section 115(1)(d)) to include land use planning.
Transparency requirements: protection of commercially sensitive information	10	<p>It should be made clear that the transparency requirements would not compel commercially sensitive information to become publicly available.</p> <p>Recommended clarifying that regional councils and Waka Kotahi could still withhold information if there would be grounds to do so under other legislation.</p> <p>Recommended amending clause 10 to specify that this would not change regional councils' obligations to publish information, such as patronage or subsidisation data.</p>
Matters for councils to take into account before adopting regional public transport plans: removing specific reference to competitive and efficient markets	14	<p>The inclusion of competition and efficient market requirements should be consistent across provisions. The focus on encouraging competitive and efficient markets should be removed from the adoption of RPTPs as it has been from procurement procedures.</p> <p>Recommended removing reference to encouraging a competitive and efficient market when adopting RPTPs. Regional councils would still be required to take value for money into account, but with a broader understanding of what this means.</p>
Matters for councils to take into account before adopting regional public transport plans: councils should take into account the views of the public transport workforce before adopting RPTPs	14	<p>To be consistent with the objective of fair and equitable treatment of the public transport workforce, the views of public transport workers and their representative unions should be considered in preparing RPTPs.</p> <p>Recommended inserting a requirement for regional councils to take into account the views of the public transport workforce and their representative unions when adopting a RPTP.</p>

[insert text here]



## Contentious issues raised through the Select Committee process for the Land Transport Management (Regulation of Public Transport) Amendment Bill

Issue	Clauses of the Bill	Submitter concerns	Response
Reduced focus on competition and value for money	6 and 9	<p>Several submitters supported the retention of competition as a criterion for procurement decisions.</p> <p>Several submitters and members of the Committee were also concerned the new principles reduced the focus on efficiency and value for money.</p>	<p><b>Amended.</b> Section 115(1)(e) was redrafted to better give effect to approved objectives and decisions of Cabinet – to ensure the other principles are achieved in an efficient way that provides value for money.</p> <p>Efficiency and value for money will remain a key driver of investment decisions, and competitive procurement will continue to be an important tool to achieve value for money. However, the proposed changes are more enabling of alternative approaches to achieve value for money and efficiency. Retaining the focus on competition in procurement would result in less flexibility.</p>
Enabling in-house service provision	6	<p>Submitters, particularly councils and unions, supported enabling in-house provision.</p> <p>Operators opposed public service provision, citing reduced incentives for operator innovation and expressing concerns about the lack of expertise by PTAs.</p>	<p><b>No change made.</b> This provision provides flexibility around service delivery arrangements, but does not require public provision of services. PTAs would need to develop significant new capability and would need to demonstrate that such a change to service delivery arrangements would achieve value for money, before attracting co-investment from the National Land Transport Fund.</p>
Enabling public asset ownership	7	<p>Councils and special interest groups, while primarily in support of the change, expressed concern that public asset ownership may impinge on territorial authority asset ownership. Unions suggested the Bill should require full public ownership of assets.</p> <p>In contrast, operators were largely opposed to public ownership of assets.</p>	<p><b>No change made.</b> The Bill is intended to provide greater flexibility and enables, rather than requires, public ownership. Public ownership of assets, such as depots or ferries, could be desirable to reduce barriers to entry and/or to secure strategic assets and ensure continuity of services in the longer-term.</p> <p>In response to concerns of territorial authorities about PTAs taking ownership of assets within the road corridor, we note the Bill does not require any change of ownership or change existing</p>



Issue	Clauses of the Bill	Submitter concerns	Response
			<p>responsibilities. The Bill provides flexibility to adopt arrangements that best meet the needs of local authorities.</p> <p>The proposals from unions are at odds with a flexible and enabling approach. Compulsory public asset ownership would also require significant capital investment and capability investment to acquire and manage assets.</p>
The need for the Bill and new guiding principles	9	Operators suggested many of the outcomes intended by the Bill and new guiding principles could be achieved through contract variations.	<b>No change made.</b> Although some of the sought outcomes could be achieved through contract variations, the Bill formalises the desired outcomes and provides a stronger imperative for the sector to achieve them.
Transparency requirements	10	Industry representatives expressed concerns that the transparency requirements may result in the release of sensitive information. The Committee questioned whether the publication of commercially sensitive information was required under the Bill.	<p><b>Amended</b> to clarify that commercially sensitive information can still be withheld if there would be grounds to do so under other legislation.</p> <p>Measures to protect sensitive information, while supporting transparency, will also be considered in the development of operational policy.</p>
Addition and removal of exemptions	19	<p>Fullers360 expressed concern about the changes to the Minister's and Government's powers to remove extensions, perceiving them as an extension of power.</p> <p>The Committee noted an interest in the impact of the Bill on existing exempt services.</p>	<p><b>Amended.</b> A transitional provision was included to clarify that the Bill will not impact the criteria being assessed, or the process to be followed, for any existing review under section 150.</p> <p>We consider Fullers360's concerns about the extension of Ministerial powers to be largely unfounded. To date, the available provision to remove an exemption by making regulations has not been used in the ten years PTOM has been in effect and only one review of an exemption has been requested. There is no evidence to suggest that the proposed amendments will result in an over-use of the provisions.</p>
Availability of funding to support the introduction of the SPTF	No associated clause	Several submitters expressed the view that to take advantage of new opportunities and changes proposed by the Bill,	The Government made funding available through Budget 22 and Budget 23 to improve bus driver wages and conditions, to accelerate the decarbonisation of the bus fleet, and to make public transport

Issue	Clauses of the Bill	Submitter concerns	Response
		additional funding will be required. These submitters included unions, councils and user groups.	more affordable for users. The Government is also funding initiatives intended to make public transport faster, more frequent and reliable. This investment is aligned to achieving the SPTF objectives and will support implementation of the new framework. Funding for public transport services and infrastructure will also continue to be provided from the NLTF.

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OFFICIAL INFORMATION ACT 1982



## Annex 5: Summary of Key Clauses of the Regulation of Public Transport (RPT) Bill following Second Reading

Clause	Issue	Explanation
4	Definitions	<p>Expands the definition of 'public transport service' in relation to Part 5 of the Act to include unscheduled (on-demand) public transport services and shuttle services.</p> <p>Includes a definition of 'subsidy'.</p>
6	Modifies competition and contracting requirements in procurement decisions	<p>Creates an exception for public transport services from the requirement:</p> <ul style="list-style-type: none"> <li>to outsource activities to receive funding from the National Land Transport Fund</li> <li>that Waka Kotahi considers the desirability of enabling competition and encouraging competitive and efficient markets when approving a procurement procedure.</li> </ul>
7	Allows public ownership of assets	<p>Allows regional councils to directly own public transport services, infrastructure, and associated assets – removing the requirement these interests are held through a council-controlled trading organisation.</p>
8	<p>Defines 'exempt service' &amp; 'unit'</p> <p>Modifies the exemption for inter-regional services</p>	<p>Expands the definition of a 'unit' to provide regional councils with flexibility to identify in regional public transport plans (RPTP) a wide range of public transport service types.</p> <p>Amends the definition of 'exempt service' to treat inter-regional services in the same way as services within a region.</p>
9	Embeds the Sustainable Public Transport Framework (SPTF) objectives in the regulation of public transport (guiding principles)	<p>Amends the principles that guide the performance of functions by Waka Kotahi and regional councils to align them with SPTF objectives. These objectives prioritise mode shift, fair and equitable treatment of the workforce, and improved environmental and health outcomes.</p>
10	<p>Modifies contracting requirements</p> <p>Adds transparency requirements</p>	<p>Modifies the requirement that public transport services are contracted, unless exempt, such that this requirement only applies when services are outsourced.</p> <p>Establishes a broad openness and transparency requirement, and establishes a specific requirement for openness and transparency in relation to operating costs, service performance, the vehicles and vessels used to operate services, the financial performance of operators, and the aggregate terms and conditions of the workforce.</p> <p>Sets out how public transport services that are identified in a RPTP as integral to the public transport network are to be operated and by whom and limits the payment of subsidies to only these 'integral' services.</p>



Clause	Issue	Explanation
11	Territorial authority involvement in RPTP development	Amends section 117 of the LTMA – Purpose of RPTPs, to include territorial authorities in the group encouraged to work together in developing public transport services and infrastructure.
13	RPTP contents	Establishes a requirement that regional council identify in RPTPs the infrastructure necessary to support the public transport services identified as integral.
14	Matters to take into account when adopting RPTPs	<p>Requires regional councils, when adopting RPTPs, to take into account:</p> <ul style="list-style-type: none"> <li>the transport component of any publicly consulted plan or strategy of a local authority within the region</li> <li>the views of territorial authorities in the region</li> <li>the views of the public transport workforce and representative unions.</li> </ul> <p>Removes the requirement to consider the desirability of encouraging a competitive and efficient market.</p>
15	Consultation requirements for RPTPs	<p>Establishes a new requirement that regional councils, except Auckland Transport, prepare a draft RPTP in collaboration with the territorial authorities in the region.</p> <p>Establishes a requirement that regional councils consult with relevant local authorities when proposing an inter-regional service.</p>
16	Transparency requirements	Expands Waka Kotahi's power to require information from regional councils to include information in relation to the matters identified in clause 10 (the new transparency requirement).
17	Registration of exempt services	Allows some exempt on-demand services to operate without being registered with the relevant regional council.
18	Withdrawal of exempt services (notice period)	Increases the minimum notice period to withdraw an exempt service that has been identified as integral in a RPTP from 15 to 60 working days.
19	Regulations relating to exempt services	<p>Clarifies that Waka Kotahi should investigate whether an exemption should be added or removed if requested to do so by the Minister or a regional council.</p> <p>Aligns the criteria for adding or removing an exemption with the SPTF objectives.</p> <p>Requires the Minister of Transport to be satisfied the regional council has sufficient funding available before recommending an exempt service is replaced by a unit.</p>
33	Transitional provision for removal of automatic inter-regional service exemption	Clarifies that existing subsidised, but exempt, inter-regional services can continue to operate as exempt services.
33	Transitional provision for exemption reviews	Clarifies that the changes to section 150 do not impact any review of exemptions underway when the Bill is passed.

21 August 2023

OC230729

**Hon David Parker**

**Action required by:**

**Minister of Transport**

Wednesday, 23 August 2023

cc Hon Damien O'Connor

Associate Minister of Transport

## **MEETING WITH THE CHAIR OF WAKA KOTAHİ TO DISCUSS THE DRAFT GPS 2024: 23 AUGUST 2023**

### **Purpose**

To provide you with advice and talking points to support your meeting with the Chair of Waka Kotahi NZ Transport Agency ('Waka Kotahi') on Wednesday, 23 August 2023, at 12.15pm. The meeting is part of a regular cycle focussed on Waka Kotahi performance monitoring.

### **Key points**

- You are meeting with the Waka Kotahi Chair (Dr Paul Reynolds) on 23 August 2023 to discuss the draft Government Policy Statement on Land Transport 2024 (draft GPS 2024). Nicole Rosie (Chief Executive) and Richard May (Chief of Staff) are also attending.
- You have asked for the Board's formal feedback on the draft Government Policy Statement on Land Transport (GPS) by 15 September 2023. The Chair may ask for an extension, as the next Waka Kotahi Board meeting is scheduled for 28 September.
- You may wish to signal your interest in attending the 28 September meeting, to assist with the Board's consideration of the draft GPS.
- If the Board's response is received after the 15 September deadline, there will be insufficient time for the Ministry of Transport to provide considered advice on its feedback prior to the Election.
- As part of the feedback process, you have asked the Board to provide in-principle agreement to a new \$3.1 billion loan facility to partially fund the investment programme outlined in the draft GPS.

**Recommendations**

We recommend you:

- 1 **note** your scheduled meeting with the Waka Kotahi Chair (Dr Paul Reynolds) at 12.15pm on 23 August 2023.
- 2 **note** the suggested agenda and talking points provided in this briefing.



Tim Herbert  
Manager Investment

Hon David Parker  
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
Tim Herbert, Manager Investment	s 9(2)(a)	✓



## MEETING WITH THE CHAIR OF WAKA KOTAHI TO DISCUSS THE DRAFT GPS 2024: 23 AUGUST 2023

### Background

- 1 The Government Policy Statement on Land Transport (GPS) is a statutory document outlining the Crown's land transport investment strategy and the results expected of Waka Kotahi NZ Transport Agency (Waka Kotahi) under the National Land Transport Fund (NLTF). The GPS is also required to link the revenue generated from road users with planned expenditure from the NLTF.
- 2 On 7 August 2023, following reference from the Cabinet Economic Development Committee, Cabinet agreed to the release of the draft GPS 2024 for public consultation (CAB-23-MIN-0352 refers).
- 3 You agreed to meet with the Waka Kotahi Chair for an initial conversation on the draft GPS and to sign a letter to the Chair to commence formal consultation (OC230700 refers). The letter (refer to **Annex 1**) was sent to the Chair on 18 August 2023.

### Proposed Agenda

- 4 The purpose of this meeting is to allow the Waka Kotahi Chair to discuss and provide some initial feedback on the draft GPS.
- 5 You may want to use the meeting as an opportunity to reflect on Cabinet's consideration of the draft GPS and/or to emphasise some specific issues, such as funding or the Strategic Investment Programme.
- 6 If you want to provide some structure to the conversation, you could use the following suggested agenda.
  - 6.1 strategic priorities
  - 6.2 revenue
  - 6.3 Strategic Investment Programme
  - 6.4 expectations.
- 7 Please note the possibility that the Chair may ask for an extension to provide formal feedback on the draft GPS. The public consultation process (including Waka Kotahi feedback) is 15 September 2023, but the next scheduled Board meeting is on 28 September.
- 8 The Ministry of Transport (the Ministry) notes that if Waka Kotahi feedback is received after the scheduled board meeting, there won't be time to provide advice on an appropriate response prior to the Election.



*Strategic priorities*

9 The strategic priorities outlined in the draft GPS reflect the Government's transport priorities, which are:

- 9.1 maintaining and operating the system
- 9.2 increasing resilience
- 9.3 reducing emissions
- 9.4 safety
- 9.5 sustainable urban and regional development
- 9.6 integrated freight system.

Suggested talking points:

- Maintenance has been identified as a strategic priority for the first time in the draft 2024 GPS. This reflects the growing importance and cost of managing the roading network at sustainable service levels.
- The first priority for NLTF funding is maintenance and other "continuing activities". The other priorities should be advanced to the greatest extent possible within the remaining NLTF funding.
- Priority will be given to ensuring that maintenance expenditure is efficient, effective and enables the delivery of wider Government objectives.

*Revenue*

- 10 The draft GPS signals a 34 percent increase in NLTF revenue to \$20.8 billion for the three-year period from 2024/25 (compared with the current 2021 GPS).
- 11 Revenue to support GPS 2024 is being drawn from a variety of sources, including: FED/RUC increases, the Climate Emergency Response Fund (CERF), traffic infringement fees, direct Crown injection and a new loan.
- 12 The CERF funding is linked to walking and cycling expenditure, while traffic infringement funding is linked to safety-related expenditure.
- 13 The Government proposes offering Waka Kotahi a new loan facility of up to \$3.1 billion. The proposed FED/RUC increases are expected to provide sufficient revenue to repay that loan over its term. Your letter to the Chair seeks in-principle agreement to the new loan facility.
- 14 This will be an important decision for the Board. As its next scheduled meeting is on 28 September, the Board will either need to arrange a special meeting or receive an extension to the 15 September deadline. We note that if the Board's response is received after 28 September, there will be insufficient time for the Ministry to provide you with consolidated feedback on the consultation before the Election.



- 15 The Chair (on behalf of the Board) may seek an assurance that the Government will continue to provide Waka Kotahi with adequate revenue to enable repayment of the new loan over its term.

Suggested talking points:

- In obtaining Cabinet agreement to using CERF funding, I committed to linking this to expenditure on walking and cycling. The lower bound of the walking and cycling activity class is greater than the amount that will be received from the CERF. This ensures that expenditure on walking and cycling will exceed CERF funding.
- I also committed to linking traffic infringement fees to safety-related expenditure. The lower bound of the safety activity class is greater than expected revenue from traffic infringements.
- I also committed to reporting how delivery and value for money are being achieved to support relevant government objectives. I ask that your officials work with the Ministry to develop appropriate performance reporting. I expect this will provide the requisite transparency on how available funding is being used and costs are being contained.
- The draft GPS proposes a restructuring of the existing \$2.0 billion loan, to allow Waka Kotahi to pay down the loan principal in a financially sustainable manner, and proposes a new \$3.1 billion loan facility to be drawn down over the three-year period from 2024/25.
- Do you have any initial thoughts on the loan proposals? When will the Board consider my request to provide in-principle agreement to the new \$3.1 billion loan?
- (If relevant) Would it be helpful if I attended the 28 September board meeting?

*Strategic Investment Programme*

- 16 The draft GPS identifies a number of strategic projects that present an opportunity to develop an integrated, sustainable, resilient, and low-carbon land transport network.
- 17 The draft GPS is careful to acknowledge that “decision rights for funding from the NLTF rests solely with Waka Kotahi” (with the exception of rail projects under the Rail Network Investment Plan), but that “the Minister expects that their strategic importance will be given particular consideration during NLTP development, given their alignment and potential impact on the wider government priorities outlined...”
- 18 The Chair may wish to discuss the feasibility and/or sequencing of projects included as part of the Strategic Investment Programme, given the challenging portfolio of investments signalled in the draft GPS.

Suggested talking points:

- Do you have any questions in relation to the Strategic Investment Programme?



### *Expectations*

- 19 The expectations section of the draft GPS focuses on value for money, given ongoing cost pressures and the increased funding necessary to achieve the Government's transport priorities.
- 20 The expectations outlined in the draft GPS include:
- 20.1 ensuring value for money and maximising available revenue sources
  - 20.2 investment prioritisation and reporting on performance expectations
  - 20.3 'building back better' so that investment in maintenance and renewals is fit for the future (not just replacing like-for-like)
  - 20.4 investing in sector capability to lift planning and investment performance
  - 20.5 making an appropriate contribution to the Government's climate change objectives through the NLTP.

#### Suggested talking points:

- The draft GPS has a particular focus on value for money.
- I expect the Board to have a laser-like focus on cost control and extracting the greatest value from available resources.
- The draft GPS considers earlier feedback from Waka Kotahi on modifying expectations relating to the Emissions Reduction Plan. It now refers to "making an appropriate contribution to the Government's climate change objectives through the NLTP."

## ANNEX 1: LETTER TO WAKA KOTAHI CHAIR ON DRAFT GPS 2024

Dr Paul Reynolds  
Chair, Waka Kotahi New Zealand Transport Agency  
Victoria Arcade, 50 Victoria Street  
Wellington 6141  
New Zealand

[by email: s 9(2)(a)]

Dear Paul

Please find attached a copy of the draft Government Policy Statement 2024 (GPS 2024) for the Waka Kotahi Board's consideration and feedback.

I would like to start by thanking the Board and staff of Waka Kotahi for your cooperation in the development of the GPS 2024 to this point. I note discussions that you have already had with the previous Minister and me. I am also advised that your officials have been working closely and collegially with the Ministry of Transport and my office in the development of the GPS and supporting documents. Please convey my thanks for those efforts to all those involved.

I am pleased to advise that Cabinet has approved the release of a draft GPS 2024 for consultation that identifies a record \$20.8 billion of NLTF revenue for the 2024/25-2026/27 period. This is an increase of 34 percent above the revenue available to the NLTF to deliver GPS 2021.

The draft GPS 2024 identifies six strategic priorities. I note that these represent the government's overall land transport investment strategy, which will be funded from a number of sources, not just the NLTF. The GPS says that maintenance and other "continuing activities" will be the first priority for NLTF funding. The other priorities should be advanced by the NLTF to the greatest extent possible within the remaining NLTF funding. I expect that the other priorities will also continue to be advanced through direct Crown funding, such as the existing New Zealand Upgrade Programme, the Climate Emergency Response Fund (CERF) initiatives and other annual government Budget announcements.

Revenue to support GPS 2024 is being drawn from a variety of sources, including the CERF and traffic infringement fees. In obtaining Cabinet agreement to the use of the CERF funds in this way, I committed to linking this revenue to the amount of expenditure in the Walking and Cycling activity class. To that end, in the Draft GPS 2024, the lower bound of the Walking and Cycling activity class has been set to exceed the amount that will be received from the CERF. This will ensure I can be confident that expenditure which will reduce emissions (i.e., expenditure on Walking and Cycling) will exceed the amount received from the CERF.

Similarly, I made a commitment to link traffic infringement fee revenue to expenditure in the Safety activity class, and I have set the lower bound of the Safety activity class to deliver that.

In both cases I also committed to requiring reporting to show how the expenditure has been used to support the relevant government objectives. I ask that your officials work with the Ministry of Transport to identify and agree the relevant reporting format and metrics.

The draft GPS 2024 proposes a restructuring of the existing \$2 billion loan and a new loan facility. The restructuring is to allow Waka Kotahi to start paying down principal on the \$2 billion loan, to avoid the unsustainable impost on the NLTF that will otherwise occur if all of the principal must be repaid in the tenth year after drawn down.

As part of the \$20.8 billion of revenue, the government is proposing to offer Waka Kotahi a new loan of up to \$3.1 billion. It is expected that the proposed FED/RUC increases will provide sufficient revenue to repay that loan over its term. As part of Waka Kotahi feedback on the draft GPS 2024 I seek your in-principle agreement to this loan, subject of course, to agreement on the detailed terms and conditions. These will need to be worked through with Treasury and Ministry of Transport officials.

While this funding package represents a real revenue increase to the NLTF, I acknowledge that there is still work to do to guarantee the long-term sustainability of land transport investment funding. As you know the Ministry of Transport is leading work on the Future of the Revenue System. I have asked the Ministry to expedite this work to ensure that Ministers have officials' advice in time to enable solutions to be put in place for the next GPS (GPS 2027).

GPS 2024 introduces a Strategic Investment Programme, which is a group of transport corridors and other initiatives that it considers of strategic importance. These initiatives present an opportunity for transformational change, and to develop an integrated, sustainable, resilient, safe, and low-carbon land transport network. Acknowledging the statutory autonomy of Waka Kotahi to determine the National Land Transport Programme (NLTP), the government is asking that projects in the Strategic Investment Programme be given particular consideration during NLTP development, given their alignment and potential impact on the wider government priorities outlined in GPS 2024.

As you know, there are significant cost pressures facing the sector and greater demands to deliver the infrastructure necessary to achieve the government's development, emissions and resilience objectives. In keeping with that, the Expectations section of the draft GPS 2024 focuses on how to get the most from the funding that is available. This includes:

- Ensuring value for money and maximising available revenue sources
- investment prioritisation and reporting on performance expectations
- building back better so that investment in maintenance and renewals is fit for the future (not just replacing like for like)
- investing in sector capability to lift planning and investment performance
- Making an appropriate contribution to the Government's climate change objectives through the NLTP

Finally, I suggest that it would be useful for you and me to meet to discuss the draft GPS 2024 before Waka Kotahi finalises its feedback. I suggest we do this at 12:15pm on 23 August 2023.



IN CONFIDENCE

I will then look forward to receiving the Board's formal feedback by 15 September 2023.

Yours sincerely

Hon David Parker  
**Minister of Transport**

cc

Nicole Rosie ([Nicole.Rosie@nzta.govt.nz](mailto:Nicole.Rosie@nzta.govt.nz))

Audrey Sonerson ([A.Sonerson@transport.govt.nz](mailto:A.Sonerson@transport.govt.nz))

Tim Herbert ([t.herbert@transport.govt.nz](mailto:t.herbert@transport.govt.nz))

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IN CONFIDENCE

23 August 2023

OC230746

**Hon David Parker****Action required by:****Minister of Transport**

Tuesday, 29 August 2023

## **ANNUAL REPORT ESTIMATES MEASURE FOR MINISTERIAL SATISFACTION**

### **Purpose**

Seeks your decision on whether the Ministry should approach the former Minister of Transport, Hon Wood, to complete Ministerial satisfaction surveys for the Ministry's 2022/23 Annual Report.

### **Key points**

- The Ministry has three 2022/23 Ministerial satisfaction Estimates measures relating to the quality of policy, governance and board appointments advice. The Ministry usually reports on these measures through annual Ministerial satisfaction surveys.
- The Ministry's approach is to survey the Minister of Transport and/or Associate Minister of Transport if they have held their portfolio for more than four months.
- With the recent changes in the holder of the Minister of Transport portfolio, we have not had a Minister of Transport that we can survey for 2022/23.
- We had requested that the Associate Minister of Transport, Hon Allan, complete the surveys however, Hon Allan ceased to hold her portfolio before the surveys had been completed.
- We have provided evidence to Audit New Zealand for the above circumstances.
- However, Audit New Zealand have advised that they may have to give the Ministry a qualified audit opinion if the surveys are not completed (they consider the surveys to be particularly important for us as we are largely a policy agency).
- The option that Audit New Zealand have suggested, is that we approach the former Minister of Transport, Hon Wood, and ask him to complete the surveys for the period in 2022/23 that he was the Minister of Transport.

**Recommendations**

We recommend you:

1 **advise** the Ministry if you:

- (a) agree that the Ministry approach of the former Minister of Transport, Hon Wood, to complete the Ministerial satisfaction surveys for the period in 2022/23 that he was the Minister of Transport. Yes / No



Robyn Smith  
Deputy Chief Executive, Corporate  
Services

Hon David Parker  
Minister of Transport

..... / ..... / .....

23/ 08 / 2023

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

**Comments****Contacts**

Name	Telephone	First contact
Robyn Smith, Deputy Chief Executive	s 9(2)(a)	
Hilary Penman, Manager Ministerial Services		✓

24 August 2023

OC230433

**Hon David Parker****Action required by:****Minister of Transport**

Monday, 4 September 2023

## **OUTCOME OF THE CONSULTATION ON MOVING TO THE EURO 6/VI NOXIOUS EXHAUST EMISSIONS STANDARDS**

### **Purpose**

To seek your approval of changes to finalise the phase-in of the Euro 6/VI noxious exhaust emissions standards. The changes respond to issues raised in the consultation on the draft Land Transport Rule: Vehicle Exhaust Emissions Amendment 2023<sup>1</sup> (the amendment Rule).

### **Key points**

- Each year, more than 2,200 New Zealanders prematurely die and nearly 9,400 are hospitalised due to respiratory and cardiac illnesses caused by noxious emissions from motor vehicles. Globally, exhaust emissions standards are a key tool to reduce harm.
- The Euro 6/VI standards require imported vehicles to produce less noxious emissions than the previous European standards. They have proven to be effective in reducing the large discrepancy between the level of emissions emitted when vehicles are tested under laboratory conditions, and the much higher level when driven in the real-world.
- New Zealand and Australia are the only remaining developed countries to not require modern exhaust emissions standards to the level of Euro 6/VI or their equivalents. Australia has regulated Euro VI-c for heavy vehicles from 1 November 2024 and will soon be taking decisions on the date Euro 6d will be required for light vehicles.
- Public consultation occurred over 11 May–22 June 2023 and revealed strong support for phasing-in the Euro 6/VI emissions standards. However, support from the vehicle industry, the Automobile Association, and the road freight industry is conditional on our shift to Euro 6/VI aligning with Australia's. While Australia is yet to confirm final policy, current indications are that for new light vehicles this would delay the shift by 29 months compared to the dates we consulted on. For heavy vehicles alignment would mean the standard stays at Euro VI-c in 2026, rather than further strengthening to Euro VI-e.
- While there are conflicting views, the predominant one is that moving to Euro 6/VI ahead of Australia will unnecessarily expose New Zealand to vehicle supply disruptions and cause price increases greater than they would otherwise have been. If this were to occur the number of Euro 6/VI vehicles entering the fleet would be reduced eroding the public benefit of the reform. It could also disrupt the significant progress being achieved by the new vehicle industry in shifting to zero and low carbon vehicles.

<sup>1</sup> This draft Rule amends Land Transport Rule: Vehicle Exhaust Emissions 2007.



- We have considered either progressing the amendment Rule's phase-in or aligning with Australia. Aligning has the potential to forego a net benefit of around \$322–\$334 million. However, we have not been able to quantify how much of this value will likely be eroded by the supply and price risks submitters identified. Given the uncertainty we recommend aligning with Australia.
- A consequence of aligning with Australia is that Euro 6d would be required for both new and used-import light vehicles in 2028. However, we do not consider it necessary to alter the proposed phase-in for used-imports as it has a high level of support and the feedback is that importers will continue to have sufficient options to maintain supply.
- In the event that the Australian Government subsequently decides not to proceed with Euro 6d for light vehicles, we will update you with new options to consider prior to the relevant adoption dates.

## Recommendations

We recommend you:

- |   |   |          |
|---|---|----------|
| 1 | <b>agree</b> to amend the phase-in set out in the draft Land Transport Rule: Vehicle Exhaust Emissions Amendment 2023 (the amendment Rule) in line with requests from the vehicle industry that the dates and stages of Euro 6/VI align with Australia's so that: | Yes/No   |
|   | <ul style="list-style-type: none"> <li>• Euro 6d be required for newly approved light vehicle models from 1 July 2025 or 1 July 2027, depending on the date chosen by the Australian Government, rather than on or after 1 February 2025</li> </ul>               | Yes/No   |
|   | <ul style="list-style-type: none"> <li>• Euro 6d be required for new existing light vehicle models from 1 July 2028 rather than on or after 1 February 2026</li> </ul>  | Yes/No   |
|   | <ul style="list-style-type: none"> <li>• Euro VI-c remain the exhaust emission standard for heavy vehicles on or after 1 November 2026 rather than strengthening to Euro VI-e at that date</li> </ul>   | Yes/No   |
| 2 | <b>agree</b> to reconsider the heavy vehicle standard for the post 2026 period when the Japanese and United States' standards, currently equivalent to Euro VI-c, strengthen to be equivalent with Euro VI-e  | Yes/No   |
| 3 | <b>agree</b> to change the application date for Euro 6d for used-imports from 1 January 2028 to 1 July 2028 to align with new vehicles  | Yes / No |
| 4 | <b>agree</b> to limit the potential for the compliance date for Euro 6d for imported used-disability vehicles to cause transport disadvantage for disabled people by extending it from 1 January 2028 to 1 January 2031   | Yes / No |
| 5 | <b>agree</b> to proceed with the amendment Rule's proposed phase-in of Euro 4 and subsequently Euro 5 for motorcycles and mopeds  | Yes / No |
| 6 | <b>agree</b> to the amendments outlined in Annex 2 that make minor technical changes and correct drafting errors  | Yes / No |
| 7 | <b>agree</b> that the amendment Rule be redrafted and finalised in line with the decisions above  | Yes / No |

- 8 **note** the previous Minister of Transport informed the Cabinet Economic Development Committee that there would be a report back to Cabinet if material changes are needed to the amendment Rule following public consultation
- 9 **note** that we consider the changes proposed in this briefing to be material
- 10 **advise** officials of whether you prefer to progress the finalised amendment Rule by:
- seeking Cabinet's endorsement of the final amendment Rule prior to your signing and publication in the New Zealand Gazette Yes / No
- OR**
- instructing officials to present the final amendment Rule for your signing and publication in the New Zealand Gazette Yes/No
- 11 **agree** that the finalisation of the amendment Rule be prioritised so it can be signed and published prior to the October 2023 General Election. Yes / No



Matt Skinner  
Manager Environment and Emissions  
Policy Design

22 / 08 / 2023

Hon David Parker  
Minister of Transport

..... / ..... / .....

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

Comments

#### Contacts

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Gayelene Wright, Principal Adviser		
Sigurd Magnusson, Senior Adviser		

## OUTCOME OF THE CONSULTATION ON MOVING TO THE EURO 6/VI NOXIOUS EXHAUST EMISSIONS STANDARDS

### In May 2023 the Government agreed to consult on a phase-in of Euro 6/VI

- 1 Noxious emissions from motor vehicles are annually responsible for more than 330,000 restricted activity days<sup>2</sup>, nearly 9,400 hospitalisations and 2,200 premature deaths<sup>3</sup>. Monetised the harm is estimated to be \$10.5 billion each year, which is around \$2.5 billion higher than the annual social cost of road crashes.
- 2 Globally, vehicle emissions standards are used to reduce noxious emissions. These standards set the maximum limits for exhaust emissions and effectively are the minimum emissions standards that vehicles must meet to enter the fleet.
- 3 To strengthen our emissions standards, in 2021 Cabinet agreed to amend the Land Transport Rule: Vehicle Exhaust Emissions 2007 by the end of 2022 to require Euro 6 for light vehicles entering the fleet. This decision was expanded in the First Emissions Reduction Plan to include Euro VI for heavy vehicles. Although the proposal refers to the Euro 6/VI standards, it includes the equivalent United States and Japanese standards.
- 4 The Euro 6/VI standards require imported vehicles to produce less noxious emissions than the previous European standards. They have proven to be effective in reducing the large discrepancy between the level of emissions emitted when vehicles are tested under laboratory conditions, and the much higher level when driven in the real-world. They do this through improved on-road testing and stronger on-board diagnostic requirements in vehicles.
- 5 On 3 May 2023 the Cabinet Economic Development Committee agreed to publicly consult on a phase-in of the Euro 6/VI emissions standards over 2024–2028. This phase-in is set out in Annex 1, with the key dates being:
  - 1 November 2025 for all heavy vehicles, both new and used, to meet Euro VI-c. The standard would then strengthen to Euro VI-e from 1 November 2026
  - 1 February 2025 for newly approved light vehicle models to meet Euro 6d and 1 February 2026 for new existing light vehicle models
  - 1 January 2027 at the latest for all motorcycles and mopeds (new and used) to meet Euro 5. Globally Euro 5 is currently the strictest standard
  - 1 January 2028 at the latest for all used light vehicles, including disability vehicles, to meet Euro 6d. Before this date, used light vehicles would shift from Euro 4 to Euro 5 six months after the amendment Rule is published in the New Zealand Gazette.
- 6 The DEV Committee noted that following public consultation the Minister of Transport would not report back to Cabinet unless material changes are needed to the

<sup>2</sup> A restricted activity day is one in which a person due to exposure to air pollution does not feel well enough to go to work, school or undertake their normal activities.

<sup>3</sup> The 2022 Health and Air Pollution in New Zealand report.

amendment Rule. This is the procedure for ordinary Transport Rules under section 161 of the Land Transport Act 1998. The amendment Rule showing the amendments needed to enact the proposed phase-in accompanied the consultation document.

**There is a high level of support for Euro 6/VI but the vehicle industry wants our shift to Euro 6/VI to align with Australia's**

- 7 The consultation focused on whether the amendment Rule's phase-in is reasonable and feasible for the industry and vehicle consumers. This focus reflected the inherent trade-off with strengthening the emissions standards. This is that the health benefits are maximised by requiring Euro 6/VI as soon as possible. However, moving too fast risks disrupting vehicle supply, increasing vehicle prices, and slowing down the entry of cleaner vehicles that reduce the health harm.
- 8 Public consultation, run by Te Manatū Waka, commenced on 11 May 2023 and ended on 22 June 2023. During this period we held five information sessions on different aspects of the phase-in. The consultation we have undertaken satisfies the Land Transport Act's 1998 consultation requirements for ordinary Transport Rules.
- 9 Seventy-seven submissions were received of which 34 were from private individuals. The rest were from the vehicle industry, representatives of vehicle users including the road freight industry, local government, health and air quality professionals, representatives of disabled people, and walking and cycling advocates.
- 10 All but one of the submissions from private individuals favoured either proceeding with the proposed phase-in or bringing forward implementation. Similarly, submissions from health and air quality practitioners, walking and cycling advocates, local government, Consumer NZ and Fonterra all support the proposed phase-in, with the majority favouring a faster implementation.
- 11 Submissions from the vehicle industry, the road freight industry, the Automobile Association of New Zealand, and representatives of disabled people also support requiring Euro 6/VI. However these submitters seek changes to the amendment Rule's phase-in, with the most significant one being to align our shift to Euro 6/VI with Australia's.

**The Australian timeline for phasing in Euro 6/VI**

- 12 Australia has already regulated Euro VI for heavy vehicles. The Euro VI-c standard will apply from 1 November 2024 for newly approved models, and from 1 November 2025 for existing models. The amendment Rule's phase-in aligns with Australia until 1 November 2026 when the standard would strengthen further to Euro VI-e.
- 13 For light vehicles the Australian Government has consulted on proposed dates but is yet to take its final decisions on the timeline for Euro 6d. However, the proposal it will soon be considering is for Euro 6d to apply to newly approved models from either 1 July 2025 or 1 July 2027, and to existing models from 1 July 2028.
- 14 In comparison, our amendment Rule requires Euro 6d for newly approved models from 1 February 2025 and from 1 February 2026 for existing models. Based on the date for existing models, the difference between our proposals is up to 29 months.



**Alignment with Australia would avoid the risk of disrupting new vehicle supply and minimise price increases**

- 15 Submitters advocate for alignment to avoid restricting new vehicle supply and to minimise increases in vehicle prices and compliance costs. They emphasise that these outcomes will likely slow the rate of fleet renewal resulting in fewer new Euro 6/VI vehicles entering the fleet. If this happens the potential health benefits from the shift to Euro 6/VI will be lower.
- 16 For example, la Ara Aotearoa, representing the road freight industry, submitted that its members' heavy vehicle fleet replacement strategies depend largely on vehicle supply and cost, with fleet capital costs being around 10–15 percent of total transport costs. In its view moving ahead of Australia would unnecessarily place pressure on heavy vehicle supply, slow vehicle fleet replacement and raise freight costs.
- 17 The key obstacle in moving ahead of Australia relates to the production, supply and timing decisions of overseas vehicle manufacturers where:
- for volume brands like Toyota, Mitsubishi, Suzuki and Isuzu, production costs are minimised by building vehicles to the specifications regulated in the destination markets. As Australia and New Zealand regulate Euro 5, Euro 6 vehicles with better but more costly emission technologies are not supplied, and our vehicles are manufactured and supplied from the same plants
  - the timeframes between vehicle distributors ordering vehicles and those vehicles being scheduled, produced and dispatched for New Zealand can be as long as two years.
- 18 Having our market supplied as part of the Australian market has entrenched over time because we have benefited from the arrangement. It has afforded our small market a priority for supply that it would not otherwise have. This has resulted in a steady supply of new vehicles with a wider range of model choices and price points.
- 19 The Motor Industry Association (MIA) submitted that supply shortages are likely if we move ahead of Australia because most distributors would be forced to:
- seek alternative supply of Euro 6d/VI-e compliant vehicles from plants manufacturing for left-hand drive countries<sup>4</sup>, other than Australia. For some distributors this would mean vehicle volumes are not guaranteed and prices could be higher. Some distributors could face periods of no alternative supply and the potential removal of some models from our market
  - request their associated manufacturers to supply vehicles specifically for our market. This would spread the full cost of Euro 6/VI compliance (re-engineering, re-design, manufacturing facility tooling changes, and vehicle type approval costs<sup>5</sup>) across New Zealand volumes only, resulting in higher costs per vehicle. This could lead to some vehicle models no longer being competitive on our market resulting in withdrawal.

<sup>4</sup> That is manufacturing right-hand drive vehicles that will be driven on the left-hand side of the road.

<sup>5</sup> Type approval describes the process applied by national authorities to certify that a model of a vehicle meets all safety, environmental and conformity of production requirements before authorising it to be placed on the vehicle market.

**Not all vehicle distributors advocate for alignment because their supply is not reliant on Australia**

20 Some vehicle distributors are not supplied as part of Australia and do not advocate for alignment. These distributors are:

- Ford, which decoupled its supply from Australia over the past two-years enabling it to offer Euro 6 vehicles. For the first six months of 2023, almost 35 percent of Ford's light passenger vehicle registrations were Euro 6. However, the standard is less common among Ford's light commercial vehicles, with only 7 percent of registrations being Euro 6
- Scania, which customises its heavy vehicles to suit client need. This includes offering a choice of Euro V or Euro VI vehicles. Scania can do this because its manufacturing plants are more flexible than those of other manufacturers. Over 2022 it supplied 7 percent of the new heavy vehicles that entered the fleet with almost 58 percent of them being Euro VI vehicles.

**Fonterra sees moving to Euro VI as part of its commitment to sustainability**

21 Similarly, unlike others in road freight, Fonterra supports the proposed phase-in. It sees the shift to Euro VI as part of its commitment to community and environmental sustainability. Thirty-five of its current fleet of 156 high productivity milk tankers are Euro VI vehicles. From the next financial year, all new tankers coming into its fleet will be Euro VI.

**We have reassessed the risks, costs and benefits and recommend aligning with Australia**

22 If there were no supply and price risks, we estimate that delaying the shift to Euro 6d for new light vehicles by 29-months, to align with Australia, would result in a foregone net benefit<sup>6</sup> of around \$322–\$334 million. Most of this relates to the foregone health benefits from reduced noxious emissions from light diesel vehicles.

23 However, while there are conflicting views, the predominant one is that there would be significant supply and price risks in moving ahead of Australia. Most, but not all, new vehicle distributors will likely face supply disruptions to some degree, which would likely place upward pressure on new vehicle prices and slow-down the rate at which we benefit from Euro 6d.

24 Officials are not privy to the industry information that would be needed to estimate the size of the likely reduction in the number of new Euro 6d vehicles entering the fleet. Most vehicle distributors submit that the slow-down would be sizable enough to greatly diminish the benefit from the reform. However, the vehicle industry made similar comments as part of consultation on the Clean Car Standard and Discount that did not eventuate.

25 The risk of price increases from disrupted supply would be additional to the rise from the increased manufacturing cost of Euro 6/VI vehicles. The need to minimise this price increase is more critical than we advised in the May 2023 Cabinet paper because our commissioned estimates were understated. As well, evidence from the

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<sup>6</sup> Net benefit is the monetised value of the forego health benefits minus the avoided costs.

European Union's evaluation of the introduction of Euro 6/VI suggests that we can expect to see the increased manufacturing costs to flow through into retail prices<sup>7</sup>.

- 26 Compared to our commissioned estimates, information from the MIA and the European Union<sup>8</sup> suggests more reliable estimates of the increase in per vehicle manufacturing costs are as follows.
- For a Euro 6d petrol vehicle \$300–\$4,000 depending on make and model. Our estimate was \$300.
  - For a Euro 6d diesel vehicle \$2,700–\$5,000 depending on make and model. Our estimate was \$900.
  - For Euro VI heavy vehicles, \$4,000–\$5,000 for small heavy trucks and \$8,000–\$20,000 depending on make and model for large ones. Our estimate was \$4,000.
- 27 To maintain the value of the net benefit we can derive from Euro 6/VI we recommend aligning our phase-in with Australia's. Alignment will avoid the risk of supply disruptions and offers a way to minimise the likely price increases from Euro 6d as production and type approval costs will be able to be spread over a larger volume of vehicles.
- 28 Alignment will also help minimise compliance costs for new vehicle distributors as they will have more time to plan ahead for the change. The MIA submitted that its members need a 24-month notice period prior to the adoption of Euro 6d to allow for industry production planning timeframes.
- 29 Moreover, alignment avoids disrupting the significant progress being achieved by the new vehicle industry in shifting to zero and low carbon vehicles. This transition could prove to have a greater impact on reducing noxious emissions than the exhaust emission standards. In the first half of 2023, over a third of all new vehicles that entered New Zealand, were a hybrid or an EV. These vehicles emit lower levels of noxious emissions with EVs having zero tailpipe emissions.

**For heavy vehicles the impact of staying at Euro VI-c in 2026 would be limited until the Japanese and United States standards strengthen**

- 30 Alignment would mean the standard for heavy vehicles would remain at Euro VI-c in 2026 rather than strengthening to Euro VI-e. The amendment Rule proposed Euro VI-e as European evidence shows it is superior to Euro VI-c in reducing noxious emissions when heavy vehicles are driven in urban areas<sup>9</sup>. Urban areas are where the impact of noxious emissions on human health is greatest.
- 31 The issue is that Euro VI-c vehicles stay within the Euro VI emission limits when driven at steady high speeds, however, they exceed the limits when driven at slower and variable speeds. To rectify this, Euro VI-e uses a more stringent on-road test that mimics what occurs with urban driving.

<sup>7</sup> <https://www.transport.govt.nz/assets/Uploads/European-Commission-Euro6vi-evaluation-study-ET0722939ENN-Oct-2022.pdf>

<sup>8</sup> <https://www.transport.govt.nz/assets/Uploads/European-Commission-Euro6vi-evaluation-study-ET0722939ENN-Oct-2022.pdf>

<sup>9</sup> <https://op.europa.eu/en/publication-detail/-/publication/a9a2eadb-5f1d-11ed-92ed-01aa75ed71a1/language-en>

- 32 However, foregoing the shift to Euro VI-e in 2026 may have little impact on the level of benefit foregone at least initially. This is because with the amendment Rule's phase-in the Japanese and United States standards recognised as equivalent to Euro VI-c, will also be recognised as equivalent to Euro VI-e in 2026. This means that even if we regulated Euro VI-e in 2026, the actual minimum standard would remain at Euro VI-c.
- 33 It is not known when the Japanese and United States standards will strengthen to become equivalent with Euro VI-e. However, when this happens it will be desirable to reconsider the heavy vehicle standard for the post 2026 period. This reflects that across the vehicle fleet the emissions standard applying to heavy vehicles is the most critical because:
- while these vehicles only account for 7 percent of the vehicle kilometres travelled, they are responsible for 32 percent of particulate matter and 37 percent of nitrogen oxides
  - for light vehicles the low carbon transition provides significant co-benefits in reducing noxious emissions, with EVs providing cleaner air than even the latest Euro 7/VII standards as they do not produce any tailpipe emissions. Unfortunately for heavy vehicles, with the exception of buses, the technologies to transition are not yet as readily available or affordable.

**What if the Australian Government decides not to move to Euro 6d for light vehicles?**

- 34 Until the Australian Government takes its final decisions on Euro 6d for light vehicles the timeline will not be completely certain. The advice from Australian officials to date is that Euro 6d is on the policy agenda and there is no indication that it will not proceed.
- 35 Nevertheless, to manage the uncertainty we will continue to engage with Australian officials on the progress with Euro 6d. If the Australian Government subsequently decides not to proceed with Euro 6d for light vehicles, we will update you with new options to consider.

**The VIA's support for the Euro 6/VI phase-in is conditional on the recognition of weaker equivalent standards**

- 36 The Imported Motor Vehicle Industry Association (VIA) representing used vehicle importers and dealers also agree with the need to reduce noxious vehicle emissions. However, its support of the proposed phase-in of Euro 6/VI is conditional on three changes being made to the Japanese standards recognised as equivalent to Euro 5 and Euro 6d.
- 37 The most significant change concerns the Japanese standard for petrol vehicles recognised as equivalent to Euro 5 that would apply over 2024–2027. Over this period, the equivalent Japanese standard we propose is Japan 2005 Low Harm. However, VIA submits that the equivalent standard should be the weaker Japan 2005.



- 38 While neither standard is still in use in Japan, Japan 2005 Low Harm was stricter than Japan 2005 as:
- from 1 January 2012 it used the more accurate JC08 test procedure for assessing vehicle performance and emissions rather than the unreliable J10/15 test. To fully realise this benefit, the definition of Japan 2005 Low Harm we propose using includes the condition that vehicles must be first registered from 1 January 2012
  - it required a 75 percent reduction in emissions of nitrogen oxides relative to the levels of Japan 2005.
- 39 VIA submit that the weaker Japan 2005 standard should apply because it was the equivalent Japanese standard when the new vehicle industry shifted to Euro 5 in 2008. The application of Japan 2005 Low Harm in 2024 would effectively impose an age-ban of 12 years. The age-ban would weaken to be 15 years in 2027 before another age-ban of 10 years is imposed in 2028 by the shift to Japan 2018 Low Harm, which is the proposed equivalent to Euro 6d.
- 40 In our view Japan 2005 Low Harm is the preferred equivalent standard for Euro 5. The JC08 test it used is similar to the New European Drive Cycle (NEDC) test that was used for Euro 5. In comparison, the emission values and testing procedures the Japan 2005 standard used are closer to those of Euro 4. This is confirmed in Japanese government documentation<sup>10</sup>.
- 41 The age-ban that Japan 2005 Low Harm will cause is unlikely to result in supply constraints, or price increases, as 85 percent of used-imports already meet this standard. This partly reflects that an average used-import vehicle is around 10 years old.
- 42 The second change VIA seek concerns the Euro 5 equivalent standard for light diesel vehicles. VIA submits that Japan 2005 should be the equivalent standard, rather than the stronger Japan 2009. However, Japanese government documentation shows that Japan 2005 was not equivalent to Euro 5 as its testing procedure was less reliable and its emission limits were higher. For example, its particulate matter limits were three times higher than those of Euro 5 and Japan 2009.
- 43 VIA's third significant change relates to the definition of Japan 2018 Low Harm, which while weaker than Euro 6d is the closest Japanese equivalent. The VIA would like the standard's definition to be widened to include specific emission codes. These codes would allow vehicles with higher emission limits to be certified for entry. We reject VIA's suggestion, as it would make the Japanese standard a far weaker equivalent of Euro 6d. As well, we are satisfied that in 2028 there will be good volumes of vehicles manufactured to the Japan 2018 Low Harm standard available for import.
- 44 Our rejection of VIA's suggestions on the equivalent Japanese standards is consistent with the view of Consumer New Zealand, the Automobile Association, the Motor Trade Association and the MIA. All these submitters support the proposal for used-imports, including the consequential age-bans. For example, MTA considers that the age-ban in 2024 will be beneficial as the performance of emission control systems deteriorate as vehicles age.

<sup>10</sup> <https://www.env.go.jp/en/air/aq/mv/vehicle-fifth.pdf>

### **Aligning with Australia would mean all light vehicles shift to Euro 6 in 2028**

- 45 A consequence of aligning with Australia is that both new and used-import light vehicles would be required to shift to Euro 6d in 2028. This contrasts with the amendment Rule where used-imports shift two years after new vehicles.
- 46 We considered pushing out the date for used-imports to 2030 but concluded the dates for new and used can be aligned to July 2028 because:
- used-vehicle importers can easily adjust the specification of the vehicles they buy to sell in New Zealand. This is because they source their vehicles globally from any vehicle auction selling right-hand drive vehicles. The likely source markets of Japan, the United Kingdom, Ireland and Singapore have required Euro 6/VI or its close equivalent for a number of years
  - the 2028 timeline has a high-level of support among submitters. VIA is the exception, with its support conditional on the recognition of weaker Japanese standards.
- 47 Nevertheless, to align the commencement months in 2028 we recommend the amendment Rule's phase-in for used-imports proceed with a change to the application date for Euro 6d from 1 January 2028 to 1 July 2028.

### **We recommend extending the timeframe for disability vehicles to avoid increasing transport disadvantage**

- 48 Submissions from people in the disability sector support the shift to Euro 6/VI. However, all submitted that the current proposal to require Euro 6d (or the equivalent Japanese standard: Japan 2018) from 1 January 2028 for used-imported disability vehicles<sup>11</sup> will increase transport disadvantage. This is because it will force people to buy newer vehicles that tend to be more expensive.
- 49 This issue arises because the Toyota Hiace Welcab, currently the most cost-effective vehicle for people needing wheelchair assistance, only started being manufactured to the Japan 2018 standard for the Japanese domestic market in 2020. If we require this standard from 1 January 2028, people who can not afford new vehicles face the financial challenge of buying a used-import Hiace Welcab that is 8 years old and younger<sup>12</sup>.
- 50 The Disabled Persons Assembly submitted that this will be too challenging for people who are not eligible for ACC funding. The disability vehicles that these people buy are typically 10–12 years old. While some people receive Lottery grants of up to \$40,000, successful applicants would need to contribute an additional \$5,000–\$25,000 to purchase a vehicle. More importantly, only one-third of the applications for Lottery grants for disability vehicles are successful.
- 51 Although the Land Transport Act 1998 allows for case-by-case exemptions to emissions standards, this process is unlikely to mitigate the risk of Euro 6 increasing

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<sup>11</sup> These are vehicles that are modified to enable a wheelchair to safely enter and exit and enable the person using a wheelchair to be safely restrained while the vehicle is moving, and/or have a swivel or swing-out seat.

<sup>12</sup> Four to six year old Hiace Welcabs sell for around \$45,000 to \$65,000 depending on their condition.

transport disadvantage. Primarily this is because the exemption criteria Waka Kotahi use include having a successful application for Lottery Grants funding.

- 52 To avoid further entrenching transport disadvantage, we recommend extending the date for imported used-disability vehicles to be compliant with Japan 2018 from 1 January 2028 to 1 January 2031. This would ensure compliant 11-year-old vehicles would be available to buy in 2031. The impact the proposed extension would have on noxious emissions is negligible as disability vehicles are only 0.13 percent of the vehicle fleet.

#### **Application to motorcycles and mopeds**

- 53 Submitters supported the amendment Rule's phase-in of Euro 4 and subsequently Euro 5 for motorcycles. Similarly, all but the MIA supported application to mopeds. The MIA submitted that it expects the choice and availability of low-cost mopeds to be severely restricted by the introduction of emissions standards as they are unlikely to be re-engineered just for the New Zealand market.
- 54 We are not convinced by MIA's submission as it conflicts with other available information. Mopeds in major markets like the United States, China, Brazil, Japan, India, Indonesia, and the European Union are subject to exhaust emissions standards. We also understand that New Zealand's supply of motorcycles and mopeds is not tied to the Australian market as it predominantly is for new light and heavy vehicles.

#### **A number of minor technical and drafting error changes to the amendment Rule are needed**

- 55 We also recommend making the amendments listed in Annex 2 that correct drafting errors and make several minor technical changes.

#### **The Engine Fuel Specifications Regulations have to be amended before Euro 6d becomes mandatory**

- 56 As noted in the May 2023 Cabinet paper, Euro 6d petrol vehicles require fuel with lower permitted aromatic levels than New Zealand's current 45 percent. Euro 6d compliant fuel is currently in the New Zealand market because of where our fuel is sourced. However, there is no requirement for this to remain the case.
- 57 To address this, the Engine Fuel Specifications Regulations 2011 will need to be amended, before Euro 6d becomes mandatory, to lower the permitted aromatic levels in petrol from 45 percent to 32 percent. The responsibility for progressing this amendment sits with the Ministry of Business, Innovation and Employment.
- 58 With the proposed timelines there would be 18 months from the beginning of 2024 for the regulations to be updated. Work had commenced on the regulations in 2022, primarily for changes to support the Sustainable Biofuels Mandate, but this work was paused in early 2023.

#### **Next steps**

- 59 As Minister of Transport, you can make ordinary Transport Rules like the draft Land Transport: Vehicle Exhaust Emissions Amendment 2023, under Section 152 of the

Land Transport Act 1998. Consequently, you could decide on changes to finalise the amendment Rule. Once signed the amended Land Transport Rule: Vehicle Exhaust Emissions 2007 would come into effect 28 days after it is published in the New Zealand Gazette.

60 We have also previously advised that signing the final Rule would be consistent with the Cabinet office circular CO(23)1 *Government decisions and actions in the pre-election period*.

61 However, in May 2023 the Cabinet Economic Development Committee noted the previous Minister of Transport's intention to report back to Cabinet if material changes are needed to the amendment Rule following public consultation. In our view the changes proposed in this briefing are material as:

- they differ to what was consulted on
- the costs associated with Euro 6/VI were significantly under-estimated in the May 2023 Cabinet paper. Cabinet needs to be aware of this given the priority to reduce living costs.

62 If you support the changes proposed in this briefing and wish to seek Cabinet's endorsement, we will prepare a Cabinet paper and seek an updated amendment Rule from Waka Kotahi reflecting your decisions. Given the timing, there is a risk that the paper may not be able to be considered prior to the 2023 General Election.

63 While this briefing broadly covers the feedback raised in consultation, we are also preparing a comprehensive summary of the submissions received that can be provided to you and Cabinet prior to final decisions and for publishing alongside the final amendment Rule.



## Annex 1 – The amendment Rule's proposed phase-in

Table 1 - Phase-in for light vehicles

Certified for entry into service	Used Petrol CNG/LPG	Used Diesel	New Petrol, CNG/LPG	New Diesel
<b>Current requirement</b>	Euro 4 US 2004 Japan 05 ADR 79/02	Euro 4 US 2004 Japan 05 ADR 30/01+ 79/01	Euro 5 US 2007 Japan 05 ADR 79/04	Euro 5 US 2007 Japan 05 ADR 79/04
<b>6 months</b> after publication in the Gazette	Euro 5 US Tier 2 Japan 05 Low Harm ADR 79/04	Euro 5 US Tier 2 Japan 09 ADR 79/04	Euro 5 US Tier 2 Japan 05 Low Harm ADR 79/04	Euro 5 US Tier 2 Japan 09 ADR 79/04
<b>18 months</b> after publication in the Gazette	Euro 5 US Tier 2 Japan 05 Low Harm ADR 79/04	Euro 5 US Tier 2 Japan 09 ADR 79/04	<i>Newly introduced models only:</i> Euro 6d US Tier 3 Japan 2018 Low Harm	<i>Newly introduced models only:</i> Euro 6d US Tier 3 Japan 2018 (any code)
<b>30 months</b> after publication in the Gazette	<i>If manufactured before 1 January 2025</i> Euro 6d US Tier 3 Japan 05 Low Harm or Japan 2018 Low Harm  <i>If manufactured on or after 1 January 2025</i> Euro 6d US Tier 3 Japan 2018 Low Harm	Euro 6d US Tier 3 Japan 2018 (any code)	Euro 6d US Tier 3 Japan 2018 Low Harm	Euro 6d US Tier 3 Japan 2018 (any code)
<b>1 Jan 2028 at the latest</b>	Euro 6d US Tier 3 Japan 2018 Low Harm			

Table 2 - Phase-in for heavy vehicles

Certified for entry into service	Used Heavy	New Heavy
<b>Current Requirement</b>	Euro IV US 2004 Japan 05 ADR 30/01 + ADR 80/02	Euro V US 2007 Japan 05 Japan 09 ADR 80/03
<b>6 months</b> after publication in the Gazette	Euro V US Tier 2 Japan 09 ADR 80/03	Euro V US Tier 2 Japan 09 ADR 80/03
<b>15 months</b> after publication in the Gazette	Euro V US Tier 2 Japan 09 ADR 80/03	<i>Newly introduced models:</i> Euro VI stage C US Tier 3 Japan 2016 ADR 80/04
<b>27 months</b> after publication in the Gazette	Euro VI step C US Tier 3 Japan 2016 ADR 80/04	<i>Existing models:</i> Euro VI stage C US Tier 3 Japan 2016 ADR 80/04
<b>1 Nov 2026 at the latest</b>	Euro VI stage E Japan 2016 US Tier 3	

**Table 3 - Phase-in for motorcycles and mopeds**

Certified for entry into service	Used motorcycle/moped	New motorcycle/moped
<b>Current requirement</b>		None
<b>18 months</b> after publication in the Gazette		Euro 4m US 2010m Japan 2012m
<b>1 Jan 2027 at the latest</b>		Euro 5m US 2010m Japan 2016m

**Table 4 - Phase-in for used-import light disability vehicles**

Certified for entry into service	Used Petrol, CNG/LPG (Disability only)	Used Diesel (Disability only)
<b>Current Requirement</b>	Euro 4 US 2004 Japan 05 ADR 79/02	Euro 4 US 2004 Japan 05 ADR 30/01 + ADR 79/01
<b>6 months</b> after publication in the Gazette	Euro 5 US Tier 2 Japan 2005 ADR 79/04	Euro 5 US Tier 2 Japan 2005 ADR 79/04
<b>1 Jan 2028 at the latest</b>	Euro 6d US Tier 3 Japan 2018	Euro 6d US Tier 3 Japan 2018



## ANNEX 2 – Proposed technical changes and drafting error corrections

Draft Rule content	Proposed change
New Schedule 1 Tables 2A, 2B, 2C.	<p><i>Point of compliance</i></p> <p>For <b>new</b> vehicles:</p> <p>“Date of manufacture” would be adopted as the point of compliance, rather than “certified for entry into service”. This change would maintain the existing practice reflected in the current Rule and is being made in response to feedback from the vehicle industry. Tables 2A, 2B, 2C would need to be amended to reflect this change.</p> <p>For <b>used</b> vehicles:</p> <p>“Border inspection” would be adopted as the point of compliance, rather than when a vehicle is “certified for entry into service”. This amendment would change the existing practice and is being made in response to feedback from the vehicle industry.</p> <p>Having border inspection as the point of compliance would help minimise the financial impact delays can have in the weeks prior to new emissions standards coming into effect. As border inspection can occur overseas it is particularly helpful in minimising the impact of shipping delays. Shipping delays can render vehicles that were compliant with an existing standard, when purchased in Japan, to be non-compliant with a new standard and blocked from entry.</p> <p>Tables 2A, 2B, 2C, and the replaced clause 6.1 would need to be amended to reflect the change.</p> <p>To reduce any abuse, a requirement would be added that border inspection is no longer valid if performed more than four months prior to entry certification. The replaced clause 6.1 would also reflect this amendment.</p>
2.6 Part 2 amended (Definitions)	<p><i>Changes to the definitions of UNECE and EC regulations</i></p> <p>A number of amendments would be made to the definitions of the United Nations Economic Commission for Europe (UNECE) regulations and the European Commission (EC) regulations to ensure their differing requirements are not conflated. The UNECE regulations do not contain some features of the EC regulations, for example, they do not specify ‘access to vehicle repair information’. As well, some requirements are expressed slightly differently in the regulations, for instance the requirements for in-service conformity. The proposed changes to improve the clarity of the regulations are as follows.</p> <ul style="list-style-type: none"> <li>• The definitions for Euro 6/VI would refer only to the EC regulations.</li> <li>• Euro 6b would be defined as:</li> </ul> <p>Commission Regulation (EC) No 715/2007 of the European Parliament and of</p>



	<p>the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, as amended by Commission Regulation (EC) No 692/2008 of 18 July 2008, and meeting Euro 6 emissions limits set out in Annex I.</p> <ul style="list-style-type: none"> <li>• Euro VI-C would be defined as:  Commission Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines (with respect to emissions from heavy-duty vehicles and access to vehicle repair and maintenance information), together with the technical requirements of Commission Regulation 6 Land Transport Rule Draft: version 2.6 (9 May 2023) (EU) No 582/2011 of 25 May 2011, incorporating all amendments up to and including those adopted in Commission Regulation (EU) No 627/2014 of 12 June 2014.</li> <li>• Euro 6d would be defined as:  Commission Regulation (EC) No 2017/1151 of the European Parliament and of the Council of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008, and meeting the requirements of 'Euro 6d' meaning 'RDE testing against final conformity factors, otherwise full Euro 6 emission requirements.</li> <li>• Euro VI-E would be defined as:  Commission Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines (with respect to emissions from heavy-duty vehicles and access to vehicle repair and maintenance information), together with the technical requirements of Commission Regulation (EU) No 582/2011 of 25 May 2011, incorporating all amendments up to and including those adopted in Commission Regulation (EU) No 2019/1939 of 7 November 2019.</li> </ul> <p>New definitions would be added:</p> <ul style="list-style-type: none"> <li>• UNR83/07 means:  UN/ECE Regulation No. 83, uniform provisions concerning the approval of vehicles with regard to the emission of pollutants according to engine fuel requirements (E/ECE/324E/ECE/TRANS/505/Rev. 1/Add.82/Rev.4) incorporating the 07 series of amendments; or  UNR49/06(Supp.4).</li> <li>• UNR83/08 means:  UN/ECE Regulation No. 83, uniform provisions concerning the approval of vehicles with regard to the emission of pollutants according to engine fuel requirements incorporating the 08 series of amendments together with the</li> </ul>
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	<p>requirements of UN/ECE Regulation on Global RDE; or</p> <p>UNR49/07.</p> <ul style="list-style-type: none"> <li>UNR49/06(Supp.4) means:</li> </ul> <p>UN/ECE Regulation No. 49 Uniform provisions concerning the measures to be taken against the emission of gaseous and particulate pollutants from compression ignition engines and positive ignition engines for use in vehicles, incorporating all amendments up to and including Supplement 4 to the 06 series of amendments; or</p> <p>UNR83/07.</p> <ul style="list-style-type: none"> <li>UNR49/07 means:</li> </ul> <p>UN/ECE Regulation No. 49 Uniform provisions concerning the measures to be taken against the emission of gaseous and particulate pollutants from compression ignition engines and positive ignition engines for use in vehicles, incorporating all amendments up to and including the 07 series of amendments; or</p> <p>UNR83/08.</p> <p><i>In-service conformity</i></p> <p>In service conformity (ISC) testing involves emissions testing of vehicles in actual use that have driven up to 100,000 kilometres. It is done to ensure emissions systems are durable. ISC testing is a required feature of the UNECE and EC regulations and is designed to stop widespread gaming found in the global automotive industry.</p> <p>A clarification will be added to stating that ISC testing can be conducted using overseas vehicles and test facilities. The MIA were concerned that if test vehicles must be supplied from New Zealand, or if the testing must be conducted within New Zealand, the costs could be prohibitive. The Ministry had assumed testing would be undertaken overseas, in the country of manufacture, or in the much larger vehicle markets, given our very small market.</p> <p>As regulations from Japan, Australia and the United States deal with ISC testing differently, a further clarification will be added to state that irrespective of the regulation certified against, vehicles must continue to meet emissions limits for the useful life of the vehicle (which is specified in overseas regulations and is usually around 100,000 kilometres). This sets a clear and reasonable expectation that vehicles must not just meet emission limits at time of manufacture, but for a reasonable ongoing period in use.</p> <p>Example proposed drafting changes:</p> <p>To the definition of UNR83/08, add:</p> <ul style="list-style-type: none"> <li>The requirements for ISC testing specified by Paragraph 9 of UNR83/08 apply and are deemed to be met where vehicles tested were sold to and driven on roads in other countries, and where the ISC testing of such vehicles is conducted in other countries, so long as the tested vehicles belong to the same ISC vehicle model family applicable to New Zealand.</li> </ul>
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To the definition of Euro 6d (a), add (bold shows changes to earlier bullet point)

- The requirements for In Service Conformity **specified by Article 9** of EC2017/1151 apply and are deemed to be met where vehicles tested were sold to and driven on roads in other countries, and where the ISC testing of such vehicles is conducted in other countries, so long as the tested vehicles belong to the same ISC vehicle model family applicable to New Zealand, **[and so long as the Ministry of Transport is informed of test failures and remedial measures pertaining to applicable vehicles]**.

*[Explanatory note: In the UNECE context, New Zealand would be informed of overseas ISC testing failures via an international forum we are a member of called WP.29. There is no obligation in the case of European regulations for NZ to be notified.]*

Add new point 2.2(1AA) following 2.2(1A):

- Engines must satisfy relevant useful life provisions not to exceed test requirements, real world emission conformity factors, on board diagnostic system requirements and rules regarding use of auxiliary emission control devices specified in the emissions standard declared by 2.2(1A)

*[Explanatory note: the underlined text is verbatim taken from ADR80/03 and is used to clarify that a vehicle not only meet its test requirements at point of manufacturer but that ongoing requirements are.]*

#### *Definition of new model vehicles and existing model vehicles*

To improve clarity, the definitions of new model vehicles and existing model vehicles would be updated and improved. This is to ensure the Rule envisages up to a three-year period between when requirements commence for new models and when they commence for existing models This could be based on the approach used in the Australian legislation where ADR 80/04 uses the following definition in outlining applicability:

- 3.1. This vehicle standard applies to all MA, MB, MC and MD category vehicles with a gross vehicle mass greater than 3,500kg and all ME, NB, and NC category vehicles from the dates set out in clauses 3.1.1 to 3.1.2 and the table under clause 3.3 below.
- 3.1.1. 1 November 2024 for all new model vehicles.
- 3.1.2. 1 November 2025 for all vehicles.
- 3.2. For the purposes of clause 3.1.1 above, a “new model” is a vehicle model first produced with a ‘Date of Manufacture’ on or after the agreed date in that clause.

#### *Changes to the definitions of certain Japanese standards*

The definition of Japan 2012m would be updated to clarify that vehicles must be first registered, anywhere, on or after 1 January 2012. This would correct the definition, so it captures the intended group of vehicles. Without this change, older vehicles that were assessed with poorer testing procedures would be able to be

	<p>certified for entry.</p> <p>The definition of Japan 2018 would be updated to clarify that diesel vehicles must meet the RDE requirements when manufactured from January 2024. This clarification is to avoid creating a loop-hole where brand new vehicles are permitted to achieve a poorer emissions standard. Used-import vehicles will achieve this automatically due to requirements in Japanese domestic law.</p>
<p>New schedule 1 Table 2A (Light vehicles)</p>	<p>The reference to vehicle class “ME” would be removed as it was included in error.</p> <p>To improve clarity, the statement of accepted standards for used imports over the period 2026–2027 would be simplified to:</p> <p style="padding-left: 40px;">Euro 6d US Tier 3 Japan 2005 Low Harm Japan 2018 Low Harm</p> <p>For used vehicles over the period 2024–2028 Japan 2018 would be included. This recognises that the stringency of Japan 2018 is similar to Japan 2005 Low Harm, which is an accepted standard over 2024–2028.</p>
<p>New Schedule 1 Table 2B (Heavy vehicles)</p>	<p>For the Japanese and United States standards recognised as equivalent to Euro VI-c, “Japan 2016” and “US Tier 3” would be replaced with “Japan 2017” (or later) and “US 2013 (or later)”.</p>
<p>New Schedule 1 Table 2C (Disability vehicles)</p>	<p>The reference to vehicle class “ME” would be removed as it was included in error.</p> <p>For used petrol vehicles “Japan 2018 Low Harm” would be replaced with “Japan 2018”. While the latter standard is weaker, the amendment is being made to ensure that the most common disability vehicle models can continue to be imported.</p> <p>To improve readability, columns associated with brand-new disability vehicles would be removed given the dates and standards are identical to Table 2A. The title of Table 2A would be amended to state “except used-import disability vehicles”.</p>
<p>New Schedule 1 All tables as relevant</p>	<p>In line with the above changes to the definitions of the UNECE regulations and the EC regulations the following consequential amendments would be made:</p> <ul style="list-style-type: none"> <li>• In cells with Euro 6d add “UNR83/08”</li> <li>• In cells with Euro VI-c add “UNR49/06-4”</li> </ul>





## Briefing: Issue of consent under the Wildlife Act 1953 to Waka Kotahi for Mt Messenger bypass

<b>To</b>	Minister of Conservation and Minister of Transport	<b>Date submitted</b>	25 August 2023
<b>Risk Assessment</b>	High Interest from conservation groups, highway of national significance, risk arising from delayed decision	<b>Priority</b>	High
<b>Reference</b>	OC230659 (MOT) 23-B-0383 (DOC)	<b>DocCM</b>	<a href="#">DOC-7316396</a>
<b>Security Level</b>	In Confidence, legally privileged		

<b>Action sought</b>	A joint decision by the Minister of Conservation and Minister of Transport, to consent to the exercise of acts under the Government Roadway Powers Act 1989 in respect of wildlife located at Mount Messenger in accordance with section 71 of the Wildlife Act 1953.	<b>Timeframe</b>	10 working days
<b>Attachments</b>	Attachment A – Draft Consent 107349-FAU ( <a href="#">DOC-7295085</a> ) Attachment B – List of Wildlife – 107349-FAU ( <a href="#">DOC-7391134</a> ) Attachment C – Ecology and Landscape Management Plan ( <a href="#">DOC-7391075</a> ) Attachment D – Application ( <a href="#">DOC-6531572</a> )		

<b>Contacts</b>	
<b>Name and position</b>	<b>Cell phone</b>
<b>First contact</b> – Bronwyn Barnard, Acting Chief Legal Adviser, Department of Conservation	s 9(2)(a)
<b>Principal Author</b> – Chris Williams, Permissions Advisor, Department of Conservation	
<b>Brendan Booth, Chief Legal Advisor, Ministry of Transport</b>	

## Executive summary – Whakarāpopoto ā kaiwhakahaere

1. The New Zealand Transport Agency (Waka Kotahi) has begun construction of a new section of State Highway 3 bypassing Mount Messenger, called the Mount Messenger bypass (the Project).
2. Waka Kotahi is empowered (at least in part) by s 61(4) of the Government Rounding Powers Act 1989 to undertake this work.
3. In the course of construction, Waka Kotahi is expected to disturb and kill protected wildlife. To reduce those effects on the wildlife, it proposes to capture and relocate as much wildlife as it can.
4. Waka Kotahi sought — and was granted by a delegate of the Director-General on 22 December 2021 — authority under s 53 of the Wildlife Act 1953 to catch alive or kill protected wildlife as part of the Project.
5. It has subsequently transpired that the joint consent of the Minister of Conservation and the Minister of Transport is required under s 71 of the Wildlife Act in place of the authority under s 53. Under s 71, no person may act or exercise an authority under the Government Rounding Powers Act, in respect of protected wildlife, without the prior consent of the Ministers of Conservation and Transport, subject to conditions you may jointly impose.
6. Waka Kotahi now seeks consent under s 71 of the Wildlife Act for its acts in respect of wildlife as part of the Project. Consent is sought with the same conditions that applied to its s 53 authority, but with additional conditions relating to reporting.
7. You have recently approved the delegation of your decision-making powers under s 71 of the Wildlife Act for acts or exercises of authorities under the Government Rounding Powers Act in respect of protected wildlife [Briefing 23-B-0211/OC230420 refers]. However, we propose this decision be made at the Ministerial level because of the Director-General's delegate's prior decision regarding the s 53 authority, the significance of the project to Waka Kotahi (including because construction has begun) and the high level of environmental and public interest in the decision.
8. In making a decision, you must try and achieve the purposes of the Wildlife Act and the Government Rounding Powers Act to the greatest extent, including, if consent were granted, through considering the use of conditions imposed on the consent. You must then weigh the detriments to protected wildlife and the countervailing benefits of the Project in order to decide whether to grant consent on that basis.
9. This briefing sets out our advice on these matters. Waka Kotahi has also been consulted on the content of this briefing and the draft consent. We recommend you grant consent subject to the conditions set out in the draft consent that has been prepared for your consideration (Attachment A).

## We recommend that you ... (Ngā tohutohu)

		Decision
a)	<b>Note</b> where an act is performed or an authority is exercised in respect of any wildlife under an enactment listed in sch 9 of the Wildlife Act, joint consent of the Minister of Conservation and the Minister responsible for the enactment listed in sch 9 is required under s 71 of the Wildlife Act (rather than authority under s 53).	Noted
b)	<b>Note</b> Section 61(4) of the Government Rounding Powers Act (listed in sch 9 to the Wildlife Act) empowers Waka Kotahi to do all things necessary to construct and maintain State highways.	Noted

c)	<b>Note</b> Waka Kotahi has sought consent under s 71 of the Wildlife Act for acts performed in relation to wildlife as part of the Project.	Noted
d)	<b>EITHER</b> i) Grant consent to Waka Kotahi under s 71 subject to conditions as set out in attachment A; <b>OR</b> ii) Decline consent; <b>OR</b> iii) Defer making your decision until further information you consider necessary is provided, including because of amendments to the consent and conditions you propose	Yes / No  Yes / No  Yes / No
e)	If you grant consent, <b>agree</b> to delegate your joint decision-making power to amend the consent upon application by Waka Kotahi to the Director-General of Conservation and the Secretary of Transport on the terms set out in this briefing pursuant to s 44 of the Wildlife Act, s 57 of the Conservation Act 1987 and cl 5 of sch 6 to the Public Service Act 2020.	Yes / No
f)	If you grant consent as set out in attachment A: i) <b>agree</b> officials are to seek further information from Waka Kotahi regarding the translocation of striped skinks as set out in this briefing; and ii) confirm the Director-General of Conservation and the Secretary of Transport can consider whether to vary the consent in accordance with the above delegation in relation to striped skink unless they consider based on further information that decision ought to be made by Ministers.	Yes / No  Yes / No

Date: / /

Marie Long  
Deputy Director-General, National  
Operations and Regulatory Services  
For Director-General of Conservation

Date: / /

Hon Willow-Jean Prime  
**Minister of Conservation**

Date: / /

Tom Forster  
Manager — Economic Regulation  
Ministry of Transport

Date: / /

Hon David Parker  
**Minister of Transport**

## Purpose – Te aronga

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1. A joint decision is sought from the Minister of Conservation and Minister of Transport under s 71 of the Wildlife Act 1953 for consent to acts by Waka Kotahi in relation to wildlife as part of the Mt Messenger bypass project (the Project).

## Background and context – Te horopaki

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2. One of the Wildlife Act's principal purposes is the protection of wildlife. The starting point is all wildlife is absolutely protected, but that level of protection is removed to various extents on a species-by-species basis. For wildlife that remains absolutely or partially protected, hunting or killing (which is broadly defined to include taking, capturing and disturbing wildlife) is prohibited without lawful authority.
3. Lawful authority to catch alive or kill absolutely or partially protected wildlife has generally been determined by the Director-General of Conservation under s 53 of the Wildlife Act. It has since been assessed that in the case of acts in respect of absolutely or partially protected wildlife authorised by an enactment listed in sch 9 to the Wildlife Act (empowering enactment), the joint consent of the Minister of Conservation and the Minister responsible for the empowering enactment is required under s 71 of the Wildlife Act. An authority under s 53 is not a valid substitute for consent under s 71.

4. Section 71 provides:

### **Saving of other Acts**

Except where this Act otherwise provides, nothing in this Act shall derogate from any provision of any of the Acts specified in Schedule 9:

provided that, except with the prior consent of the Minister of Conservation and the Minister charged with the administration of the Act under which the act or authority is performed or exercised, and subject to such conditions as those Ministers may jointly impose, no person shall be entitled to do any act or exercise any authority under any such Act in respect of any wildlife (other than unprotected wildlife) or in respect of any land forming part of a wildlife sanctuary:

provided also that nothing in any such Act shall derogate from the provisions of paragraph (f) of subsection (1) of section 39 (which relates to the powers of rangers to enter on any land).

5. Unlike an authority under s 53, there is no explicit limit on the scope of acts in respect of wildlife that the Ministers are able to provide consent to under s 71. Consent can be granted subject to such conditions as the Ministers see fit.
6. The Government Roding Powers Act 1989 is listed in Schedule 9. It provides Waka Kotahi with powers in relation to the construction, operation and maintenance of State highways.<sup>1</sup> Given that State highway construction and maintenance is, at least in part, undertaken under the Government Roding Powers Act, a consent under s 71 of the Wildlife Act is required for any acts performed under that Act in respect of wildlife, rather than an authority under s 53.
7. Where s 71 applies, consent for the activity must be sought under that section. No other provision of the Wildlife Act applies.
8. To deal with applications for consent under s 71 for activities in relation to wildlife performed under the Government Roding Powers Act, you have determined to delegate your powers under section 71 to jointly grant or decline consent to exercises

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<sup>1</sup> Government Roding Powers Act 1989, s 61.



of authority under the Government Rounding Powers Act in respect of protected wildlife to the Director-General of Conservation and the Secretary for Transport, respectively [Briefing 23-B-0211/OC230420 refers]. This delegation was made subject to conditions to ensure decisions which are of such significant national interest, or involve such environmental, social or economic implications as warrant the power only being exercised at the Ministerial level shall be referred to Minister.

9. This application requires a decision at the Ministerial level. s 9(2)(h)

The project is also significant for Waka Kotahi (including because construction has commenced on the basis of the s 53 authority) and is subject to a high level of interest from the public and environmental groups in the decision. In particular, the Environmental Law Initiative has commenced a proceeding against the Director-General of Conservation challenging the lawfulness of the s 53 authority.

### **Background to the Mount Messenger bypass**

10. Waka Kotahi has begun construction of a section of road 6 kilometres long between Uruti to Ahititi that will alter the line of State Highway 3 in northern Taranaki, bypassing Mount Messenger, called the Mount Messenger bypass.
11. In undertaking the Project, Waka Kotahi is expected to disturb and kill protected wildlife (the lizard, frog, bat and bird species listed in Attachment B). Waka Kotahi requires consent under s 71 of the Wildlife Act when it is doing an act in relation to wildlife under the Government Rounding Powers Act.
12. Decisions on resource consents and a recommendation in respect of a notice of requirement to alter the State Highway 3 designation were made in 2018. The independent commissioner's decision was to grant the consents and to confirm the designation, subject to conditions. Those decisions were appealed to the Environment Court, by DOC, Te Rūnanga o Ngāti Tama Trust, Te Korowai Tiaki o Te Hauauru Incorporated, and Poutama Kaitiaki Charitable Trust and D and T Pascoe. The Court issued an interim decision in 2019,<sup>2</sup> which was appealed to the High Court, and dismissed in 2020.<sup>3</sup> The Environment Court issued a final decision in 2021.
13. The Environment Court considered ecological effects of the Project. While the Resource Management Act 1991 (RMA) includes a number of relevant considerations, such as the preservation of the natural habitats of indigenous fauna, wildlife protection is not directly within the purpose of the RMA. The RMA allows local authorities to authorise damage to habitat of wildlife, but local authorities cannot authorise harm to wildlife.
14. On 21 December 2020, DOC received an application from Waka Kotahi under s 53 of the Wildlife Act, for authorisation to catch alive and kill protected species of wildlife.<sup>4</sup> Authority was subsequently granted on 22 December 2021 by a delegate of the Director-General under s 53, and conditions were imposed. Submitted with the application was an ecology and landscape management plan (ELMP) (Attachment C is an updated version for the purpose of this application for consent under s 71, discussed below), which considered the effects on wildlife and the proposed management of wildlife, including to mitigate the effects on wildlife. Although the RMA

<sup>2</sup> *Director-General of Conservation v Taranaki Regional Council* [2019] NZEnvC 203.

<sup>3</sup> *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* [2020] NZHC 3159.

<sup>4</sup> Wildlife Act 1953, s 63.

and the Wildlife Act require different considerations, to the extent they overlap, consideration of measures designed to protect wildlife have been part of the same conversation between DOC and Waka Kotahi. Works have now commenced.

15. In light of the position outlined above in respect of s 71, Waka Kotahi now seeks consent under s 71 of the Wildlife Act (Attachment D is a copy of its application under s 53, which it has resubmitted as setting out the scope of its s 71 application). Consent is sought on the same conditions that applied to its s 53 authority, but with additional conditions relating to reporting and in relation to the ability to deviate from the ELMP and Consent conditions, subject to approved technical advice from the Department of Conservation, when authorised methods need amending to adapt to unforeseen conditions in the wild.
16. Waka Kotahi seeks consent under s 71 to “protect and manage native fauna during the Project’s vegetation clearance and earthworks, requiring authority to:
  - catch and handle certain bats, avifauna and herpetofauna [including up to 40 North Island Brown Kiwi];
  - take or destroy the eggs of wildlife (avifauna) – when unavoidable; attempts will be made to relocate nests in the first instance or take chicks to an appropriate wildlife rearing/rehabilitation provider;
  - kill wildlife (bats, avifauna, herpetofauna) when unavoidable following implementation of protocol within the Project’s ELMP and after applying good/best practice methods; and
  - tagging kiwi with radio transmitters for monitoring and management...”.
17. As part of the Project, Waka Kotahi also proposes to address potential residual adverse ecological effects, which includes restoration planting, wetland restoration planting, riparian margin restoration and pest management over an area of 3,650 ha. This is intended to reduce pests (deer, goats, feral pigs, possums, mustelids, and rats) to low levels. These activities are not captured by this application for consent under s 71.
18. Waka Kotahi have requested the consent to extend until 10 January 2031 to allow sufficient time for the Project to be completed.

### **Consent under s 71 for the Mount Messenger bypass**

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#### ***Decision-making framework***

19. Through s 71, the prohibition in the Wildlife Act on hunting and killing absolutely or partially protected wildlife does not apply to acts exercised in respect of wildlife as part of the Project that are performed under the Government Roding Powers Act. However, in place of those protections, Waka Kotahi requires your joint consent to undertake these activities. In doing so, you both have an equal role to play in making that decision. You must both exercise individual judgement as to whether or not to join with the other Minister in consenting to the application.
20. In determining whether to provide consent, you are essentially deciding whether the Project ought to proceed notwithstanding the effects on wildlife taking into account the impact of conditions that may be imposed. In making that decision, the purposes of the Wildlife Act and the Government Roding Powers Act must be achieved to the greatest extent possible.
21. You must also give effect to the Treaty of Waitangi. This is discussed below under the heading “Treaty Principles”.



22. The relevant purpose of the Wildlife Act is to protect wildlife, broadly defined to include any mammal, bird, reptile, amphibian and specified invertebrates and marine species living in a wild state. It will not be possible for the Project to occur while achieving the purpose of absolutely protecting wildlife in terms of preventing any “hunt[ing] or kill[ing]” of wildlife as that term is broadly defined in the Wildlife Act. Instead, if the Project is to proceed, the focus must be on protecting wildlife to the greatest extent possible through avoiding, mitigating or minimising harm and disturbances to wildlife.
23. The purpose of the relevant provisions of the Government Rounding Powers Act is to facilitate the construction and maintenance of State highways for the benefit of the public. Waka Kotahi’s functions include “to contribute to an effective, efficient, and safe land transport system in the public interest” (s 95 of the Land Transport Management Act 2003). Its objective is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest (s 94 of the Land Transport Management Act). In meeting its objective and undertaking its functions under the Land Transport Management Act, Waka Kotahi is to exhibit a sense of social and environmental responsibility (s 96 of the Land Transport Management Act).
24. In considering whether consent is to be granted, the purposes of both of those Acts are to be achieved to the greatest extent possible. If consent is granted, that will be through the use of conditions that best protect wildlife and secure the benefits of the Project.

### **Considerations**

25. The relevant considerations in respect of this s 71 application for the Project are set out below as:
- A: Effects of the Project on protected wildlife
  - B: Measures and conditions to best protect wildlife
  - C: Objectives of the Project in light of the purpose of the Government Rounding Powers Act.
26. You must first consider the effects of the Project on protected wildlife.
27. You must then consider what conditions could be imposed that best achieve the purposes of both enactments. That will be conditions that achieve the protective purpose of the Wildlife Act to the greatest extent without undermining the benefits of the Project. Conditions have been proposed by Waka Kotahi and DOC technical advisors. You may add to, delete or amend any of the suggested conditions. In that instance, we recommend you discuss those with officials before making your decision, as it is likely to be necessary to engage with Waka Kotahi on any proposed new or altered conditions.
28. You must then decide whether to grant consent on the basis of the overall proposal including those conditions by weighing the detriments to wildlife with the countervailing benefits of the new highway in light of the purposes of the two enactments. The greater the detriments in terms of wildlife protection, the greater the countervailing benefits will need to be.
29. Relevant factors include the type and number of wildlife affected, the extent to which the wildlife will be affected, and the importance of the Project in achieving an efficient and safe land transport system in the public interest. If you consider that achieving the purpose of the Government Rounding Powers Act favours consent being granted notwithstanding the effects on protected wildlife (taking into account conditions that can be imposed to achieve the protective purpose of the Wildlife Act to the greatest extent possible without undermining the benefits of the Project), you may grant

consent. If you consider that, despite any conditions, the detriments in terms of the policy goals of the Wildlife Act are so significant that the countervailing benefits are not justified, you may decline to give your consent. Section 71 is not intended to allow the policy goals of the Wildlife Act to be seriously and irretrievably compromised in order to pursue the policy goals of the Government Rounding Powers Act.

30. If you cannot reach a common view on whether or not to consent under s 71 of the Wildlife Act, or on conditions to be imposed, consent will be declined.
31. *Legally privileged:* Crown Law has been consulted on this decision-making framework, including the relevant considerations.

**A. Effects of the Project on protected wildlife**

32. The protected wildlife affected by the Project are identified in Attachment B. The NZ threat classification for these species ranges from “Not Threatened” to “Threatened – Nationally Critical”. Potential effects on wildlife are described in the ELMP (Attachment C). It is explained in the ELMP that the Project design has been altered to minimise effects on landscape and ecological values. The ecological values present within the Project area, adjacent forested area and wetland areas are relatively high (although affected by the presence of pest species). The Project will result in the removal or modification of approximately 34 hectares of predominantly indigenous vegetation and habitat.
33. Birds will potentially be affected by the removal or degradation of habitat used for nesting or foraging, and direct mortality may occur. There may be construction noise disturbance; and sediment runoff to wetlands and watercourses may affect the quality of wetland bird habitat. A population of North Island brown kiwi inhabits the wider area including within the Project footprint. The road will permanently remove habitat and cause severance of territorial boundaries of between 10 and 15 pairs of kiwi. Being flightless birds, the road has the potential to fragment the wider kiwi population within the large contiguous forest tract, and when the road is operational, result in vehicle collisions with kiwi accessing the road at night.
34. North Island Kōkako (with a NZ threat classification of “At Risk-Declining”, and extremely rare in the region), has not yet been recorded as being within the Project area, however they are part of an intensive recovery programme led by Ngāti Tama, at nearby Parininihi. The Project area is well within dispersal distances of translocated birds. This species is a poor flyer and could be vulnerable to vehicle collisions if it does disperse.
35. A large population of long-tailed bats (with a NZ threat classification of “Threatened-Nationally Critical”) is found over the wider landscape and, although no large permanent roost sites have been found along the works footprint, there is the potential for bats to intermittently occupy trees within the Project footprint, resulting in the death of bats if trees are felled when they are roosting in them during daylight. Other potential effects on bats include loss of roosts and effects on roosting bats, loss of foraging habitat, habitat fragmentation, severance and isolation; impact of construction noise, vibration, light disturbance during night works, and operational lighting; and death by vehicle strike.
36. The Project has the potential to have a range of effects on lizards and frogs, including habitat loss and fragmentation, and vehicle strikes. The striped skink – a threatened (NZ threat classification “At Risk – declining”) species that reside high in trees – is known to reside in this area. Although none were found during intensive surveys, this is not unexpected as they are very difficult to detect. It is a reasonable expectation that some striped skink will be resident within the Project footprint. Injury or death may occur on construction. Other species of skinks and geckos may occur in the Project



area. Hochstetter's frogs (NZ threat classification "At Risk – Declining") have also been found within a 50 km radius of the Project Area.

**B. Measures to best protect wildlife**

37. In order to reduce the risk of harm to this wildlife, the ELMP was prepared to identify how the Project will avoid, minimise, remedy, mitigate, adverse effects on wildlife. The ELMP also sets out offset and compensation measures to be implemented as part of the mitigation, offset and compensation package for the Project, aimed at achieving a net gain in biodiversity.
38. The ELMP contains management plans for wildlife detection, capture and relocation. The ELMP also provides for wildlife protection by following Best Practice manuals, wildlife management plans and wildlife protocols, which prescribe the conservation techniques that must be used for detecting, catching and relocating protected lizards, bats and birds.
39. In particular, the ELMP provides management measures and protocols Waka Kotahi proposes be implemented that protect and promote ongoing survival of the wildlife located within the Project footprint and its surrounds by protecting wildlife from being injured or killed from vegetation clearance and earthworks:
  - In relation to bats, there are vegetation removal protocols that aim to locate bat colonial roost trees prior to clearance, provide procedures prior to clearance to avoid mortality or injury to bats and set out how any bat injury or mortality will be dealt with. Amongst other things, no tree is to be felled unless it is clear of bats, with various processes proposed to determine whether that is the case.
  - In relation to kiwi, before any vegetation is cleared, any tagged resident kiwi will be tracked, and a trained kiwi dog will be used to search for kiwi in the area. Any kiwi found to be at risk of harm will be relocated to another roost in a safe location at least 40 m away. Any eggs and chicks recovered from nests will be taken to a permitted incubation and chick-rearing facility, but only after they have been incubated naturally for at least 40 days.
  - In relation to lizards, searches will be carried out during and immediately following vegetation clearance where deemed appropriate by the Project lizard ecologist. Salvaged lizards will be liberated at the appropriately prepared location outside of the Project footprint. The exception is striped skink, which are proposed to be translocated to the Rotokare Scenic Reserve east of Eltham.
  - In relation to kōkako, if nesting birds are detected in the Project area, all works are to stop in the immediate area and New Plymouth/Ngā Motu DOC District Office is to be notified within two hours of detection.
  - In relation to Australasian Bittern, acoustic monitoring will be undertaken prior to construction and, if found in close proximity, a low fence will be erected forcing bittern to fly over the road above vehicle height.
40. It is anticipated that some protected wildlife present may not be able to be detected, caught and relocated, therefore incidental killing of this wildlife will occur. Similarly, consent is sought to destroy any eggs of wildlife other than kiwi eggs as set out above.
41. DOC's technical advisors have assessed and provided expert advice on the proposed ELMP and have included proposed conditions contained in the draft consent (Attachment A). The proposed conditions generally reflect the ELMP and are aimed at protecting and preserving as much protected wildlife as possible. A proposed condition of consent is that Waka Kotahi is to address the effects the proposed activities will have on wildlife in accordance with the management measures set out

in the ELMP. DOC's technical advisors are satisfied that the measures described in the ELMP will protect the long-term viability of wildlife.

42. Proposed conditions include:

- Survey of felled vegetation prior to mulching – to provide a high chance of detecting and removing lizard species that may be closely associated with the vegetation, before any mulching occurs (which would result in killing of wildlife);
- the requirement for pre-construction and vegetation clearance surveys – to ensure that there is a high chance of detecting any wildlife associated with vegetation before vegetation clearance occurs, which might otherwise harm wildlife (e.g. birds, bats, lizards);
- Intensive searches for lizards using approved methods such as live-capture traps under optimal conditions – to collect a high proportion of lizards within the Project footprint and release them to nearby locations which are subject to animal pest management;
- injured wildlife found must be taken to a veterinarian – to ensure any injured wildlife have a high chance of surviving and being successfully rehabilitated for release into the wild;
- post-construction monitoring reports must be submitted to DOC – to provide DOC with information so that it can assess the impact of the Project on wildlife, and also show the success or otherwise of avoidance and mitigation measures for wildlife;
- only suitably qualified experts with expertise relevant to the protected wildlife species, or assistants under their direct supervision, must undertake the catching and manipulation (including attachment of radio transmitters, catching of North Island brown kiwi using certified kiwi dog handler, and taking of North Island brown kiwi eggs for artificial hatching and rearing) or release of the wildlife – to give the highest chance that individual wildlife are not injured or killed during these activities;
- surveys for nests must be made before any vegetation clearance – to ensure that there is a high chance nests of protected wildlife are found before vegetation containing the active nest is felled; and
- no vegetation may be cleared within 30 metres of an active nest – to provide high assurance that protected wildlife do not abandon nests containing either chicks or eggs while vegetation felling occurs.

43. These conditions will reduce, but not entirely eliminate, the harm caused to wildlife by the Project. There remains a risk that wildlife will be killed. However, DOC's technical advisors consider that while wildlife will be affected, these proposed conditions will protect the long-term viability of wildlife, so in that sense the consent is consistent with the broader protective purpose of the Wildlife Act.

44. The only way to eliminate the risks to wildlife by fully protecting every animal would be to decline consent under s 71. However, as outlined above, you must weigh the detriments to wildlife (as mitigated by conditions) with the public benefits of the Project in light of the purposes of the Government Roding Powers Act before reaching a decision.

**C Objectives of the Project in light of the relevant purpose of the Government Rooding Powers Act**

45. The bypass of Mt Messenger is part of a wider programme of work including the Awakino Tunnel Bypass and safety and resilience improvements between the Awakino Gorge and Mt Messenger. The existing route has steep grades, restricted visibility, long length with no or limited shoulders, a narrow tunnel at the summit, is vulnerable to interference by slips and rockfalls, crashes and breakdowns, and there are limited alternative routes when service is interrupted. These issues result in safety issues and a lack of road resilience.
46. The new route, a kilometre shorter than the existing route, will avoid the existing steep, narrow and winding route over Mt Messenger. The route will be of a lower elevation and gradient than the existing road. The estimated cost of the Project is \$280 million. Construction has commenced.
47. Objectives of the bypass are to reduce the number of deaths and serious injuries from crashes; reduce the number and duration of road closures; improve journey time predictability; and improve drivers' experience along State Highway 3. In this way, the Project is consistent with the relevant purpose of the Government Rooding Powers Act being the construction of State highways in the interests of the public. The Project is expected to make the transport system safer, more effective and more efficient.
48. State Highway 3 is a strategically important route, regionally and nationally. It connects the Taranaki region through to the Waikato region, and on to economic and transportation hubs in Hamilton, Tauranga and Auckland. It is relied on heavily by local industry and the general public (~2300 vehicles per day, with up to 20% of all the traffic being heavy commercial vehicles carrying the products and services that are key to Taranaki's wider economy). The Mt Messenger section is considered to be of an inadequate standard in relation to its importance and function. The alternative State highway 43 connection via Whangamomona and on to State highway 4 at Taumarunui is severely limited and is not suited to commercial loads.
49. There are many serious crashes on the existing Mt Messenger road because of its sharp bends, narrow lanes and roads hazards. The existing corridor across Mt Messenger has suffered 31 reported crashes in the five-year period from 2012 to 2016. There are few passing opportunities or safe places to pull over on the road, frustrating drivers which can lead to crashes. The improvements are designed to greatly improve safety by increasing forward visibility such that it is suitable for 100 km/hr operating speed (throughout); increasing passing opportunities; providing shorter travel distance; improving road geometry (curves/gradients /wider shoulders); providing safer access for stopping and parking; providing a safer environment for pedestrians and cyclists; and reducing driver frustration.
50. The Project is also aimed at improving reliability for this section of the highway, with fewer closures from slips or crashes, and reduced maintenance requirements. The highway is subject to crashes arising from the poor standard of the existing geometry of the road and slips resulting from the steep hillside topography and associated geology. The highway currently suffers from several closures of over two hours. It is considered the improved connectivity in turn will contribute to enhanced local and regional economic growth and productivity for people and freight.
51. The highway upgrade will result in a significant improvement in resilience over the existing route to the potential natural stresses (e.g. severe weather events, land instability, flooding, earthquakes). The Project will achieve this through the design and construction of cuttings and embankments and engineered structures to achieve major improvements to the grades and curves throughout the new route.

52. The reduced length of the highway is predicted to reduce the travel time by several minutes (depending on the time of day). From a transport economics perspective, in addition to travel time savings, there will also be economic gains through reductions in vehicle operating costs (and lower emissions); and from the perspective of users of the new road (and in particular freight operators), these benefits will result in improved productivity.
53. As part of ensuring the maximum public benefit from the Project is achieved, environmental initiatives as part of the Project include an environmental restoration programme, which includes pest management in perpetuity across an area of 3,650 hectares, including undertaking control of rats, possums, feral cats, mustelids, feral goats and pigs, and exclude stock over this area in perpetuity. Rats will be reduced and maintained to no more than 5% tracking tunnel index (which is known to achieve high conservation outcomes for passerine birds); possums will be reduced to and maintained to no more than 5% Chew Card Index (a low density that has also shown to result in an increase in native wildlife, particularly birds); stoats and cats will be maintained to such low levels that there will be no detections in tracking tunnels; goats, deer and pigs will be reduced and maintained to levels that result in less than one kill per hunter day.
54. The aim of the pest management work is to offset the effects of construction and operation of the road. Waka Kotahi also propose to construct barriers on the roadside to divert kiwi away from the road and to safe underpasses.
55. These environmental initiatives are relevant to the extent to which Waka Kotahi undertake its functions in the public interest while exhibiting a sense of social and environmental responsibility.

#### **Treaty principles – Ngā mātāpono Tiriti**

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56. The Wildlife Act is to be interpreted and administered so as to give effect to the principles of the Treaty of Waitangi.
57. The principles of the Treaty require good faith and reasonable action by both parties in context (the partnership principle). This necessarily requires, on the Crown's part, properly informed decision-making. The Crown is also under a positive obligation to actively protect Māori property interests and taonga under Article II of the Treaty (the principle of active protection).
58. The principles contemplate a balancing of tangata whenua and other interests and the ability of the Crown to decide from a number of options provided it acts reasonably and in good faith (which, as above, requires properly informed decision-making).
59. Ngāti Tama is tangata whenua. DOC has consulted Te Rūnanga o Ngāti Tama Trust (a post-settlement governance entity) which represents the iwi of Ngāti Tama. Te Rūnanga has advised that it supports any authorisations sought by Waka Kotahi. DOC has had regular engagements with Te Rununga over the years since the initial engagements relating to the bypass and this general support has been relayed several times.
60. Waka Kotahi has engaged with Ngāti Tama, which took place at a number of levels and in different forums. Te Rūnanga, a project partner, has endorsed the Project and the proposals submitted to manage impacted protected wildlife in accordance with the ELMP.<sup>5</sup> Ngāti Tama wish to see a safer route through their rohe. They have raised concerned about the potential effects of the Project on the natural environment.

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<sup>5</sup> 82 percent of Ngāti Tama voters agreed with Te Rūnanga o Ngāti Tama's support for the bypass. Te Korowai Tiaki o Te Hauauru Inc, a collective of Ngāti Tama members formed in 2018 to oppose the approach taken by Te Rūnanga o Ngāti Tama to the Project.



Ngāti Tama is leading a conservation project over the area to control pests, restore habitat and reintroduce lost species. Ngāti Tama's involvement in the Project has included inputting into a route selection with less environmental impact, and involvement in the bypass design and cultural expression.

61. A comprehensive mitigation package has been agreed with Ngati Tama for the pest management strategy within the area, which this project area forms part of. Noted in the agreement is the purpose which states that *"the agreement reached between the parties on measures to provide for the relationship of Ngati Tama with their ancestral lands and taonga and to avoid, remedy or mitigate adverse effects of the project on Nagati Tama and their ancestral lands and taonga."*
62. Ngāti Mutunga is a recognised iwi of northern Taranaki whose northern boundary adjoins the southern boundary of Ngāti Tama. Waka Kotahi attended hui with Ngāti Mutunga. The feedback from Ngāti Mutunga was that Waka Kotahi's primary engagement should be with Te Rūnanga o Ngāti Tama.
63. Ngāti Maniapoto has previously expressed an interest in land that includes the Project area. Ngāti Maniapoto stated that while they claim interests into the area, they are willing to defer to Ngāti Tama in respect of the impacts of the Project.
64. Poutama is another group that assert customary interests in the Project area.<sup>6</sup> Their status is disputed by recognised iwi. Waka Kotahi met several times with Poutama, who oppose the project.

#### **Assessment – weighing of effects against objectives**

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65. As stated above, the Project will affect a range of wildlife including herpetofauna, avifauna and bats. Waka Kotahi chose a route designed to minimise ecological effects, including effects on wildlife, and has proposed conditions to mitigate the effects on wildlife, acknowledging there will be considerable residual effects on protected wildlife, as summarised above. The biodiversity offset and mitigation package described above was developed to address all potential residual effects.
66. In making a decision, you need to weigh these detriments to wildlife, as reduced to the greatest extent possible by conditions, against the benefits of the Project, as described above. It is irrelevant that Waka Kotahi has previously been granted an authority under s 53 of the Act.
67. As discussed above the Project will have a number of positive effects, including economic benefits such as reductions in vehicle operating costs, travel time and road accident costs, and improvements in route resilience, benefitting local residents and businesses and visitors to the New Plymouth District and wider Taranaki Region. The Project will also contribute a range of additional economic benefits including improvements in trip time reliability, increased regional economic growth, specific road user benefits for Taranaki businesses and lifeline economic benefits. The Project will also have a number of related positive (and negative) social effects.
68. The offset package is relevant to your overall assessment. It is relevant to the way in which the project achieves the purpose of the Government Rounding Powers Act. In particular, Waka Kotahi is required to act in the public interest and exhibit a sense of social and environmental responsibility. DOC considers the offset-mitigation package has a high likelihood of reversing the existing diminished state of the ecology

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<sup>6</sup> The Environment Court determined that Poutama was not tangata whenua and did not hold mana whenua, upheld by the High Court: *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* [2020] NZHC 3159, at [170].

and achieve a net biodiversity gain. Wildlife will benefit from the management of pests to low densities, and from the new areas of habitat.

69. There are three options available to you:
- Grant the application subject to conditions. You should note that, even with conditions mitigating the effects of the Project on wildlife, harm will still occur to wildlife, including the possibility of death.
  - Decline the application. This option could absolutely protect wildlife, but may mean the Project does not proceed.
  - Defer your decision until any further information you may consider necessary is provided.
70. We recommend consent be granted for the activities set out in the attached draft consent and subject to the conditions proposed in that draft consent. That includes all of the activities and wildlife in Waka Kotahi's application, and as described in the ELMP, except in relation to striped skink as discussed below.
71. Avoiding harm entirely to wildlife is not possible if the Project is to proceed. Reasonable steps to avoid and mitigate killing and harming wildlife are being taken; additional measures may frustrate the Project. As mitigated by the proposed conditions, the effect of the Project on the local populations of animals likely affected is likely to be low and the majority of those species are categorised as "not threatened" or "at risk".
72. The Project is important for an effective, efficient and safe land transport system in the public interest. In particular, it is expected to make State Highway 3 safer and more reliable, which will have broader benefits given the regional and national importance of the Highway. It is also notable that Waka Kotahi is to implement pest management in perpetuity (or until such time as pest management is no longer necessary) over an area of 3,650 hectares in the locality. Over time, that is expected to have a net benefit to the species of wildlife that are affected by the Project and subject to the activities in the consent. This is consistent with Waka Kotahi exercising its functions in the public interest and exhibiting a sense of social and environmental responsibility.
73. For those reasons, we recommend the purposes of the Acts favour the granting of the consent. We consider you can be satisfied that the purpose of the Government Rounding Powers Act favours the Project going ahead, despite the effects on protected wildlife, considering the conditions that can be imposed to protect wildlife consistent with the purpose of the Wildlife Act.
74. Despite the above, officials do not recommend you authorise Waka Kotahi to translocate striped skinks to Rotokare Scenic Reserve at this stage. Currently, there is currently insufficient information in relation to that activity. In particular:
- Further consultation with tangata whenua is needed.
- There is limited information around the willingness for the Trust that runs the Rotokare Scenic Reserve to receive the striped skinks and whether the Reserve is an appropriate translocation site. For example, further information is required in relation to any arrangement Waka Kotahi has with the Reserve, whether the Reserve contains appropriate habitat for the skinks, and the long-term viability of the Reserve and its Trust.
75. We recommend that information is obtained before you determine whether to grant consent for that activity under s 71.

76. The translocation activity will need to be treated as an application for variation of the current consent. Officials are of the view that decision can appropriately be made by delegated decision-makers. Striped skinks are categorised as “At Risk — Declining”. In the scheme of the Project, the translocation is not so significant to warrant consideration by Ministers.

77. s 9(2)(h)

That brings the variation of this consent within the proposed delegation discussed below. We recommend you therefore confirm the Director-General of Conservation and Secretary of Transport are able to determine whether the consent ought to be varied to include the translocation of striped skinks, unless they consider the decision ought to be made by Ministers once further information is received.

### ***Varying or revoking the consent***

78. If you decide to grant consent, it is possible that the consent may need to be varied or revoked in the future. For example, aspects of the Project may change, the number or species of wildlife affected might increase, or Waka Kotahi may consider it cannot comply with conditions because of practical difficulties.
79. Accordingly, the following powers are proposed in the draft consent:<sup>7</sup>
- a power to terminate the consent where Waka Kotahi breaches any conditions of the consent;
  - a power to terminate the consent or vary any part of the consent where you consider there has been a material change to the circumstances under which the consent was granted and that is appropriate considering the purposes of the Wildlife Act and the Government Rounding Powers Act; and
  - a power for Waka Kotahi to apply for the consent to be varied by lodging an application with DOC
80. Officials will monitor Waka Kotahi's compliance with the consent and whether there might have been a material change to the current circumstances. You will be briefed if it is considered that you ought to decide whether to take steps to revoke or vary the consent.
81. Whether there has been a material change to the current circumstances will be a matter of fact and degree and will be informed by Waka Kotahi's reporting requirements pursuant to the consent conditions. For example, there might be a material change in circumstances where the effects on wildlife are more severe than anticipated because a greater number of wildlife are harmed or killed than anticipated. That will especially be the case if the proportion of the local population of wildlife killed is greater than the anticipated “low” or “very low”.
82. Waka Kotahi may also apply to alter the consent. Some of the changes it could seek could be minor or technical and could appropriately and conveniently be dealt with by delegated decision-makers. For example, it might want to change the veterinarian that injured wildlife are to be taken to. It is therefore recommended that you delegate

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<sup>7</sup> The ability to exercise these powers comes from the conditions themselves imposed under s 71 of the Conservation Act and s 48 of the Legislation Act 2019, which provides that the power to grant the consent includes the power to amend or revoke it.

your decision-making power in respect of applications for variations to the consent by Waka Kotahi pursuant to s 44 of the Wildlife Act and s 57 of the Conservation Act 1987 (in the case of the Minister of Conservation) and cl 5 of sch 6 to the Public Service Act 2020 to the Director-General of Conservation and Secretary of Transport subject to the following limitations and conditions:

- only applications for minor variations to the consent are able to be considered by delegates;
- a variation will be more than minor if it may have influenced the Ministers' decision to grant consent under s 71 had it been included in the original consent application or is otherwise a material alteration to the consent;
- where the Director-General and Secretary of Transport are unsure whether the application for variation can be considered under delegation or cannot agree that is appropriate, the decision will be made by the Minister of Conservation and Minister of Transport;
- examples of variations that may be more than minor include:
  - i. substantial changes to the operational parts of the consent, such as the number or species of wildlife that are to be included in the consent;
  - ii. the addition of any wildlife species that is "Threatened" under the New Zealand Threat Classification; or
  - iii. substantial increases to the area the consent applies to, or substantial decreases to the area under which pest management is to occur.
- examples of variations that may be minor include:
  - i. changes to the ancillary parts of the consent, such as the means of reporting or the veterinarian any injured wildlife are to be taken to;
  - ii. the addition of wildlife species that are "Not Threatened" under the New Zealand Threat Classification;
  - iii. small adjustments to the area the consent applies to or the number of wildlife affected; or
  - iv. corrections to errors or slips in the consent.

### **Financial implications – Te hīraunga pūtea**

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83. There are no direct cost implications to DOC or the Ministry of Transport.

s 9(2)(h)



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#### **Next steps – Ngā tāwhaitanga**

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93. If you intend to consent to the acts and exercises of power under the Government Roding Powers Act, a consent under s 71 of the Wildlife Act is attached for your signatures. We recommend you make a clear note of the reasons for the decision, particularly if those differ from the advice provided in this briefing.
94. If you consider additional conditions should be imposed, or conditions should be altered or deleted, you should indicate what these are so that officials can provide

further advice and discuss these with you, as it is likely to be necessary to engage with Waka Kotahi on any proposed new or altered conditions.

95. If you do not intend to grant the consent application, you may decline consent, or defer consideration until such time as any issues you raise can be assessed.

**ENDS**

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25 August 2023

OC230669

**Hon David Parker**  
**Minister of Transport**

**Action required by:**  
 Friday, 8 September 2023

## **QUARTERLY REPORT ON IMPLEMENTATION PROGRESS OF THE EMISSIONS REDUCTION PLAN TRANSPORT CHAPTER ACTIONS- APRIL-JUNE 2023**

### **Purpose**

This briefing updates you on implementation progress and risks related to the transport chapter commitments of the Emissions Reduction Plan for the period April-June 2023 and signals the priorities for the next quarter. It also highlights risks that have emerged outside of this reporting period.

### **Key points**

- The transport portfolio has made significant delivery progress between April and June 2023. The majority of initiatives progressed as planned in this period, and all priority areas from the transport chapter achieved major milestones. Seven projects are now complete.
- The latest emissions projections show that the transport sector remains on-track to meet its sub-sector target for the first emissions budget period. This can be attributed to the higher-than-expected uptake of low emission vehicles (supported by the successful implementation of the Clean Car Discount and Clean Car Standard), as well as lower than expected baseline emissions. However, anticipated emission reductions for the second and third emissions periods are below what is required to stay with the sub sector targets, in part due to the cancellation of the Sustainable Biofuels Obligation. This has created a large gap for which transport will need to fill if the sector is to meet its targets in future budget periods.
- These projections emphasise the importance of delivering not only the Emissions Reduction Plan (ERP1) actions which directly reduce emissions, but also those that set the foundation for an even more ambitious ERP2. If transport is to deliver on the second emissions budget and remain on-track for our 2035 and 2050 decarbonisation goals, both types of actions are needed.
- Across the programme, there are risks to keeping timeframes on-track for priority initiatives. Although outside of the current reporting period, more recent delays and/or changes in direction across the priority actions areas have increased the risk of the transport sector not meeting its target to reduce vehicle kilometres travelled (VKT) by the light fleet by 20 percent by 2035, and therefore the overall emissions reduction

target. Officials are working to manage the flow-on impacts of the delays in relation to the VKT Reduction Programmes.

- A continued focus on resourcing, capability uplift and appropriate prioritisation are needed to implement the programme effectively. The funding allocated through Budget 2022 and 2023 has reduced resourcing pressure in some areas, however capability building and prioritisation are needed along side this to maximise its impact. This will be a priority for the Te Manatū Waka Emissions Reduction Governance Group moving into the next financial year.

## Recommendations

We recommend you:

- 1 **note** the RAG ratings for the April-June 2023 quarter
- 2 **note** the delivery risks that have emerged outside of the reporting period
- 3 **note** that mitigations for delays in spending of CERF funding will be considered for the next financial year
- 4 **note** that officials plan to produce performance dashboards, to be included in this quarterly report from early 2024.

*GR Woodall*

Genevieve Woodall  
**Manager, Emissions Programme  
 Office, Ministry of Transport**  
 25 / 08 / 2023

Hon David Parker  
**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
Genevieve Woodall, Manager, Emissions Programme Office	s 9(2)(a)	✓
Ella Sparrow, Senior Adviser, Emissions Programme Office		



## QUARTERLY REPORT ON IMPLEMENTATION PROGRESS OF THE EMISSIONS REDUCTION PLAN TRANSPORT CHAPTER ACTIONS- APRIL-JUNE 2023

### Background

- 1 This is the third transport-specific quarterly report that has been provided since the all-of-government Emissions Reduction Plan (ERP1) was published and the Emissions Programme Office (EPO) was established at Te Manatū Waka.
- 2 The 'red, amber, green' (RAG) ratings are based on the ratings collected for the Climate Change Chief Executive Board 6-monthly report on the ERP1 for the period of January-June 2023. This report will be made available to the Climate Response Ministers Group (CRMG) around the same time of this transport quarterly report.
- 3 Along with the progress information and update on performance reporting, we have included more detail on Climate Emergency Response Fund (CERF) spending for the 2022/23 financial year.
- 4 Since you have recently taken on the transport portfolio, we have developed a snapshot of the transport ERP1 landscape (attached as Appendix 1). This includes an overview of emissions budgets, focus areas and associated targets, and initiative distribution.

*Progress against the transport chapter is reported at different levels and frequencies*

- 5 The EPO within Te Manatū Waka is responsible for monitoring and reporting against the ERP and providing intelligence and advice to the Ministry's Emissions Reduction Governance Group to ensure that we deliver on the Government's commitments to reduce domestic transport emissions.
- 6 Key reports we provide you are outlined in the following table. The purpose of this reporting is to identify how actions are tracking (progress) and the impact these have on reducing emissions (performance). This information provides decision-makers with an understanding of whether we are on track to meet our targets, and where there might be overs and unders, to enable an adaptive management approach both within and across sectors.

Report	Description
Monthly dashboard (transport only)	Provides project progress and risks, as well as CERF financial information across priority delivery areas in the ERP.
Quarterly report (transport only)	This report provides you a progress update across the transport portfolio and programme level risks.
Six-monthly report on overall ERP progress (all sectors)	The Climate Change Chief Executive Board reports to the Prime Minister and Climate Response Ministers Group on a six-monthly basis on the overall progress of the ERP and National Adaptation Plan (NAP) in a combined report. This report covers high level emissions reduction information and project updates for initiatives including RAG status, risks, and opportunities. Additionally, the report covers strategic risks and opportunities and an indicator dashboard to track progress.
Annual report on ERP progress (all sectors)	The Climate Change Chief Executive Board is required to publish an annual report on the implementation of the ERP. This is to provide public assurance on the progress of the ERP.



*Although outside of the reporting period, some risks have emerged that require your attention*

- 7 Delays and/or key changes in direction across the priority action areas in the months of July and August have increased the risk of the transport sector not meeting its target to reduce vehicle kilometres travelled (VKT) by the light fleet by 20 percent by 2035, and therefore the overall emissions reduction target for transport.

VKT reduction plan, programme and targets

- 8 The *More Choices, Less Traffic* (National VKT Reduction Plan) developed by Waka Kotahi was not considered by CRMG in July 2023 as scheduled. The national plan includes guidance for development of Urban VKT Reduction Programmes (urban programmes) for our largest urban (Tier 1 and 2) areas. Relatedly, the draft Cabinet paper seeking approval to confirm and publish sub-national VKT reduction targets for Tier 1 urban areas has not progressed to date.
- 9 Implementation of the urban programmes will also be affected by the Government's decision to reduce Budget funding previously allocated to mode shift and VKT reduction by \$50 million as part of the recent Rapid Savings Exercise (CAB-23-MIN-0344 refers).
- 10 There is a risk, that if there is not a sufficiently strong signal from Government that it will publish the national plan and fund its activities, momentum and buy-in from councils will diminish. Officials are working to manage the flow-on impacts of the delays, particularly in relation to the VKT programmes under development with local government (BRI-2818 refers). To assist with this, Waka Kotahi plans to issue technical guidance to affected Tier 1 local authorities in the coming weeks (refer to Weekly Report for week ending 18 August 2023, Key Priorities: 'National vehicle kilometres travelled (VKT) reduction plan and sub-national VKT reduction targets for Tier 1 urban areas: issuing technical guidance to local authorities').

Draft Government Policy Statement on land transport 2024 (GPS)

- 11 The decision to not include the components of the 'high threshold test' in the draft GPS 2024 means that the following actions that were part of the ERP have not been delivered, so are currently being reported as red (off-track/significant risk).

ERP/(DTAP) <sup>1</sup> reference	Description
10.1.1 (1.1.6)	Require new investments for transport projects to demonstrate how they will contribute to emissions-reduction objectives and set a high threshold for approving new investments for any transport projects if they are inconsistent with emissions-reduction objectives
10.1.4 (1.4)	Establish a high threshold for new investments to expand roads, including new highway projects, if the expansion is inconsistent with emissions-related objectives
10.4.1 (4.1)	Ensure the next Government Policy Statement on Land Transport (GPS-LT) guides investment consistent with the emissions reduction plan

12

s 9(2)(h)

<sup>1</sup> Decarbonising Transport Action Plan

s 9(2)(h)

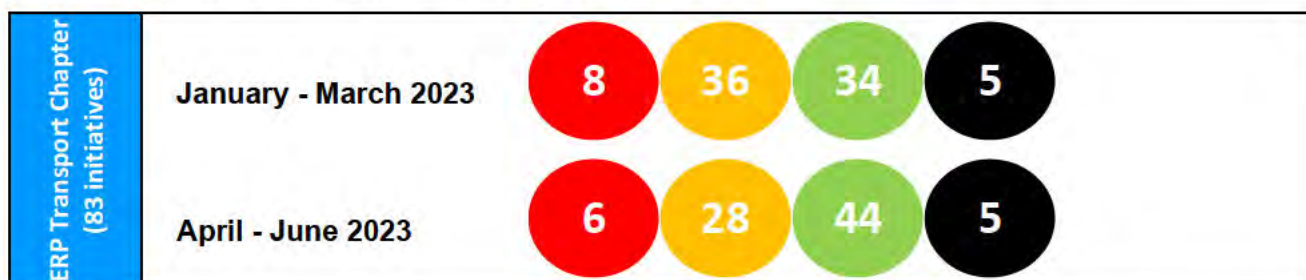


- 13 Transport has limited further opportunities for abatement in the next few emissions budget periods, and if this cannot be achieved then more ambitious action will be needed in other sectors. Options for transport and other sectors to deliver more abatement in the medium-long term will be explored through the development of the ERP2.
- 14 Ensuring a comprehensive Climate Implications of Policy Assessment (CIPA) is completed which is consistent with Cabinet Office Circular CO (20) on the roading components of the Strategic Investment Programme will determine further information and subsequent advice on the emissions implications of the draft GPS.
- 15 The remainder of this report is only relevant to the reporting period of April-June 2023.

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## Section 1: Programme wide delivery update



*Good progress has been made during the April-June 2023 quarter in several key areas*

- 16 Key highlights include progressing the VKT reduction plan and engagement on the Tier 1 urban programmes<sup>2</sup> and supporting the public transport workforce through an uplift in bus driver terms and conditions. The first round of Transport Choices projects also commenced.
- 17 Public consultation on the draft Electric Vehicle Charging Strategy was completed, and funding of \$120 million was approved through Budget 2023 for electric vehicle (EV) charging. Changes have been implemented to the Clean Car Discount settings to ensure the scheme's sustainability, and policy issues related to congestion charging have been advanced.
- 18 Evaluations were completed on options to improve the efficiency of heavy vehicles to support the decarbonisation of freight, and priority areas for initial action have been included in the Freight and Supply Chain Strategy.
- 19 Funding was secured for several key initiatives through CERF/Budget 2023. These are listed under the corresponding focus areas. Additionally, Budget 2023 funding has been allocated to Te Manatū Waka to support the effective delivery of the Transport Chapter of the ERP1. This funding will enable effective governance, reporting and monitoring systems and is expected to enable an uplift in our ability to monitor and evaluate the impact of the ERP1 initiatives to inform future policy decisions.

*Work on three initiatives was completed and closed out this quarter*

- 20 Initiative 2.1.4: Set a maximum CO<sub>2</sub> limit or penalties for individual light internal combustion engine vehicle imports to tackle the highest emitting vehicles. The Clean Car Discount has increased the maximum charge for the highest emitting vehicles.
- 21 Initiative 2.1.5: Establish whether the Clean Vehicle Discount can be extended to other vehicle classes. Officials have reconsidered advice that was given in 2021 and 2022 in relation to motorbikes, mopeds, and ATVs, however did not identify significant emissions abatement potential.

<sup>2</sup> As indicated in the previous section, delays in this most recent quarter will result in these key actions likely shifting to red and/or amber in the next quarter.




- 22 Initiative 3.1.5: Evaluate options to: improve the efficiency of heavy vehicles, regulate heavy vehicle imports to reduce emissions, support infrastructure development for green fuels and fast charging for heavy vehicles, and reduce emissions from heavy vehicles operated or procured through government activities. Evaluations of options completed and priority areas for initial action have been outlined in Freight and Supply Chain Strategy.

*Outstanding risks that pose a challenge to delivery*


- 23 As we begin early work on developing ERP2, the size of the challenge for the next two budget periods has become more sharply in focus. Delays in necessary, enabling action now will lead to an even bigger challenge.

- 24 Securing funding to progress initiatives has also remained a significant risk during this quarter. Most of the initiatives with a red status either lack funding or have experienced delays due to resource constraints. Funding for several initiatives was not successful through Budget 2023, including bids for:

24.1 s 9(2)(f)(iv)



24.2 Implementing the Freight and Supply Chain Strategy s 9(2)(f)(iv)



24.3 Clean Truck Discount - Accelerating the freight sector transition to zero emission heavy vehicles by implementing a Clean Truck Discount scheme. A separate bid, 'Clean Heavy Truck Grants', was approved through Budget 2023 (Vote Business, Science and Innovation), and will be delivered by EECA.

24.4 Community e-bike programmes to assist in an equitable low-carbon transition, to deliver community programmes to provide e-bikes and wrap around support to lower income families. Consequently initiative 1.2c.2 to support initiatives to increase the uptake of e-bikes has been re-categorised as discontinued (black).

25 s 9(2)(f)(iv)



- 26 Te Manatū Waka officials are running a strategic prioritisation process for CERF 2024 which will consider whether these bids will be put forward again or whether other bids will be prioritised instead. Additionally, this process will consider options based not only on reduced emissions but also wider benefits such as equity for prioritisation in the development of ERP2. This will reduce the trade-offs between outcomes and ensure that multiple outcomes are considered.



**Focus area 1: Reduce reliance on cars and support people to walk, cycle and use public transport**

Focus Area 1 (48 Initiatives)	<div> <div>January - March 2023</div> <div>4</div> <div>27</div> <div>16</div> <div>1</div> </div> <div> <div>April - June 2023</div> <div>3</div> <div>23</div> <div>21</div> <div>1</div> </div>
Key highlights	<ul style="list-style-type: none"> <li>44% of initiatives under Focus area 1 are rated as green.</li> <li>The first draft of the National VKT Reduction plan was completed and central agencies and an advisory group made up of a limited number of Tier 1 officials was given the opportunity to provide feedback. Stakeholder engagement was also undertaken in preparation for the related national plan for walking, and an initial draft plan was developed.</li> <li>Cabinet agreed to final policy decisions for regulatory changes to make it easier to make street changes to support people to walk, cycle and use public transport.</li> <li><span style="color: red;">s 9(2)(f)(iv)</span></li> <li>The national bus driver shortage also continued to reduce from 860 to 460 drivers (as at May 2023).</li> <li>Through Budget 2023, CERF funding was secured to: <ul style="list-style-type: none"> <li>expand Community Connect from community service card (CSC) holders to under-25s and total mobility fares, as well as free for under 13s</li> <li>continue improvements to bus driver terms and conditions and to support Public Transport Authorities to implement measures aimed at increasing recruitment and retention of public transport bus drivers.</li> </ul> </li> <li>Additionally, Crown funding was received as part of the New Zealand Upgrade Programme Northern Pathway reallocation (\$200 million) to enable work to continue on the next phase of the Eastern Busway.</li> </ul>
Changes to initiative ratings - increase	<ul style="list-style-type: none"> <li>12 initiatives shifted from an amber to green rating this quarter.</li> <li>One initiative shifted from red to green: <i>Initiative 1.2e.4: Investigate opportunities to improve school bus services</i>. We previously understood this work could not be prioritised by the Ministry of Education (MoE), however MoE has since been able to progress this work and has engaged Beca to quantify school transport emissions by source.</li> <li>Two initiatives under <i>Action 1.2 Support people to walk, cycle and use public transport</i> have been transferred to another team at Te Manatū Waka and reprioritised, and therefore shifted from a red to amber rating.</li> </ul>
Changes to initiative ratings - decrease	<ul style="list-style-type: none"> <li>Eight initiatives shifted from green to amber. Two of these initiatives were impacted by delays to the GPS, and several are due to the risks associated with cost increases for major infrastructure improvement projects that may impact on delivery.</li> <li>One initiative shifted from amber to red: <i>Initiative 1.2c.6: Implement Accessible Streets</i>. A Cabinet paper was considered by the DEV Committee, however consideration by Cabinet was deferred until 2024.</li> <li>In the previous quarter, <i>Initiative 1.2c.2 to support initiatives to increase the uptake of e-bikes</i> was re-categorised as discontinued (black) <span style="color: red;">s 9(2)(f)(iv)</span>. Although successful trials have taken place through the Waka Kotahi innovation fund, these are relatively small in scale and not sufficient in size to report that we have met the intent of the ERP1 through the delivery of this initiative.</li> </ul>



**Focus area 2: Rapidly adopt low-emissions vehicles**

Focus Area 2 (13 Initiatives)	<div> <div>January - March 2023</div> <div>1</div> <div>1</div> <div>8</div> <div>3</div> </div> <div> <div>April - June 2023</div> <div>2</div> <div>0</div> <div>8</div> <div>3</div> </div>
Key highlights	<ul style="list-style-type: none"> <li>62% of the initiatives under Focus area 2 are rated as green and are either complete or on track to meet delivery milestones.</li> <li>A review of the Clean Vehicle Discount was completed, with changes to rebates and charges, and additional funding to maintain a buffer. The Clean Car Standard became fully operational, with the first invoices issued.</li> <li>Te Manatū Waka received the draft of an independent expert report on quadricycles, which provides information on whether legislative barriers preventing the use of some types of light low-emissions vehicles can be reduced without comprising safety objectives and outlines limited areas for future research.</li> <li>Public consultation on 'Charging Our Future: National electric vehicle charging strategy for Aotearoa New Zealand 2023-2035' took place from March to May 2023. 140 submissions were received, and Te Manatū Waka held six well-attended online engagement sessions. A summary of submissions and cover briefing were provided to the Ministers of Transport and Energy and Resources on 31 May 2023.</li> <li>Through Budget 2023, CERF funding was secured to: <ul style="list-style-type: none"> <li>replenish the Clean Car Discount's cash reserves to sustainably manage higher than expected uptake</li> <li>support the provision of EV charging infrastructure, to encourage continued rapid uptake and ensure that a lack of chargers is no longer seen as a barrier to electric vehicle adoption.</li> </ul> </li> </ul>
Changes to initiative ratings – increase.	N/A for this quarter
Changes to initiative ratings – decrease	<p>Only one initiative under Focus area 2 shifted progress ratings for this quarter.</p> <ul style="list-style-type: none"> <li><i>Initiative 2.1.3 to Consider further measures needed – from 2027 – to increase the fuel efficiency of the imported fleet and avoid high-emitting vehicles being dumped onto our market</i> was captured as amber during the last period due to further work on this being put on pause through Ministerial direction. However, this has changed to red as is not progressing as part of ERP1 and is being reconsidered as part of the development of ERP2.</li> </ul>



**Focus area 3: Begin work now to decarbonise heavy transport and freight**

Focus Area 3 (17 Initiatives)	<div> <div>January - March 2023</div> <div>2</div> <div>8</div> <div>6</div> <div>1</div> </div> <div> <div>April - June 2023</div> <div>1</div> <div>3</div> <div>12</div> <div>1</div> </div>
Key highlights	<ul style="list-style-type: none"> <li>71% of the initiatives under Focus area 3 are rated as green and on track.</li> <li>The Freight and Supply Chain Strategy was agreed through Cabinet, with initial priority areas for action agreed to be funded under baseline.</li> <li>s 9(2)(f)(iv)</li> <li>A draft rule was consulted on that would implement the Euro VI standard for heavy vehicles.</li> <li>The first round of the bus decarbonisation contestable fund was launched in April 2023 and a target to decarbonise the public transport bus fleet by 2035 was embedded in the draft GPS 2024.</li> <li>Following the Regulation of Public Transport Bill being introduced to Parliament in March 2023, Waka Kotahi began developing operational policy to support the reforms.</li> <li>New Zealand's participation was secured in an international pre-feasibility study on a green shipping corridor with Australia. This indicates the appetite amongst New Zealand importers and exporters (as the customers of shipping lines) to support decarbonisation of their supply chain.</li> <li>Through Budget 2023: <ul style="list-style-type: none"> <li>the Lower North Island Rail Integrated Mobility connection between Wellington-Wairarapa &amp; Wellington-Palmerston North received funding of \$455 million. Consequently, a fleet of 18 brand new trains have been funded</li> <li>\$30 million in funding was secured for a Clean Heavy Vehicle Grant Scheme<sup>3</sup>.</li> </ul> </li> </ul>
Changes to initiative ratings - increase	<ul style="list-style-type: none"> <li>Seven initiatives shifted from amber to green in this quarter.</li> <li>Four initiatives under <i>Action 3.1 to Support the decarbonisation of freight</i> shifted from amber to green, largely due to successful bids for Budget 2023 and the progression of the Freight and Supply Chain Strategy.</li> <li>Two initiatives under the decarbonisation of maritime transport action put in place plans to commence work following the International Maritime Organisation negotiations in mid-2023. A further initiative under this action also shifted to green as we secured participation in an international pre-feasibility study on a green shipping corridor with Australia.</li> <li>A discussion document on the design of a sustainable aviation fuel (SAF) mandate has been drafted during this quarter, resulting in Initiative 3.3.3 shifting from red in the January-March 2023 quarter to amber (note that this initiative is led by MBIE).</li> </ul>
	<p><b>Changes to initiative ratings – decrease</b></p> <ul style="list-style-type: none"> <li><i>Initiative 3.2.1: Require only zero-emissions public transport buses to be purchased by 2025; Set a target to decarbonise the public transport bus fleet by 2035; and support regional councils to achieve these outcomes through additional funding</i> shifted from green to amber for this period as the GPS 2024 was yet to be formally endorsed by Cabinet for consultation.</li> </ul>

<sup>3</sup> This work is now led by MBIE and EECA and is under Vote Business, Science and Innovation



**Focus area 4: Support cross-cutting and enabling measures that contribute to the delivery of a low-emissions transport system**

Focus Area 4 (5 Initiatives)	<div> <div>January - March 2023</div> <div>1</div> <div>1</div> <div>3</div> <div>0</div> </div> <div> <div>April - June 2023</div> <div>0</div> <div>2</div> <div>3</div> <div>0</div> </div>
Key highlights	<ul style="list-style-type: none"> <li>60% of initiatives under Focus area 4 are on track and remained green over the last quarter.</li> <li>Te Manatū Waka's research team has completed research gap identification workshops and identified a number of high priority gaps, which will be prioritised for inclusion in the Decarbonising Transport Research Strategy. This will be fundamental to developing a strong evidence base to inform transport decarbonisation and an equitable transition.</li> </ul>
	<p><b>Changes to initiative ratings – increase</b></p> <ul style="list-style-type: none"> <li><i>Initiative 4.4: Provide people and businesses with information and education to support behaviour change as we transition to a low carbon economy</i> shifted from red to amber for this period. Although only early scoping of this work has commenced, planning for resource is taking place to progress this initiative.</li> </ul>
	<p><b>Changes to initiative ratings – decrease</b></p> <ul style="list-style-type: none"> <li><i>Initiative 4.1: Ensure the next Government Policy Statement on Land Transport guides investment consistent with the emissions reduction plan</i> shifted from green to amber for this quarter. This is because the release of the Draft GPS 2024 for consultation has been delayed for reasons unrelated to the ERP1.</li> </ul>

## Section 2: Other updates

### Financial update

- 27 Each month, we provide you an overview of spend on CERF initiatives relevant to the delivery of the priority areas in the ERP1 through the monthly dashboard.
- 28 Across all sectors, agencies have found that an over-subscribed skilled labour market and supply chain challenges have contributed to a slow spending run-rate for CERF initiatives and work programme delays. This has also been the case for transport.
- 29 The following table and graph present CERF spending for the 2022/23 financial year<sup>4</sup>. While the budget was rephased during the financial year, the overall spend was still lower than anticipated (as represented by the percentage of final budget spend).

Initiative title	Total YTD spend (\$)	Budget FY 22/23 Original Total spend %	Budget FY 22/23 Final* Total spend %	Commentary
Mode-Shift and Reducing Light Vehicle Kilometres Travelled	\$16.27m	\$111.53m 14.5%	\$67.97m 23.9%	Spend was lower than expected this financial year on the National VKT Plan and Programmes and Transport Choices due to delays in finalising funding agreements and getting the programmes in place.
Community Connect – Public Transport Concessions for Community Services Cardholders	\$5.27m	\$24.78 21.3%	\$7.46m 70.6%	The spending rate reflects the Government's decision to delay the introduction of the scheme by several months.
Retaining and Recruiting Bus Drivers – Improving Terms and Conditions	\$2.93m	\$13.00 22.5%	\$13.00m 22.5%	Waka Kotahi actual spend for the FY is \$2.93 million. This is due to negotiations between Public Transport Authorities, Bus Operators and Union taking longer than expected. The difference will be automatically transferred to the next FY.
Decarbonising the Public Transport Bus Fleet	\$0.53m	\$4.29 12.4%	\$3.76m 14.1%	Waka Kotahi actual spend for FY is \$0.53 million. This is due to delays in finalising the funding agreement, which in turn meant a delay to designing and launching the Bus Decarbonisation Contestable Fund. The difference will be automatically transferred to the next FY.
<b>Total</b>	<b>\$25.01</b>	<b>\$153.60</b>	<b>\$92.19</b>	

\*Final Budget FY2022/23 reflects adjustments through technical exercises

<sup>4</sup> The YTD spend figures are Ministry unaudited figures and may change once they are audited in the coming quarter. Audited figures will be included in the Annual Report. We anticipate these will be slightly lower based on recent Waka Kotahi reporting.





*Plans have been put in place to provide better assurance on spend and streamline the process of establishing funding agreements*

- 30 The CERF programme has experienced significant underspend compared to the original level of funding approved for the 2023/23 financial year. This can be attributed to the unprecedented and ambitious nature of the CERF initiatives requiring significant work by Waka Kotahi to enhance capabilities of local government and Public Transport Agencies (PTAs) to deliver the initiatives at pace.
- 31 There has also been a delay in finalising funding agreements between Waka Kotahi and Te Manatū Waka for two of the CERF initiatives due to an issue with the drawdown methodology. Te Manatū Waka has resolved this by adopting a method to use the 'Establishment Payments' as a float to allow drawdown in arrears. In the long-term, Te Manatū Waka is working to establish a capital fund for CERF that will alleviate this issue for any future CERF initiative.
- 32 Specific to the first two appropriations where funding has been requested to be transferred to the next financial year, the Minister of Finance has sought a report back on progress. The expectation is that the reporting will outline a delivery plan for the coming financial year, including any risks, to provide confidence in delivery and evidence that there will be no reduced transfers going forward. This information will be included in the October Baseline Update response letters.
- 33 The Treasury has provided guidance to agencies on what will be required in these delivery plans, including detail on what are the deliverables that are intended to be achieved within the scope of the transfer request (detailing timeframes and milestones), an overview of what has been completed, and what contingency/mitigation plans are already in place. We will review the delivery plans relevant to the ERP1 and advise on their sufficiency if required.

## ***Performance reporting update***

- 34 As outlined on page 3, Te Manatū Waka currently produces, or contributes to, four key reporting products on the ERP1. These reports are currently focussed on how initiatives are progressing against the agreed scope, process, cost, and time. However, performance (i.e., outcome based) information is limited across products.
- 35 Understanding both delivery progress and outcome-based performance is critical because we will not successfully achieve outcomes if we do not deliver effectively, however we also will not achieve our outcomes if the programme does not contain the right things to enact change. Monitoring performance provides us with early signals about the accuracy of our theory of change. Putting performance reporting alongside progress reporting provides insight on whether this is a result of how we have been delivering, or what we are delivering.
- 36 Officials are developing a dashboard that summarises the core performance metrics that show progress towards achieving the ERP1 outcomes. This is an extension of the ongoing work to develop key metrics within the Decarbonising Transport Monitoring Framework.
- 37 We expect the performance dashboard will be reported on a quarterly basis as part of this report. As the core metrics will include data with different availability frequencies, the dashboard will rotate subsets of information to ensure we are providing you with an updated picture of metrics with meaningful changes. Relevant 'state of play' data for each focus area will be communicated, and although these are still to be confirmed, these could be:
- 37.1 Focus area 1: Public transport boardings, annual regional VKT data, Community Connect uptake, and mode share of active modes and public transport.
  - 37.2 Focus area 2: Fleet statistics on light EVs (LEV) registered, LEV purchase price, EV charger distribution (stations added), perception of EVs, and import data for internal combustion engine vehicles compared to LEVs.
  - 37.3 Focus 3 area: Freight tonne kilometre by road and rail, LEV freight fleet, number of EV busses and ferries, kilometres of electrified rail.
- 38 As we transition from the delivery of ERP1 to the development of ERP2, it is increasingly critical to determine if the transport portfolio is heading in the right direction with its decarbonisation efforts.
- 39 At this stage, the first performance dashboard will be produced in the last quarter of 2023 and will accompany the quarterly report for the period October-December 2023 (delivered in early 2024).



## **ANNEX 1**

### **ERP Transport Landscape (A3)**

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# Transport ERP Chapter portfolio snapshot

## Portfolio overview

- 83 initiatives across four focus areas.
- 21 initiatives allocated to nine priority delivery areas.
- Over 50% of initiatives targeted at focus area 1 (supporting people to walk, cycle and use public transport).
- One third of initiatives will deliver a review, assessment or investigation once complete.
- The majority of initiatives are being delivered by Te Manatū Waka.

**Focus area 1:** Reduce reliance on cars and support people to walk, cycle and use public transport

→ Target 1: Reduce total km travelled by the light fleet by 20%.

**Focus area 2:** Rapidly adopt low-emissions vehicles

→ Target 2: Increase the zero-emissions vehicle share of the light fleet to 30%

**Focus area 3:** Begin work now to decarbonise heavy transport and freight

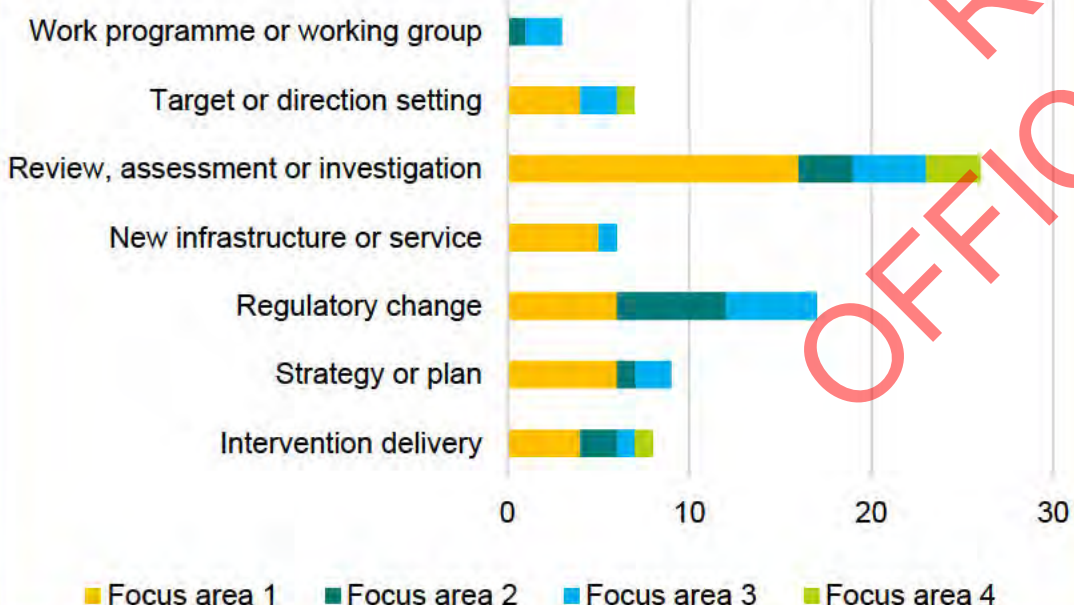
→ Target 3: Reduce the emissions intensity of transport fuel by 10%

→ Target 4: Reduce emissions from freight by 35%. *\*no longer tracking*

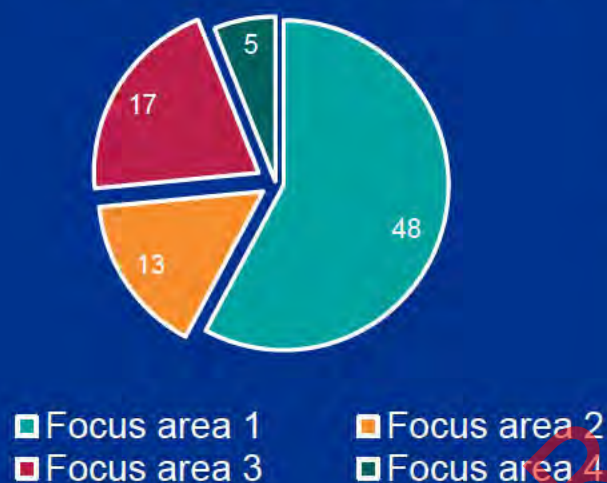
**Focus area 4:** Cross-cutting measures

*\*Clarifying note: Target 4 was incorrectly crossed out instead of target 3.*

## Type of output from each ERP initiative



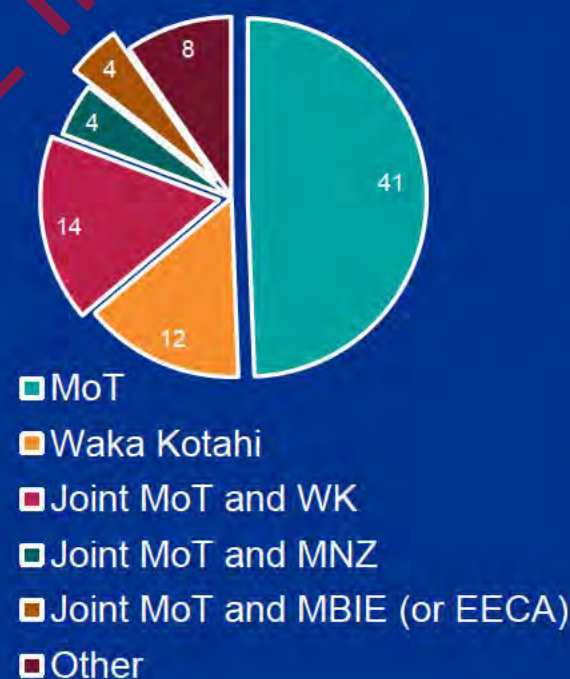
## All initiatives by focus area



## Critical initiatives that make up the Priority Areas by focus area



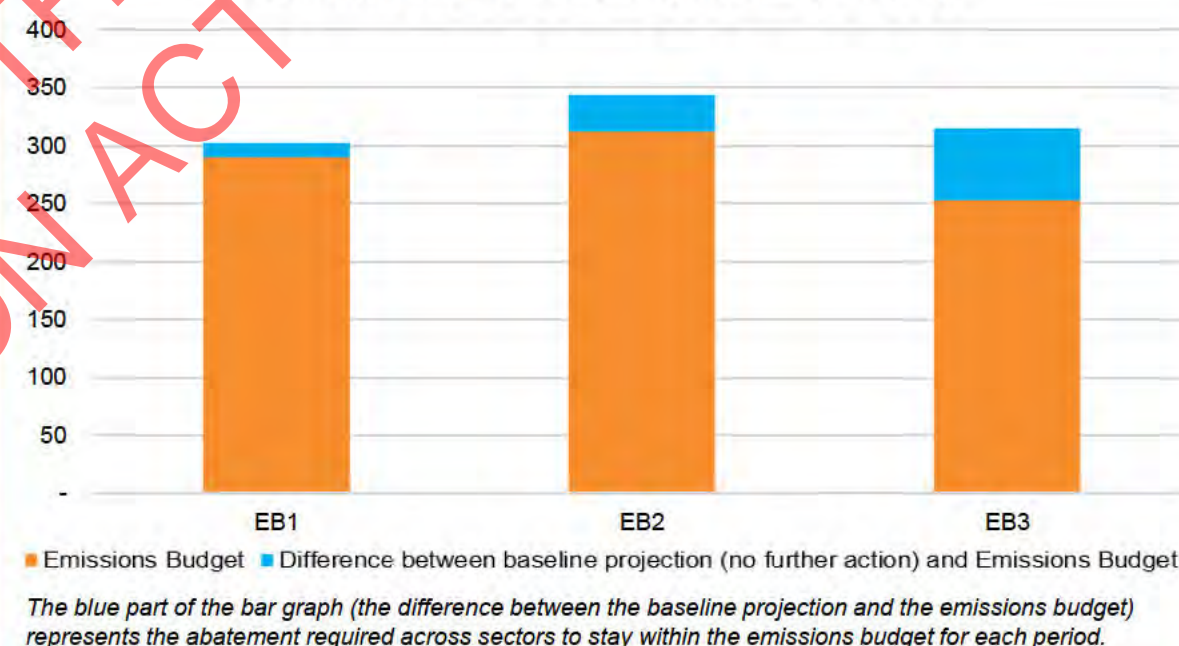
## Transport Chapter initiatives by lead agency



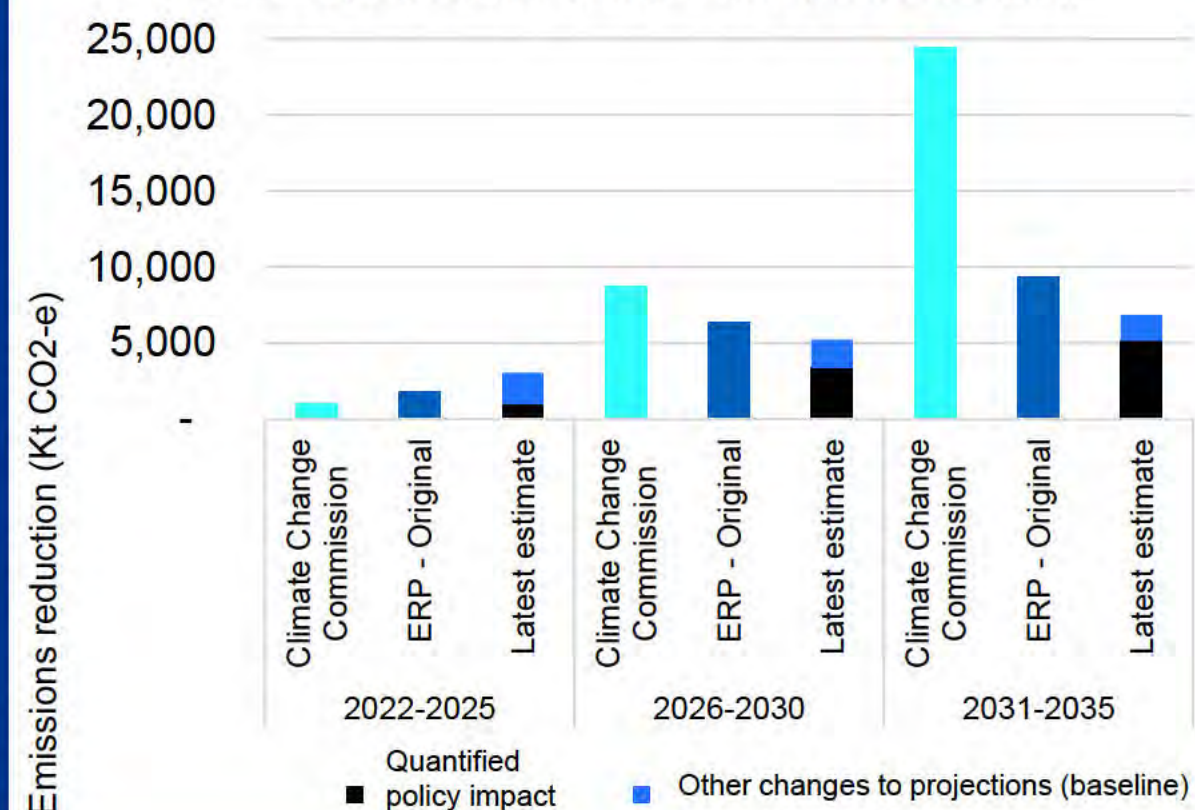
## Performance overview

- 11.5 megaton (Mt) of emissions reduction required across all sectors to stay within EB1 (AR5 forecast).
- 1Mt of quantified abatement associated with actions in the transport chapter of the ERP (AR5 forecast).

## Emissions Budgets and the reductions required to meet them for all sectors (AR5 MT CO2-e)



## Our latest projections change our expected position





## ANNEX 2

### RAG(B) definitions for reporting

Colour	Definition
●	R – Initiative appears unable to achieve overall ERP delivery timeframes and/or emissions reduction objective.
●	A – Initiative could feasibility meet overall ERP timeframes and/or achieve emissions reduction objective but issues/risks exist requiring management attention.
●	G – Initiative is on-track to meet overall ERP timeframes and achieve emissions reduction objectives and there are no outstanding issues.
●	B – Initiatives that are discontinued due to Ministerial decision or because they have not received funding.

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25 August 2023

OC230761

Hon David Parker  
 Minister of Transport

## SPEAKING NOTES FOR 30 AUGUST MEETING WITH AUCKLAND LIGHT RAIL SPONSORS KAREN WILSON AND PAUL MAJUREY

### Snapshot

You are meeting with mana whenua Sponsors Karen Wilson and Paul Majurey as part of establishing a dialogue between the Crown and mana whenua and to discuss matters on Auckland Light Rail.

<b>Time and date</b>	9.30-10am, Wednesday 30 August 2023
<b>Venue</b>	Zoom
<b>Attendees</b>	Hon David Parker – Minister of Transport Karen Wilson, on behalf of the Waiohū-Tāmaki rūpu Paul Majurey, on behalf of the Marutūāhu rūpu
<b>Officials attending</b>	Chris Guilk – Acting Director, Auckland Light Rail (System Performance and Governance Group)
<b>Biographies</b>	Biographies of Karen Wilson and Paul Majurey are attached for your information
<b>Talking points</b>	Talking points are attached for your information

### Contacts

Name	Telephone	First contact
Chris Guilk – Acting Director, Auckland Light Rail	s 9(2)(a)	✓
Tristan Coulson – Senior Adviser, Auckland Light Rail		



## Speaking Notes for 30 August meeting with Auckland Light Rail Sponsors Karen Wilson and Paul Majurey

### Key points

- For your awareness, some of the key matters raised during our engagement with Mrs. Wilson and Mr. Majurey, and may subsequently be raised with you include:
  - s 9(2)(g)(i)
  - the importance of Sponsors working in the spirit of collaboration and the need for ongoing dialogue and discussion amongst Sponsors, particularly ahead of project decisions;
  - s 9(2)(g)(i)
  - 
  - ensuring that feedback from ALRL's engagement with mana whenua is being reflected and incorporated into their work.

### Background information

1. In December 2021, Cabinet agreed to a set of principles for the governance arrangements for the Auckland Light Rail (ALR) project's Detailed Planning Phase (the DPP). At the core of the arrangements is the partnership between the Crown, Auckland Council and mana whenua. Together they are known as the ALR Sponsors, and they provide governance for the wider ALR programme. This arrangement recognises the important roles each Sponsor brings to the project, including:
  - the Te Tiriti o Waitangi partnership between Crown and mana whenua; and
  - the roles and responsibilities of Auckland Council for Tāmaki Makaurau.
2. It took some time to confirm an appropriate approach to working with iwi to select and confirm their Sponsors. Thirteen of Tāmaki Makaurau's iwi and hapū were invited to select representatives to join the Crown and Auckland Council as ALR Sponsors. The 13 iwi, who were grouped into three rūpu confirmed the following appointments in February/March 2023:
  - Mrs. Karen Wilson, on behalf of the Waiohū-Tāmaki rūpu;
  - Mr. Paul Majurey, on behalf of the Marutūāhu rūpu, and
  - Mr. Ngarimu Blair, on behalf of Ngāti Whātua Orakei.
3. Following their appointment, Ministry of Transport (Ministry) officials undertook a programme to induct the mana whenua Sponsors and finalise the governance

arrangements for the DPP. Officials also worked with them to procure their independent advisor and determine their remuneration as ALR Sponsors.

4. Officials' engagement with mana whenua Sponsors has primarily been with Mrs. Wilson and Mr. Majurey, supported by their advisor Dr. Phil Mitchell.

5. s 9(2)(g)(i)

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## Biographies



**Karen Wilson**

Karen Wilson is of Te Ākitai Waiohū, Ngāti Te Ata, Ngāti Pikiao and Ngāti Hau descent.

Mrs. Wilson has spent over 30 years with the NZ Police in a myriad of roles, with the last 10 years operating as a Senior Manager. She is the Chairperson of Te Ākitai Waiohū and recently has been the Lead Negotiator for Te Ākitai Waiohū.

She was a member of the ALR Establishment Unit Board, during the Establishment Phase of the ALR project.

Some of Mrs. Wilson's notable roles and appointments include:

- Chair, Pūkaki Maori Marae Committee;
- Te Ākitai Waiohū Iwi Authority;
- Member, Tūpuna Maunga Authority;
- Co-Chair, Auckland Council Tāmaki Makaurau Mana Whenua Kaitiaki Forum; and
- Tangata Whenua Committee (Wiri Prison).



**Paul Majurey**

Mr. Majurey is of Ngāti Maru, Ngāti Whanaunga, Ngāti Pāoa and Ngāti Tamaterā (Marutūāhu) descent.

Mr. Majurey is an iwi leader, experienced governor and nationally recognised environmental and Treaty lawyer. He has chaired three iwi collectives, comprising some 30 tribes and is a Treaty negotiator with the Crown.

Some of Mr. Majurey's notable roles and appointments include:

- Director at Atkins Holm Majurey, an Environmental and Public Law firm based in Auckland;
- Chair, Eke Pānuku Development Auckland; and
- Chair, Tūpuna Maunga Authority.

## Annex 1: Talking Points

### **SPEAKING NOTES FOR 30 AUGUST MEETING WITH AUCKLAND LIGHT RAIL SPONSORS KAREN WILSON AND PAUL MAJUREY**

#### High-level messages:

- The Sponsoring Ministers and I appreciate the time, effort, and contributions you have made to the project since joining as Sponsors in February 2023.
- I want to assure you both that I remain committed to working with mana whenua Sponsors. I see today as the first step of establishing a regular dialogue between us.
- Are there any questions or concerns you want to raise with me?

#### Ministers have agreed to withdraw the assessment to determine Auckland Light Rail as a Specified Development Project:

- The Ministers of Housing and Finance have withdrawn the direction to Kāinga Ora to assess ALR as a potential Specified Development Project. You would have received a letter from Minister Woods informing you of this decision.
- Stopping the SDP assessment will enable us to further engage with yourselves and the other Sponsors on this matter. Do you have any views on the SDP matter?

#### Next steps for the ALR project:

- Sponsoring Ministers have considered the next steps following the deferral of the decision to lodge the Notice of Requirement.
- I intend to set up a meeting for all Sponsors in the next couple of weeks to check in on this approach.

• s 9(2)(g)(i)

#### Ongoing support:

- We will continue to work with you both as the project progresses. Are there any specific matters you would like officials to follow-up on for you?



28 August 2023

OC230757

**Hon David Parker**  
**Minister of Transport**

## MEETING WITH THE AUTOMOBILE ASSOCIATION

### Snapshot

You are meeting the Automobile Association (AA) who intend to discuss their election calls. This briefing provides speaking points for each of the election calls which focus on issues of impaired driving, maintenance, and resilience. There are also speaking points on the draft Government Policy Statement on land transport 2024.

The AA also met with Minister O'Connor on 23 August 2023 to discuss their election calls.

<b>Time and date</b>	<b>3.30pm, 29 August 2023</b>
<b>Attendees</b>	Simon Douglas, Chief Policy & Advocacy Officer Dylan Thomsen, Manager Communications, Research & Road Safety
<b>Officials attending</b>	Helen White, Manager, Mobility & Safety
<b>Agenda</b>	The AA's 2023 election calls: <ul style="list-style-type: none"><li>• increasing investment in road maintenance</li><li>• improving resilience of the road network</li><li>• preventing drunk and drugged drivers through the introduction of roadside drug testing and improvements to the alcohol interlocks scheme</li><li>• supporting electric vehicle uptake through more investment in charging infrastructure</li><li>• reducing cell phone use while driving as a road safety priority</li><li>• improving the safety of regional highways</li><li>• ensuring GST charged on fuel excise duty and road user charges goes into the National Land Transport Fund</li><li>• providing greater transparency of emissions reductions from climate related spend.</li></ul>
<b>Talking points</b>	Provided at Annex 1, along with biographies of attendees.

**Contacts**

Name	Telephone	First contact
Helen White, Manager, Mobility and Safety	s 9(2)(a)	✓
Tim Herbert, Manager, Investment		

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## **ANNEX 1: TALKING POINTS FOR MEETING WITH THE AUTOMOBILE ASSOCIATION**

### **Direction of the draft GPS 2024**

- I was pleased to see the AA's recent statement supporting the release of the draft Government Policy Statement (GPS) 2024, and the greater focus on road maintenance in land transport investment. I see alignment between many of your election calls and the direction outlined in the draft GPS.
- I welcome feedback on the draft GPS, which is out for consultation until 15 September 2023. If you have questions – please get in touch with Ministry of Transport officials.
- The draft GPS proposes significant increases in investment – with National Land Transport Fund (NLTF) revenue forecasted to reach \$20.8 billion over 2024-2026.
- To fund this investment, the Government is proposing:
  - a return to the previous practice of regular small increases in fuel taxes and equivalent increase to Road User Charges over three years. This will be a two cent increase in petrol taxes and equivalent increase in road user charges on July 2024 and again in January 2025. This will be followed by four cent increases on July 2025 and again in July 2026.
  - Crown funding and financing to limit the impact on household and business budgets.

### **AA's view is that roads have not had the maintenance they need to stay safe and fit for purpose**

- The draft GPS prioritises funding toward maintaining existing infrastructure and services.
- The draft GPS proposes increasing road maintenance budgets by 41 percent over 2024/25 – 2026/27, compared to the last three-year cycle. This equates to a minimum of \$5.4 billion in road maintenance (\$2.4 billion for local roads and \$3 billion for state highways).
- This builds on the last two GPS's, which increased road maintenance budgets by 15 percent in GPS 2021, and 20 percent in GPS 2018.
- The current National Land Transport Programme (NLTP) 2021-2024 is targeting an investment of \$7 billion in local road and state highway maintenance. This should result in 7,000km of state highway and 18,000 km of local roads being renewed.

### **AA seeks greater investment in resilience, particularly after recent extreme weather events**

- The draft GPS proposes a strengthened focus on maintaining assets and services and enhancing resilience, recognising recent flood and weather-related recovery efforts.

- To date, the Government has allocated about \$1.3 billion towards reinstating transport networks affected by the North Island weather events, with a further \$419 million allocated over seven years towards transport resilience. This is in addition to funding signalled in GPS 2024.
- The Government has also indicated that more support will be provided once there is a clearer picture of the costs to each region.

### **AA is calling for the introduction of roadside oral fluid testing and improvements to the alcohol interlock scheme**

- As you're aware, the roadside oral fluid testing regime in the Land Transport (Drug Driving) Amendment Act 2022 can't be rolled out, as a suitable device was unable to be identified through a procurement process.
- Transport officials worked closely with Police to provide advice on options for implementing oral fluid testing in New Zealand.
- We asked officials to work with urgency to ensure we can implement a fit-for-purpose oral fluid testing regime that addresses the harm we know drugged driving can cause on our roads.

*The Government announced drug driving policy changes on 18 August 2023. You may wish to note the following:*

- My colleagues Hon O'Connor and Hon Andersen recently announced that we are introducing changes to the Land Transport Act 1998 that will enable devices to be procured for roadside oral fluid screening.
- Under this approach, drivers that have two positive screening results for a qualifying drug will be prohibited from driving for 12 hours. Any positive screening test will result in an oral fluid sample being sent to a laboratory for evidential testing. Infringement notices will only be issued where the lab test is also positive for any specified qualifying drug.
- The amendments will also introduce a new infringement offence for drivers who refuse an oral fluid test. This will be punishable by an infringement fee of \$400 and 75 demerit points. The person would also be stood down from driving for 12 hours.
- Roadside screening will operate alongside the existing compulsory impairment test process that Police uses.

- s 9(2)(f)(iv)   
 I understand you are interested in improving the alcohol interlock scheme. I'm interested to hear what improvements you would like to see.

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



## **AA wants to see EV uptake is supported and promoted through greater investment in charging infrastructure**

- The Government has consulted on a draft electric vehicle (EV) charging strategy that sets targets to provide:
  - journey charging hubs every 150–200 kms on main highways,
  - a public charger for every 20-40 EVs in urban areas, and
  - public charging at community facilities for all settlements with 2000 or more people.
- Officials have updated the strategy in light of consultation and the Government is set to soon consider the final EV charging strategy prior to publication.
- Budget 2023 included \$120m to support EV charging infrastructure. \$114m of this will be spent on implementation of the EV charging strategy. The remaining allocation will set up a Secretariat to oversee implementation and carry out research to inform future investment in EV charging.
- The success of our clean car policies means there are more than 69,000 EVs on our roads, an increase of more than 80 percent from the end of 2021. The EV charging strategy will ensure we can sustain the uptake of EVs.
- With the implementation of the EV Charging Strategy, privately led developments and off-street chargers in peoples' houses, we anticipate that over time there could be tens of thousands of EV chargers across NZ.

## **AA wants to see more action on targeting mobile phone use**

- Police enforcement has an important role in improving road safety and deterring high-risk behaviour such as mobile phone use while driving. The draft GPS continues funding for police to deliver enforcement activities.
- Safety camera trials to detect mobile phone and seatbelt offences were undertaken last year, with no penalties issued. Waka Kotahi recently published its findings that showed across the three test sites, one in 42 drivers were detected illegally using mobile phones.
- Current legislation does not permit images captured by safety cameras to enable enforcement of mobile phone or seatbelt offences. However, officials are exploring options to enable this.

## **AA seeks more new roads to increase safety of regional highways**

- Safety continues to be a priority signalled in the draft GPS.
- Whilst a 37 percent reduction in deaths and serious injuries from new roads is good, it is not outstanding.

- It is likely that retrofitting existing roads with additional safety measures such as median and roadside barriers would provide greater safety benefits. For example, the average reduction in deaths and serious injuries achieved by retrofitting median barriers to existing roads is around 65 percent. This comes at a much lower cost than building new roads.
- The substantial costs of such major new projects means that the safety benefits are less cost-efficient compared to treating existing roads. For example, Transmission Gully cost \$1.25bn to build 27km of new road. This represents \$46m per km, compared to an estimated \$3-5m per km to retrofit an existing road (approximately 10 times the cost).

### **AA proposes GST on fuel excise duty (FED) and road user charges (RUC) should be spent on roads**

- Currently, we are not exploring changing the approach to GST in terms of road taxes.

### **AA wants greater transparency on emissions reductions on emissions related spending**

- Motorists pay an Emissions Trading Scheme (ETS) levy, which adds between 10-20 cents per litre. ETS proceeds are ring-fenced to the Climate Emergency Response Fund (CERF) to support emissions reduction and adaptation.
- The Government has set out a clear, long-term strategy for reducing transport emissions with time-bound targets in the transport chapter of the Emissions Reduction Plan (ERP).
- Funding from the CERF is contributing to the progress of ERP actions. Regular reporting (both on spend, and what this spend has delivered) is provided to the Treasury on a regular basis.
- The draft GPS 2024 proposes dedicating \$500m from the CERF to the transport system to support walking and cycling improvements.
- To date, the CERF has contributed \$1.2 billion towards transport investments, including decarbonising the public transport bus fleet, new walking and cycling pathways, increasing bus driver wages and supporting freight decarbonisation.
- The monitoring and reporting approach established by the Treasury is more detailed than the Crown's existing monitoring and reporting processes. As such, it provides an additional layer of scrutiny for CERF funding provided for climate objectives.

## Biographies



### **Simon Douglas, Chief Policy & Advocacy Officer**

Simon's role encompasses everything the Government and its transport agencies do that affects motorists and AA Members including road safety and infrastructure, transport funding (including fuel excise, road user charges, regional fuel taxes), speed limits, traffic enforcement, environmental issues and petrol prices.

Prior to joining the AA in 2012, Simon was an Executive of Tourism New Zealand, and held roles at the Ministry of Transport, Ministry of Tourism and Beca Engineering.



### **Dylan Thomsen, Manager Communications, Research & Road Safety**

Based on material published online Dylan has a strong focus on road safety, frequently publishing articles on the topic.

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30 August 2023

OC230674

BR/23/82GA

**Hon David Parker**  
**Minister of Transport**

**Hon Damien O'Connor**  
**Associate Minister of Transport**

**Hon Ginny Andersen**  
**Minister of Police**

## **ROAD TO ZERO QUARTERLY MINISTERIAL UPDATE APRIL - JUNE 2023**

### **Purpose**

To provide the Road to Zero Ministerial Oversight Group with the quarterly update for April to June 2023.

### **Key points**

- This is the third Road to Zero quarterly update for 2023. In the absence of the August meeting, Bryan Sherritt, Director Road to Zero is available to meet and answer any questions you may have on the programme of work.
- This update includes:
  - Data on crashes and fatalities. There were 90 fatalities from 77 crashes over the period April to June 2023. The provisional number of road deaths for the calendar year to date as at 31 July 2023 was 196. Extrapolating this across the full calendar year, we are forecasting 339 road deaths in 2023, which would be a 10 percent reduction on the number of road deaths in 2022.
  - An update on progress in the portfolio. The portfolio remains at AMBER/RED as there are risks and issues in a number of key death and serious injury (DSI) reducing work programmes. Effort is required to improve the scale and pace of delivery of the poorer performing initiatives or to bring forward other initiatives that support delivery of the 40 percent reduction in DSI by 2030.
  - Case studies of speed and infrastructure improvements in New Zealand, highlighting the evidence of what works.
  - Where Ministerial support is needed to progress the five focus areas in 2023. Work on safety cameras and safe vehicles require policy and legislative change.



- Following release of the draft Government Policy Statement on land transport 2024 (draft GPS) on 17 August 2023, we understand Ministers intend to release the Road to Zero Action Plan for 2023-2025. Officials are also preparing to release 2022 Road to Zero Monitoring Report on Friday 1 September 2023, and will provide your offices with supporting material in advance of the release.

## Recommendations

We recommend you:

- note** the April-June 2023 Road to Zero quarterly report that highlights that the portfolio remains at AMBER/RED as there are risks across a number of the key death and serious injury (DSI) reducing work programmes.
- note** that road safety partners are working to improve the scale and pace of delivery and considering opportunities to bring forward initiatives to support the achievement of a 40 percent DSI reduction by 2030.



Helen White  
**Manager, Mobility and Safety**  
**Ministry of Transport**

30 / 08 / 2023



Jevon McSkimming  
**Deputy Commissioner,**  
**Operational Services and**  
**Road Policing**  
**New Zealand Police**

30 / 08 / 23

Hon David Parker  
**Minister of Transport**

..... / ..... / .....

Hon Damien O'Connor  
**Associate Minister of**  
**Transport**

..... / ..... / .....

Hon Ginny Andersen  
**Minister of Police**

..... / ..... / .....

**Minister's office to complete:**

- ☐ Approved  
☐ Seen by Minister  
☐ Overtaken by events

- ☐ Declined  
☐ Not seen by Minister

## Comments

## Contacts

Name	Telephone	First contact
Bryan Sherritt, Director Road to Zero	s 9(2)(a)	✓
Jevon McSkimming, Deputy Commissioner, Operational Service and Road Policing, NZ Police		

# ROAD TO ZERO QUARTERLY MINISTERIAL UPDATE APRIL - JUNE 2023

## Road to Zero requires support from a range of agencies and Ministers

- 1 Road to Zero is the government strategy for reducing deaths and serious injuries (DSI) on our roads for 2020-2030. The strategy has a target to reduce DSI by 40 percent from 2018 levels by 2030. An overview of Road to Zero is provided at **Annex 1**.
- 2 Achieving this target requires actions from different agencies, including Te Manatū Waka, Waka Kotahi NZ Transport Agency, NZ Police, ACC and Worksafe. The Ministerial Oversight Group (MOG) was established to maintain an overview of progress and set the strategic direction and priorities.
- 3 The MoG usually meets on a quarterly basis, and as part of this, receives a quarterly update on progress in delivering on the actions in the Road to Zero strategy and action plan. The Quarterly Update provided at **Annex 2** outlines progress for the April-June 2023 period.

*Road to Zero follows international best practice for improving road safety outcomes, but faces some challenges*

- 4 The Road to Zero strategy is based on the “Safe System” which is acknowledged as the world's best practice approach to road safety. The interventions are very effective when applied in the New Zealand context (see slides 9-27 of the Quarterly Update which highlights some New Zealand specific case studies).
- 5 There are five critical interventions that have been modelled to deliver the bulk of the targeted 40 percent DSI reduction by 2030:
  - 5.1 the installation of 1000km of median barriers
  - 5.2 removal of one- and two-star cars from the vehicle fleet
  - 5.3 10,000km of high-risk roads treated with safe and appropriate speed limits
  - 5.4 road policing performance targets (such as breath testing and restraint offences) being met each year
  - 5.5 650 operational safety camera sites operated by Waka Kotahi.
- 6 Delivery of these interventions along with others, by 2030, would expect 1270 less people to die or be seriously injured on our roads each year.
- 7 While progress has been made, the portfolio has not yet delivered at the pace that was originally modelled. We need to deliver these interventions at the necessary scale and pace over the remaining years of the decade. To achieve this, funding provided through the GPS must target road safety interventions on the highest risk parts of the network and road policing activities. Support for the passage of key enabling legislation, such as the fines and penalties review, vehicle safety standards and legislation supporting safety cameras is also needed.

- 8 Removal of the dedicated activity class as proposed in the draft GPS 2024 poses a challenge for continued prioritisation of safety infrastructure improvements on the parts of the network where it will make the biggest difference. Funding pressures on the National Land Transport Fund could also impact funding for these improvements.

**Progress against the portfolio of work is at Amber/Red**

- 9 The overall Road to Zero portfolio remains at an amber/red rating as there are risks and issues in a number of key areas. A significant amount of work has been completed across the portfolio, but we remain behind on key DSI-contributing work programmes.
- 10 Slide 5 of the Quarterly Update summarises progress and key challenges for the five focus areas for Ministers in 2023.
- 11 There has been progress in some areas. The Land Transport (Road Safety) Amendment Bill, which explicitly incorporates average speed safety camera offence detection and evidentiary requirements in legislation, was passed on 29 August 2023. There are other areas where work is on hold until the next parliamentary term.

**The next Road to Zero Action Plan is expected to be released by Ministers shortly, and the 2022 Monitoring Report will be released by the Te Manatū Waka**

- 12 In May 2023, Cabinet agreed to publish the Road to Zero Action Plan for 2023-2025. Officials understand an announcement is expected imminently, following the release of the draft GPS 2024 on 17 August 2023.
- 13 Officials are also preparing to release the Road to Zero 2022 Monitoring Report. The report is expected to be published on Te Manatū Waka's website on Friday 1 September 2023. We will provide Ministers' offices with supporting material in advance of the report's release.



# A guide to Road to Zero

May 2023

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# A guide to Road to Zero

This guide to Road to Zero provides a summary of New Zealand's approach to reducing the harm caused on our roads.

It will outline where we are currently at and how we measure up against similar countries.

This guide includes real world case studies that show how the various actions are improving road safety and reducing that harm that people experience.

Also included is a guide on how to talk about road safety, as well as a summary of the key messages that can be used to highlight that work.

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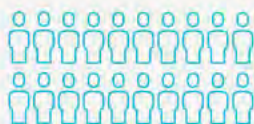
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# The size of our road safety problem

## Key road safety statistics

The trauma faced on our roads is felt by families, whanau, communities, and wider society, many years after a crash.

In 2021, 318 people died on our roads.



**25**  
Pedestrians



**73**  
Passengers



**7**  
Cyclists

**20%**

The combination of driver alcohol/drugs and speed contributes to 20% of fatal crashes

**122**



died and **507** people were seriously injured in crashes that involved speeding. The outcome of 100% of crashes is directly related to the speed of the crash, even if the speed limit wasn't being broken

**128**



people died and **258** people were seriously injured in crashes where drugs or alcohol was a contributing factor.

**10**



people died and **136** people were seriously injured in cases where a driver was distracted from the job of driving.

## Case Study

The human impact of road trauma as told by Tony Smith,  
St John Medical Director

### This is Sarah's story

A sporting and academically talented teenager Sarah (not her real name), was driving home from sports practice one night when an oncoming car slightly crossed the centre line when its driver was distracted texting, causing Sarah to swerve.

Her evasive action caused the car to skid off the rural road and crash into a tree, with the driver's side taking the force of the impact.

Sarah suffered severe brain injuries, bruising and bleeding to both lungs, extensive injuries to her ribs, liver, spleen and pelvis.

Fire crews used the jaws of life to extricate her from the car and she required blood resuscitation at the scene. She was then flown by air ambulance to hospital, where upon arrival she required immediate surgery to stem bleeding from her liver and spleen.

Over the next week Sarah continued to have life threatening lung failure and severe swelling of her the brain, both requiring complex intensive care therapies. Then as Sarah began to improve, she developed a severe infection that further threatened her life.

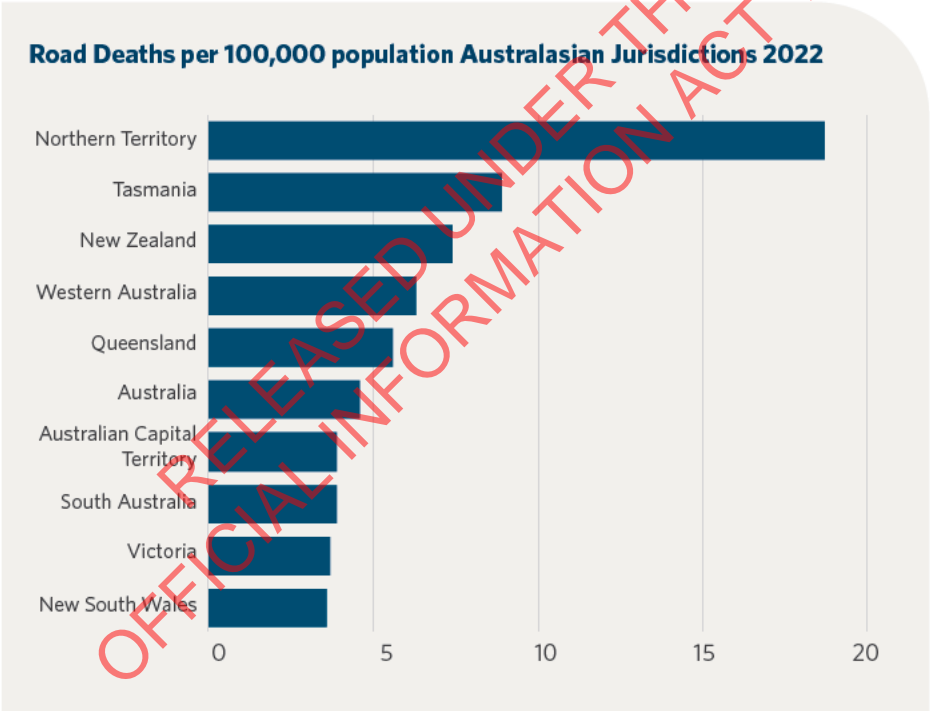
Finally, after several weeks of intensive care, further testing showed that the extent of Sarah's brain injury was such that the only likely outcomes for her were being left with permanent severe life-long brain damage, or death.

Sarah went on to die. Her death, and its tragic circumstances, devastated her family, wide circle of friends, teachers and many others in her community, and continues to leave a yearning hole in the hearts of those who loved her.



# How New Zealand stacks up

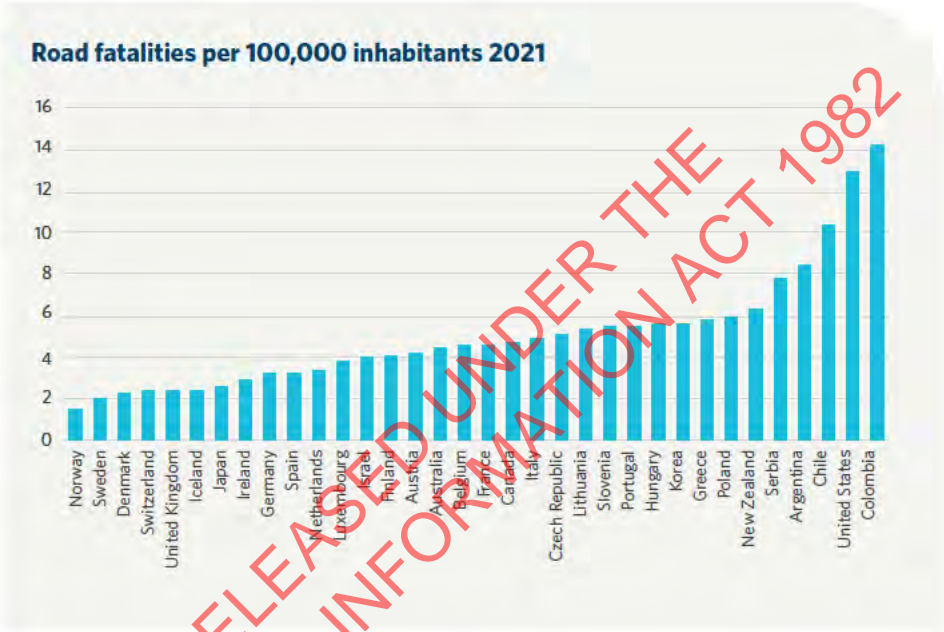
Australasia: Road deaths per 100,000 inhabitants (2022)



**Source:** Bureau of Infrastructure and Transport Research Economics (BITRE), 2023, Road Trauma Australia 2022 statistical summary, BITRE, Canberra ACT. Pg.29

# Globally: Road deaths per 100,000 inhabitants (2021)

This is how we stack up against other countries in 2021



**Source:** International Traffic Safety Data and Analysis Group (IRTAD) Road Safety Annual Report 2021 and Transport Accident Commission (TAC) Road Safety quarterly statistics 2022.

There is now confirmation that the 2022 figure for New Zealand road fatalities per 100,000 inhabitants was 7.3.

# The \$7.7 billion road safety problem

The harm caused on our roads is devastating for families, whanau, and communities all across New Zealand.

It also costs us as a country. In the twelve months between September 2021 and October 2022, 348 people died with a social cost to New Zealand of \$7.7 billion. And this only accounts for death and serious injury, not minor injuries. The true social cost to New Zealand is bigger. It's worth noting, the more people who die or are injured on our roads, the more it'll cost us.

Reducing the harm on our roads lowers the social cost of road fatalities.

## How is this calculated?

Social costs measures the total cost of road crashes to New Zealand, including loss of life and life quality, loss of productivity, medical, legal, court and vehicle damage costs.

The social costs of death and injuries on our roads

Cost component	Description
Value of Statistical Life (VOSL)	Proxy for suffering, grief and disability (for lower severities) based on the estimated amount people were willing to pay to reduce road crashes by one
Health system costs	Resources spent on emergency and follow-up care services
Legal system costs	Investigations, court and imprisonment costs
Vehicle damage costs	Loss of vehicle and damage repairs
Productivity costs	Loss of productive time due to recovery (for serious and minor injuries only)

# What are the social costs?

The social costs to New Zealand of road trauma are (based on 2022 modelling and research):

Road death	Road serious injury	Road minor injury
<b>\$13.4 million</b>	<b>\$1.3 million</b>	<b>\$240,600</b>

The total social cost to New Zealand is based on road trauma for the 12 month period between October 2021 and September 2022, where 348 people died and 2,317 people were seriously injured.

This equals \$7.7 billion of social costs to New Zealand.





## Improving road safety outcomes for Māori

In May 2023, cabinet approved the Road to Zero Action Plan 2023-2025, a successor to the original plan which included the development of He Pūrongo Whakahaumarū Huarahi Mō Ngā Iwi Māori, a research report on Māori road safety outcomes. The report confirmed that Māori are over-represented in serious road crashes. Māori experience higher rates of death and serious injuries than the general population. The delivery of He Pūrongo was a key milestone and baseline to achieving better road safety outcomes for Māori, by Māori, something the second plan intends to advance.

This includes a commitment to continue to engage and build relationships to better understand context, undertake further research, and partner with Māori to support them to design and implement initiatives to improve road safety outcomes for Māori.

We will continue to look for opportunities to collaborate with other government agencies that are working with Māori (mana whenua and mātāwaka) to leverage resources and learnings that can contribute to Māori-centric road safety and wellbeing initiatives.

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# Our plan to reduce road trauma

## New Zealand's approach to road safety – Road to Zero



There are a lot of views about which action is the right action to take to reduce the harm on our roads. Some people believe it's all about infrastructure and safer vehicles. Some believe it's all about driver training and education. Some people believe it's all about speed.

It's actually all of this. To make a real difference, all aspects of the transport system need to be looked at and changes made across the board. Road to Zero takes all of this into account

Road to Zero is our national road safety strategy that sets us on a path towards an Aotearoa New Zealand where no one is killed or seriously injured on our roads, supported by an ambitious but achievable target to reduce deaths and serious injuries (DSIs) by 40% by 2030 (compared to 2018).

# The Safe System approach

Road to Zero is underpinned by the “Safe System” international best-practice approach to road safety, which accepts that humans are vulnerable and we make mistakes.

Preventing deaths and serious injuries is about more than just how we drive – it is about how all the various parts of the system work together to protect people from serious harm.

We need to invest in safer infrastructure, get people into safer vehicles which protect them in a crash, ensure speed limits are safe for each road, and enforce and promote behaviours that ensure safe, sober drivers who wear their seatbelts and focus on the task of driving.

The principles that underpin the safe system approach are:



## What does Zero mean in Road to Zero?

We have zero tolerance that death and serious injury is the price that we must pay to simply use New Zealand Roads.

Zero is the only number we should accept. We shouldn't plan a transport system where we are happy that 50 people, 100 people, 200 people die each year.

We don't accept that people should die when flying, so why do we accept it for our roads?

So zero is absolutely the number we aspire to.

Road to Zero is a **human centred** strategy based on the safe system approach to road safety.

Road to Zero recognises that **Humans are fallible** - in that we make mistakes, and make poor choices

It also recognises that **Humans are vulnerable** - in that there is a finite amount of force that the human body can withstand in a crash before death and serious injury is the result.

The system must be designed and operated such that humans are protected - this means all parts of the system operating together.

The focus of Road to Zero is the ultimate elimination of death and serious injury due to road trauma. It is about reducing as much as we can the likelihood of crashes that result in Death and Serious Injury. By 2030, the targeted objective is a 40% reduction in deaths and serious injuries.

Importantly it is about managing the consequence of all crashes such that we have every chance of zero death and serious injuries

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## Key Road to Zero outcomes



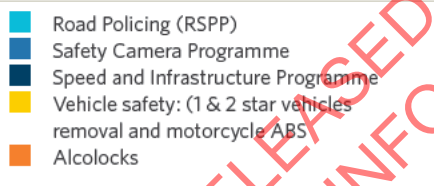
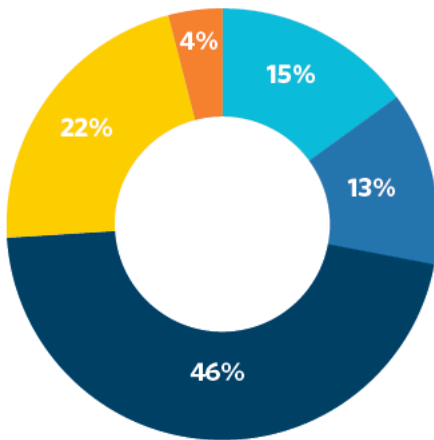
### The contribution the focus areas make towards the 40% reduction target

Taking a system approach means that progress in many focus areas will make a big difference to the harm we experience on our roads.

Road Safety partners have done modelling to see how much of an impact each area will make. Modelling is reviewed on a regular basis.

The 40% reduction target was derived from modelling the best combination of interventions at the right scale required to deliver a reduction in deaths and serious injuries over the ten years to 2030. A small number of key interventions deliver the reduction.

This pie graph models the percentage contribution required from various road safety factors to achieve the 40% reduction in DSI by 2030.



## Key Road to Zero outcomes

Road to Zero has strong focus on interventions that have been proven to work. The challenge in New Zealand is to implement these interventions at the scale and pace that will be necessary to achieve the target of a 40% reduction in DSI by 2030.

As outlined in the Road to Zero Action Plan, the most significant DSI reducing safe system interventions from Road to Zero are:

- Infrastructure – at least 1000 km of flexible median barriers, more than 1300 intersections upgraded with primary safe system treatments such as roundabouts and raised platforms.
- Speed limits – speed management applied to at least 10,000 km of the highest risk roads on the network to align speed limits with safe and appropriate speeds.
- Safety Cameras – 700 - 800 new safety cameras (including point to point cameras) to lower average network speeds (including updated levels of fines and penalties).
- Enforcement – increase levels of enforcement from 2018/19 levels, particularly for restraints, impairment, distraction, and speed (including updated levels of fines and penalties).
- Vehicle Safety – substantially improve vehicle safety standards via a revised regulatory framework along with practical progress on modern safety features an increasing exit of less-safe vehicles.

# What we are actually doing

## Infrastructure: Median barriers update

A key road safety intervention is the increasing introduction of median barriers below is the upcoming proposed programme of work for this vital piece of roading infrastructure.

As the lead road safety management agency, Waka Kotahi is installing median barriers on high-risk roads across Aotearoa to prevent head on collisions, save lives and reduce serious injuries.

Its changing how we plan and manage projects to increase and meet a target ranging (due to the impact of this year's weather events) from 170km to 220km of median barrier on state highways by mid-2024. We plan to refine our procurement and delivery approach and simplify how we engage with market contractors.

Under Road to Zero, there's approximately 100km of median barrier currently on state highways, and 40km of median barrier either in or about to begin construction shortly. New projects will cover an additional 30-80km of median barrier to meet an overall target of between 170km and 220km operational or in construction by mid-2024.

Waka Kotahi has released a list of potential sections of state highway where we might install median barriers through the Government Electronic Tender Service, starting with major projects in the central North Island and lower South Island. This is part of a supplier shortlisting process for projects to be completed in the 2023/2024 summer construction season.

As part of the prioritisation process, beyond the higher levels of traffic and collective safety risk, and mindful of the needs of its road safety partners, Waka Kotahi is considering sections of state highway that are lower complexity in construction and that have alignment with existing maintenance works programmes.



**A key road safety  
intervention is  
the increasing  
introduction of  
median barriers**



## Current speed work

Waka Kotahi is responsible for reviewing and setting speed limits on state highways, while local councils review and set speed limits on local roads.

### State highways

On our state highways, we are progressing work to tackle unsafe speeds. The proposed changes to speed limits are carefully targeted. We're proposing to lower speed limits on 552km of state highways at 444 locations across New Zealand, including on 125km of highways outside 269 schools and 11 marae. That represents about 4% of the total 11,000km state highway network.

Following the Government's announcement in March regarding policy changes to speed management we are reviewing the Interim State Highway Speed Management Plan to successfully give effect to Cabinet's recommendations to focus on the top one percent of most dangerous state highways and those sections supported by the community.

The Road Safety Team at Waka Kotahi have developed a framework to identify this top one percent. This interpretation is based on locations with the highest crash density (the highest number of deaths and serious injuries per kilometre), road environment risk (for

example, the road's alignment, width, and any known hazards) together with the current operating speeds.

A strict interpretation of the one percent would result in speed limits starting and stopping at some locations in ways that wouldn't make sense to people driving or provide route consistency. So to reach the above final activity, we've also considered how people use the road in their journeys, and what makes sense in the surrounding environment.

Our main focus in the plan continues to be safe speeds for schools/kura, marae, townships and intersection speed zones.

While this directive impacts the speed management contribution to Road to Zero targets, we remain fully committed to achieving significant DSI reduction in the long term. With a Safe System approach, we will continue looking the range of safety interventions that work together to reduce the number of people being killed and seriously injured on our roads.

Our next step is to submit our final plan for certification by the Director of Land Transport. We anticipate certification in 2023.

**Our main focus in the plan continues to be safe speeds for schools/kura, marae, townships and intersection speed zones.**



## Local roads

Local councils (through their local Road Controlling Authority) are required to develop a speed management plan every three years. Given that most roads in New Zealand are under local control, the work that is happening at the local level will make a massive difference across New Zealand.

Councils across the country are already making good progress, either consulting or having already made changes to speeds in their town, city or region. This includes Wellington City Council, Hutt City Council, Auckland Council, and Rotorua Council, amongst others.

## Safety Cameras

Introducing new safety camera technology will translate into lives saved by reducing speeds and enforcing safer driver behaviour.

The Safety Camera System Programme (SCSP) has been gaining momentum over the last quarter, with key activities completed to support the ongoing expansion of the national safety camera network across the motu.

At the end of March 2023 (Q3), the programme team completed a key stage goal through successful prototype testing of new safety camera technology and the Safety Camera Management System (SCMS) in a controlled environment at the Masterton Motorplex.

Four stage goals form a part of the programmes' overall delivery approach, introduced at the end of 2022. This approach focuses on adding value by driving the expansion of the safety camera network, and progressively building operational capability within Waka Kotahi to manage and operate the safety camera system in Aotearoa New Zealand. This approach also supports the programme to iteratively improve delivery and operations through agile design (build and test) and will ensure that the system is fully established and ready to transition existing cameras from NZ Police starting from mid-2024.

### Stage 1 success

Stage 1 required a new safety camera prototype to be set up, taking images of passing vehicles and sending them through to a connected SCMS. The test results demonstrated a reliable connection between the camera hardware and the management system, with the successful transfer of data from the cameras to the system.

The safety cameras were also tested through a variety of scenarios, including the use of different types of vehicles and environmental conditions.





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## Road Policing delivery

Police continues to partner with Waka Kotahi and Te Manatū Waka Ministry of Transport to meet shared road safety commitments under the Road Safety Partnership Programme (RSPP), which supports Road to Zero.

We have made commitments to road safety through the RSPP 2021-2024 and continue to focus road policing activity on the high-risk behaviours of not wearing restraints, driving impaired or distracted, and speed.

Police is progressing a range of initiatives to improve prevention and enforcement activity and support the delivery of Road to Zero and the RSPP. We launched our Safe Roads Control Strategy in December 2021, which provides Police with an overarching framework to achieve our goal of Safe Roads by working closely with our partners to prevent deaths and injuries on New Zealand roads. Police's contribution to Road to Zero is particularly important now with 377 deaths on our roads (provisional figure) in 2022 - the highest number for many years.

### **Supporting the delivery of road policing, Police have:**

- developed the Road Safety Deployment Dashboard, which was rolled out to all districts in late 2022. The dashboard better informs road safety deployment across districts using activity-based evidence and applying general deterrence principles.
- commenced Operation Open Roads in December 2020 - a nation-wide operation aiming to align deployment of resources to where risk of trauma occurs (between 70-80 percent of trauma occurring on our open, undivided roads), ultimately delivering improved outcomes. The Deployment Dashboard will be used during this operation to inform deployment and assess the impact of enforcement.

### **In addition, Police have also:**

- worked to develop a Safe Roads Operating Model, which works alongside Our Business and the Safe Roads Control Strategy, linking to the Road to Zero and the RSPP, and will be principles-based. This will be finalised in 2023 and launched for Police to use.
- started an Activity Based Costing (ABC) review that will support development of an appropriation model that more accurately identifies what it costs to deliver road policing activity. This work is the first step to better understand the link between the funding, activities and resourcing that supports road policing delivery. An initial review has been completed and is currently being considered against wider fiscal considerations.

# Police continues to partner with Waka Kotahi and Te Manatū Waka Ministry of Transport to meet shared road safety commitments



## Vehicle Safety

Aotearoa New Zealand has high number of unsafe vehicles - 1.65 million have a 1 or 2-star safety rating (approximately 40% of our light vehicles).

Improving this is a key focus area as people are twice as likely to die or be seriously injured in a crash in a 1-star safety rated vehicle then in a 5-star vehicle. That is because safer vehicles help drivers avoid crashes and better protect occupants and other road users when crashes do happen.

Rapid advances in safety features and technology mean vehicles continue to get safer and cleaner, and while most vehicles coming into New Zealand have good safety features, not all do. We also import many used vehicles that vary greatly in their safety performance. We provide a growing amount of data to support good consumer choices, yet many New Zealanders don't know about the role their car's safety plays in their chances of having or surviving a crash or even the safety rating of their vehicles (and therefore the level of risk, they, their whanau and others are at.

If you want people to drive safe and clean vehicles, they need reliable, understandable and accessible information about which vehicles to choose. The vehicle fleet also has a significant role in mitigating the effects of climate change and reducing air pollution, so it is important environmental ratings are promoted alongside safety.

In February the Rightcar website was updated to enable vehicle owners and prospective buyers to view the latest safety ratings for the light vehicle fleet and additional crash avoidance features data too. It coincided with the completion of an annual survey, amongst other things, showed only half of surveyed drivers know the star safety rating of their vehicle, though typically those who do, drive a 4 or 5 star car.

Initiatives to further enhance vehicle safety include active promotion active promotion of safer vehicle choices for corporate fleets and plans for a multi-platform campaign to encourage drivers away from one and two star-rated vehicles

In addition, Waka Kotahi is working with the Ministry of Transport and the motor vehicle industry to lift standards of vehicles in/ entering our fleet, with consultation on some proposed change expected to progress this year.





Initiatives from the Road to Zero Action Plan 2023-25 which seek to meet the objective of improving the safety performance of the vehicle fleet include:

- Raising the safety standards of vehicles entering New Zealand via improving the broader regulatory approach to vehicle standards for lighter vehicles, by looking at how vehicle standards and rules are set, reviewed and updated in line with relevant international standards
- Raising the safety standards of vehicles currently in the fleet by investigating options to exit 1 and 2 star safety-rated vehicles from the existing fleet and improving the safety of heavy vehicles.
- Examine the Warrant of Fitness and Certificate of Fitness systems and whether they need updating, for example to account for changes in vehicle safety features. Investigate opportunities to improve current testing procedures, including electronic scanning tools and other improvements in vehicle maintenance and testing.

## Work Related Road Safety

About 25 percent of the deaths on our roads involve someone driving for work, whether as a commercial driver or as a secondary part of their main role. Fatigue, distraction and vehicle safety are important issues. Vehicle mass and size play a role in some work-related crashes due to generally larger work vehicle sizes and proximity to vulnerable road users, including those travelling on foot, bike or motorcycle, in urban areas.

Under the Health and Safety at Work Act 2015, businesses must ensure the safety and health of their workers and must manage the risks to the health and safety of others. This includes the risks arising from driving for work. Commercial transport operators also have specific obligations under the Land Transport Act 1998 and associated rules, such as maximum worktimes. Ensuring businesses and other organisations take their responsibilities for work-related road safety seriously can significantly reduce harm, both to their workers and to other road users. Designating Waka Kotahi to take on Health and Safety at Work functions could provide greater coordination and leadership of work-related road safety.

We want to ensure businesses and other organisations have access to best practice information for safety standards and technologies that help support their staff to travel safely and help meet the objective of ensuring that businesses and other organisations treat road safety as a critical health and safety issue by:

- Strengthening work-related transport regulation by completing the review of work-time requirements under the Land Transport Act 1998, look at the potential to mandate the use of e-logbooks to improve auditing and enforcement of time limits, and examine the future of transport technology to address safety risks while driving for work.
- Support best practice for work-related road safety by investigating the establishment of a system-based collaborative harm prevention approach for work-related activity on the road, involving Waka Kotahi, WorkSafe, ACC, New Zealand Police, industry and union representatives. This will lead to evidence-based, best-practice interventions that target known road safety and compliance risks in the sector.

## Working with regional communities and councils

Road safety agencies work in partnership with local government to deliver transport projects and programmes that make it safer, simpler and more sustainable for people and products to move around New Zealand. We also work closely with people and organisations affected by our work, and in partnership with local governments, we engage with communities about the risks on our roads and work together to find solutions.

With 90% of New Zealand roads being local roads under the control of local government road controlling authorities, these are vital relationships.

# Let's talk about speed Op-Ed by Bryan Sherritt

First published December 2022

Speed might not cause every crash, but speed determines the outcome in every single crash we see on our roads.

Speed determines whether people get home to their family, visit their friends and go to work, or end up in hospital with lifelong injuries. Or worse.

Good speed management is a fundamental pillar of the 'safe system' approach to road safety, which is recognised internationally as the most effective way to reduce deaths and serious injuries. Looking at the speeds that we have across our network, and making sure they are safe and appropriate, will significantly reduce the harm and trauma we see on our roads.

## **The energy in a crash**

Many people will be familiar with the amount of energy in collisions on the rugby field as we watch our sporting icons battle it out each week. We can see that these collisions can cause big injuries, including concussions. If a simple game of rugby can cause potentially lifelong brain injuries, imagine what damage can be done when you increase the amount of energy hundreds of times.

This is what it's like when you crash.

Small changes in speed equate to big changes in the amount of energy in a crash. If you are travelling at 100 km/h and increase your speed to 110km/h, a 10% increase in speed, you increase the energy in your vehicle by 21%. Lowering the speed lowers the energy that your body must absorb in a crash.

## **Crash types**

The way speed or energy impacts on the human body in a crash depends on the type of crash. Cars these days must have seat belts, the front of cars are designed to collapse and absorb energy in a collision, and most cars have airbags. This means that the forces on your body when you have a front-on crash into another car or a tree are survivable if the impact

In a t-bone intersection crash less of these energy absorbing features come in to play and collision speeds above 50km/h are likely to be fatal for the occupants of the vehicle being hit.

For vulnerable road users, particularly pedestrians or cyclists who have none of the protection afforded by a car, collisions with impact speeds above 30km/h are likely to be fatal.

### **Infrastructure can't replace Speed Management**

The safe system approach of Road to Zero means looking across the board to make changes that'll reduce harm and road infrastructure plays a key role in preventing crashes.

The installation of median barriers prevent head on crashes. Roundabouts and raised platforms at signalised intersections mean that impact speeds in intersection crashes are lower. Separated cycling and pedestrian facilities provide protection for all people on or by the road.

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# Case studies from across New Zealand

## The Safe System in action

### State Highway 59, Centennial Highway Lower North Island



Last year's opening of Transmission Gully, north of Wellington, which re-directed the main volume of traffic away from the Kapiti coastline, is just the latest roading initiative to make this ribbon of road immeasurably safer.

In the preceding 15 years, flexible median barriers, safer speed limits, improved signs and markings were just some of the interventions installed on the former State Highway 1 (SH1) Centennial Highway to reduce the number of people being killed and seriously injured on this road.

Following Wellington's coastline north to the Kāpiti Coast, the Centennial Highway was a treacherous piece of road that over 11 years saw 17 people killed and 15 seriously injured.

To reduce the number of people being killed and seriously injured on this road, a 3.5km flexible median barrier was installed along two sections from north of Pukerua Bay to just south of Paekākāriki. Alongside new median barriers, the speed limit was lowered from 100km/h to 80km/h to improve safety. Each time the barriers are damaged, a serious crash or a potential head on collision has been avoided.

Since these improvements were made, no one has been killed on the road and there was a significant reduction in serious injuries.



## SH6

### Blenheim to Nelson

State Highway 6 is a key route for locals, tourists, businesses and agriculture, along with freight travelling between Nelson, Blenheim and Picton. It's also a commuter, cyclist and tourist route. There are several different roadside environments extending in a 110km corridor from Blenheim to Nelson with a range of speed limits varying between 50 km/h and 100 km/h.

Between 2009 and 2018 it had the reputation of a high-risk rural highway where, 20 people died and 92 were seriously injured in crashes on this stretch of road. Nineteen of these deaths, and 87 of the serious injuries were on the 100 km/h sections of SH6.

Many of these crashes involved loss of control, with drivers running off the road and hitting roadside objects such as trees and power poles. There have also been head-on crashes on this highway, and some that occurred at intersections.

Following the engagement and consultation with communities during October 2019, it was decided to reduce the existing 100 km/h limits to 80 km/h in places, introduce new 90 km/h speed limits on appropriate sections, and introduce two new variable school speed zones. Three existing advisory school speed zones on the route remained unchanged. The new speed limits took effect on 18 December 2020.

Speed limit changes on SH6 Blenheim to Nelson have reduced DSIs by approximately 80% in the first two years post-implementation whilst the average journey time has increased by about 4 minutes over the 110 km length i.e. 2 seconds per kilometre.



### **Coach & Tiplady Road roundabout**

South Canterbury



The intersection of Winchester-Geraldine Road with Tiplady, McKenzie, and Coach Roads has long been a serious safety concern for Timaru District Council (TDC).

The intersection lies on the main route linking Winchester and Geraldine, known as Route 72 that was a former state highway, providing a shortcut between SH1 and SH79.

Being an unconventional five-armed layout with straight, rural high-speed approaches, the risk of a crash at the site has been significant. Over the past decade, eight crashes were recorded, three of them resulting in serious injuries to five people. Numerous near misses had also been reported by the community, and the intersection was known to be dangerous.

In 2021, Waka Kotahi partnered with Timaru Council to workshop what safety improvements could be installed to reduce risk on the road. This resulted in the \$2 million rural roundabout being installed – a safe system intervention that will save lives and improve journey reliability.

The immediate benefit from the project is a safer transport environment. This has been predicted to be at least a 60% reduction in the likelihood of crashes resulting in death or serious injury.

## Anglesea and Bryce Street intersection

Hamilton



In 2019, Hamilton City Council invested \$1.5 million to upgrade the Anglesea and Bryce Street intersection with a proven safety intervention known as a raised safety platform. The busy transport and business hub has thousands of road users everyday and to help keep everyone safe, HCC saw value in upgrading the intersection to reflect best practice Safe System principles.

The safety treatment will reduce the number of people killed or seriously injured between 25% and 40%.

This project was the first to be funded and delivered under a new framework that put the safety of people before efficacy or travel time. This project won the council the 2021 TRAFINZ Safety Leadership Award.



# Key messages and elevator pitch

## Elevator pitch

- It's time we stopped accepting that death and serious injury is just the price we pay for moving around.
- We are taking action – Road to Zero is our plan to build the safest road system we can.
- A systems approach is needed, where we improve all parts of the system. That means safer roads and roadsides, safer vehicles, safer road users, safer speeds and more enforcement.
- This is a long term strategy and we are absolutely committed to reducing the harm that our country faces on our roads.
- People being killed and seriously injured on our roads is preventable.
- Road to Zero is our plan to build the safest road system we can, and work towards zero deaths and serious injuries on Aotearoa New Zealand roads.
- Road to Zero accepts that humans are vulnerable, and we make mistakes. The changes we're making under Road to Zero are so that people aren't killed or seriously injured when they do make mistakes.
- Improving road safety also improves our health and wellbeing, and supports connected, liveable places for our communities. We want people to feel safe to ride bikes and let our tamariki walk to school.

## Key messages

- On average, one person is killed everyday on New Zealand roads, and another seven are seriously injured. Any death or serious injury is unacceptable.
- It is time we stopped accepting that a certain amount of death and serious injury is just the price we all pay for moving around. We need to move past the whole idea of a 'road toll' paid in human lives.
- Road to Zero is a long-term strategy, with an initial target for 2030 of a 40% reduction in deaths and serious injuries, compared to 2018 levels. We are only in the early stages of implementing the changes we need to make to significantly reduce deaths and serious injuries.

**It's time we stopped accepting that death and serious injury is just the price we pay for moving around.**

- Road to Zero is underpinned by the need to improve the safety of all parts of the land transport system. That means safer roads and roadsides, safer vehicles, safer driver behaviour and safer speeds.
- People being killed and seriously injured on our roads is preventable - drink or drug driving, not wearing a seatbelt, excess speed, distraction, dangerous driving remain the lead contributors of harm on our road.

It will take time to see a sustained reduction in deaths and serious injuries. While some interventions, such as installing a median barrier, have immediate benefits, other actions, such as influencing people to buy safer vehicles, will take more time before we see a meaningful change.



# Common questions

## Why are we slowing people down when it's unproductive to our economy?

- Traveling at speeds that are above safe and appropriate levels is a contributory factor in around 70% of death and serious injury crashes in New Zealand.
- People often undervalue this huge social cost to New Zealand society, and our we often have an overinflated value of the productivity gains of higher speed.
- The cost of road trauma significantly outweighs any productivity gains of travelling at higher speeds.
- This is due to the high cost of road trauma (see pages 8-9 and glossary) the fact that lower speeds equate to lower running costs (fuel etc) and lower vehicle maintenance costs and lower emissions.
- So not only are lower speeds safer, they also have operating and environmental benefits

## Why are you focusing on speed instead of infrastructure?

- While infrastructure is important, it is expensive and takes time and resources to install it in the right places. We won't be able to have this lifesaving infrastructure across the entire road network.
- Speed management, is something that we can do now while we get on with the job of building safety improvements on the highest risk parts of the road network. Zero road deaths is impossible – this is just spin?
- Zero is the only number we should accept. We shouldn't plan a transport system where we are happy that 50 people, 100 people, 200 people die each year.
- We don't accept that people should die when flying, so why do we accept it for our roads?
- So zero is absolutely the number we aspire to. We have a target to reduce deaths and serious injuries on our roads by 40% by 2030. This is our target, and this has not changed.

## What can people do?

- It's easy and doesn't require any special training or skill. Wear a seatbelt. Don't drink and drive. Don't drive fatigued. Put the distractions away. Slow down.
- These are things every single driver can do.



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# The road safety partners

The road safety partners, committed to delivering Road to Zero, are:



**TE MANATŪ WAKA**  
MINISTRY OF TRANSPORT



**WAKA KOTAHI**  
NZ TRANSPORT  
AGENCY



**NEW ZEALAND  
POLICE**  
Ngā Pirihimana o Aotearoa



He Kaupare. He Manaaki.  
He Whakaora.  
prevention. care. recovery.



**WORKSAFE**  
NEW ZEALAND | MAHI HAUMARU  
AOTEAROA



**MINISTRY OF  
JUSTICE**  
Tāhū o te Ture



MANATU HAUORA

The road safety partners work together on delivering on the actions in Road to Zero. They also have a vital role in providing governance and ensuring accountability.

The governance structures for Road to Zero include a DCE and CE's group, with representatives from all road safety partners who work together to keep agencies focused on the actions that will deliver results.

# Glossary of key terms

Term	Definition
<b>Road to Zero</b>	Road Safety Strategy with a target to reduce deaths on New Zealand roads by 40% by 2030
<b>Vision Zero</b>	The overall aspiration to see zero deaths and serious injuries on our roads by 2050, in line with similar campaigns in places like Sweden, New York and Victoria, Australia
<b>Safe System</b>	An approach underpinned by the realisation that humans make mistakes and we need to design for human vulnerability, acknowledging we all have a part to play improving road safety and in that way strengthen all parts of the road transport system
<b>DSIs</b>	Deaths and Serious Injuries
<b>Focus areas</b>	The Road to Zero strategy consists of five core focus areas. Infrastructure improvements and speed management, vehicle safety, work-related road safety, road user choices and system management
<b>System management</b>	Provides over-arching support to the other focus areas, while aiming to strengthen road safety leadership and governance, improve coordination and collaboration at all levels, ensure decision makers have access to sound data and a strong evidence base via robust monitoring and evaluation.
<b>Social cost</b>	A measurement of the total cost of road crashes to New Zealand, including loss of life and life quality, loss of productivity, medical, legal, court and vehicle damage costs.

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# Road to Zero Ministers Update

Quarterly Road to Zero Progress Report (April to June 2023)

Evidence of What Works - Speed and Infrastructure NZ Case Studies



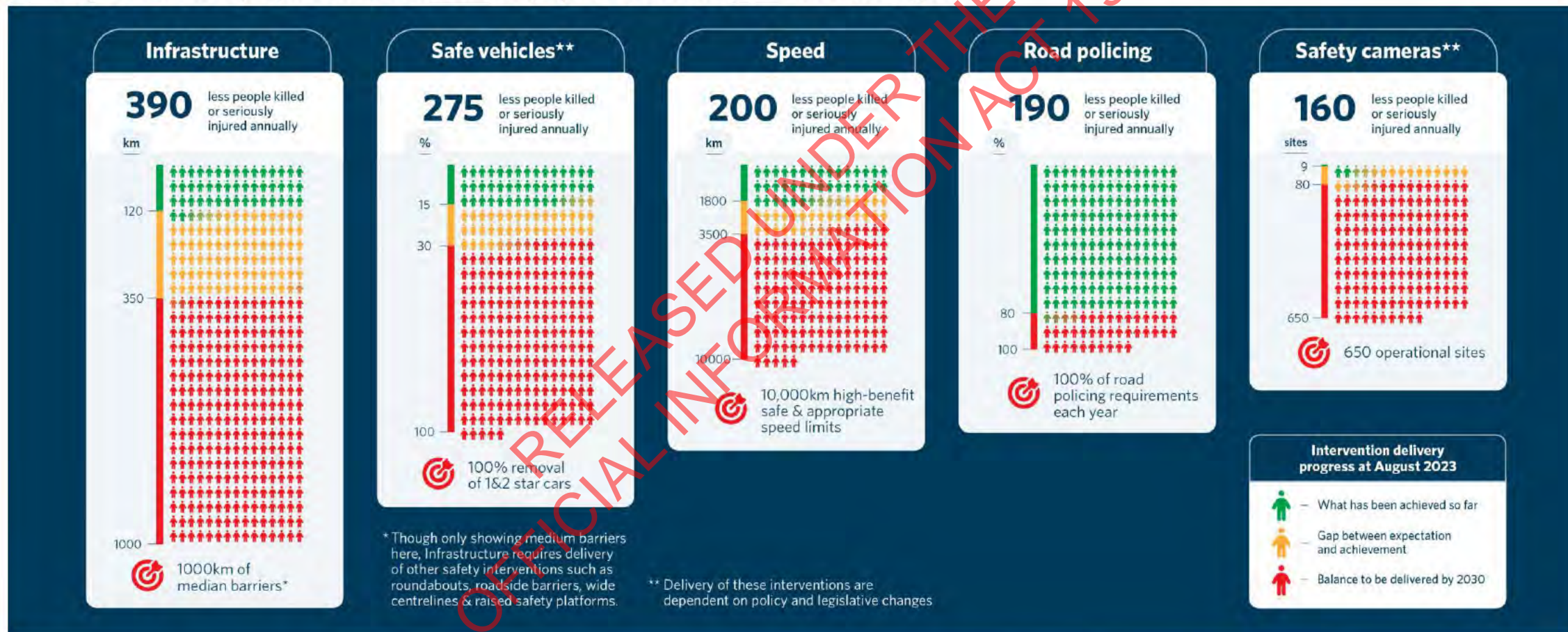
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# Delivering Road to Zero

A transport system where no one should be killed or seriously injured

While there are numerous actions that will need to all come together under Road to Zero, there are five critical interventions that must be delivered to ensure our success in achieving the 40% reduction in death and serious injuries by 2030. By achieving these intervention targets along with others by 2030, we would expect 1270 less people to be killed or seriously injured on our roads and streets each year.



Source Data: Expected DSI reductions - Integrated Intervention Logic Model. Delivery at August 2023 – Road to Zero Dashboard. Intervention 2030 targets – Road to Zero Performance Indicators

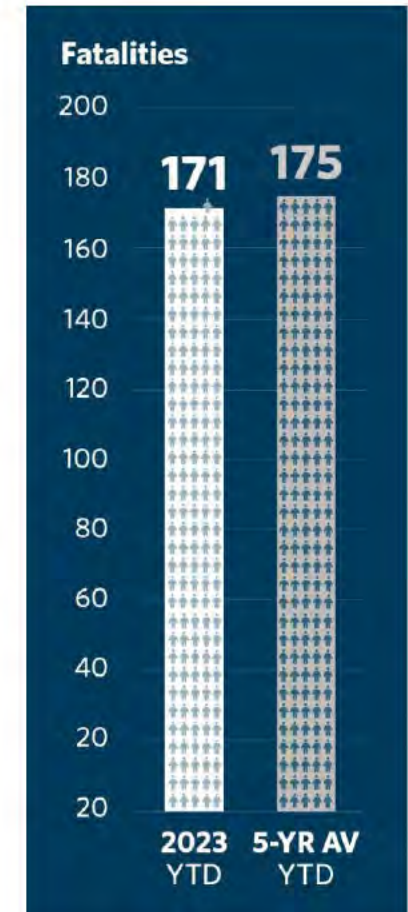
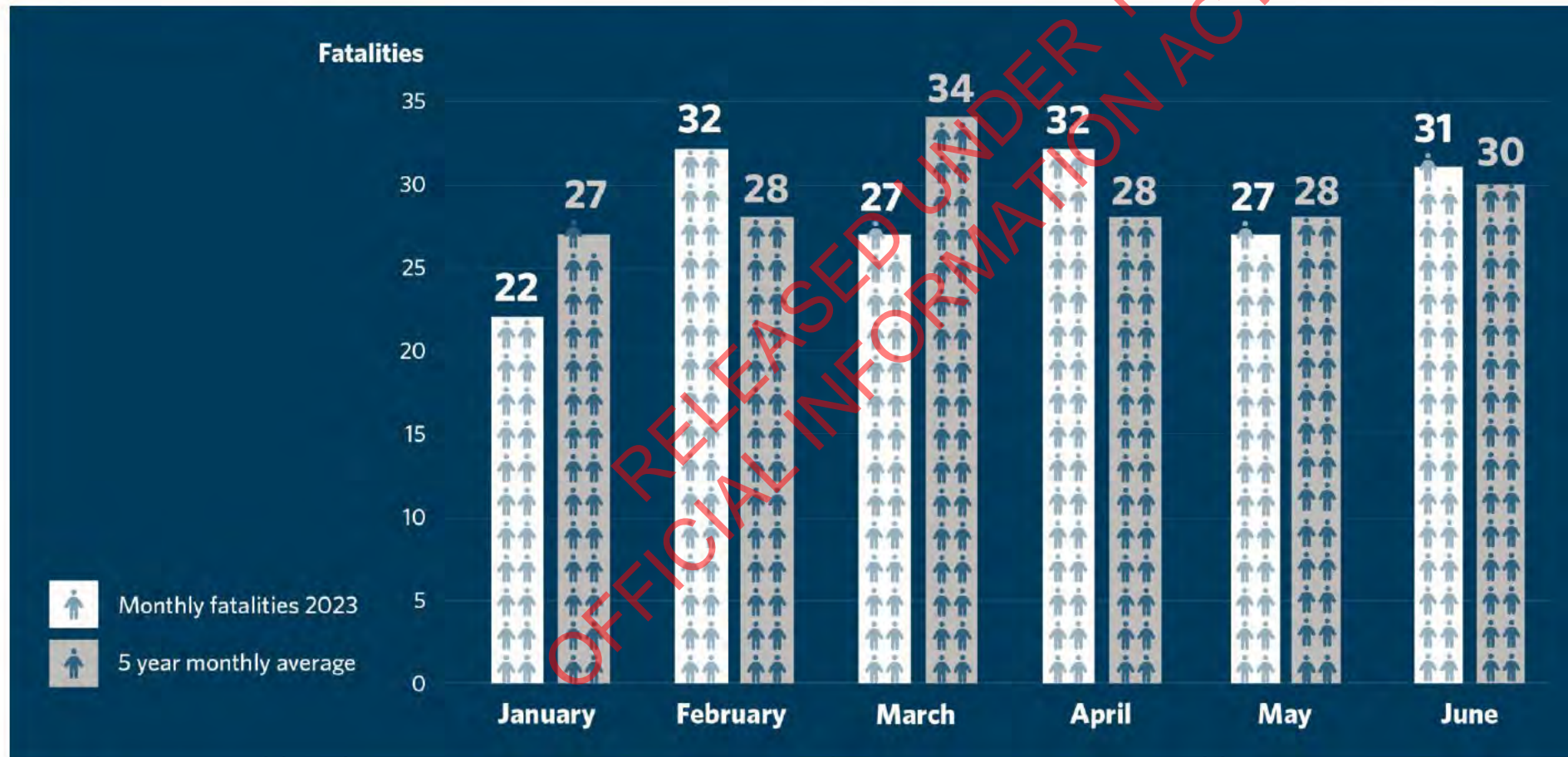


# 2023 on New Zealands Roads

## Monthly fatalities January to June 2023

From the period April to June 2023, there were 90 road deaths from 77 crashes.

The graph below compares the number of road deaths per month for 2023 compared to the monthly five-year average for that month. It should be noted that the five-year average figures are impacted by the covid lockdowns in New Zealand and as such are lower than would be expected otherwise





# Executive Summary

## Action Plan Priority Status – as at the end of the March quarter

Infrastructure and Speed	➡	1. <u>Deliver infrastructure improvements and speed management (incl. schools)</u>
	➡	2. Update infrastructure standards and guidelines
	➡	3. <u>Implement new approach to safety camera use</u>
Vehicle safety	➡	4. <u>Raise safety standards of vehicles entering New Zealand</u>
	⬇	5. <u>s 9(2)(f)(iv)</u>
	➡	6. Examine Warrant of Fitness and Certificate of Fitness systems
Work related road safety	➡	7. Increase understanding of vehicle safety
	➡	8. Strengthen work related transport regulation
	➡	9. Support best practice for work related road safety
Road user choices	➡	10. <u>Strengthening the road safety partnership (road policing)</u>
	➡	11. Implement drug driving legislation
	⬇	12. <u>s 9(2)(f)(iv)</u>
System management	⬆	13. <u>Review road safety penalties</u>
	➡	14. Increase access to driver licensing and training
	➡	15. Improve motorcycle rider safety
	➡	16. Continue to build and support effective leadership across partners
	⬇	17. Grow collaboration and capability across road safety partners and sector
	⬇	18. Improve road safety outcomes with Māori
	⬇	19. Develop a vision zero network and safety framework
	⬇	20. <u>s 9(2)(f)(iv)</u>
	➡	21. Work towards establishing a COE for research and evaluation, data and evidence
	⬇	22. Assist public understanding of Road to Zero
	⬇	23. Post crash response
	⬇	24. <u>s 9(2)(f)(iv)</u>

KEY

⬆

RAG moved up this reporting period

⬇

RAG moved down this reporting period

➡

RAG didn't change this reporting period

⬇

Action wasn't tracked previously (therefore no change)

RAG status in Appendix C of this pack

## Portfolio Summary – as at the end of April to June quarter

The overall Road to Zero portfolio remains at an AMBER / RED rating as there are risks and issues in a number of key areas that have been articulated throughout the report. There has been a significant amount of work completed accross the portfolio, however we remain behind on key DSI-contributing work programmes. Effort is required to improve the rate of delivery of the poorer performing initiatives as articulated in this report, or to bring forward other initiatives to make up the difference in the required reduction of death and serious injury on New Zealand's roads.

## Current Insights

- The provional number of road deaths as at 31 July 2023 currently stands at 196 compared to recent four-year average of 195 (source Te Manatū Waka website). If this rate is extrapolated accross the full calendar year we are forecasting 339 road deaths in 2023, which would represent a 10% decrease on the number of road deaths when compared to 2022.
- The Speed and Infrastructure Programme (SIP) action (item 1 in the adjoining table) remains at AMBER/RED status in this reporting period, with the impacts of Cyclone Gabrielle on some of the key elements of the programme (e.g. median barriers) being fully assessed and quantified.
- 88 roundabouts have been delivered to date with the forecast looking to exceed the Road to Zero target of 162 by 2030.
- Regional Controlling Authorities (RCAs) have met the milestone of completing Interim Speed Management Plans and are progressing to full Speed Management Plans. It is expected that 50% of all RCAs will have commenced consultation on their full Speed Management Plan by July.
- There is a risk that the safer speeds around schools programme will not meet the target of 40% of schools to be treated by 2027, due to both the availability of variable speed limit (VSL) signs and changes in the variable speed limit signage specifications which will require additional time to configure and test.
- Nine stand alone safety camera platforms have been constructed and configured and have completed police acceptance testing. The nine cameras will be operational by mid-August 2023.
- The Land Transport (Road Safety) Amendment Bill which explicitly incorporates average speed safety camera offence detection and evidentiary requirements in legislation was referred to Select Committee in May 2023 and is on track to be passed this parliamentary term.
- The safety camera programme has received endorsement to progress a back-office solution option which significantly de-risks the programme and gives the best chance to meet future phasing timeframes. Enforcement is planned to commence from late 2023.
- Police performed 2.61 million breath tests in the in the 2022/23 fiscal year, which compares favourably to the 1.59 million breath tests delivered in the previous fiscal year, representing an increase of over 1 million breath tests.
- An implemantation plan that will support the new Road to Zero Action Plan has been developed and presented to the DCE Management Group on the 28th of July. This plan provides greater visibility of project timing, key dependencies and Road to Zero interventions required by the 2023-25 RTZ Action Plan.



# Focus Areas for Ministers

	Safety Cameras	Speed	Road Policing	Penalties Review	Safe Vehicles
Work Underway	<p>Te Manatū Waka put forward a legislative bid for a Land Transport (Road Safety) Amendment Bill which is still subject to final Cabinet agreement.</p> <p>The Bill includes a proposal to enable enforcement through average speed safety cameras.</p> <p>The Bill will also enable automated infringement notices, which will reduce operating costs.</p>	<p>Waka Kotahi are supporting Road Controlling Authorities (RCAs) through the Speed Management Planning Process.</p> <p>Waka Kotahi is receiving significant push back on certain proposed speed limit changes. This coupled with the under delivery of safety infrastructure improvements and the current perception of poor maintenance outcomes from some elements of the community will continue to put strain on public buy-in for Road to Zero.</p>	<p>Police is focused on lifting performance and prioritising road policing activities that are proven to directly impact deaths and serious injuries.</p> <p>Police has multiple programmes of work underway to support delivery and deployment. Police continues to focus on partnering to deliver outcomes.</p>	<p>Te Manatū Waka has prepared a discussion document and supporting material on Road Safety Penalties Review for Cabinet approval.</p>	
Risks	<p>The Bill is needed to support point-to-point safety cameras which are highly effective in terms of reducing DSIs. In addition, the programme will not be able to automate offence processing which will increase operating costs and limit ability to expand the camera network at the rate we are planning. Full benefit realisation won't be achieved.</p>	<p>Speed and infrastructure activities contribute significantly towards the achievement of the overall 40% DSI reduction by 2030. Benefits from speed enforcement cannot be fully realised if speed limits are higher than the safe and appropriate speeds.</p> <p>If the scale and pace of the application of safe and appropriate speeds on the state highway network is significantly different to that which are being applied on the local road network, this will have the potential of incongruous and confusing speed limits being applied across the full New Zealand road network.</p> <p>Modelling for Road to Zero has been based on the highest risk 10,000kms of New Zealand's roads being treated with safe and appropriate speeds. Approximately two thirds of these high-risk roads are on the state highway network. Limitations on the application of safe and appropriate speeds on the state highway will need to be revisited or typically more expensive interventions will need to be bought forward to make up the DSI reduction deficit so created.</p>	<p>The appropriate level of prevention and enforcement activity is vital to deliver the desired outcomes.</p> <p>General deterrence and enforcement activities are heavily reliant on system partner actions to achieve the desired outcomes. This includes improved fines and penalties and the setting of safe and appropriate speeds across our network.</p> <p>Police needs to be supported to get the RSPP 24-27 fit for purpose for them to operate and deliver their contribution to Road to Zero.</p>		
What Ministers can do in next 6 months	<p>Minister has supported this programme of work by progressing the Road Safety Bill as a priority (with passaged scheduled for this parliamentary term).</p>	<p>Continue to support Waka Kotahi through acknowledging the current challenging environment within which it is operating.</p>	<p>Signing up to Road Safety Partnership Programme (RSPP) 24-27.</p>	<p>The Prime Minister has requested that the Review package is submitted to Cabinet in 2024. Ministers can support the progress of the discussion paper through Cabinet at the earliest opportunity next year.</p>	<p>Ministers support AEB/LKA paper through Cabinet at the earliest opportunity in the next parliamentary term.</p>



# Evidence of what works

*Speed and infrastructure*

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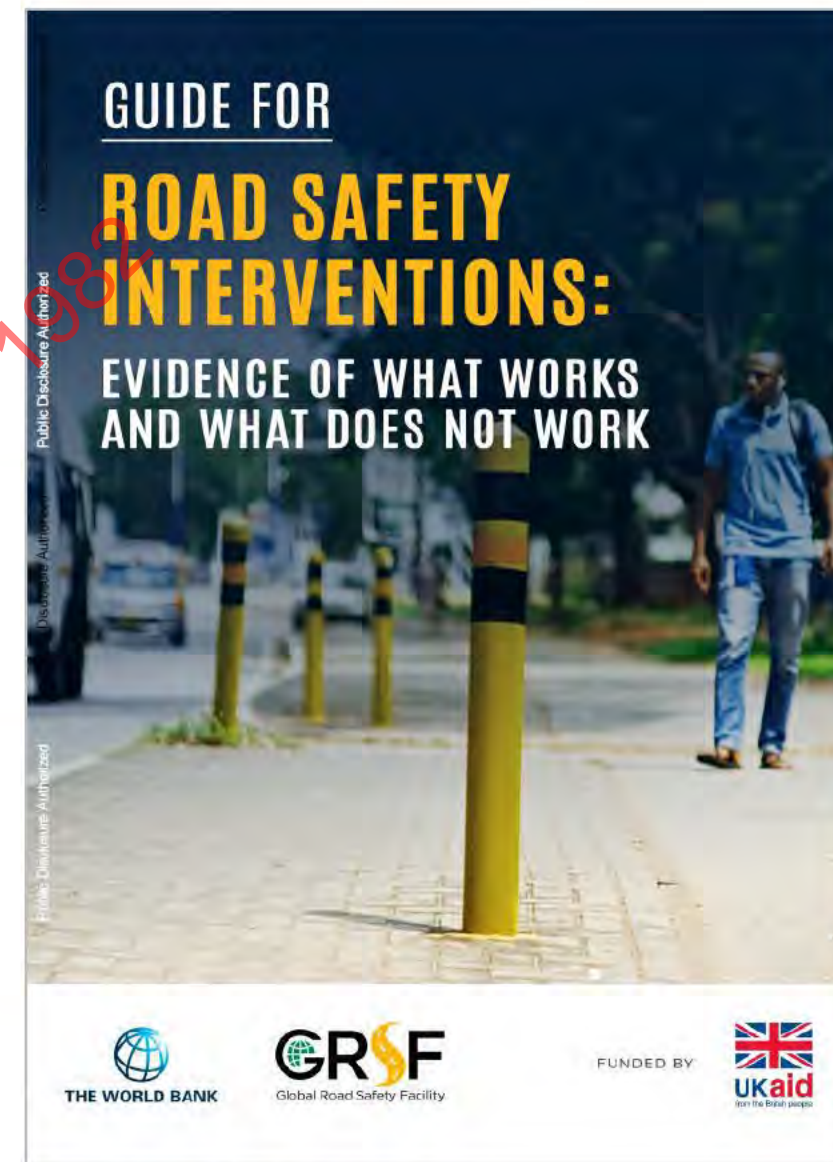
# Road Safety Interventions

## Evidence of what works and what does not work

“Interventions that reduce crash severity outcomes generally are the most beneficial, producing up to 80 percent reductions in fatal and serious injury. These include roadside and central barrier systems on high speed roads, infrastructure that supports lower speed environments ... and roundabouts at intersections (lower impact speed and angle of impact).”

“Interventions can also reduce the likelihood of a crash occurring in the first place. This class of intervention has more varied results. Examples include signs and line-marking (lower safety benefits), traffic signals (moderate benefits), and infrastructure that supports speed reduction (high benefits ...).”

“Infrastructure interventions can produce immediate impact and can also produce ongoing benefits. Once installed, they will continue to deliver at a similar level”



<https://www.worldbank.org/en/news/press-release/2021/03/15/what-works-and-what-does-not-work-in-road-safety>





NZ Case Studies

# Median Barriers



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# Median Barriers

## SH1 Rangiriri

### Effectiveness

- 68% reduction in all deaths and serious injuries
- 100% reduction in head-on deaths and serious injuries

### Additional information

Treatment length = 9km

18 months to deliver from design to construction at a cost of \$6 million (approx. \$667,000 per km)

Primary treatment



Case study document link - <https://www.nzta.govt.nz/assets/Safety/docs/road-to-zero/safe-system-case-study-sh1-longswamp-to-rangiriri-median-barrier.pdf>



# Median Barriers

## SH1 Centennial Highway

### Effectiveness

- 94% reduction in all deaths and serious injuries
- 100% reduction in head-on deaths and serious injuries

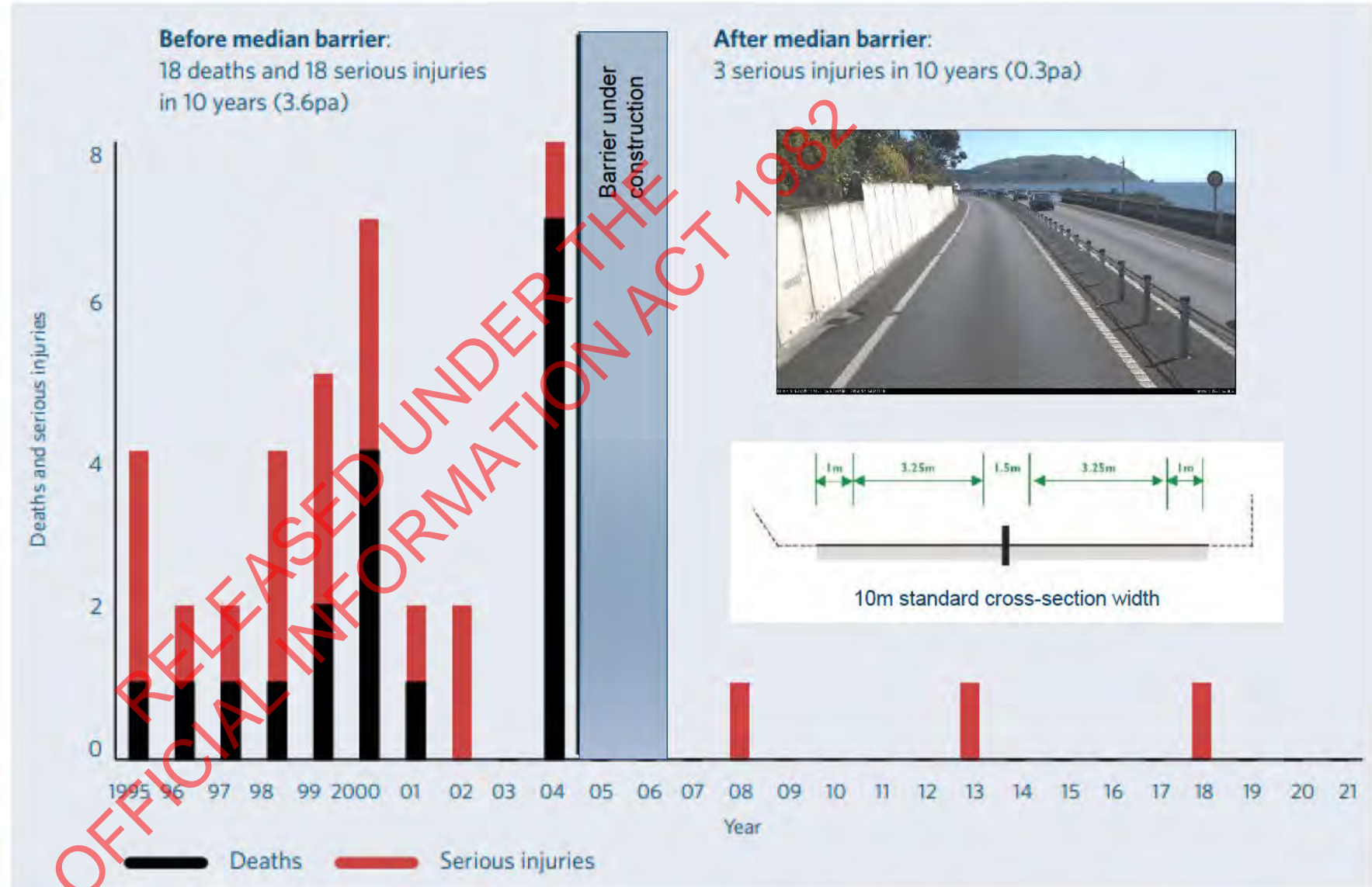
### Social cost of crashes (2008)

- Pre - \$5.8M / year
- Post - \$65k / year

### Additional information

Treatment length = 3.5km

Primary  
treatment



Case study document link - <https://www.nzta.govt.nz/assets/Safety/docs/road-to-zero/safe-system-case-study-sh1-centennial-highway-median-barrier-project.pdf>

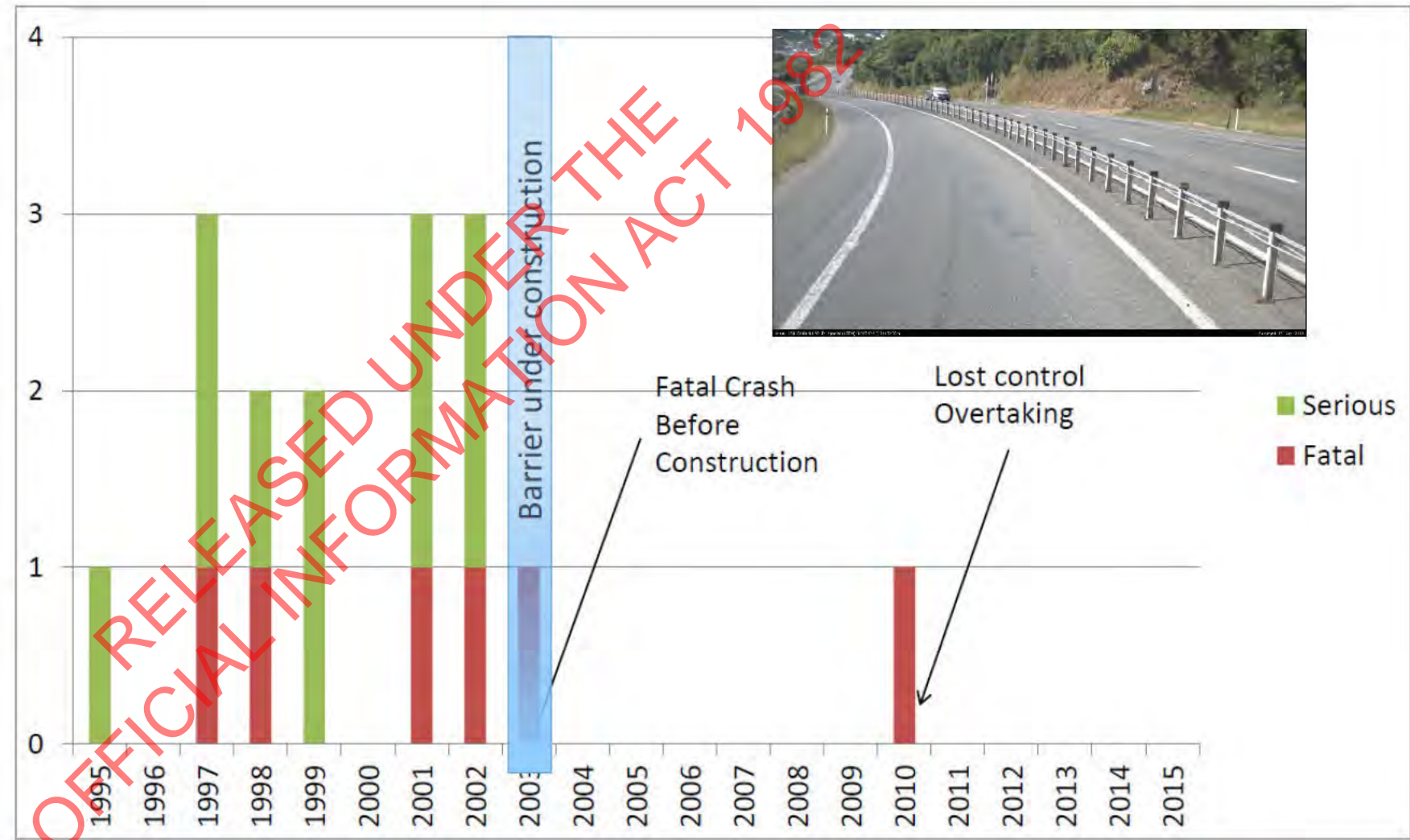
# Median Barriers

## SH58 Haywards

### Effectiveness

- 95% reduction in all deaths and serious injuries
- 100% reduction in head-on deaths and serious injuries

Primary  
treatment



Presentation on median barrier performance - <https://www.nzta.govt.nz/assets/Safety/docs/road-to-zero/median-barrier-presentation.pdf>



# Median Barriers

## SH1 Brynderwyn

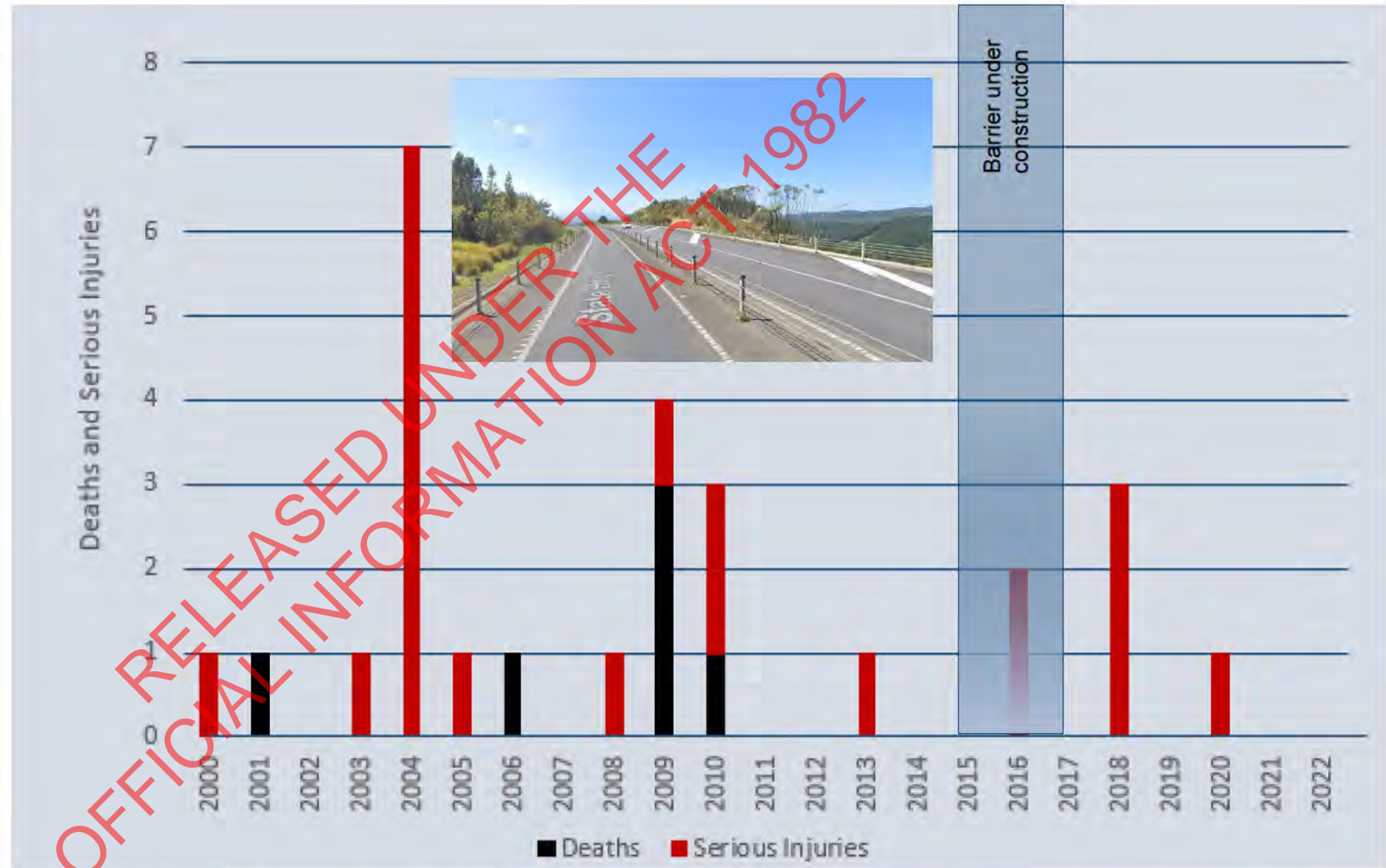
### Effectiveness

- 52% reduction in all deaths and serious injuries
- 100% reduction in deaths
- 100% reduction in head-on deaths and serious injuries

### Additional information

Treatment length = 4.8km

Primary treatment



Median barrier compendium link - <https://www.nzta.govt.nz/assets/Safety/docs/road-to-zero/median-barrier-compendium-of-knowledge.pdf>

# Median Barriers

## SH1 Cambridge to Pairere

### Effectiveness

- 100% reduction in all deaths and serious injuries\*

### Additional information

Treatment length = 2.5km

\* *Ferguson Gully section installed in 2020: limited to two years post-evaluation period*

Primary  
treatment



Median barrier compendium link - <https://www.nzta.govt.nz/assets/Safety/docs/road-to-zero/median-barrier-compendium-of-knowledge.pdf>



# Median Barriers

## SH2 Waipukurau

### Effectiveness

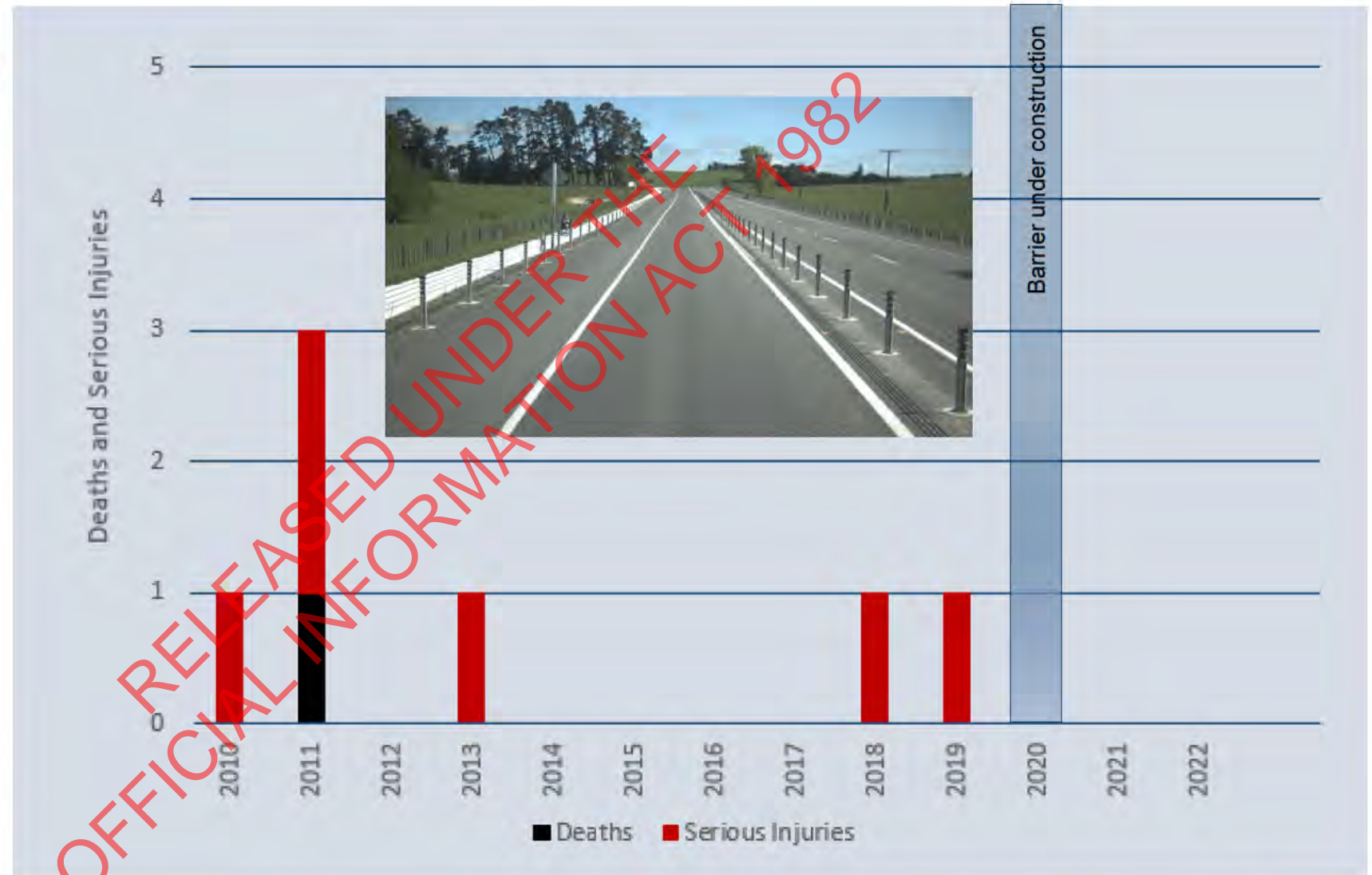
- 100% reduction in all deaths and serious injuries\*

### Additional information

Treatment length = 3.6km

\* installed in 2020: limited to two years post-evaluation period

Primary  
treatment



Median barrier compendium link - <https://www.nzta.govt.nz/assets/Safety/docs/road-to-zero/median-barrier-compendium-of-knowledge.pdf>

NZ Case Studies

# Intersection Speed Zones



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# Intersection Speed Zones

## Evaluation of ten (10) rural intersection speed zone sites

### Effectiveness

- 69% reduction in fatal and serious crashes
- 28% reduction in all crashes

### Additional information

- Mean speed reduction of 4-19km/h comparing sites from before installation to when signs are turned on
- As well as reducing harm through lower speeds, ISZs also seem to increase the awareness of people travelling along main road

Supporting  
treatment

Table 1: Aggregated crash reductions across all ten sites compared to control sites

	Average fatal and serious crashes per month			Average total crashes per month		
	Pre	Post	% change	Pre	Post	% change
Original sites	0.035	0.011	-69%	0.228	0.164	-28%
Control sites	0.005	0.012	+140%	0.078	0.147	+88%

Figure: Northbound VSL sign at Brynderwyn Intersection Speed Zone

Table 2: List of ten (10) sites assessed

#	Site name	Intersection	District	ISZ live date	VSL (km/h)
Original ISZ sites					
1	Himatangi	SH1/Hwy 56/Himatangi Beach Rd	Manawatu	Dec-12	70
2	Yaldhurst	SH73/Buchanans Rd	Christchurch City	May-13	70
3	Kennington	SH1/Kennington Rd	Invercargill City	Oct-13	70
4	Newbury	SH3/SH54	Manawatu	Oct-13	70
5	Pakaraka	SH1/SH10	Far North	Oct-13	60
6	Puketona	SH10/SH11	Far North	Oct-13	70
7	Burnham	SH1/Burnham Rd/Aylesbury Rd	Selwyn	Oct-14	70
8	Longlands	Railway Rd S/Longlands Rd E	Hastings	Oct-14	70
9	Kaipoi	SH1/Williams St	Waimakariri	Nov-14	70
10	Puketaha	Holland Rd/SH1B	Waikato	Jan-15	70





NZ Case Studies

# Speed Limits



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# Speed Limits

## SH6 Blenheim to Nelson

### Effectiveness

- ~80% reduction in deaths and serious injuries, noting only two (2) years post-implementation
- average journey time has increased by appropriately 4 minutes over the 110 km length, i.e. 2 seconds per kilometre.

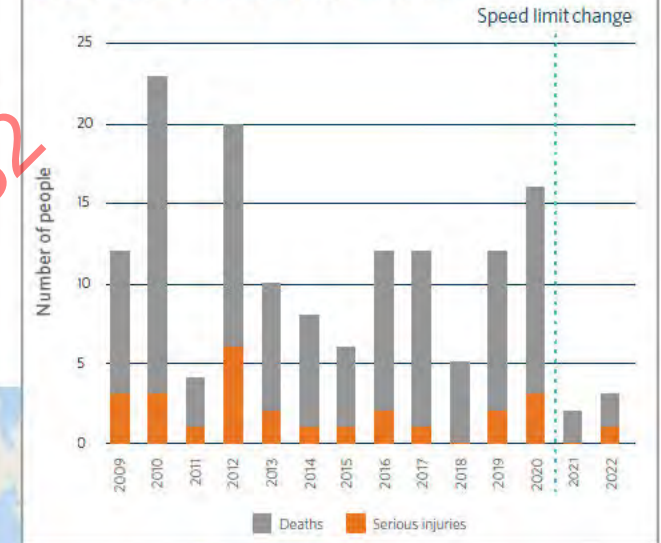
Supporting  
treatment

### Changes in mean speed

	Before	After	Change	% Change
Whole corridor	82.1 km/h	77.6 km/h	-4.5 km/h	-5.5%
100 km/h to 90 km/h	89.4 km/h	84.7 km/h	-4.7 km/h	-5.3%
100 km/h to 80 km/h	80.0 km/h	75.4 km/h	-4.6 km/h	-5.7%
100 km/h to 60 km/h	54.9 km/h	53.2 km/h	-1.7 km/h	-3.1%



### Death and serious injury casualties



International research suggests a 3 to 5 km/h reduction in mean speed for each 10 km/h reduction in speed limit.

International research suggests for every 1% reduction in mean speed we could expect approx. a 4% reduction in fatal crashes, a 3% reduction in FSI crashes and a 2% reduction in injury crashes.



# Speed Limits

## Evaluation of speed limit reduction on SH2 Maramarua (100km/h to 90km/h)

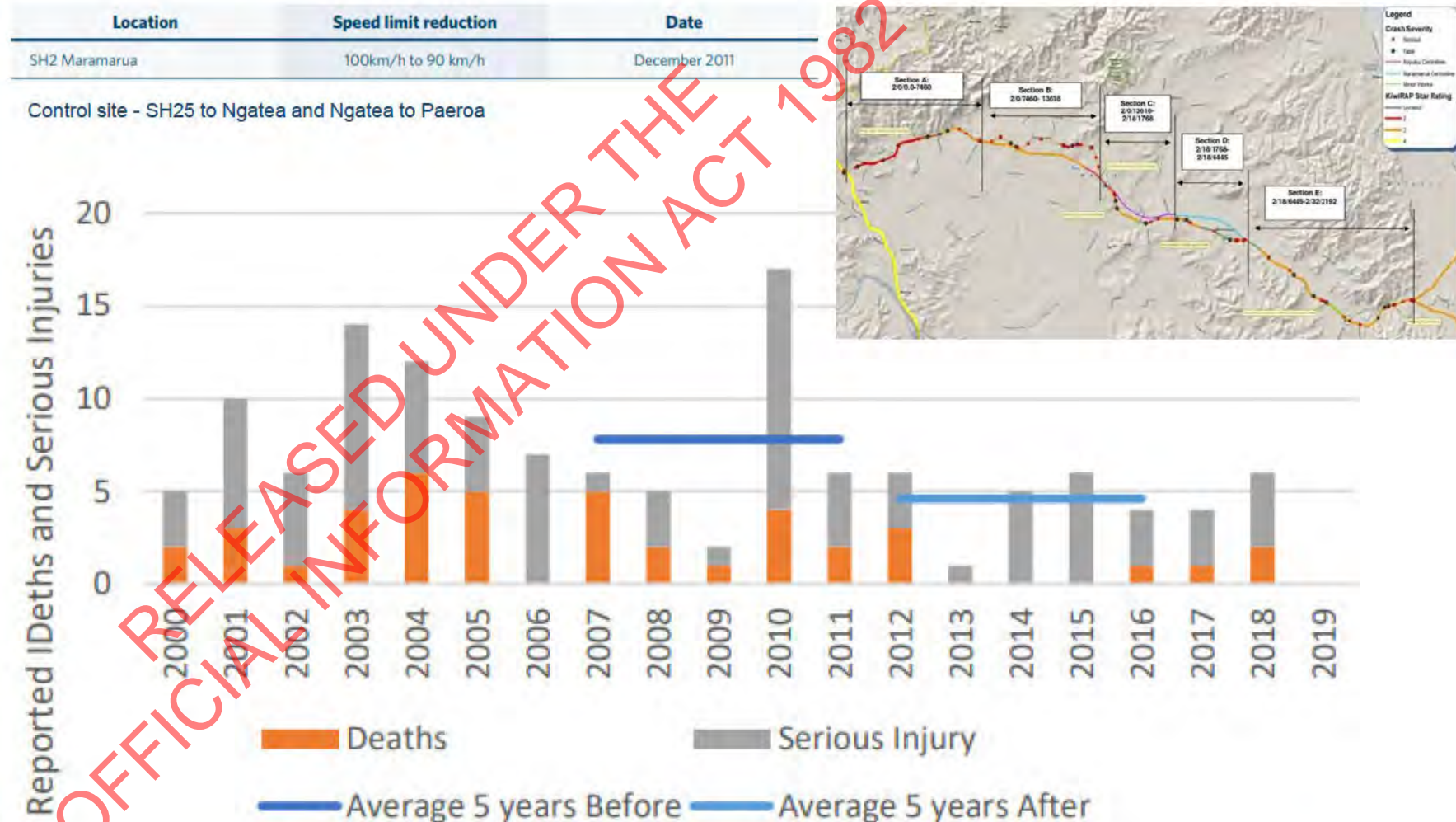
### Effectiveness

- 41% reduction in recorded deaths and serious injuries
- 36% net reduction in DSIs at the treated site compared to control site

### Additional information

The 10 km/h reduction in speed limit resulted in an almost 9 km/h reduction in mean speed (from 95.4 km/h to 86.5 km/h) with an increase in travel time of 95 seconds (3.8 sec/km).

Supporting  
treatment



Evaluation report link - <https://www.nzta.govt.nz/assets/resources/speed-management-guide-road-to-zero-edition/wsp-the-impact-of-change-in-speed-limit-of-three-sites-report.pdf>



# Speed Limits

## Evaluation of speed limit reduction on SH 2 Karangahake Gorge (100km/h to 80km/h)

### Effectiveness

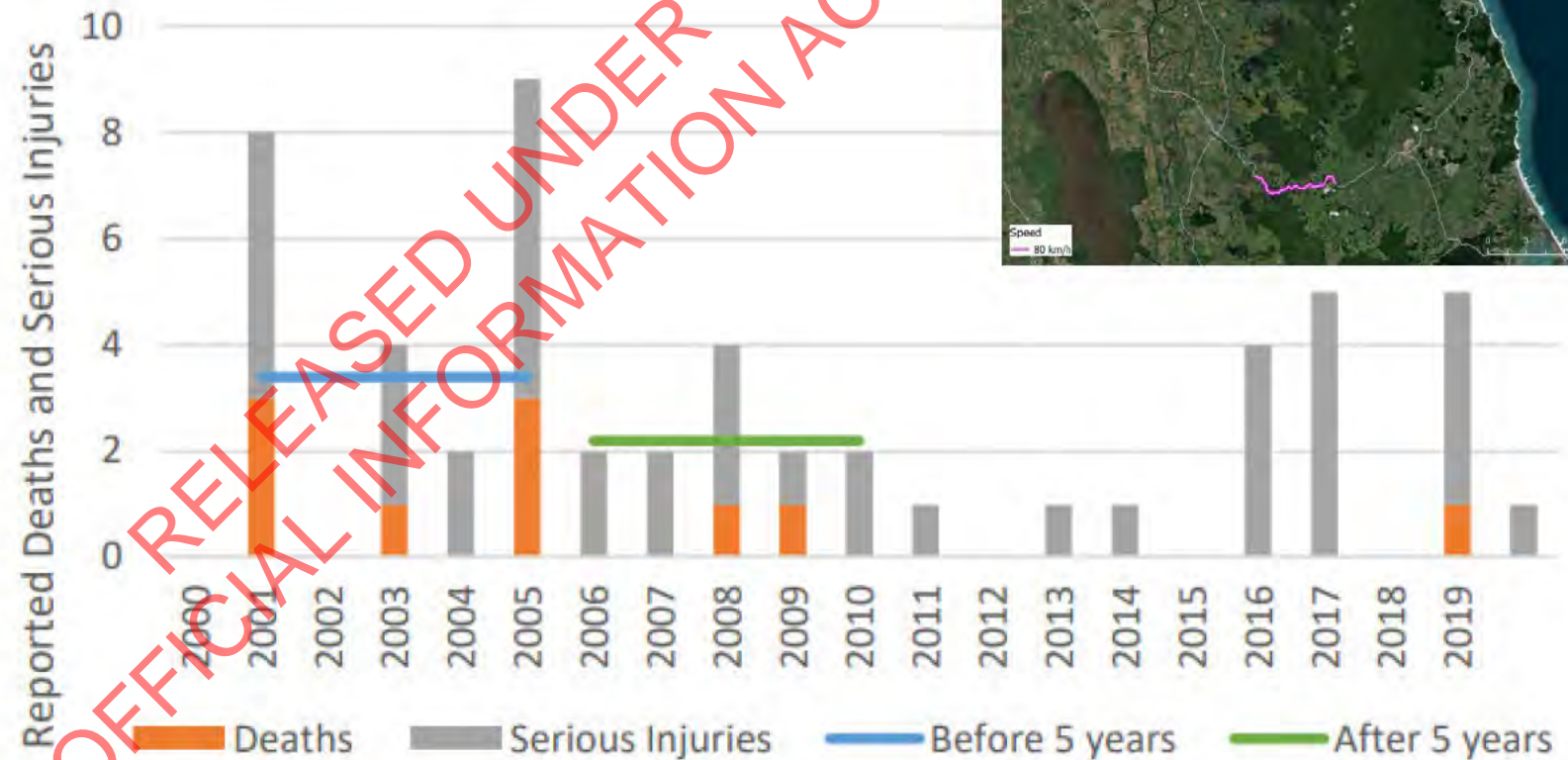
- 35% reduction in recorded deaths and serious injuries
- 60% net reduction in DSIs at the treated site compared to control site

### Additional information

Speeds before the speed limit reduction were typically less than 90 km/h. The speed limit reduction from 100km/h to 80 km/h has seen speeds decrease in the order of 2 km/h to 6 km/h

Supporting  
treatment

Location	Speed limit reduction	Date
SH2 Karangahake Gorge	100km/h to 80 km/h	November 2005
Control site - Wāhi to Whangamata		





# Speed Limits

## Evaluation of speed limit reduction on SH 58 Paremata to Pautahanui (100km/h to 80km/h)

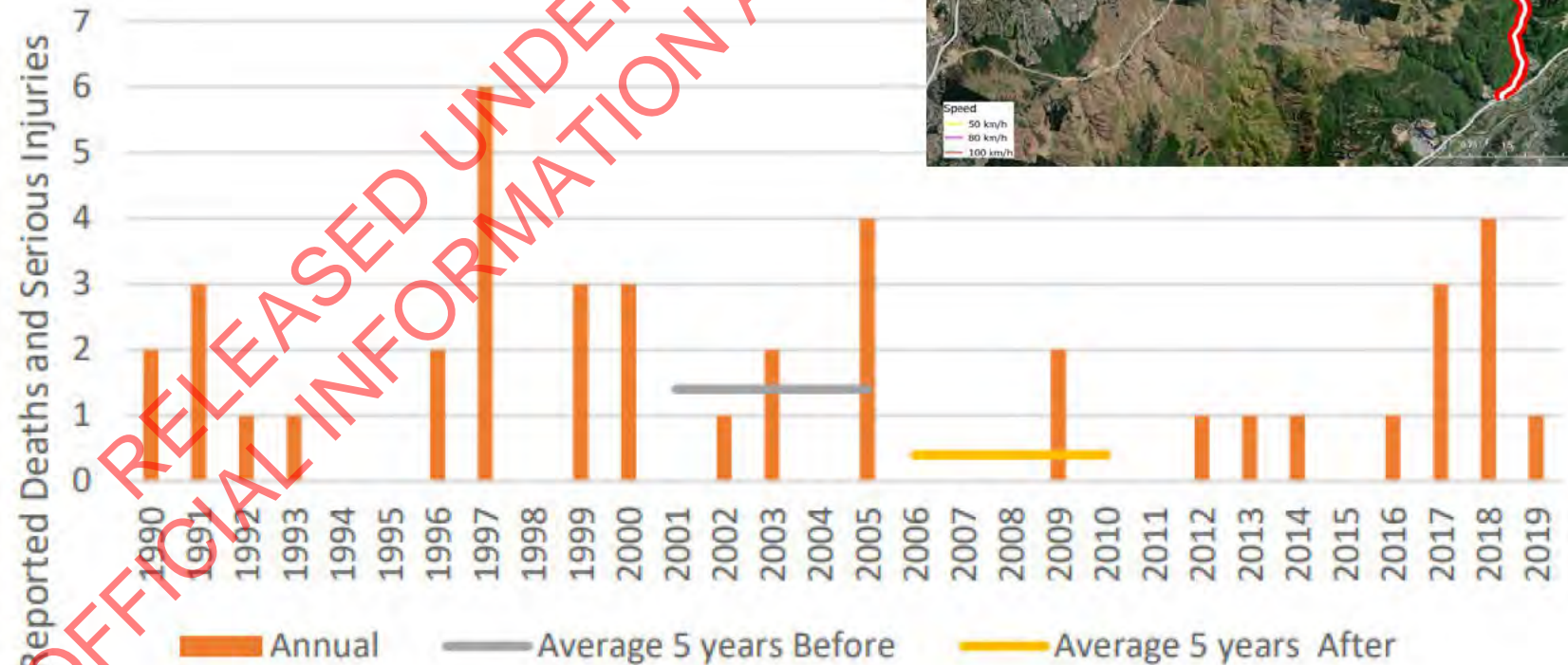
### Effectiveness

- 71% reduction in recorded deaths and serious injuries
- 59% net reduction in DSIs at the treated site compared to control site

Supporting  
treatment

Location	Speed limit reduction	Date
SH58 around Pāuatahanui Harbour	100km/h to 80 km/h	April 2006

Control site - Pauatahanui to Haywards



Evaluation report link - <https://www.nzta.govt.nz/assets/resources/speed-management-guide-road-to-zero-edition/wsp-the-impact-of-change-in-speed-limit-of-three-sites-report.pdf>

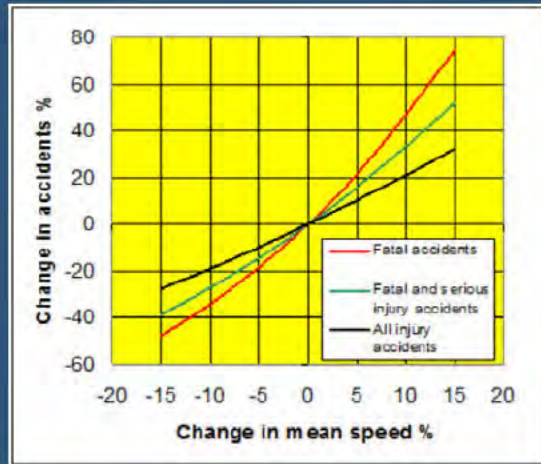


# Speed Limits

## Summary for all three (3) sites

### Effectiveness

The net reductions in injury crashes and death and serious injury numbers are generally around or in excess of what international literature would predict.



Supporting  
treatment

Location	Speed limit reduction	Date
SH2 Maramarua	100km/h to 90 km/h	December 2011
SH2 Karangahake Gorge	100km/h to 80 km/h	November 2005
SH58 around Pāuatahanui Harbour	100km/h to 80 km/h	April 2006

Research suggests a 3 to 5 km/h reduction in mean speed for each 10 km/h reduction in speed limit

Figure: Net reductions at treated sites - Numbers (left) and rate per 100 million vkt (right)





# Speed Limits

## 24 month interim evaluation of Auckland Transport Tranche 1 speed limit changes

### Effectiveness

- 33.7% reduction in fatal crashes (compared to control)
- 12.6% reduction in DSI crashes (compared to control)

The overall objective was to reduce the number of death and serious injury (DSI) crashes on roads subject to a speed limit change by at least 30% within 5-years of implementation. The post-analysis period of 24-months is still relatively short.

Supporting  
treatment

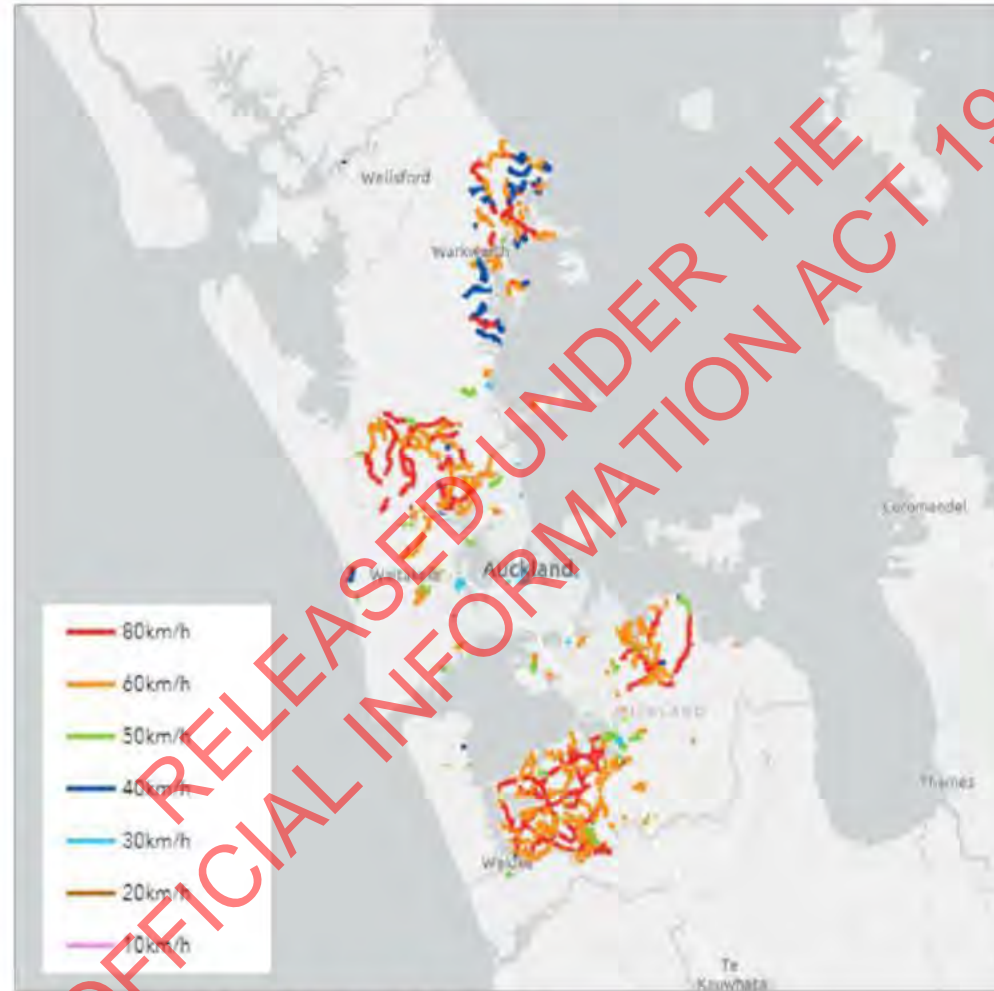


Figure 1.1 Tranche 1 Speed limit changes in Auckland (2020)

After the first 24-months, the Tranche 1 roads have experienced a reduction in DSI crashes of 22.3%, a decrease in fatal crashes of 27.4% and a reduction in serious injuries crashes of 21.8%.

Rural roads have seen the most significant reduction in road trauma, with a reduction in rural road DSI crashes of 26.9%. Urban roads have seen a DSI crashes reduction of 18.1%.

When taking into account control sites, consisting of the balance of the Auckland Road network not subject to a speed limit change, the analysis found:

- 33.7% reduction in fatal crashes;
- 12.6% reduction in DSI crashes;
- 19.1% reduction in Minor injury crashes; and
- 17.8% reduction in all injuries.



NZ Case Studies

# Roundabouts

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# Roundabouts

## Evaluation of nine (9) rural roundabout installations

### Effectiveness

- 75% reduction in fatal and serious crashes

### Review of crashes

- Loss of control was the most common type, followed by changing lanes.
- There were two motorcycle injury crashes, compared to 16 motorcycle injury crashes before installation.
- There have been no reported cyclist or pedestrian crashes, however, numbers of pedestrians and cyclists would be extremely low at rural sites.

Primary  
treatment

### Total crashes per month - pre- and post-construction

Site name	Fatal and serious (pre)	Fatal and serious (post)	Installed	Cost
SH1/5 Tirau	0.02	0.03	2014-15	\$4.7m
SH27/Paeroa and Tahuna Road	0.02	0.01	2009-10	\$2.5m
SH3/37 Waitomo Road	0.07	0	2015-16	\$3.3m
SH26/Ruakura Road	0.03	0	2016-18	\$6.8m*
SH3/21 Airport Road	0.05	0	2016-19	\$3.9m
SH2/25 Mangatarata	0.05	0	2014-17	\$3.2m
SH26/27 Tātuanui	0.02	0.01	2011-13	\$3.5m
Glenbrook/Kingseat Intersection	0.08	0	2013	
Whitford Park Rd/Sandstone Road	0	0	2014-15	
<b>Total</b>	<b>0.04</b>	<b>0.01</b>		

The fatal and serious crashes, and deaths and serious injuries equivalents (the estimated number of deaths and injuries), have **reduced by 75%**. From an average of 0.04 per month (0.5 per year) to 0.01 per month.



Glenbrook/Kingseat intersection



NZ Case Studies

# Raised Safety Platforms





# Raised Safety Platforms

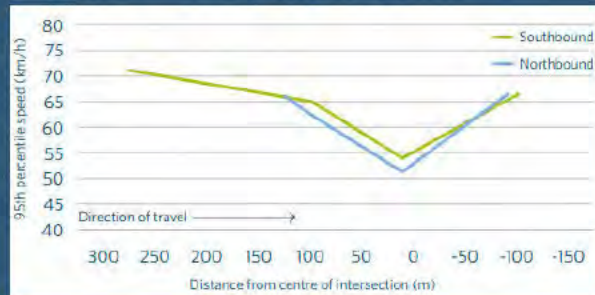
Thomas / Gordonton

## Effectiveness

- 100% reduction in DSI crashes
- 98% reduction in all crashes

## Speed profile

High speed environment  
(70-80km/h approaches) with  
50km/h design platforms



Primary  
treatment



Case study document link - <https://www.nzta.govt.nz/assets/Safety/docs/road-to-zero/safe-system-case-study-raised-safety-platforms.pdf>





NZ Case Studies

# Right-turn Filters

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# Right-turn Filters

## Removal of filter right turn phasing at signalised intersections

### Effectiveness

- 83% reduction in right turn crashes
- 72% reduction in DSIs

### Additional information

- A FRT is where drivers are permitted to turn right on a full green signal display without a right turn arrow displayed, allowing drivers to seek gaps in the traffic flow.

Supporting  
treatment

Results from an **Auckland Transport** evaluation following the removal of filter right turn (FRT) phasing at 29 signalised intersections on the Auckland network

Indicator	FRT removal sites			Control Group
	Before	After	% Change	
Annual average number of LB-type crashes per intersection	1.73	0.30	-83%	0.87
Annual average equivalent death and serious injury crashes per intersection	0.13	0.02	-76%	0.07
Annual average actual number of death and serious injury crashes per intersection	0.07	0.02	-72%	0.04



Christchurch in particular still has many traffic signals that allow filtering of right turns

*Reviewed literature indicates that up to 90% of opposing-turning casualty crashes can be prevented by retrofitting this solution (Austroads 2012).*





# Appendix A

Road to Zero Focus Areas – Quarterly Performance

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# Focus Area 1 – Infrastructure and Speed

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
1. Deliver infrastructure improvements and speed management (including around schools)	 <b>Speed and Infrastructure Programme</b>  	Primary safe system interventions for corridors (installation of new median barriers)	400km by 2024 1000km by 2030	<b>QTR</b> <ul style="list-style-type: none"><li>The median barrier programme is on track to deliver 170km by end of this NI TR</li></ul>	<ul style="list-style-type: none"><li>Implementation of a new delivery/procurement model to allow earlier constructor involvement to ensure fit-for-purpose designs and increase delivery pace across the programme.</li><li>Median barrier acceleration programme are competing for resource with maintenance and operations “biggest summer ever” for road rehab and repairs. The impact of the cyclone also means that the median barrier programme has been re-evaluated as the majority of the programme was to be delivered in the regions that have been hardest hit.</li></ul>
		Primary safe system interventions for intersections including roundabouts*	500 by 2024 1300 by 2030 *162 roundabouts by 2030	<b>QTR</b> <ul style="list-style-type: none"><li>Work continues to develop standard designs for all regions including those interventions in detailed design to minimise cost and lead-time where appropriate.</li><li>88 roundabouts have been delivered to date with the forecast looking to exceed the Road to Zero target of 162 by 2030.</li></ul>	<ul style="list-style-type: none"><li>The challenges with roundabout and J turns are related to implementing median barriers and local residents need to be able to not drive so far to the nearest turn around point.</li><li>The programme is monitoring the cost escalation risk with delivering roundabouts.</li></ul>
		Secondary safe system treatments for corridors (side barriers, rumble strips, wide centre lines)	1700km by 2024 4000km by 2030	<b>QTR</b> <ul style="list-style-type: none"><li>Delivery of supporting infrastructure is progressing well as this has little impact on access or network operation. 13km of side barrier and other interventions was completed last quarter giving a total of 118km of side barrier. (note this is as at end May – June figures have not been finalised at time of publishing).</li></ul>	<ul style="list-style-type: none"><li>There has been a slow start to the delivery of low cost low risk (LCLR) projects mitigations include improved forecasting accuracy and scheduling and simpler procurement methods.</li></ul>
		Invest in motorcycle road safety treatment on highest risk motorcycle routes funded by Motorcycle Safety Levy. Ensure motorcycle safety is considered prior to delivering other roading infrastructure improvements.	26 further routes by close FY23/24	<b>QTR</b> <ul style="list-style-type: none"><li>Majority of the awarded works will be delivered this winter</li><li>An additional funding of \$1M is being prepared to seek approval from ACC on the four routes outside of the original business case (SH1 Desert Rd, SH5, SH43 and SH15)</li></ul>	<ul style="list-style-type: none"><li>Waka Kotahi receiving programmes from contractors. Best delivery method to achieve the treatments is aligning works with the maintenance programmes and sharing temporary traffic management resource. Some delays in contracting, reprioritisation of works and inflationary increases due to Cyclone Gabrielle.</li><li>Continuing to investigate opportunities as part of the cyclone recovery works.</li></ul>
		Support RCA’s to implement speed management changes using the framework set out in the Setting of Speed Limits Rule 2022.		<b>QTR</b> <ul style="list-style-type: none"><li>RCA’s have met the milestone of completing Interim Speed Management Plans and are progression to full Speed Management Plans.</li><li>It is expected that 50% of all RCA’s will have commenced consultation on their full Speed Management Plan by July.</li></ul>	<ul style="list-style-type: none"><li>The Speed Management Plans are the key enabler to deliver the Schools Programme.</li><li>There is no indication of any RCA’s failing to meet the required targets.</li></ul>
Infrastructure and Speed					



# Focus Area 1 – Infrastructure and Speed

Action  
Dependencies

Key actions to  
progress RAG



- There are a range of views in communities in relation to speed limit changes, with some communities wanting faster implementation of lower speeds to protect vulnerable communities, and other communities opposing speed limit changes. Waka Kotahi recognises that it may need to evolve its public engagement model on proposed speed limit changes to respond to community concerns. In addition, potential changes will be reviewed by an internal Waka Kotahi speed management escalation group to ensure decisions are made taking into account all necessary factors within the current legislative environment.
- Implementation of a new delivery/procurement model to allow earlier constructor involvement to ensure for fit-for-purpose designs and increase delivery pace across the programme.
- The Speed Management Plans are a key requirement to be able to deliver the Schools Programme.
- Road Controlling Authorities are dependent on the state highway speed management plans to support the development of their regional speed management plans.
- Continue to progress the most dangerous one percent of state highways and implementation of changes to speeds around schools, marae and in townships state highways transit as per the government announcement.
- In addition to the 1%, areas where there is strong community support should be progressed as per the government direction.
- The programme will not consult on speed changes already consulted on as part of the 1% approach from the Governance announcement.
- Implementation of a new delivery/procurement model to allow earlier constructor involvement to ensure for fit-for-purpose designs and increase delivery pace across the programme.
- An acceleration workstream has been established to increase the delivery rate of median barriers over the next 18 months.

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# Focus Area 1 – Infrastructure and Speed

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations	
  1. Deliver infrastructure improvements and speed management (including around schools)	  Speed and Infrastructure Programme	Deliver a State Highway Speed Management Plan (SMP), grounded in the SIP	QTR	<ul style="list-style-type: none"><li>The programme is progressing implementation of an amended Interim SH SMP that supplements the desktop identification of the top 1% of high-risk roads on the state highway network with pragmatic corridor lengths that ensure a safe and enforceable driving experience for road users.</li><li>The Director of Land Transport has approved the deadlines for speed management plans (SMP) and corresponding communications have been issued.</li><li>The Speed Management Committee members have been appointed and will assess the interim State Highway Speed Management Plan once consultation summary documents have been completed as part of the certification process</li><li>The full State Highway Speed Management Plan will focus on the 1% of high-risk corridors and based on the recommendation from the Road to Zero ELT subcommittee consultation should be pushed out to February/March given the limitations of holding consultation over the Christmas holiday period.</li></ul>	<ul style="list-style-type: none"><li>The draft Action Plan 2023-25 has been amended such that the initial focus is on the top 1% of high-risk roads, however the 2030 Road to Zero targets remain unchanged.</li><li>Push back from certain groups has impacted rate of delivery.</li><li>Reputational risk due to SH component of dual frontage schools not being completed in tandem with the local road component due to funding or other constraints.</li><li>The major weather events have put delivery activities at risk in certain Road Controlling Authorities (RCA) areas.</li></ul>	
		Support RCA's to implement safer speeds around 40% of schools by 2024, and the remaining schools by 2027.	40% schools with speed limits in compliance with the Rule by 2024	QTR	<ul style="list-style-type: none"><li>Safer speeds around schools programme is at risk to deliver compliant speeds for schools to meet or exceed 40% compliance due to both the availability of Variable Speed Limit (VSL) signage and Te Aukaha (Digital group) requiring changes in the Variable Speed Limit signage specifications which will require additional time to configure and test.</li></ul>	<ul style="list-style-type: none"><li>There is risk due to the lack of availability of Variable Speed Limit (VSL) signage. With a 12 to 16-week order delay putting pressure on all RCAs using this form of speed treatment.</li><li>Additional delays may result in testing and procuring the new VSL signs specifications to integrate with the back-end system.</li></ul>
		Continue to encourage walking and cycling and uptake of public transport by implementation infrastructure.	Accessible streets rule changes	QTR	<ul style="list-style-type: none"><li>In April 2023, Cabinet deferred decisions on the Accessible Streets package of rule changes. Subsequently, the Prime Minister requested that Cabinet consideration of Accessible Streets is delayed until 2024.</li></ul>	<ul style="list-style-type: none"><li>Accessible Streets is intended to clarify how different users interact in shared spaces, what users are allowed in what spaces, and behavioural expectations for those using footpaths and shared paths. Delaying decisions on the Accessible Streets package of rule changes will delay the implementation of rules intended to address these issues and offer greater protection to the most vulnerable users (i.e. pedestrians)]</li></ul>
Infrastructure and Speed						



# Focus Area 1 – Infrastructure and Speed

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
 <b>2. Update infrastructure standards and guidelines</b>	 WAKA KOTAHI NZ TRANSPORT AGENCY	Progress work to embed and update existing standards, guidelines, operational policies and specifications, and develop new ones where appropriate, to reflect the Safe System approach.	Review and update Infrastructure standards and guidelines	<b>QTR</b> <ul style="list-style-type: none"><li>• The standard and guidelines programme has been formally closed and now transitioned into business as usual (BAU) with an established process identified for the review and refresh standards and guidelines.</li><li>• The Standards and Guidelines have an 'assurance team' who is responsible for the ongoing review and monitoring of how effectivity changes are adopted in the business.</li></ul>	<ul style="list-style-type: none"><li>• A framework is in development to formalise a process for new/updated standards and guidelines within the BAU environment which will capture future Road to Zero priorities.</li><li>• Embed updated guidance through formal training, workshops, webinars, and published advice is continued as part of System Management 'Vision Zero Learning and Capability Programme'.</li></ul>



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# Focus Area 1 – Infrastructure and Speed

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations	
  <b>3. Implement new approach to safety camera use</b>	  <b>Safety Camera Programme</b>	Transfer existing cameras from New Zealand Police to Waka Kotahi, starting from mid-2023.	<b>QTR</b>	<ul style="list-style-type: none"><li>The new programme staged approach was agreed late 2022 and embedded in FYQ3 to prioritise establishment and initial expansion of the network to support the reduction of deaths and serious injuries (DSI) on New Zealand's roads. In FYQ3, engagement and joint planning continued with the Police and the Ministry of Justice to support the next stage of delivery.</li></ul>	<ul style="list-style-type: none"><li>The increased focus on expansion of the safety camera network means that the transfer of existing cameras from NZ Police will now start in mid-2024, rather than mid-2023.</li></ul>	
		Start the first phase of increasing the number of safety cameras throughout New Zealand to encourage safe speeds. 100 by end of 2024.	Procure and install safety cameras for the first stage of network expansion	<b>QTR</b>	<ul style="list-style-type: none"><li>Nine spot speed safety camera platforms have been constructed with configuration and Police acceptance testing completed. Seven of the nine cameras will be operational by the end of July, two by mid August.</li><li>Waka Kotahi website has been updated with safety cameras pages. This includes a refreshed <a href="#">Safety camera rollout page</a> to provide key information on safety camera locations and construction. Included is a customer contact webform, acting as a contact point for general enquiries or reports of damage to a safety camera, structure or site.</li><li>Successful installation of the first new Halo safety camera in Te Tai Tokerau Northland with a final Security Risk Assessment to be completed and camera activated in data collection mode by end of July.</li><li>A blessing took place on 29 June, noting positive reaction from the local iwi and hapu.</li></ul>	<ul style="list-style-type: none"><li>The Road Safety Bill enabling average speed / point-to-point cameras is on track to be passed before the general election.</li><li>The complex, highly dependent and flexible nature of rolling out cameras (specifically, site selection and installation) has identified the need for further specific guidance. Work is underway to set roll-out scenarios which clearly set out target ranges for both site preparations and operational camera numbers over the next 12 months.</li></ul>
		Establish a new infringement processing system in Waka Kotahi by mid-2023.		<b>QTR</b>	<ul style="list-style-type: none"><li>The programme has received endorsement to progress a back-office solution option which significantly de-risks the programme and gives the best chance to meet future phasing timeframes.</li><li>Initially Waka Kotahi will be completing operational field testing and manually verifying offences that are detected. Enforcement will commence from late 2023 with cameras initially issuing safety advisory notices using infringements, taking prosecutions for excessive speeds.</li></ul>	



# Focus Area 1 – Infrastructure and Speed

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  <b>TE MANATŪ WAKA</b> <small>MINISTRY OF TRANSPORT</small> <b>Policy Programme</b>		Progress supportive legislative amendments to allow for greater use of technology and automation in infringement.	<b>QTR</b>	<ul style="list-style-type: none"> <li>Paper to seek approval to introduce the Land Transport (Road Safety) Amendment Bill into the house as soon as possible sent to Minister. The Bill addresses safety matters including providing for the electronic service of Notices and providing for the automated issuing of certain infringement notices.</li> <li>The Bill was introduced into Parliament on 16 May 2023, and was considered by the Justice Select Committee. The Committee is due to report the Bill back to Parliament on 20 July, and be passed into law before the Election.</li> </ul>	
		Progress amendments to explicitly incorporate average speed safety camera offence detection and evidentiary requirements in legislation.	<b>QTR</b>	<ul style="list-style-type: none"> <li>The Land Transport (Road Safety) Amendment Bill addresses safety matters including ensuring average speed (point-to-point) safety cameras can be used as an enforcement tool for speeding offences.</li> </ul>	<ul style="list-style-type: none"> <li>The Land Transport (Road Safety) Amendment Bill is a high priority for the Government, and officials are working on the basis that it will be passed into law in August 2023, and in force six weeks later.</li> </ul>

## Action Dependencies



- Hypothecation, [§ 9\(2\)\(i\)\(iv\)](#) included in the Road Safety Penalties Review (RSPR) are key to safety cameras delivering benefits that contribute to the Road to Zero target to reduce DSIs. Te Manatū Waka - Ministry of Transport have advised that the RSPR is deferred until after the general election.

## Key actions to progress RAG

- New staged approach will accelerate the realisation of DSI benefits, address industrial relations risks by giving certainty to NZ Police personnel and maintain the [§ 9\(2\)\(g\)\(i\)](#). This includes confirming a refreshed timeline with our key technology vendor (Redflex), accelerating the establishment of business-as-usual functions and an expedited pathway for enabling legislation.
- Te Manatū Waka - Ministry of Transport have decoupled the three safety camera proposals that were in the RSTA2 (average speed cameras, automated decision making and electronic service of notices) into a current Road Safety Bill. Te Manatū Waka have advised that the Bill has a priority three status and is likely to be passed before the General Election.
- Legislation is key to supporting average speed / point-to-point and automation of enforcement decision making and electronic service and automated decision making.



# Focus Area 2 – Vehicle Safety

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
		Look at ways to increase the uptake of safety features into the fleet	Practical next steps to raise quality of the vehicle fleet	QTR	<ul style="list-style-type: none"><li>• Briefing paper has been provided to the Minister of Transport in April seeking in-principle policy agreement to s 9(2)(f)(iv)</li><li>• [Redacted]</li><li>• Work on tyre standards is continuing.</li><li>• Work has begun on scoping advice on priority and phasing for future activity under this item.</li></ul>
4. Raise safety standards of vehicles entering New Zealand	Road to Zero Policy Programme	s 9(2)(f)(iv)			
		Look at ways to improve the safety standards for heavy vehicles		QTR	<ul style="list-style-type: none"><li>• Work is underway on assessing the best approach to improve heavy vehicle safety in New Zealand with s 9(2)(f)(iv)</li></ul>

Action Dependencies



- Standards improvements cannot proceed without Ministerial agreement.
- Progress on the review of regulatory framework and other standards charges, depends on dedicated resource continuing to appropriately prioritise this work.

Key actions to progress RAG

- Continue to progress work on s 9(2)(f)(iv)



# Focus Area 2 – Vehicle Safety



Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
<div></div> <div>5. Raise safety standards of vehicles currently in the fleet</div>	<div></div> <div>Road to Zero Policy Programme</div>	<div>s 9(2)(f)(iv)</div>			



Action Dependencies

- There are limited specialist resources available to progress vehicles work. It is important to build momentum and ensure strategic consistency at a governance level to ensure that priority targets are being met.
- s 9(2)(g)(i)





# Focus Area 2 – Vehicle Safety

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  <b>6. Examine the Warrant of Fitness and Certificate of Fitness Systems (WOF and COF)</b>	 <b>Road to Zero Policy Programme</b>	Examine whether the current WOF and COF regimes need to be updated.	<b>QTR</b>	<ul style="list-style-type: none"> <li>Report on effectiveness of WoF/CoF system for modern vehicles is now complete with key findings including; s 9(2)(g)(i)</li> <li>ADAS features are not currently inspected during periodic inspection or repair certification; digital recording of periodic inspection information is essential in future proofing the periodic inspection; s 9(2)(f)(iv)</li> <li>there is misalignment between the entry certification inspection and in-service inspection requirements for emission and tyre standards that need to be rectified; and further work is required on mopeds, which are currently exempt from in-service inspections.</li> </ul>	
		Look at opportunities to introduce methods to improve current testing procedures	<b>QTR</b>	<ul style="list-style-type: none"> <li>To ensure in-service inspection regimes are ready for potential mandate changes, work is underway to tidy up the in-service requirements, based on an in-depth report into the WoF and CoF systems that has been completed.</li> </ul>	Digitisation is subject to further work being undertaken to determine the highest benefit safety camera interventions for digital prioritisation (i.e. vs seat belt use, distractions etc) for potential further phases of the roll out project.



Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  <b>7. Increase understanding of vehicle safety</b>	 <b>Road Safety</b>	Raise awareness of the importance of safe vehicles towards reducing the severity of crashes	<b>QTR</b>	<ul style="list-style-type: none"> <li>Continued progress into additional safety technologies (namely Emergency Call eCall) alongside Ministry of Business Innovation and Employment (MBIE), NZ Police, Fire and Emergency NZ (FENZ), ACC and Te Manatū Waka</li> <li>Educational videos about a range of crash avoidance features will be launched early July launch with supporting comms/marketing.</li> </ul>	<ul style="list-style-type: none"> <li>Investigation of safety and environmental policy options to encourage removal of low rated vehicles from the fleet' was previously working with the Clean Car Upgrade Programme, which has now been disbanded. This is now a risk for the Safe Vehicles Programme. Currently options are being assessed for the best way forward with this action. Resources required for this are unknown as the work still needs to be scoped.</li> </ul>



# Focus Area 3 – Work Related Safety

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  <b>8. Strengthen work related transport regulation</b>	  <b>Road to Zero Policy Programme</b>	Complete the review of work-time requirements under the Land Transport Act 1998	MOT policy investigation (2020) MOT regulatory process (2020 – 2021)	<b>QTR</b>	<ul style="list-style-type: none"> <li>Business Case and funding approval for Work Related Road Safety.</li> <li>Waka Kotahi is progressing establishing a partnership between government agencies (ACC, Te Manatū Waka, NZ Police and WorkSafe), drivers' unions and private sector organisations to support best practice for work-related road safety. Once the partnership is established, commence engagement on the issues arising from the current worktime rules.</li> </ul>
		Look at the potential to mandate the use of e-logbooks to improve auditing and enforcement of work-time limits	N/A		This item will be progressed through the new road safety partnership and work to improve the safety of heavy vehicles.
		Examine the future role of transport technology incl. fatigue monitoring technology for safety risks while driving to work	Policy investigation (2022)	<b>QTR</b>	<ul style="list-style-type: none"> <li>Same update as the previous quarter: This item will be picked up again through the new road safety partnership to investigate how to encourage uptake and successful implementation fatigue-monitoring and other safety technologies.</li> </ul>
		Complete review into merits of designating Waka Kotahi as a regulator under Health and Safety at Work Act (HSWA) and implement outcomes of this review.	MOT policy investigation (2019 – 2020)	<b>QTR</b>	Discussion continues about the scope of the designation for Waka Kotahi to take on functions under the Health and Safety at Work Act, potentially focusing initially on rail (with road to follow at a later date).

# Focus Area 3 – Work Related Safety

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  9. Support best practice for work related safety	  Work Related Road Safety	Investigate the establishment of a system-based collaborative harm prevention approach for work-related activity on the road.	MOT policy investigation (2020) MOT regulatory process (2020 – 2021)  QTR	<ul style="list-style-type: none"><li>Work Related Road Safety Steering Group has been established</li><li>Co-design workshops have been completed for the Work Related Safety Collaboration Programme to explore ways the RSPNZ and Government agencies could collaborate. A report with the findings and recommendations will be completed late Aug 2023.</li><li>Road Freight Safety Partnership (RFSP) quarterly hui was held in June to gain common agreement on the RFSP system architecture</li><li>Heavy Vehicle accreditation scheme paper has been drafted for approval the Steering Group outlining research, issues and opportunities where a scheme fits in the system</li></ul>	<ul style="list-style-type: none"><li>s 9(2)(g)(i) [redacted] [redacted] The establishment of the Regulatory/Road Safety Transport industry Governance Group will enable collaboration and alignment, but this continues to be a risk to delivery.</li><li>s 9(2)(g)(i) [redacted]</li><li>Current resource constraints within the programme, mitigations are in place to secure a new principal advisor</li></ul>



Action Dependencies

- HSWA designation requires the willingness of other agencies to progress work.
- Work time and logbook rule requires the work-related road safety forum to begin before this activity can start.





# Focus Area 4 – Road User Choices





Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  <b>10. Strengthening the road safety partnership (road policing)</b>	 <b>Road Safety Partnership Programme</b>	Implement Safe Roads Operating Model to guide greater to road safety policing at the district and area levels	Sign off and Implement	<b>QTR</b> <ul style="list-style-type: none"> <li>See Road Safety Investment Delivery (RSID) Review update (Appendix B).</li> <li>Final stage - review and endorsement by Police governance groups. Launch in early July.</li> </ul>	<ul style="list-style-type: none"> <li>Review and endorsement.</li> </ul>
		Take a more structured and formal approach to the deployment of road policing resource	Embed use of Road Policing Deployment Dashboard (RPDD)	<b>QTR</b> <ul style="list-style-type: none"> <li>The Dashboard has been rolled out to all Police Districts as business as usual (BAU). During the April to June period additional support was provided to districts as requested.</li> <li>Operation Open Roads was underway during Dec 2022 to June 2023.</li> </ul>	<ul style="list-style-type: none"> <li>Police continue to support districts to implement, including the Commissioner presenting to District Leadership Teams as part of his Commissioner's Forum visits.</li> <li>Consideration is being taken to future deployment decisions.</li> </ul>
		Establish an independent activity-based costing review to determine the cost of delivering road policing activity	Activity Based Costing (ABC) review	<b>QTR</b> <ul style="list-style-type: none"> <li>See RSID review update (Appendix B).</li> <li>Draft model completed. Testing and validation work has commenced.</li> <li>The next phase is to utilise the model to assess the resource and subsequent cost to deliver the revised RSPP measures. This will help inform the upcoming RSPP negotiations.</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing and will be used to inform RSPP 24/27 negotiations.</li> </ul>
		Review and implement the level of governance necessary to provide assurance and discharge accountabilities to deliver on the RSPP outcomes	Establish revised RSPP Governance model	<b>QTR</b> <ul style="list-style-type: none"> <li>Revised RSPP governance model (SEG and MAP) has been established.</li> <li>A Joint Delivery Plan (JDP) was signed off at SEG in June.</li> </ul>	<ul style="list-style-type: none"> <li>The RSPP governance model continues to be discussed to ensure the intent and link to Road to Zero is clear.</li> <li>Collaboration continues around the rationalisation and application of the JDP and link to the Road to Zero Implementation Plan.</li> </ul>
		Break down national road safety outcomes to more defined regional activity measures to enable more active monitoring of delivery performance	Scoping and planning was undertaken	<b>QTR</b> <ul style="list-style-type: none"> <li>See RSID Review update (Appendix B).</li> <li>Communications about apportionment of 2023/24 RSPP desired activity levels are on track to be delivered to police districts early in Q1 23/24.</li> </ul>	<ul style="list-style-type: none"> <li>Engagement of districts in understanding the distribution or calculations used. Ongoing engagement and collaboration will occur.</li> </ul>



# Focus Area 4 – Road User Choices

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
 <p>10. Strengthening the road safety partnership (road policing)</p>	 <p>Road Safety Partnership Programme</p>	Establish District level road safety plans that more effectively align regional delivery of road safety activities, such as road policing and infrastructure treatments, to regional road safety performance and risks.	Consultation, collaboration and design is underway	<p><b>QTR</b></p> <ul style="list-style-type: none"> <li>See RSID Review update (Appendix B).</li> <li>Greater engagement with Waka Kotahi and Police on delivering joint Road Safety Risk and Activity: Analysis and Insights reports.</li> </ul>	<ul style="list-style-type: none"> <li>Waka Kotahi are piloting road safety plans. Ongoing partnership is critical for success.</li> <li>These initial insights reports need to be enabled and led by NZ Police and supported by partners.</li> <li>This is an iterative process – activities should work towards incorporating both agencies' data providing information to inform both agencies' deployment of resources.</li> </ul>
Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
 <p>11. Implement drug driving legislation</p>	 <p>Road to Zero Policy Programme</p>	Progress amendments to legislation to enable roll out of OFT at roadside.		<p><b>QTR</b></p> <ul style="list-style-type: none"> <li>In May 2023 Cabinet agreed to amend the Land Transport Act to introduce a new roadside oral fluid testing regime. The regime will use oral fluid test devices to screen drivers for specified drugs and laboratory testing of oral fluid samples to be used as the evidential basis for infringement offences. Drafting instructions were issued to Parliamentary Counsel Office (PCO).</li> </ul>	<p><b>s 9(2)(g)(i)</b></p>
	 <p>Impaired Drug Driving Programme</p>	Work to implement new legislation to detect and deter drug driving	OFT Phase I Go Live	<p><b>QTR</b></p> <ul style="list-style-type: none"> <li>Phase I went Live successfully on 11 March 2023, with all deliverables aside from the roadside testing component.</li> </ul>	<ul style="list-style-type: none"> <li>Phase I 100% complete.</li> </ul>
			OFT Phase II Roadside testing commenced	<p><b>QTR</b></p> <ul style="list-style-type: none"> <li>OFT Phase II project initiation is actively progressing.</li> <li>Draft Target Operating Model completion is on track for Governance Board meeting 19 July.</li> <li>Impaired Driving Business Requirements development is underway.</li> </ul>	<ul style="list-style-type: none"> <li>OFT Project has hard dependency on amended legislation addressing Phase I key constraints to enable operationalisation.</li> </ul>

# Focus Area 4 – Road User Choices



Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  12. Examine ways to effectively address the underlying causes of high-risk offending	   Road to Zero Policy Programme	Identify interventions to reduce opportunities for offending and reduce number of people entering the criminal system because of traffic offending. Understand and address barriers in the system and find innovative ways to use technology to detect and respond to offending.	Scoping and planning to be undertaken  QTR	<ul style="list-style-type: none"><li>• A draft scoping document has been produced for the new action around high-risk offenders. Once the document has been finalised next steps will be identified to progress and start engaging with partners on how this action will be developed and delivered.</li><li>• Won't progress until 2024 at the earliest. The intention is to complete the review of road safety penalties first.</li></ul>	

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# Focus Area 4 – Road User Choices


Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
	 13. Review road safety penalties	Complete the review of road safety penalties to ensure the penalties and enforcement mechanisms support both road safety <span>s 9(2)(f)(iv)</span> outcomes.	Review road safety related offences and consult on offences and penalties regulation changes (2020 – 2022)	<b>QTR</b> <ul style="list-style-type: none"><li>Te Manatū Waka is working with Justice officials to further develop some proposals. At the request of the Prime Minister, this package will not be reconsidered by Cabinet until 2024.</li></ul>	<ul style="list-style-type: none"><li>Effective engagement with stakeholders is necessary to shape the discussion <span>s 9(2)(f)(iv)</span>. Need to demonstrate that this work is net-positive for vulnerable population groups.</li><li>A narrative needs to be developed that supports the implementation of fines and penalties.</li></ul>
	Road to Zero Policy Programme	<span>s 9(2)(f)(iv)</span>	N/A		

Action Dependencies	<ul style="list-style-type: none"><li><span>s 9(2)(g)(i)</span></li></ul>
Key actions to progress RAG	<ul style="list-style-type: none"><li>Effective engagement with Ministers and the public to highlight the positive road safety <span>s 9(2)(f)(iv)</span> impacts we could see from this work programme. This needs to highlight the better outcomes (relative to the status quo) that the proposals will generate for vulnerable groups. Examples include young males and Māori who are over-represented in road trauma.</li></ul>









# Focus Area 4 – Road User Choices

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
15. Improve motorcycle rider safety	 TE MANATŪ WAKA MINISTRY OF TRANSPORT	Complete a review of how the current motorcycle licensing regime supports road safety and recommend improvements s 9(2)(f)(iv)	QTR	<ul style="list-style-type: none"><li>Regulatory Policy are finalising collated feedback on project scope and the literature review</li></ul>	s 9(2)(f)(iv)
		Encourage riders to complete the Ride Forever programme	QTR	<ul style="list-style-type: none"><li>Forward investment secured and contracts with suppliers extended.</li><li>Since Ride Forever started, 54,762 (up to May 23) courses have been delivered to 35,439 unique riders, approximately 27% of the active riding community (est. 130,000 riders) in NZ.</li></ul>	<ul style="list-style-type: none"><li>YTD, from July 22, we have delivered 6,616 courses to 4,064 new riders which is a result of 61%. The programme has a target of 60%.</li><li>A survey was sent to all riders who completed a course between December and March 23, results have shown a NPS of 91% against a target of 84%.</li></ul>
		Develop a standard or rating system for motorcycle rider (PPE).	QTR	<ul style="list-style-type: none"><li>Potential options to develop a standard or rating system are currently being investigated .</li></ul>	




Dependencies

# Focus Area 4 – Road User Choices

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
14. Increase access to driver licensing and training	 User Behaviour Waka Kotahi	Improving access to driver licence support for those who are most impacted by barriers to obtaining a driver licence	QTR	<ul style="list-style-type: none"> <li>Included in DLIP update below.</li> </ul>	
	 Ministry of Social Development	Establish ongoing monitoring of the driver licensing system to identify issues and gaps to access in a timely manner.	QTR	<ul style="list-style-type: none"> <li>Included in DLIP update below.</li> </ul>	
	  User Behaviour Waka Kotahi	Driver Licence Improvement Programme (DLIP) targets improvements across the whole system to remove barriers, increase participation for people who find it difficult to navigate, improve the safety of drivers and help deliver improved wellbeing.	Five-year delivery roadmap QTR	<ul style="list-style-type: none"> <li>A Programme Business Case has now been completed by the Driver Licensing Improvement Programme and will be discussed with Treasury for consideration of the proposed investment for the delivery of targeted change for the future state of driver licensing.</li> <li>The DLIP team is now progressing the drafting of a Detailed Business Case based on 'Targeted System Change' s 9(2)(f)(iv)</li> <li>Employment, Education and Training Ministers' endorsement of the PBC's preferred way forward will be sought in August 2023.</li> <li>ACC update for discussion: The ACC and Waka Kotahi Drive programme targeting young drivers is being integrated within DLIP. From 1st July 2022 to 31st July 2023, there were over 220K active users of Drive and Drive Go. ACC data indicates there has been 528 young person motor vehicle ACC claims prevented, with a claim rate of 3.9 claims /1000 compared to 5.3 /1000 who do not participate in Drive.</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing Ministerial support in an election year</li> <li>If the programme does not have appropriate or adequate resources, then the programme could be delayed</li> <li>Inadequate Iwi and Māori engagement</li> </ul>



# Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Output and Action Plan Timeframe	Quarterly Highlights	Key Risks, Challenges & Mitigations
  <b>16.</b> Continue to build and support effective leadership across road safety partner organisations	   Road to Zero and System Management	Strengthen Road to Zero governance through leadership of the Director Road to Zero, the Road to Zero Ministerial Oversight Group, Chief Executive Governance Group and Deputy Chief Executive Governance Group.	<b>QTR</b>	<ul style="list-style-type: none"><li>Implementation plan continues to be developed following feedback from the Road to Zero Deputy Chief Executive Group on the 7<sup>th</sup> of June.</li><li>First version of the Ministerial guide to Road to Zero completed and distributed.</li><li>Work has continued on developing stakeholder mapping for Road to Zero.</li><li>Work continued on mapping Road to Zero workstreams across the portfolio.</li><li>Significant work has progressed in better aligning responsibilities and reporting lines between Road to Zero governance and RSPP governance.</li><li>s 9(2)(i)(iv)</li><li>Te Manatū Waka Director Māori Mr Tredegar Hall, who is coming to Te Manatū Waka from the British High Commission at the end of July, will fulfil the role on both Road to Zero Governance Groups initially, he will then form a view as to the best way forward for effective Māori representation and participation on the Road to Zero governance groups.</li></ul>	

## Action Dependencies

- Partners inputting into and using the implementation plan as required.


## Key actions to progress RAG

- Continue to strengthen the reporting framework and governance.
- Continued development of the implementation of improved governance supported by the system management workstream at Waka Kotahi.
- A Māori Reference Group will be established to provide advice and to inform the Driver Licence Improvement Programme







## Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
<b>New</b>  17. <b>Grow collaboration and capability across road safety partners and the wider sector</b>	 <b>System Management</b>	Delivering effective regional responses with our local government partners, for example, through speed management planning.	<b>QTR</b> <ul style="list-style-type: none"> <li>Road to Zero Communications Toolkit is reviewed and updated on a quarterly basis.</li> <li>Road to Zero Newsletter released bimonthly.</li> <li>Road Safety Action Plan guidance progress continues, with opportunities developing work with the Road Safety Police Partnership Programme.</li> </ul>	
		Provide tools to access data, evidence and information that enable local government, RCA's and road safety partners to undertake evidence-based decision-making and monitoring.	<b>QTR</b> <ul style="list-style-type: none"> <li>Regional Road Safety Dashboard improvements will see the data updated quarterly and at a council level. In parallel, work is progressing to release the Dashboard on Open Data.</li> </ul>	<ul style="list-style-type: none"> <li>Timeframes for completion still to be confirmed for the Regional Road Safety Dashboard.</li> </ul>
		Expand and evolve our Vision Zero learning and capability programme to support the successful delivery of Road to Zero.	<b>QTR</b> <ul style="list-style-type: none"> <li>National Road to Zero roadshows have been rolled out across the motu generating a good level of attendance and positive feedback.</li> <li>Continue to promote and deliver Safe System Assessment courses – Local Government audience.</li> <li>Continue to promote and deliver monthly Communities of Practice events with Local Government partners.</li> </ul>	<ul style="list-style-type: none"> <li>Currently there is not a suitable technology platform to deliver a self-sustaining Vision Zero Learning and Capability programme that co-ordinates all of Waka Kotahi's learning opportunities for Safe System/RTZ/Vision Zero.</li> </ul>
		Continue to invest in and promote cycle skills training courses.	<b>QTR</b> <ul style="list-style-type: none"> <li>Continued delivery of the BikeReady programme.</li> </ul>	



# Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
 <b>17.</b> <b>Grow collaboration and capability across road safety partners and the wider sector</b>		Provide knowledge sharing opportunities to engage and inform the sector of progress in implementing the actions, and use their insights and feedback to help shape delivery of the actions.	<b>QTR</b> <ul style="list-style-type: none"> <li>Communities of Practice (COP) for Road Safety Coordinators and Practitioners held on the 24th May with the topic of National Land Transport Programme and planning. Largest attendance of any COP and positive feedback has been received to incorporated in ongoing improvement.</li> <li>Transport Knowledge Safety Event held.</li> </ul>	


## Action Dependencies



- Waka Kotahi digital prioritisation and resource for Vision Zero Learning and Capability Programme
- Availability of a suitable technology platform to deliver a selfsustaining Vision Zero Learning and Capability programme that co-ordinates all of Waka Kotahi's learning opportunities for Safe System/Road to Zero/Vision Zero .

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
<div><div><div></div></div><div>18. Improve road safety outcomes with Māori</div></div>	<div><div><div><div></div><div>WAKA KOTAHI AIR TRANSPORT AGENCY</div></div><div>System Management</div></div></div>	<div><div>Engage and build relationships to better understand context, undertake further research, and partner with Māori to support them to design and implement initiatives to improve road safety outcomes for Māori.</div><div>Look for opportunities to collaborate with other government agencies that are working with Māori (mana whenua and mataawaka) to leverage resources and learnings that can contribute to Māori-centric road safety and wellbeing initiatives.</div></div>	<div><div><div>QTR</div><div><div>• Road to Zero Cultural Capability Survey has been completed and will be aligned to the Waka Kotahi organisation-wide Cultural Competency Survey completed late last year. A report identifying the layers and cultural complexity requiring navigation going forwards will be available July 2023.</div><div>• Two pilots are underway in Tairāwhiti and Tai Tokerau. As part of the Tai Tokerau engagement, face box interviews and deep dives with Māori have been undertaken. Insights from this engagement will be used to co-design and develop an ongoing programme of work to improve Māori outcomes that will be delivered in out years will begin in July.</div></div></div></div>	<div><div><div>• Iwi and hapu capacity to work alongside our project stream is limited.</div><div>• Iwi and hapu capacity to work alongside our project stream is limited and their internal resources are stretched.</div><div>• Challenges continue undertaking the pilot in Tairawhiti in the current environment.</div></div></div>





# Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
 <p>19. Develop a vision zero network and safety framework</p>	 <p>System Management</p>	Develop a framework to inform the long-term transformation of our road network towards a 2050 Vision Zero horizon. This will feed into the ongoing refinement and development of New Zealand's speed and infrastructure programme.	<p><b>QTR</b></p> <ul style="list-style-type: none"> <li>Vision Zero 2050 Modelling Phase one complete with Technical Note produced.</li> <li>Phase 2 currently being scoped. Initial engagement to create awareness with internal stakeholders has begun with the System Planning team.</li> </ul>	
		Investigate the potential of KiwiRAP in supporting safe road infrastructure and speed management.	<ul style="list-style-type: none"> <li>Not started</li> </ul>	

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
 <p>20. Strengthen investment in road safety outcomes</p>	 <p>System Management</p>	Undertake work to strengthen the prioritisation and decision-making frameworks that guide investment in road safety interventions and activities through the National Land Transport Programme (NLTP).	<p><b>QTR</b></p> <ul style="list-style-type: none"> <li>No updates provided.</li> </ul>	





# Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
<div></div> <div>21. Work towards establishing a Centre of Excellence for research and evaluation, data and evidence</div>	<div></div> <div>System Management</div>	Seek improvements and efficiencies in the provision of better integrated and concise data sharing to support effective decision-making, from system governance and leadership to planning and delivery.	<div>QTR</div> <ul style="list-style-type: none"><li>A Big Data project is being scoped out to include information on users data and information requirements both internally and externally. Within this will be a review of all current analytical tools and dashboards.</li></ul>	
		Expand the Transport Knowledge Safety Hub and key knowledge sharing conferences and events, in conjunction with the Vision Zero Learning and Capability Programme.	<div>QTR</div> <ul style="list-style-type: none"><li>Transport Knowledge Safety Hub event held in April 2023.</li></ul>	
		Ensure our Outcomes Framework continues to robustly measure road safety outcomes and monitor performance to help us track progress towards Vision Zero.	<div>QTR</div> <ul style="list-style-type: none"><li>Continues as part of the development of the Road to Zero Annual Monitoring Report.</li></ul>	





# Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
<div>  </div> <div> <p>21.</p> <p>Work towards establishing a Centre of Excellence for research and evaluation, data and evidence</p> </div>		Develop a Road Safety Centre of Excellence	<b>QTR</b> <ul style="list-style-type: none"> <li>Scoping a Road Safety Centre of Excellence is underway. This is part of the Big Data Project.</li> <li>The Road to Zero Annual Monitoring Report has been finalised which aims to measure Road to Zero Strategy. This document will be published end July.</li> <li>Work is underway with a fit for purpose review of MOU's between ACC, Te Whata Ora (Health), ACC and Waka Kotahi.</li> </ul>	
		Develop an in-depth Safe System crash investigation system and explore the benefits of creating a National Safe System Crash Investigation Working Group	<b>QTR</b> <ul style="list-style-type: none"> <li>32 fatal crashes from 2023 in two pilot regions have been pulled from CAS and will undergo Safe System Analysis with final recommendations due August.</li> </ul>	<ul style="list-style-type: none"> <li>In-depth Crash Investigations automation has been put on hold due to lack of Digital resource. This project will contribute to the Big Data project currently being scoped within Waka Kotahi.</li> </ul>
		Support and invest in the road safety research and evaluation programme.	<b>QTR</b> <ul style="list-style-type: none"> <li>Progress continues working with the Research and Analytics team on developing a Road Safety Research Programme.</li> </ul>	
		Undertake modelling to better understand what Safe System looks like and how best to achieve Vision Zero, as well as to improve our understanding of the co-benefits between safety, emissions, productivity, and public health	<b>QTR</b> <ul style="list-style-type: none"> <li>Continued utilisation of the Intervention Investment Logic Model (IILM) tool to undertake modelling</li> </ul>	
		Evaluate the impact of interventions after implementation.	<b>QTR</b> <ul style="list-style-type: none"> <li>Continues as part of good practice.</li> </ul>	



# Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
<div>  </div> <div> <p>22.</p> <p><b>Assist public understanding of Road to Zero</b></p> </div>		<p>Deliver integrated marketing, communication and engagement campaigns to improve public awareness and understanding of Road to Zero.</p>	<p><b>QTR</b></p> <ul style="list-style-type: none"> <li>Launch of the new Safe speeds around schools education plan and started promoting it to schools. This is a new curriculum-linked resource for teachers to help their Year 1-8 students learn about safe speeds, as Waka Kotahi and councils lower speed limits around their schools.</li> <li>Draft report received from the Drive programme strategic review. Work will progress with the Drive Steering Group (Waka Kotahi and ACC) to confirm which recommendations to accept and use this to inform the new strategy and plan for the programme.</li> <li>Proposals received for the customer tracking research RFP and evaluations are underway. The purpose of this RFP is to find one or more research partners to help test executions for education and marketing work, evaluate the effectiveness of the programme and track sentiment and attitudes towards road safety interventions and behaviours.</li> <li>Draft report received for the review of Bikes in Schools, to understand which factors contribute to, or detract from the effectiveness of the initiative. The quick wins are being delivered and the findings are being socialised with key stakeholders to get their input on improvements.</li> <li>Road Safety Week ran 15-21 May. Over 1000 organisations, schools and community groups participated. In collaboration with Brake and other road safety partners, a range of activities including a school patrol activation with 100 schools, 14 school visits, and a partnership with Hayden Paddon, NZ rally car driver.</li> <li>Cross-Agency Road Safety Fielddays received positive feedback from road safety partners and from the public in general. The crashed cars display and Rightcar interactive were the key features of the stand and enabled positive, life changing conversations with visitors.</li> </ul>	<ul style="list-style-type: none"> <li>Alignment between the RtZ marketing, communication and engagement campaigns and the operational delivery of Road to Zero interventions needs to be strong. To this end the overt alignment between the cross-agency marketing and communications calendar and the Road to Zero Implementation Plan will be particularly useful.</li> </ul>



## Action Dependencies



- Alignment between Road to Zero marketing and communications group and operational delivery of Road to Zero interventions.





# Focus Area 5 – System Management

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
  23. Post-crash response	  System Management	Facilitate closer engagement between the health and road safety sectors to improve data capture and use.	<b>QTR</b> <ul style="list-style-type: none"> <li>SORTED Report: Data from 2021 and 2022 has been gathered and now sits at ACC for cleansing and matching. Contract to fund report from the Post Crash Response project has now found a home at ACC (funded by Waka Kotahi), contacts for continuous improvement for team members to write the report will sit in Waka Kotahi.</li> <li>Current activity around improving the report and gaining further insights is underway.</li> </ul>	
		Support the National Trauma Network to maintain SORTED Study	<b>QTR</b> <ul style="list-style-type: none"> <li>The National Trauma Network (working with ACC) are the driving force behind the Study of Road Trauma Data and Evidence (SORTED) report. The report for 2023 looks back over the last five years of data is in the data gathering stage and will be published thanks to the National Trauma Network, ACC, and other road safety partners later this year.</li> </ul>	
		Partner with the health sector, RCA's, emergency services to achieve best practice in New Zealand's response to major road trauma	<b>QTR</b> <ul style="list-style-type: none"> <li>Collaborative meeting held with National Trauma Network team, with the next steps to be a workshop to develop storyboards/scenarios for storytelling. This will bring closer attention to the ongoing trauma after a crash for survivors, they will be real life stories which will assist in bringing others long on the Road to Zero journey.</li> </ul>	<ul style="list-style-type: none"> <li>The Post Crash Response research proposal is currently on hold pending a duplication issue with the Research team.</li> </ul>

Action	Workstream (Programme)	Key Projects/ Activities	Quarterly Highlights	Key Risks, Challenges & Mitigations
  24. Undertake independent assessment of progress of Road to Zero		Undertake an independent review of the Road to Zero programme along the lines of the World Bank/ Global Road Safety Facility Guidelines to ensure we are investing in the right initiatives, at the right level.	<b>N/A</b> <ul style="list-style-type: none"> <li>A review proposal will be scoped 2023, to be undertaken in early 2024.</li> </ul>	

# Portfolio Summary

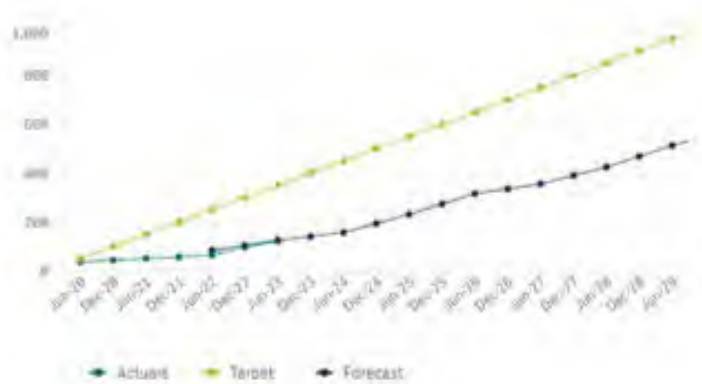
## Financials



# Indicator Reporting

The following graphics highlight how tracking is going against the key road to zero indicators to show progress, as apposed to the tracking against the five focus areas of the Road to Zero strategy reported in the previous slides.

## Kilometres of the network treated with retrofitted median barrier



Total km of median barrier installed across all infrastructure projects	km
Retrofitted Median barrier	121
Other new state highway median barrier	85
TOTAL	206

- SH1 Puhai to Warkworth corridor has been completed which delivered a total 18.5kms median barrier
- We are on track to deliver on our revised 2021-24 target.
- Strategies continue to be developed to provide agility to the NLTP24+ programme, as part of the Programme Business Case development and the refreshed procurement approach

## Kilometres of high risk network treated through speed management (combined)

- The accumulated total speed management to date that aligns to the RTZ target is approximately 1,780km completed (compared to a steady state trendline of 3,000km) with 950km on State Highways and 830km on local roads completed to date (2021/22).
- Reporting for this indicator to date has been based on all speed limit changes recorded across the NZ road network. This will be updated in future reports\*.
- It is important to note that the 10,000km speed management target by 2030 relates directly to the high-risk network and represents approximately 80% of the DSI reduction potential. Targeting the highest benefit 10,000kms network is therefore critical to achieving the required Road to Zero outcomes.
- \* Note: Graph used in previous report was misrepresentative. New graph to follow in future reports.





# Indicator Reporting

The following graphics highlight how tracking is going against the key road to zero indicators to show progress, as apposed to the tracking against the five focus areas of the Road to Zero strategy reported in the previous slides.



- The programme is tracking to achieve the delivery target for roundabouts only.
- Work is underway to accelerate project outputs delivering safety benefits (median barrier, wide centreline, roundabouts and side barrier).
- This graph represents only roundabouts, not all Safe System interventions for intersections yet to be reported in the Road to Zero Annual Report.
- The projected DSI savings for 21-24 NLTP will be less as the amount of corridor covered by speed reviews has significantly decreased and median barrier programme deliverables will start to significantly impact DSI in about a year.
- Note: DSI savings are currently only adjusted when project or intervention is fully completed



# Indicator Reporting

Annual Target  
(RSPP 2021-24)  
**80,000**

Actual (2021/22)  
**58,406**

Actual (2022-23)  
**61,028**



## Mobile Safe Speed Cameras

Waka Kotahi delays in transitioning traffic safety cameras from Police are impacting on stability of the Traffic Camera Operator (TCO) workforce. Police have agreed to 80,000 hours for the final year of this current RSPP. In addition to the existing TCO workforce, additional operators have been employed on a fixed term basis by Police to support Districts with delivery towards this desired activity level.

Annual Target  
(RSPP 2021-24)  
**3,000,000**

Actual (2021/22)  
**1,707,481**

Actual (2022-23)  
**2,610,125**



## Breath Tests

The annual target number of passive and screening breath tests under the RSPP 2021-24 is a desired activity level of 3,000,000 tests.

As of 12 July 2023, Police performed 2.61 million breath tests in the 2022/23 fiscal year. This represents a substantial increase of 53% (more than a million tests) compared with the 2021/22 result of 1.59 million tests. This is the highest result in nine years.

While still below the desired 3 million tests, Police is encouraged by the increased level of activity and is working to sustain this increase. The result has been driven by a combination of factors, including a return to normality post-COVID, a renewed call to increase breath testing numbers, and the rollout of new breath testing devices which have enabled districts to see their total breath testing numbers in near-real time.

Annual Target  
(RSPP 2021-24)  
**60,000**

Actual (2021/22)  
**36,619**

Actual (2022-23)  
**49,283**



## Restraints

The annual target number of restraint offences under RSPP 2021-24 is 60,000. This represents a monthly target of 5,000.

For the 2021/22 year, Police recorded 36,619 restraint offences, short by 23,381 offences. This result was exceeded by the end of FYQ3 of 2022/23. For the whole 2022/23 year, Police has recorded 49,283 restraint offences, this is a 35% improvement from the previous year.

The number of deaths from passengers and drivers in light vehicles that were not wearing a seatbelt from the period January to June 2023 was 45, representing 37% of all vehicle occupant deaths recorded during this period.



# Appendix B

Road Safety Investment Delivery Review

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# Road Safety Investment Delivery Review – Summary

In 2021, Martin Jenkins was commissioned by Te Manatū Waka to conduct an independent review of Road Safety Investment and Delivery (the Review). The review identified that good progress has been made in direction setting through the development of the Road to Zero strategy and action plan and actions. In January 2022, Waka Kotahi, NZ Police, and Te Manatū Waka (the partners) developed a response to the review, Response to the Road Safety Investment and Delivery Review (the Response). The Response accepted the findings and recommendations set out in the Review. The partners confirmed specific actions that will be taken to respond to the Review findings and recommendations which are reported across the next three pages.

The partners expected the actions to take 12 – 18 months to embed and realise improvements (June 2023). The RAG status on the following three pages are against progress against this timeframe documented in the Response.

The actions that are reported as closed in the previous reporting period will be removed from the summary tables in subsequent reports. To ensure visibility of overall progress of the improvements however a small summary table capturing all recommendations and their status is included on this page.




Status		No.
C	Complete	11
●	Successful delivery highly likely, no major risks	5
●	Successful delivery probable, risks require constant attention	2
●	Successful delivery feasible, significant issues exist requiring attention	0
●	Successful delivery in doubt, risks or issues in a number of key areas	0
●	Successful delivery is at risk	0

 Action		Update
Progress the development and implementation of Police’s Safe Roads Operating Model to guide greater focus and consistent approaches to policing on our roads and road safety.		• The Safe Roads Operating Model (SROM) is nearing completion. The final stage will see review and endorsement by Police governance groups and will launch in early July.
Establishment of an independent activity-based costing (ABC) review. This will help understand how to strengthen transparency over the allocation and use of dedicated road policing funding.		• Police are undertaking an exploratory piece of work with Deloitte, to produce a draft ABC model that can estimate what it costs to deliver each type of road safety activity and to better understand the link between the funding, activities and resourcing that supports road policing delivery. The draft model has been completed, testing and validation work has commenced. The next phase is to utilise the model to assess the resource and subsequent cost to deliver the revised Road Safety Partnership Programme (RSPP) measures. This will help inform the upcoming RSPP negotiations regarding cost of delivering road safety activities and support the work to improve financial transparency.





# Road Safety Investment Delivery Review – Summary

	Action	Update
Will work with Police to further break down national road safety outcomes to more defined regional activity measures to enable more active monitoring of delivery performance against system outcomes.	C	<ul style="list-style-type: none"> <li>Police have completed some work for the 2023/24 RSPP Desired Activity levels (refer slide 20). This action can be closed following this reporting cycle.</li> </ul>
Work with Police to establish District level road safety plans that more effectively align regional delivery of road safety activities, such as road policing and infrastructure treatments, to regional road safety performance and risks. The plans will be informed by customised regional data, trend analysis and insights, aligned to Road to Zero.		<ul style="list-style-type: none"> <li>This work will be an iterative process designed to incorporate both agencies' data providing specific information at the regional or district level sufficient to inform both agencies' deployment of resources to greatest risk and general deterrence (refer slide 21).</li> </ul>
Work with Te Manatū Waka and Police to review measures of police activity within the Road Safety Partnership Programme to ensure optimal alignment with Road to Zero outcomes and international best practice.		<ul style="list-style-type: none"> <li>Agreement on the measures for the final year of this RSPP period has been reached and is likely to be ratified by the Board in August 2023. A recommendation to Ministers will be made shortly thereafter. Discussions on measures for the 2024-27 RSPP will commence this quarter. This action can be closed following this reporting cycle.</li> </ul>

	Action	Update
Undertake targeted monitoring of the progress made by Waka Kotahi in responding to the Review as part of our annual Crown monitoring programme.		<ul style="list-style-type: none"> <li>Monitoring is underway however this needs to be formalised through Te Manatū Waka governance. Conversation been initiated however requires further focus. This remains as amber/green.</li> </ul>
Implement a more robust reporting and insights framework to more actively monitor cross system delivery, performance and risks. This includes providing clearer line-of-sight on the impact of delivery performance against Road to Zero system targets and indicators.		<ul style="list-style-type: none"> <li>Implementation plan near completion which will be used across partners and owned by the DCE's to enable visibility of activities contributing toward the Road to Zero Action Plan 2023 – 25.</li> </ul>
Further strengthen insights through the annual reporting on performance against Road to Zero system targets and indicators.		<ul style="list-style-type: none"> <li>The 2022 RtZ Annual Monitoring Report has been completed and due to be published in the coming weeks.</li> <li>This will be closed out once published next reporting period.</li> </ul>

# Appendix C

RAG Status – Road to Zero Performance

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# RAG Status for Road to Zero Action Reporting

## Progress of the programmes/ key projects over the reported quarter

- QTR** Progress has remained on track over the quarter and no major issues to threaten delivery.
- QTR** Progress has had delays or issues although if addressed promptly should not impact overall delivery or benefits realisation.
- QTR** Progress has had major delays or issues. Serious attention/ focus is required over the next quarter to manage or resolve.

## Progress toward delivering the overall actions in the Action Plan

-  Successful delivery to time, cost and quality appears highly likely and there are no major issues that at this stage appear to threaten significant delivery.
-  Successful delivery appears probable however constant attention will be needed to ensure risks do not materialise into major issues threatening delivery.
-  Successful delivery appears feasible but significant issues already exist requiring management attention. These appear resolvable at this stage and if addressed promptly, should not impact delivery or benefits realisation.
-  Successful delivery is in doubt with risks or issues apparent in a number of key areas. Prompt action and prioritisation is needed to address these to enable delivery.
-  Successful delivery is at risk if major issues across critical areas are not managed or resolved with urgency.



Direction of RAG from previous reporting period.



31 August 2023

OC230633

Hon David Parker

Action required by:

Minister of Transport

Friday, 8 September 2023

## SEEKING AGREEMENT TO MEET WITH CIVIL AVIATION AUTHORITY REGARDING AIRPORT SECURITY SCREENING OPERATIONS

### Purpose

To seek your agreement to meet with Civil Aviation Authority (the Authority) Chair and Chief Executive to discuss whether an independent review of airport security screening operations is required. This follows a referral from the Public Service Commission (PSC) in April 2022 regarding a complaint made by s 9(2)(a).

### Key points

- s 9(2)(a) (the complainant) made five complaints to the Authority about incidents at airport security screening between 1 May 2018 and 17 May 2021. The Authority addressed the complaints as an operational matter (in line with its complaints process). However, the complainant subsequently wrote to the PSC expressing the view that the Authority had not adequately addressed his concerns.
- As a result of a referral from PSC in April 2022, the Ministry carried out an informal investigation aimed at better understanding the nature of the complaints raised, and the process taken by the Authority. The Ministry considered at that time that an independent review would be the best course of action to address those concerns raised by the complainant.
- On 5 June 2023, the former Associate Minister of Transport agreed to review (refer to **Appendix One** for OC230435) the airport security screening operations (in relation to pat-down body searches). The Minister agreed to consult with the Authority before making the final decision to proceed with the review – in accordance with sections 27(1)(d) and 132 of the Crown Entities Act (the CEA). However, meeting cancellations prevented the former Associate Minister from consulting directly with the Authority.
- The Ministry has engaged with the Authority to discuss the review. The Authority provided feedback stating its concerns with the decision to conduct a review under section 132 and indicated its preference for the Ministry (rather than the Minister) to carry out an independent review with a narrow scope focussed on addressing the concerns raised by the complainant. The Ministry does not have powers to independently review the operations of a Crown entity.

- The CEA empowers you, as the responsible Minister, to undertake a review of the operations of a Crown entity, provided that the following actions are undertaken (in addition to you agreeing to the review):
  - consultation with the Authority on the proposed purpose and nature of the review of its operations and performance, and
  - consideration of the Authority's submissions.
- An independent review of airport security screening operations has the potential to consume resources and capacity of both the Authority and the Ministry, which could detract from existing priorities and possible trade-offs of work currently underway.  
 s 9(2)(g)(i)
- In consideration of these factors, the Ministry has identified three possible options for your consideration:
  - **Option One:** Direct the Ministry to undertake an independent review (applying section 132 of the Crown Entities Act 2004) with a narrow scope to consider the process and practices undertaken by the Authority and the Ministry to address the complaints of s 9(2)(a) .
  - **Option Two:** Ask the Authority to undertake an independent review with a narrow scope to consider the process and practices undertaken by the Authority to address the complaints of s 9(2)(a) . The Authority has indicated it does not support this option.
  - **Option Three:** Confirm an independent review is not required. Rescindment is not required because consultation was still necessary before consideration of a decision (as per recommendations OC230435 briefing).
- The Ministry has considered all available options in addition to these three. A more comprehensive review of airport security screening operations may provide more justification for a Ministerial review under section 132. However, the Ministry does not recommend that a review of this nature is warranted, particularly given the small number of complaints received. A much smaller scale response, such as the Authority reviewing itself internally, is another option but is not likely to satisfy the complainant's concerns given his dissatisfaction with the Authority's responses to date.
- The Ministry notes that there are advantages and disadvantages in relation to each of the three options listed above. An independent review, whether initiated by the Authority or the Minister, provides a level of assurance to the complainant that the matters he raised are being taken seriously. It also allows the Authority to demonstrate transparency in how it interacts with the public to continue to build trust and confidence in its airport screening operations.
- **Option one** would provide an opportunity for the Ministry to also receive independent feedback and improve its processes. However, on reflection and after discussion with the Authority, the Ministry acknowledge that Ministerial reviews have a high threshold with the scope proportional to the matter at hand. The Ministry also consulted the PSC on the Minister's powers to review the operations and the performance of the Authority



under section 132 of the CEA. In any case a review should be made public with transparency throughout the process. This would generate public interest.

- **Option three** could result in the complainant taking further action, making his concerns public and/or submitting further complaints (such as to the Ombudsman), generating media interest and potential reputational damage for the Authority. If you did decide to progress with an independent review the scope may be limited to the following areas:
  - the Authority's response to the complaints raised consistent with its policies and procedures
  - the adequacy of and subsequent changes made (if any) to the Authority's policies and procedures to respond to the complaints
  - the response of the Authority's Board or Executive and subsequent actions in addressing the complaints raised (if applicable).
- The Ministry recommends that before agreeing on how to proceed with this matter, you meet with the Authority's Chair and Chief Executive to build your understanding of their perspective on the situation and to discuss a preferred way forward.

#### The Authority's comments and considerations

- The Authority has continued to engage with the Ministry following the referral of this issue from PSC in 2022, including providing materials (which outlined its approach to address each of the five complaints raised) for the Ministry's review. The Authority understands that no systemic issues with its complaints process, or its approach to the complainant, have been identified, and that a Ministerial review was initially proposed simply to ensure that the complainant may then consider his concerns have been adequately addressed.
- s 9(2)(g)(i)  
 The Authority's complaints process was followed resulting in the closure of each of the five complaints. It notes that the complaints process included the Director of Civil Aviation's consideration of the complainant's request for an independent review. However,   
s 9(2)(h)  
 and the complainant was referred to the Ombudsman if he was not satisfied with the outcome.
- The Authority also notes the possibility that a review of this nature could set a precedent for persons who are unsatisfied with the outcome of an operational complaint, or who are in an ongoing dispute with the Authority, to seek a similar review (potentially at additional cost to the Crown). The Authority notes over 4 million people pass through screening at New Zealand airports annually, however, the approximate number of complaints received and investigated each year ranges between 215 and 574.
- The Authority understands that a Ministerial review is generally reserved for systemic issues or those that affect the organisation's operations. This matter relates to one complainant making five complaints over several years, each of which have been investigated. For this reason, and those listed above, the Authority supports **option three**.

## Recommendations

We recommend that you:

- 1 **agree** to meet with the Civil Aviation Authority Chair and Chief Executive to discuss and confirm a preferred way forward.

Yes / No



Harriet Shelton  
Manager, Governance

31/08/2023

Hon David Parker  
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
David Wood, Deputy Chief Executive – System Performance & Governance	s 9(2)(a)	
Harriet Shelton, Manager, Governance		✓
Emma Petrenas, Adviser, Governance		

SENSITIVE

**Appendix One: Briefing - Airport Security Screening Procedures, Policies, and training (OC230435)**

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SENSITIVE





31 May 2023

OC230435

**Hon Kiri Allan**  
**Associate Minister of Transport**

cc Hon Michael Wood  
 Minister of Transport

**Action required by:**  
 Monday, 12 June 2023

## **AIRPORT SECURITY SCREENING PROCEDURES, POLICIES, AND TRAINING**

### **Purpose**

Seek your agreement to review the operations and performance of the Civil Aviation Authority (the Authority) in regard to its handling of complaints made by s 9(2)(a); and the adjustments made to its 'pat-down' body search protocols, procedures, and training as a result of s 9(2)(a) complaints.

### **Key points**

- s 9(2)(a) has made five complaints to the Authority about incidents at airport security between 1 May 2018 and 17 May 2021. Primarily, s 9(2)(a) complaints alleged that AvSec staff did not obtain his informed consent before conducting 'pat-down' body searches on his person, and noted general concerns about how 'pat-down' body searches are undertaken including the content and application of AvSec policies and procedures.
- After several years of correspondence between the Authority and s 9(2)(a), each of his five complaints was closed by the Authority, believing it had responded appropriately to s 9(2)(a) complaints, and addressed his concerns (where relevant).
- However, this view was not shared by s 9(2)(a), and he has continued to engage with the Authority about his concerns. In 2022, he escalated his concerns to the Public Service Commissioner, which were referred to Te Manatū Waka, the Authority's monitoring agency.
- **Attached** for your reference, are s 9(2)(a) letter to the Public Service Commissioner at **Appendix One** and Te Kawa Mataaho | the Public Service Commission's referral of the matter to Te Manatū Waka at **Appendix Two**.
- s 9(2)(g)(i)
- We recommend that external reviewers are commissioned to provide an assessment of the Authority's handling of s 9(2)(a) complaints, and its approach to 'pat-down' body searches. This will provide assurance to Ministers, Te Manatū Waka, and the

public about whether the Authority responded appropriately to s 9(2)(a) complaints and if its 'pat-down' procedures, policies, and training are fit-for-purpose. It could also potentially identify areas of improvement for the benefit of all passengers. A draft Terms of Reference is provided for your consideration in **Annex 1**.

- The Crown Entities Act 2004 (the Act), requires you to undertake several steps before a review of the operations and performance of the Authority can commence, including: agreeing to a review, consulting with the Authority on the proposed purpose and nature of a review, and considering the Authority's submissions. A full breakdown of next steps is provided in **paragraphs 13.1 – 13.5** and outlined in the recommendations that follow.

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## Recommendations

We recommend you:

- 1 **agree** to review the operations and performance of the Civil Aviation Authority in accordance with section 27(1)(d) of the Crown Entities Act 2004 ☒ Yes / ☐ No
- 2 **agree** to consult with the Civil Aviation Authority on the proposed purpose and nature of a review of its operations and performance in accordance with section 132(3)(a) of the Crown Entities Act 2004 (set out in **Annex 1**) ☒ Yes / ☐ No
- 3 **note** you must consider any submissions made by the Civil Aviation Authority on the proposed review of its operations and performance in accordance with section 132(3)(b) of the Crown Entities Act 2004
- 4 **note** that if, after considering submissions made by the Civil Aviation Authority, you wish to review its operations and performance officials will seek your agreement to:
  - instruct Te Manatū Waka to assist you by commissioning external reviewers to undertake a review in accordance with section 27A(a) of the Crown Entities Act 2004
  - finalise Terms of Reference for the review; and
  - agree to delegate authority to Te Manatū Waka, to enable officials to request information from the Civil Aviation Authority in accordance with section 133(1) of the Crown Entities Act 2004 (in relation to the review) .



Harriet Shelton  
**Manager – Governance**

31 / 05 / 2023

Hon Kiri Allan  
**Associate 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 Johnston, Acting Deputy Chief Executive – System Performance & Governance	s 9(2)(a)	
Harriet Shelton, Manager, Governance		✓
Alex Beedell, Senior Advisor, Governance		


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## AIRPORT SECURITY SCREENING PROCEDURES, POLICIES, AND TRAINING

1. On 7 March 2022, s 9(2)(a) wrote to the Public Service Commissioner to raise concerns about:
    - 1.1. his personal experience of 'pat-down' body searches performed by AvSec officers during airport security screenings;
    - 1.2. general concerns about how 'pat-down' body searches are undertaken; and
    - 1.3. the ways in which the Civil Aviation Authority (the Authority) responded to his complaints about the above.
  2. s 9(2)(a) letter is **attached at Appendix One**, for your reference. His escalation to the Public Service Commissioner followed five complaints to the Authority about incidents at airport security.
  3. Primarily, s 9(2)(a) complaints alleged that AvSec staff did not obtain his informed consent before conducting 'pat-down' body searches on his person, and noted general concerns about how 'pat-down' body searches are undertaken including the content and application of AvSec policies and procedures.
  4. The searches took place between 1 May 2018 and 17 May 2021 at Auckland, Queenstown, and Wellington airports. In his letter to the Public Service Commissioner, s 9(2)(a) notes two specific incidents that he would like an independent review into:
    - 4.1. **1 May 2018 at Auckland Airport** - as he considers that an indecent assault occurred during a pat-down body search; and
    - 4.2. **17 May 2021 at Queenstown Airport** - as he considers that the 'pat-down' body search was not administered in accordance with protocol, and the attending AvSec officer was unprofessional.
  5. In its response to s 9(2)(a) on 16 March 2022, Te Kawa Mataaho | the Public Service Commission (PSC) noted that the Public Service Commissioner does not have jurisdiction to investigate allegations of criminal offending and recommended that s 9(2)(a) contact the New Zealand Police about this aspect of his complaint. Our conversations with s 9(2)(a) indicate that while he still considers these incidents to be serious, he does not intend to raise these matters with the Police.
- On 28 April 2022, the PSC referred s 9(2)(a) complaint to the Authority's monitoring agency, Te Manatū Waka
6. Since receiving the referral (**attached at Appendix Two**), Te Manatū Waka's Governance and Legal teams have worked closely with the Authority to understand the nature of s 9(2)(a) complaints, and the Authority's response, to determine appropriate next steps.
  7. We have also been in regular correspondence with s 9(2)(a), including in-person meetings, to gather necessary context and information about his complaints, and to ensure he is kept informed of Te Manatū Waka's progress on the matter.

8. In our conversations with s 9(2)(a), he expressed his concern that there is a systemic problem with AvSec's officers not providing adequate levels of information to customers, or receiving their informed consent before conducting body searches.
9. Following several years of correspondence between the Authority and s 9(2)(a), each of his five complaints was closed by the Authority. We understand that the Authority believes it responded appropriately to s 9(2)(a) complaints, and addressed his concerns (where relevant). However, this view is not shared by s 9(2)(a), and he has continued to engage with the Authority about his concerns.

*Te Manatū Waka considers that external reviewers should be commissioned to find a resolution to the matter*

10. It has been five years since s 9(2)(a) first complaint. Although the Authority closed s 9(2)(a) complaints in this time, he has since approached PSC with his concerns, and noted that he may engage with the media in future. s 9(2)(g)(i)  

11. To provide this assurance, we recommend that external reviewers are commissioned to form an assessment of the Authority's handling of s 9(2)(a) complaint, and its approach to 'pat-down' body searches.
12. While we believe that this approach would respond to s 9(2)(a) concerns, we note that the external reviewers would not investigate s 9(2)(a) allegations of indecent assault because, as noted by PSC, only the New Zealand Police have jurisdiction to investigate allegations of criminal offending.

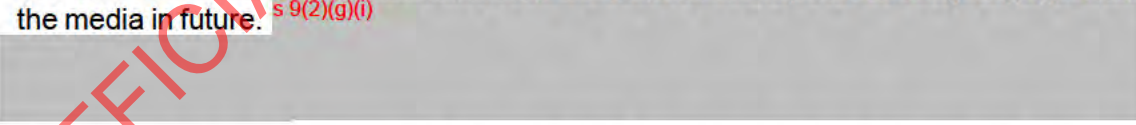
#### **Next steps to commission external reviewers**

13. Te Manatū Waka has no power to carry out a review of the Crown entities it monitors (on its own accord). However, the Crown Entities Act 2004 (the Act) empowers you, as the responsible Minister to undertake a review, providing that you undertake the following actions:
  - 13.1. agree to an operational review of the Authority – refer section 27(1)(d) of the Act;
  - 13.2. consult with the Authority on the purpose and nature of a review of its operations and performance – refer section 132(3)(a) of the Act;
  - 13.3. consider any submissions made by the Authority on the proposed review – refer section 132(3)(b) of the Act;
  - 13.4. be assisted by Te Manatū Waka as per section 27A(a) of the Crown Entities Act with the operational review of the Authority by instructing Te Manatū Waka to commission external reviewers for the purposes of conducting an operational review of the Authority; and



- 13.5. delegate authority to Te Manatū Waka, so that officials and/or the independent reviewer can request information from the Authority (refer section 133(1) of the Act).
14. Subject to your agreement of the proposed approach, and the completion of the steps outlined in **paragraphs 13.1 – 13.5**, we propose that Te Manatū Waka commissions external reviewers to undertake a review of the operations and performance of the Authority that is in line with the draft **Terms of Reference** attached at **Annex 1** i.e., external reviewers would:
  - 14.1. assess the Authority's handling of complaints made by s 9(2)(a), and the adjustments made to its 'pat-down' body search protocols, procedures, and training as a result of s 9(2)(a) complaints;
  - 14.2. assess the CAA Board's response to any reporting and/or advice received from the Authority's Leadership Team, or management, regarding s 9(2)(a) complaints and the Authority's response;
  - 14.3. assess the response from Te Manatū Waka to s 9(2)(a) complaints since receiving the referral from the PSC;
  - 14.4. not evaluate the Authority's regulatory performance; and
  - 14.5. not investigate s 9(2)(a) allegations of indecent assault, which are a matter for the New Zealand Police.
15. Under this approach, officials would work with external reviewers to further develop the Terms of Reference and consult with the Authority on the proposed approach before providing a copy to you for approval.

#### Risks

16. s 9(2)(a) has previously complained to the Ombudsman about an Official Information Act 1982 response he received from the Authority, and escalated his concerns to the Public Service Commissioner after the Authority closed each of his five complaints. He has also indicated, in conversations with Te Manatū Waka, that he may engage with the media in future. s 9(2)(g)(i)  

17. If you do not agree to instruct Te Manatū Waka to assist you in carrying out a review, we will refer the complaint back to the Authority or PSC to find a resolution. This is unlikely to result in a satisfactory outcome for s 9(2)(a) in the short-term.
18. Te Manatū Waka received the referral from PSC over a year ago, and it has now been five years since s 9(2)(a) first complaint. It is possible that s 9(2)(a) may express concern at the length of time this process has taken to find a resolution. This time was required to enable robust discussions with s 9(2)(a) on the concerns he raised, and to understand the Authority's position and response to those concerns to date. These discussions have informed the proposed course of action – commissioning external reviewers to find a resolution to the matter.



## Annex 1: High Level Terms of Reference (ToR) for External Reviewers

**Note:** This draft ToR is provided to give an indication of the activities external reviewers could undertake if the Associate Minister of Transport agrees to a review of the Civil Aviation Authority's (the Authority's) operations and performance; in respect to the complaints made by s 9(2)(a) and the Authority's 'pat-down' body search policies, procedures, and training.

If, after considering submissions made by the Authority, you wish to review its operations and performance officials will seek your agreement to finalise ToR for the review. Before the external reviewers commence their work, officials would work with the commissioned external reviewers to further develop the draft ToR, and consult with the Authority on the ToR.

### Scope

External reviewers will assess three focus areas, undertaking the activities set out in the table below:

#	Focus area	Activities to be undertaken by external reviewers
1	Response to s 9(2)(a) complaints	<p>Assess the Authority's handling of s 9(2)(a) complaints to determine if the Authority responded:</p> <ul style="list-style-type: none"> <li>• in accordance with its statutory duties;</li> <li>• appropriately to s 9(2)(a) complaints; and</li> <li>• with a duty of care to the complainant.</li> </ul> <p>Assess the Authority Board's actions on receipt of reporting and/or advice from the Authority's Leadership Team (ALT) or management regarding s 9(2)(a) complaints and the Authority's response.</p>
2	'Pat-down' body searches	<p>Assess that any adjustments made to 'pat-down' body search protocols, procedures, and training as a result of s 9(2)(a) complaints are fit for purpose and respond appropriately to s 9(2)(a) complaints; and in doing so:</p> <ul style="list-style-type: none"> <li>• identify if further amendments are required to ensure 'pat-down' security protocols, procedures and training are in line with the Authority's statutory duties, and that they adequately consider the Authority's customers</li> <li>• consider the international requirements that the Authority must adhere to, when conducting 'pat-down' body searches, if making recommendations to change 'pat-down' policies, procedures, and training.</li> </ul>
3	Te Manatū Waka's role	Assess Te Manatū Waka's response to s 9(2)(a) complaints since receiving the referral from the Public Service Commission in April 2022.

**Out of scope**

The independent review will not evaluate the Authority's regulatory performance, or investigate s 9(2)(a) allegations of indecent assault - which is a matter for the New Zealand Police. The review is limited to the assessment of the Authority's operations and performance in the areas outlined in the table above.

**Approach**

The external reviewers may meet with s 9(2)(a) (TBC), key contacts from the Authority, the Authority Board, and Te Manatū Waka to discuss some (or all) of the following topics:

- how s 9(2)(a) complaints were handled by the Authority's management and (where relevant) its ALT and Board;
- how s 9(2)(a) complaints were handled by Te Manatū Waka officials;
- what changes were made to 'pat-down' security protocols, procedures, and training as a result of s 9(2)(a) complaints; and
- what 'pat down' protocols, procedures and training must remain in place to ensure the Authority is in line with international standards

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7 March 2022

Peter Hughes  
CEO Public Service Commission  
By email: [commission@publicservice.govt.nz](mailto:commission@publicservice.govt.nz)

Dear Peter

**Breaches of search consent legislation and protection from inappropriate touching at CAA**

I apologise for the delay of several months in writing to you on this matter, but I have found writing this letter, which has required me to relive the incidents described, extremely difficult.

By way of brief introductory context, I have a metal hip and am a frequent air-traveller subject to frequent pat downs of my upper inner and outer thighs by CAA's Aviation Security Service (Avsec).

This letter requests an independent investigation of:

1. An indecent assault of me that occurred during an Avsec pat-down search of my body at Auckland on 1 May 2018. CAA's investigation of this incident described it as 'inappropriate' and 'unconsented'.
2. Why CAA legislation requires informed consent to be obtained from passengers before sensitive (or any) physical body pat-down of a passenger occurs, but:
  - CAA policies and training do not explicitly direct officers to provide detail of what body part is to be touched, nor how it is to be touched (e.g. open palm against upper inner thigh sometimes contacting genitals) as part of the consent process, unless that detail is first requested by a passenger. The result, aided by the power-imbalance existing between members of the public and Avsec officers, is that consent is often not properly obtained because any consent provided in this context is not informed consent, and
  - CAA Avsec officers are failing to seek informed consent from passengers (regardless of what their policies and training) before proceeding to touch sensitive body parts (e.g. upper inner thigh with open palm) as part of an airport body pat-down searches.
3. Why no information is made available to passengers in airports advising them that they are entitled to know the detail of *how* a search is to be performed, and specifically where on the body they will be touched, and how that touch is to occur e.g. 'with an open palm', versus 'with back-of-hand') before that search occurs. Without this knowledge the public feel they are legally required to provide a 'blank-cheque' consent to any search about to occur.
4. Why no information is provided to passengers advising that they commit no offense if declining to be searched, nor if requesting a search to be stopped part-way through, nor encouraging them to report touching that they have felt was not appropriate. The public-CAA power imbalance is significant and reporting or questioning searches is seen as a risk by the public.
5. Why no information is made available to passengers to advise them that a body part will not, and indeed must not, be touched by an officer unless a security wand has specifically indicated on that body-part, or unless some other reasonable cause exists. Such knowledge provided to the public will prevent opportunist indecent touching occurring. NB Avsec officers, no matter

how well trained, are no different from any other in-care or out-of-care professionals (e.g. health professionals, teachers, clergy), in having obligations to protect those that they care for from abuse by members of their staff so-inclined, no matter how fleeting such abuse might be (or not be) in the Avsec context, or who else may be present when it occurs under the guise of *'sorry, just doing our job.'*

6. The lies, mistruths, or (at best) disturbing equivocations made by Avsec officers and the CAA CEO in response to my CCTV video evidence, and written notes evidence I provided (seen made in CCTV video), claiming that the events I complained of (17 May 2021 Queenstown airport) did not occur, especially noting 4 previous search complaints had all been found to have occurred exactly as complained of.
7. The written suggestion to me (CAA 22 July 2019) that because I was the only one who had complained of these breaches, that the breaches were not a serious matter. And the written advice to me (CAA, 22 July 2019) that because I was a frequent traveller, 4 incidents over 2 years (each apologised for by CAA) did not constitute 'a systemic issue'.
8. Why, despite repeated apologies from CAA and repeated assurances that training would be strengthened and that procedures were adequate, these breaches of my right to be allowed to provide informed consent have continued to occur.
9. Why CEO CAA claimed in a letter to me (15 December 2020) that my *"ongoing complaint (about these searches) was resolved and discontinued by the Ombudsman"* when my complaint to the Ombudsman concerned only CAA's refusal to provide CCTV footage of the incidents, and the Ombudsman had concluded this complaint by directing CAA to provide all such footage. This was a disturbing equivocation by CEO CAA i.e. to suggest that my search complaints had been independently investigated and resolved when no such investigation or resolution had occurred.
10. The lack of respect I have received from Avsec officers and managers when I have tried to ask about a search before it happens, or complain about a search afterwards. The *'we have the power, this is our right'* attitude from some staff and managers has at times been palpable (e.g. CAA Executive Group Manager letter 22 July 2019, and CAA Group Manager letter 25 June 2021 telling off s 9(2)(a) for asking about searches (*'please try to be more positive during your searches'*).

I request these investigations because:

1. The incidents referenced and summarised in the attached table are recurring breaches of legislation written to protect members of the public from unconsented personal searches, of sensitive parts of the body, by authorities who hold more power than those members of the public hold. These are fundamental human right protections.
2. I genuinely now fear Aviation Security searches. I fear how I might be touched during them, and especially now (post the 17 May 2021 search and CAA's letters to me on that) how I might be portrayed if I try to ask about a search before it starts, or complain about a search after it happens.
3. There are many vulnerable people out there (victims of indecent assault in their childhood for example) who are subject to these searches every day at New Zealand airports. If even a small percentage of those vulnerable people experience what I have experienced, this is a grave assault by people with power on hurt people who have none.
4. Effective aviation security in New Zealand requires public confidence to be maintained, and the above incidents erode that confidence.
5. These are not complaints about fairness (and so not matters for the Ombudsman) but are matters of indecent assault and of the risk of that to vulnerable persons in the future, breaches of CAA search-consent legislation, breaches of human rights, of public service ethical standards, and breaches of code of conduct requirements for public service staff and leaders.

Yours sincerely

s 9(2)(a)



#### Attachments

1. Table of five breaches of CAA law requiring informed consent to be provided before a sensitive body search occurs.

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**Table of five breaches of CAA law requiring informed consent to be provided before a sensitive body search occurs.**

Date	Description of search incident	CAA response
1 May 2018 Auckland Airport	s 9(2)(a) was searched using an open palm against his upper inner thigh, from the rear. The officer's hand contacted s 9(2)(a) genitals in the crotch of his trousers as the officer's palm swept up the inside of s 9(2)(a) thigh. The officer's search wand had not indicated against s 9(2)(a) inner thigh or crotch area, only on his outer hip. s 9(2)(a) s 9(2)(a) permission for a search of that type had not been sought nor given. No advance description of how the search was to be conducted was provided to s 9(2)(a) believes this was an indecent assault.	<p><b>CAA letter 4 May 2018 (from Ops Manager)</b></p> <ul style="list-style-type: none"> <li>“(CAA agrees) the wand did not indicate on your inner thigh” (i.e. so the search should not have occurred their)</li> <li>“<b>Your consent</b> (to this search) was not requested nor gained”</li> <li>“This check was <b>incorrect and inappropriate</b>”</li> <li>“A <b>buttock</b> search...should have been communicated to you prior to contact”</li> <li>“The officer will be (retrained)”</li> <li>“A reminder bulletin (on correct procedures) will be sent to all staff.”</li> <li>“Please accept our <b>apologies</b>”</li> <li></li> </ul> <p><b>CAA letter 30 May 2018 (from Group Manager)</b></p> <ul style="list-style-type: none"> <li>“(our current training and policies) are appropriate”</li> </ul>
29 July 2018 Wellington Airport	The searching officer provided no advance description of how the search was going to be performed and reached to place his hand against s 9(2)(a) s 9(2)(a) inner thigh. W s 9(2)(a) raised his concern at this to a second officer s 9(2)(a) referencing the 1 May 2018 incident) his concern was ‘laughed off’	<p><b>CAA letter 16 Oct 2018 (from Station Manager)</b></p> <ul style="list-style-type: none"> <li>“(consent was not provided and) the officer should have waited for an affirmative answer (of consent from you)”</li> <li>“I would like to <b>apologise</b> for this”</li> <li>“the officer has been reminded of the need to gain clear consent”</li> <li>“Wellington staff have been reminded (of the same)”</li> <li>“Further training for Wellington staff has been requested”</li> <li>“Appropriate protections for passenger rights (and) internal policies and procedures are in place”</li> </ul>
27 March 2019 Wellington Airport	s 9(2)(a) permission for a pat down was sought but no description of how the search would be conducted was provided. s 9(2)(a) replied ‘yes’ to the permission question but asked to be told how the search would be conducted first. The officer refused to provide a description of how the search was to occur, and became aggressive and disrespectful in response to s 9(2)(a) concerns.	<p><b>CAA letter 22 July 2019 (from Exec Group Manager)</b></p> <ul style="list-style-type: none"> <li>“You are the only complainant regarding pat down searches”</li> <li>“Regretfully (there have been occasions) where male officers have touched you prior to gaining consent”</li> <li>“<b>Given the frequency of your travel this is not a systemic issue</b>”</li> <li>“<b>You are the sole complainant in this area</b>”</li> <li>“Your concerns around risk to the public’s confidence in Avsec is unfounded.”</li> </ul> <p>(GA note: this letter contained no apology for the incident complained of)</p> <p>s 9(2)(a) was left dumbfounded by the above responses. He wrote again to complain, and raised the risks to aviation</p>

**Table of five breaches of CAA law requiring informed consent to be provided before a sensitive body search occurs.**

		<p>security and to vulnerable people that the above response signalled.</p> <p><b>CAA letter 12 August 2019 (from Exec Group Manager) – Part-A Re-reviewing the incident of 27 March 2019</b></p> <ul style="list-style-type: none"> <li>• “You are fully entitled... to be told the exact nature of what you are consenting to”</li> <li>• “It is critical...that we fully respect passengers rights and bodily autonomy”</li> <li>• “The comment the (searching officer) made to you was clearly out of line”</li> <li>• “I <b>apologise</b> that you needed to escalate this matter”</li> <li>• “This is one of those times we fell short”</li> </ul>
<p><b>16 May 2019</b> Auckland airport</p>	<p>An Avsec officer placed his hand on s 9(2)(a) hip before s 9(2)(a) had consented to a search of any type.</p>	<p><b>CAA letter 12 August 2019 (from Exec Group Manager) – Part-B Responding to the incident of 27 March 2019</b></p> <ul style="list-style-type: none"> <li>• “I <b>apologise</b> that (we lost the video recording of this incident)”</li> <li>• “I accept what you have described is an accurate representation of what occurred”</li> <li>• “The officer should have waited for your consent before touching you”</li> <li>• “I am satisfied the officer did not wait for your consent before commencing the search.”</li> <li>• “I have asked our training manager (to strengthen training in this area)”</li> <li>• “(I plan to discuss these issues) at the next Operations Management Team meeting”</li> <li>• “(I have asked) our internal audit people to provide more focus in this area”</li> </ul>
<p><b>15 Dec 2020</b> (letter to CAA CEO)</p>	<p>My lawyer wrote to complain to CEO CAA at serious systemic issues beginning to become visible here</p>	<p><b>CAA CEO letter 15 Dec 2020 (from CEO)</b></p> <ul style="list-style-type: none"> <li>• “(I note) that Avsec procedures require officers to inform passengers of the search process.”</li> <li>• “(this) clearly requires that the consent be informed”</li> <li>• “I do not find any issues with the policies and procedures”</li> <li>• s 9(2)(a) complaint was resolved by the Ombudsman”</li> </ul> <p>(NB GA notes - this is a significant error on the CEO’s part. The complaint ruled on by the Ombudsman (and the only complaint that s 9(2)(a) has made to the Ombudsman on these matters) was that CAA must provide s 9(2)(a) all available video footage of the incidents concerned.</p> <ul style="list-style-type: none"> <li>• “CAA will not reimburse s 9(2)(a) (his legal costs) for continuing to pursue this matter when (we have resolved it.)”</li> </ul>
<p><b>17 May 2021</b> Queenstown Airport</p>	<p>s 9(2)(a) asked for details of how the search was to be performed (he wasn’t provided this information before asking). The Avsec</p>	<p><b>Letter from AvSec Group Manager 25 June 2021</b></p> <ul style="list-style-type: none"> <li>• “We need passengers to engage positively with us...”</li> <li>• “(being positive) helps avoid a confrontational interaction”</li> </ul>

**Table of five breaches of CAA law requiring informed consent to be provided before a sensitive body search occurs.**

<p>search officer did not reply. s 9(2)(a) then asked if the search would involve s 9(2)(a) inner thigh, gesturing towards his thigh, advising the officer he had been indecently assaulted there by Avsec two years earlier. The officer said the search would not be near the groin, but became passively aggressive towards s 9(2)(a) during the search, and called s 9(2)(a) 'rude' for asking these questions.</p> <p>2) s 9(2)(a) raised concerns at this to the Queenstown Avsec team manager who had been watching s 9(2)(a) search. The Avsec manager advised s 9(2)(a) that the searching officer felt s 9(2)(a) had been rude because s 9(2)(a) had asked how the search was to be done. He also advised s 9(2)(a) that it is not in Avsec search training to advise how a search will be done before it occurs. s 9(2)(a) wrote these quotes down in front of the Avsec Team Manager, telling the manager that this advice contradicted the CEO CAA and earlier AvSec managers' advice. s 9(2)(a) checked with the Team manager that his notes of what the manager had said were correct. These actions by s 9(2)(a) were recorded by AvSec security cameras. That footage is available s 9(2)(a) s 9(2)(a) notes made at the time of the discussion with the Team Manager were provided to CAA.</p>	<ul style="list-style-type: none"> <li>• "(your gesture towards your groin area) was not productive on this occasion"</li> <li>• "We...accordingly ask that you take (a more positive) approach".</li> <li>• "I believe the officer...applied the correct procedures...during the entire interaction"</li> </ul> <p><b>Letter from CAA Solicitor 13 August 2021</b></p> <ul style="list-style-type: none"> <li>• "We disagree (that the Avsec Manager in Queenstown told you) 'it is not in our training to tell you how a search will be performed' "</li> <li>• "(The Queenstown manager told you) 'local pat-down searches do require detailed explanations'".</li> </ul> <p><b>Letter from General Manager AvSec 16 August 2021</b></p> <ul style="list-style-type: none"> <li>• "Our findings are sound"</li> <li>• "CAA does not accept your request for an independent investigation"</li> </ul> <p>s 9(2)(a) was left dumbfounded by the above responses. It is clear in the Avsec security footage that the searching officer does not offer any description of how the search is to be undertaken when first seeking s 9(2)(a) consent. s 9(2)(a) has to ask for that detail (something that under the law he should not have to do) but then further, justify to the officer why he is asking for it (by reference to his indecent assault experience in Auckland). s 9(2)(a) is traumatised having to do this, and then further when the officer calls him 'rude' for doing so.</p> <p>s 9(2)(a) provided to CAA the hand-written quotes he can be seen writing with the Avsec Team Manager.</p> <p>s 9(2)(a) wrote to CEO CAA concerned about the effective 'lies' that someone somewhere was telling someone for the result to be the above letters from CAA, and his concern that the CCTV footage, and his own written notes made in front of the Avsec Manager, had been ignored. These notes were physical evidence that was ignored by CAA, and s 9(2)(a) s 9(2)(a) had no motive to fabricate, nor past history of fabricating complaints in any of his previous complaints.</p> <p><b>Email from CAA CEO 3 Sept 2021</b></p> <ul style="list-style-type: none"> <li>• "Your recollections are a little different to those of (the Avsec)Team Leader" s 9(2)(a) notes again – these were not recollections but documented notes made at the time the events occurred, recorded under video, and provided to CAA.</li> <li>• "The interaction with you was reasonable"</li> <li>• "My review...does not reflect an independent investigation...this is not possible. I do not consider circumstances warrant engaging an external reviewer."</li> </ul>
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Out of Scope

**From:** Enquiries <[enquiries@publicservice.govt.nz](mailto:enquiries@publicservice.govt.nz)>

**Sent:** Thursday, 28 April 2022 12:28 pm

**To:** OCU <[ocu@transport.govt.nz](mailto:ocu@transport.govt.nz)>; Megan Shields <[m.shields@transport.govt.nz](mailto:m.shields@transport.govt.nz)>

**Cc:** Enquiries <[enquiries@publicservice.govt.nz](mailto:enquiries@publicservice.govt.nz)>

**Subject:** Correspondence for consideration - s 9(2)(a)

Hi Team

Te Kawa Mataaho Public Service Commission (the Commission) has received correspondence from s 9(2)(a) in relation to his personal experience of pat-down searches performed by aviation security officers as well as more general concerns he has about how pat-down searches are undertaken, including the content and application of AvSec policies and procedures. He has also raised concerns about the way in which the Civil Aviation Authority (CAA) has responded to his complaints.

We responded to s 9(2)(a) and advised that we felt the matters he had raised were best dealt with by the Ministry of Transport (MOT), as monitoring agency for the CAA. We sought s 9(2)(a) consent to refer these matters to you for consideration.

Please find attached the following for your consideration and response:

- s 9(2)(a) original correspondence to the Commission
- The Commission's response to s 9(2)(a)
- s 9(2)(a) consent for us to refer his correspondence to MOT for consideration.

We would appreciate if you could let us know once you have responded to s 9(2)(a).

Kind regards

**Enquiries Team**

**Imēra:** [Enquiries@publicservice.govt.nz](mailto:Enquiries@publicservice.govt.nz)

**Te Kawa Mataaho Public Service Commission**  
[www.publicservice.govt.nz](http://www.publicservice.govt.nz) | [www.govt.nz](http://www.govt.nz)

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