

In Confidence

Office of the Associate Minister of Transport

Cabinet Economic Policy Committee

Maritime Legislation Review: proposed reforms

Proposal

1. This paper seeks agreement to amend the Maritime Security Act 2004 (MSA) and the Maritime Transport Act 1994 (MTA) to improve port security and ensure that the maritime regulatory system is fit-for-purpose.

Relation to government priorities

2. Security proposals will strengthen New Zealand's border security, supporting actions to address methamphetamine-related harm, and will reduce the risk of supply chain disruptions that can impact the cost of living. Proposals to improve the regulatory system reflect feedback from the sector and support the government's goals to deliver more efficient, effective, and responsive public services, and to grow a stronger and more productive economy.

Executive Summary

3. New Zealand's maritime security framework is not keeping pace with a broader and more diffuse threat environment, including organised crime and insider risks at ports. Our maritime regulatory framework also needs modernisation to better manage maritime incidents and reduce costs and duplication. To address this, I am seeking approval to issue drafting instructions for amendments to the MSA and the MTA to:
 - 3.1 address insider threats by enabling background checks for port workers, information-sharing and stronger access controls;
 - 3.2 allow security requirements to be applied to domestic ships and ports, where maritime security risks warrant it;
 - 3.3 address gaps in Maritime New Zealand's (Maritime NZ) powers to prevent and respond to maritime incidents that create safety or pollution risks;
 - 3.4 remove conflicts and duplication between national and local regulation;
 - 3.5 ensure that Maritime NZ has tools to carry out its functions effectively and efficiently; and
 - 3.6 remove regulatory requirements that are disproportionate to risk.
4. Appendix One provides an overview of my proposals. Subject to Cabinet agreement, these proposals will progress through a Maritime Legislation Bill with priority category 6 on the 2026 Legislation Programme (drafting instructions to be issued in 2026), and I will return in early 2027 with draft legislation.

Background

5. A well-functioning maritime regulatory system is important to protect our borders, support the safe and efficient movement of people and goods, and manage risks across a sector that is critical to trade, tourism, fishing, and recreation. In 2024, my predecessor approved a targeted review of high-priority issues with maritime legislation. This review was signalled in the Cabinet paper 'Action to Address Methamphetamine-related Harm' [SOU-25-MIN-0144 refers] and is a priority action under the Transnational Serious and Organised Crime Action Plan 2026-2030.
6. Between November 2025 and February 2026, officials engaged on reform proposals with stakeholders including ports, shipping operators, fishing and recreational boating representatives, unions and port workers, and regional councils.

Reforming the MSA will strengthen the maritime border and supply chains

7. The MSA implements New Zealand's obligations under the International Ship and Port Security (ISPS) Code and is primarily oriented toward international terrorism risks. It is no longer well aligned with the current maritime threat environment, which includes organised crime and insider activity. Elements of the system are not functioning effectively: security controls and workforce vetting vary across ports, there is no coherent framework for managing insider threats, enforcement tools are limited relative to current practice, and higher-risk domestic ships are not covered.
8. These gaps expose New Zealand to significant harm, including an estimated \$1.5 billion annually from methamphetamine alone, much of which is imported through maritime channels and often with insider facilitation. Given the role of ports in New Zealand's economy and supply chains, these vulnerabilities have system-wide implications for public safety, economic resilience, and community wellbeing. I therefore propose a small set of high-priority amendments to strengthen the maritime security regulatory framework.

Addressing insider threats and inconsistent access controls across ports

9. Addressing insider threats requires background checking of port workers, information sharing, and more consistent access controls. I propose amending the MSA to enable background checking of port workers. These checks will support a national identity card scheme for ports, similar to the existing Aviation Identity Card scheme for airports. Amendments will also enable sharing of information related to a port worker's identity and access privileges with enforcement agencies.¹ This framework would be supported by statutory powers to collect relevant information, offences to support compliance, and regulation-making powers to enable a risk-based approach to identity verification and background checking.

¹ The purposes of this information sharing are to identify and manage insider threat risks in port security areas; protect maritime and border security in relation to port operations; and law enforcement, where directly related to risks arising from access to port security areas. I have also considered the alternative option of an Approved Information Sharing Agreement (AISA). An AISA is not the best structural fit in this case because the proposed information sharing is an integral part of a broader regulatory framework governing identity, access control, and insider threat risk management in port security areas. Embedding the information sharing provisions within the Act ensures these elements operate as a coherent, transparent system, with clear statutory purpose, scope, and safeguards, rather than being split across separate legislative and Privacy Act mechanisms.

10. While organised crime is the main driver for these proposals, the purpose of background checks would be to determine whether individuals pose 'a threat to maritime security', which allows for consideration of other risks such as terrorism.
11. Stakeholders supported a risk-based approach to background checking, which my proposed amendments will enable. Currently, ports make access-control and worker vetting decisions with varying tools and levels of information. Amendments will support more consistent workforce vetting and access control across ports. The amendments will be more effective and enable better coordination and consistency than the alternative options (providing non-statutory guidance to ports or prescribing more stringent security controls in regulations).
12. These provisions will impact the privacy of port workers who are subject to background checks, and whose identity may be shared with the NZ Customs Service, NZ Police and other relevant enforcement agencies specified in regulations. My proposed amendments incorporate safeguards to address these impacts at the level of primary legislation.² However, privacy impacts will need further consideration when regulations are made to establish the access-control framework, and when operational plans are made to implement information sharing.

Modernising the enforcement framework

13. The MSA enforcement regime will be modernised by introducing an infringement offence framework and updating penalties for unauthorised access to port security areas. The infringement regime will provide a lower-level administrative response for specified contraventions of the Act and regulations, enabling proportionate responses to lower-risk non-compliance while retaining prosecution for more serious offending.
14. I propose that infringement offences and fees be prescribed in regulations. This will enable infringement offences to be targeted to specific operational requirements and updated efficiently over time as security risks and compliance experience evolve.

Enabling targeted extension of the Act to address domestic maritime risks

15. The MSA does not currently apply to domestic ships and the ports that serve them. However, these operators can be subject to the same or greater maritime security risks as international ships. A new power will enable specified provisions of the MSA to be extended, by Order in Council, to classes of higher-risk domestic ships and the ports that service them. This allows baseline security requirements to be applied where risks warrant, while maintaining flexibility and avoiding unnecessary regulation of lower-risk domestic operations.
16. Because the power would enable the Executive to alter the practical reach of primary legislation without further amendment by Parliament, limitations on the scope, purpose and process are required.³ I propose limiting this power to domestic

² Key safeguards in primary legislation would include but not be limited to: (a) clear purposes for background checking and information sharing specified in legislation, (b) review mechanisms for adverse security determinations and (c) limitation of information sharing to the minimum data required for agencies to match individuals with persons or addresses that are already of interest.

³ While the proposal is not a classic Henry VIII clause, as the Order in Council would not amend the text of the MSA, the Legislative Design Advisory Committee has advised that it raises similar considerations. The proposal has therefore been designed to address those considerations by including the scope limitations outlined in paragraph 16 above, clearly defined statutory purposes (see recommendation 6 below), and consultation requirements.

passenger vessels with capacity for 400 or more passengers, domestic vessels of 500GT or more excluding fishing vessels, and the ports that service those ships. These are the ships where an incident is likely to pose the greatest risk to people and supply chains, such as large passenger ferries. Limiting the power in this way also gives smaller operators certainty that they will not be captured unexpectedly. Under section 78 of the MSA, security requirements could still be applied to other ships if there is a specific, known threat.

Broadening the purpose of the Act

17. The purpose of the MSA is currently limited to enabling New Zealand to meet its international maritime security obligations, enhancing port and ship security, and preventing international terrorism. I propose amending it to include risk-based management of domestic maritime security threats, including but not limited to organised crime and insider threats. This will enable the changes proposed in paragraphs 9 to 16, while maintaining existing purpose provisions.

Targeted changes will strengthen and address gaps in the MTA

18. I propose modernising the MTA to address priority issues across three themes: effective prevention of and response to maritime incidents, effective co-regulation by local government, and ensuring an effective, efficient and proportionate regulatory system.

Changes will improve our ability to prevent and respond to maritime incidents

A power to ban foreign-flagged ships will reduce the likelihood of maritime incidents

19. There has been an increase in poor quality ships visiting New Zealand, creating risks to the environment, health and safety risks in ports, and an unfair playing field for New Zealand operators. Concerns about ship quality have been raised by Maritime NZ, harbourmasters, port companies, regional councils, marine pilots, and stevedores in recent years.
20. I therefore propose to amend the MTA to give the Director of Maritime NZ (the Director) power to refuse access to New Zealand ports, to keep out substandard foreign ships. The Transport Accident Investigation Commission has recommended this,⁴ Australia has a similar power, and it has broad sector support. To maximise its effectiveness, this power should be broad enough to create a deterrent effect, and to enable coordination with overseas and international maritime authorities' efforts to minimise substandard ships in the Asia-Pacific region.
21. I propose that the MTA sets criteria that the Director may consider, such as significant safety, environment, or seafarer welfare risks, significant breaches of New Zealand laws or international conventions, and prior enforcement action here or overseas. I also intend that the MTA would require that access would only be refused when in the public interest, and that Maritime NZ may consider factors not specified in the MTA such as impacts on supply chains. A class of ships could also be refused; for example, a history of systemic management failures or repeated non-compliance could see all of an operator's ships banned for a period. I will expect Maritime NZ to

⁴ *Transport Accident Investigation Commission*, MO-2023-203 Container vessel, *Shiling*, Loss of control Wellington harbour, 15 April 2023.

develop detailed operational policy to support its use of this power, to provide transparency to the sector.

22. The power to refuse access would apply to foreign-flagged ships operating domestically⁵ as well as visiting foreign-flagged ships. This is necessary because enforcement tools in relation to foreign-flagged ships are limited, whether they are visiting or operating domestically.

New response powers will support timely and proportionate intervention

23. I propose amending the MTA to create new powers to support timely and proportionate responses to maritime incidents, such as collisions, groundings, pollution events, loss of steerage or other critical vessel functions, or other situations that may give rise to significant safety or environmental risks. Significant maritime incidents are rare, but, when they occur, they can impose substantial costs on people, the environment, businesses, and the Crown.
24. I propose a power for the Director to request information when the Director becomes aware of an accident or incident that may warrant intervention, and powers for the Director to establish exclusion zones around a ship or area, or to direct a ship's removal to another place, where necessary to manage risks to safety, property, or the environment from a maritime incident or other incident that may significantly affect maritime activity. These amendments will address gaps in existing response powers that can impede timely action in the early stages of an incident.
25. I also propose a new power for the Director to direct a port (or other appropriate entity, such as a regional council) to provide facilities or services, where there is a significant risk to maritime safety or to New Zealand's marine or coastal environment from a maritime incident and the direction is necessary to manage that risk. Currently, Maritime NZ can direct a ship to port but lacks a complementary power to direct a port to accommodate it. My proposed new power will remove uncertainty that could delay access to facilities needed to prevent an incident escalating.
26. The MTA would confirm that the owner of a ship receiving services is liable for these costs, and that ports may recover these as a debt in Court. While a ship could have inadequate or unresponsive insurance, ports may be able to manage these risks through insurance. I will also expect Maritime NZ to develop detailed operational policy to support its decision making for use of this power, including factors it will consider and processes for engaging with impacted parties.

Improving co-regulatory arrangements for navigation safety

Clearer limits and oversight for navigation bylaws will reduce costs and uncertainty

27. The MTA establishes a co-regulatory framework for navigation safety; Maritime NZ is the national regulator, while regional councils appoint harbourmasters and make navigation bylaws.⁶ These roles should be complementary, but some regional powers have the effect of regulating matters that are regulated, or that can only be

⁵ Foreign-flagged ships operating under demise charter to a New Zealand-based operator and engaging crew under New Zealand law can operate domestic services under section 198(1)(b) of the MTA. Some Cook Strait ferries are foreign-flagged and operate under this provision.

⁶ Including unitary authorities and the Chatham Islands Council, and the Minister of Conservation in respect of the Kermadec Islands and Sub-Antarctic Islands.

regulated, at the national level. This is not consistent with the intended framework and is creating unnecessary costs and uncertainty.

28. There are several examples of bylaws that cut across national regulation. These include enabling harbourmasters to suspend commercial operations that have been licensed by Maritime NZ, or to grant exemptions from requirements that only the Director has the authority to issue. Operators have been clear that this makes it difficult for them to understand their obligations and plan investment around them.
29. I propose to limit what bylaws may do, including preventing bylaws that confer broad discretions on council officers or overlap with the Director's regulatory functions. The amendments would support coherence between national rules and bylaws by:
 - 29.1 providing that a bylaw (or bylaw clause) may not regulate a matter already regulated by a maritime rule, unless the Director has provided written notice of agreement / non-objection;
 - 29.2 providing that a bylaw (or bylaw clause) that creates a ship traffic separation or management scheme⁷ must have the Director's written notice of agreement / non-objection;
 - 29.3 requiring councils to seek written notice in respect of any bylaw clause that regulates a matter already regulated by a maritime rule or that creates a ship traffic separation or management scheme; and
 - 29.4 clarifying that the existing requirement to consult with the Director applies even when a bylaw is being reviewed and no changes are proposed.
30. I have considered concerns about whether the requirement to seek written notice of agreement / non-objection could limit council decision making. I consider this process is necessary because the existing consultation process has not effectively ensured that bylaws that cut across national regulation are identified and addressed.
31. The process to seek agreement will occur as part of the current mandatory consultation process. This will avoid creating new costs for councils and ensure that the Director's assessment takes place before elected council members make a decision. The Director's assessment will be limited to whether the bylaw or bylaw clause has an unreasonable or undesirable effect on the national regulation of maritime transport.
32. I further propose that the MTA includes a power for the Minister to amend, replace or revoke bylaws that are unreasonable, undesirable or inconsistent with any enactment. This reflects similar powers in land transport and aviation legislation and the thresholds for its use are high. I consider this power to be a valuable backstop to address bylaws that create significant problems for the national regulatory system and to provide a tool for the Minister to remedy bylaws that are inconsistent with international agreements.⁸
33. I understand that work is also underway on a broader review of the bylaw system. That review will not, on its own, address issues with bylaws that are particular to the

⁷ E.g., shipping lanes or areas to avoid. As these can have implications under the UN Convention on the Law of the Sea, there is a strong national interest in the location, nature and effect of such schemes.

⁸ Noting the Minister has objectives and functions under sections 5 and 5A of the MTA in relation to New Zealand's obligations under international conventions.

maritime system but may provide future additional opportunities to set clearer requirements around some navigation bylaws and options for local navigation safety regulation. My officials will coordinate with that wider review to ensure the two processes remain aligned as appropriate.

34. To ensure that changes are effective, the Ministry and Maritime NZ will support their implementation with advice for regional councils, such as model bylaws and guidance on process requirements.

I also propose limiting general harbourmaster directions to specific circumstances

35. Harbourmasters have powers to give directions in relation (among other things) to ship navigation and positioning in the waters to which they have been appointed. Some directions have imposed requirements that cut across national level regulation, in a similar way to the issues with bylaws. These directions also cause uncertainty and have been raised by the sector as a significant problem.
36. I therefore propose amendments to specify that harbourmaster directions are limited to individual ships on specific occasions, but with flexibility to issue more general directions (not vessel specific) in response to a maritime incident, or to address a particular occasion where there is a risk to navigation safety (e.g. a significant weather event). Amendments would also provide that these general directions must be time-limited and specify things that harbourmaster directions may not do (e.g. be inconsistent with maritime rules, confer broad discretions or create powers that overlap with functions of the Director).
37. While regional councils agree with the changes for bylaws, some harbourmasters would prefer greater flexibility to issue general directions than what I am proposing. However, I consider most matters of general application should be addressed via bylaws or a national rule, which are more transparent and subject to due process, including consultation. My proposed exceptions would retain flexibility while preserving these safeguards.

More efficient and effective arrangements for aids to navigation

38. I further propose to streamline arrangements for aids to navigation (e.g. beacons, lights, and buoys). This includes removing unnecessary Director approvals for regional councils to install them, including in emergencies. Amendments would also specify responsibilities for maintenance and removal, allow maintenance standards to be set in rules, and give the Director powers to act where a regional council or any other person is not meeting their maintenance and removal responsibilities.

Modernising maritime regulation to improve efficiency and effectiveness

Legislative change to confirm our ability to regulate foreign-flagged vessels

39. A Court of Appeal decision in 1999 has had the effect of limiting New Zealand's ability to regulate foreign-flagged vessels outside of internationally agreed requirements (*Sellers v Maritime Safety Inspector* [1999] 2 NZLR 44). My officials are aware of no comparable jurisdiction whose authority to regulate has been limited in this way and have identified several jurisdictions that have set maritime requirements beyond those agreed internationally.
40. While New Zealand's general preference is to follow international standards, it is sometimes necessary to set higher requirements. For example, unless the effect of

the Court of Appeal decision is legislated over, we could not require foreign pleasure craft using New Zealand ports to carry a radio, emergency locator beacon, or other communications equipment to prevent loss of life and aid search and rescue efforts.

41. I therefore propose to legislate over the effect of this decision. The MTA would confirm that secondary legislation under the Act may set requirements for foreign ships that have no comparable requirement under international law or are more stringent than relevant international law requirements. This would apply to foreign ships using New Zealand's ports or in internal waters, as these are areas where New Zealand has full sovereignty and international law rights of innocent passage do not apply. s9(2)(h)

42. Some stakeholders (representing both commercial and recreational interests) were concerned about impacts on New Zealand's reputation from regulation that exceeds international agreements. I consider that existing mandatory considerations when making rules will support careful use of this power. As a further safeguard, I intend that, where more stringent requirements are set, this must be explicit and remain as consistent as practicable with the purpose of the relevant international framework.

A package of changes will support effective, efficient, and proportionate regulation

43. In addition to the changes above, I am proposing a package of reforms to the MTA to ensure that Maritime NZ has tools to carry out its functions effectively and efficiently, and to remove regulatory requirements that are disproportionate to risk. Because these proposals respond to stakeholder feedback and are not expected to impose significant costs, obligations, or requirements on stakeholders or the public, I have summarised them in Appendix 2 rather than canvassing them in detail in this paper. I am seeking authorisation to make detailed policy decisions to give effect to the high-level intent set out in that Appendix.

The Bill will also aid regulatory stewardship

44. I am seeking authorisation to make minor regulatory stewardship changes, for example to remove unnecessary and outdated requirements to publish notifications in the *Gazette* or newspapers, and to revoke navigation safety designations that are no longer operative. I further seek authorisation to address drafting matters across the MTA and the MSA identified by officials or during the drafting process.

Implementation

45. A national identity card scheme for port workers will require a substantial implementation programme including consultation and policy work to determine design and funding options. I propose to report back after legislation is introduced on implementation measures. Operational measures to support MTA amendments (e.g. changes to rules and new operational policies) will be delivered by Maritime NZ.

Cost-of-living Implications

46. These proposals have no direct cost-of-living implications.

Financial Implications

47. These proposals have no direct financial implications. There may be financial implications in future to implement proposals like the national identity card scheme for port workers, which will be considered in full (including cost recovery options) as part of the report-back proposed at paragraph 45 above.

Legislative Implications

48. I intend to progress these proposals through a Maritime Legislation Bill, which has a priority category 6 on the 2026 Legislation Programme (drafting instructions to be issued in 2026). This will be an omnibus Bill amending both the MSA and the MTA.
49. Regulations under the MSA will be required to establish a national identify card scheme for port workers, and to implement infringement offences. Maritime and marine protection rules will be required to give effect to some changes to the MTA.

Impact Analysis

Regulatory Analysis Summary

50. Regulatory Analysis Summaries (RASs) for the proposals in this paper are attached as Appendices 3 and 4. MCERT panels have reviewed both RASs, finding that:
- 50.1 The Regulatory Analysis Summary for the targeted reform of the MSA meets the required quality assurance criteria. The high-level treatment of impacts, costs, and benefits appropriately reflects the enabling nature of the proposed legislative changes.
- 50.2 The Regulatory Analysis Summary for targeted reform of the MTA has been assessed as partially meeting the quality assurance criteria. The preferred options are generally supported by the analysis and aligned with the identified policy objectives. However, the assessment relies largely on qualitative evidence, contains limited quantified analysis of costs and benefits, and provides less detail on the implementation and impacts of some proposals. While these limitations reduce confidence in aspects of the assessment, they are not considered sufficient to undermine the overall analysis or the decisions.
51. The Ministry for Regulation has determined that the regulatory stewardship and drafting proposals referred to in paragraph 44 are exempt from the requirement to provide a Regulatory Analysis Summary on the grounds that they have no or only minor economic, social, or environmental impacts, or that their economic, social, or environmental impacts are limited and easy to assess.

Climate Implications of Policy Assessment

52. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the thresholds for significance are not met.

Population Implications

53. There are no population implications arising from these proposals.

Human Rights

54. The privacy impacts of MSA proposals are outlined at paragraph 12, and officials consulted with the Office of the Privacy Commissioner and completed a Privacy Impact Assessment. The Privacy Commissioner recommends the inclusion of a statutory requirement for agreements to be entered into between agencies sharing personal information under the information sharing proposal, and for the development of those agreements to include consultation with the Privacy Commissioner, in line with other statutory precedents. Further assessment will be required when background checking and information sharing are implemented in regulations and operational policy.
55. Powers to request information and to create an exclusion zone will limit rights to freedom of expression and freedom of movement. I consider these limits to be justifiable given the impacts are limited and are necessary to avoid serious harm.

Use of external resources

56. External legal advice supported analysis of maritime incident response powers, focusing on areas outside Maritime NZ and Ministry core expertise.

Consultation

57. Maritime NZ has been closely involved in preparing this paper. The following agencies were consulted on the contents of this paper: Ministry of Foreign Affairs and Trade, Ministry for the Environment, Ministry for Primary Industries, Ministry for Regulation, Treasury, Department of Prime Minister and Cabinet, Ministry of Justice, Ministry of Business Innovation and Employment, Department of Internal Affairs, New Zealand Customs, WorkSafe, Civil Aviation Authority, New Zealand Transport Agency, Environmental Protection Authority, New Zealand Police, Office of the Privacy Commissioner, Parliamentary Counsel Office, and Crown Law. Officials have also engaged with the Legislation Design Advisory Committee and will continue this engagement as required.
58. The Ministry and Maritime NZ engaged with stakeholders between November 2025 and February 2026. Their feedback informed final recommendations and led to significant changes to several proposals, with further engagement where appropriate. Proposals to streamline arrangements for aids to navigation were not included in sector consultation but have since been tested with harbourmasters, who are supportive. Sector consultation did not include several proposals with limited impacts on the sector or public, including proposals relating to fit and proper person criteria, enforceable undertakings, and publishing notifications.

Communications

59. Due to high sector interest and media coverage of some proposals, I intend to issue a press release following Cabinet approval.

Proactive Release

60. This Cabinet paper and its corresponding minute will be proactively released within 30 business days of final policy decisions being taken by Cabinet.

Recommendations

The Associate Minister of Transport recommends that the Committee:

- 1 **note** that amendments are required across the Maritime Security Act 2004 (MSA) and Maritime Transport Act 1994 (MTA) to improve port security and ensure that the maritime regulatory system is fit-for-purpose;
- 2 **note** the intention to progress these amendments through the Maritime Legislation Bill, which has priority category 6 on the 2026 Legislative Programme (drafting instructions to be issued by the end of 2026);

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- 3 **agree** to create a background checking and identity card scheme for ports, including:
 - 3.1 enabling background checks (by the Director or via designated agencies) to assess whether individuals pose a risk to maritime security, and reconsideration of background checks where new information is made available or if there is reason to suspect a person may pose a threat;
 - 3.2 providing appropriate privacy and procedural safeguards, including mechanisms for independent review of adverse security determinations;
 - 3.3 providing for the collection, use, and sharing of relevant personal information between specified agencies (including national security agencies) for the purpose of conducting background checks;
 - 3.4 linking the identity card scheme with operative provisions restricting access to port security areas and creating new offences for (i) providing materially false or misleading information or failing to disclose relevant information without reasonable excuse, and (ii) misuse of a port identity card;
 - 3.5 providing for key operational matters to be set in regulations, including the circumstances in which background checks are required, the agencies authorised to undertake them, processes for issuing and managing identity credentials, and minor offences relating to identity cards;
- 4 **agree** to enable the sharing of information related to a port worker's identity and access privileges with the New Zealand Customs Service, New Zealand Police, and other agencies specified in regulations, for the purposes of identifying and managing insider threat risks in port security areas; protecting maritime and border security in relation to port operations; and law enforcement, where directly related to risks arising from access to port security areas;
- 5 **agree** to establish an infringement offence regime, including provision for regulations to prescribe infringement offences and fees for specified contraventions of the Act and regulations made under the Act;
- 6 **agree** to enable the extension of specified provisions of the MSA to specified classes of domestic ships and the ports that service them, where required to respond to changes in the maritime security threat environment, address maritime security risks, or maintain an effective maritime security system;

- 7 **agree** that the power outlined in recommendation 6 may apply to any domestic vessel with capacity for 400 or more passengers; any domestic vessels of 500GT or more, excluding fishing vessels; or a subset of these vessels;
- 8 **agree** to amend the purpose provision of the MSA to include risk-based management of domestic maritime security threats including organised crime and insider threats;

Amendments to the MTA to improve our ability to prevent and respond to maritime incidents

- 9 **agree** to give the Director of Maritime NZ (the Director) power to direct that a foreign-flagged ship or class of foreign-flagged ship may not use a particular port, or any New Zealand port;
- 10 **agree** to enable the Director to require a master or operator to provide information where the Director becomes aware of an accident or incident that may warrant intervention;
- 11 **agree** to enable the Director to create exclusion zones, or direct the removal of a ship, where necessary to manage a risk to safety, property, or the environment from a maritime incident or other incident that may significantly impact maritime activity;
- 12 **agree** to give the Director power to direct a port or other appropriate entity to provide facilities to ships and cargo where there is a significant risk to maritime safety or to New Zealand's marine or coastal environment from a maritime incident;
- 13 **agree** to provide that the owner of the ship receiving services under the power in recommendation 12 above will be liable for the costs of services provided to it, which may be recovered as a debt in Court;

Amendments to the MTA to improve co-regulatory arrangements for navigation safety

- 14 **agree** to set limits on navigation bylaws, including that they may not confer broad discretions on council officers, or create powers that duplicate or overlap with the Director's statutory functions;
- 15 **agree** that a bylaw (or bylaw clause) may not regulate a matter already regulated by a maritime rule, or create a ship traffic separation or management scheme, unless the Director has provided written notice of agreement / non-objection;
- 16 **agree** to set criteria for the Director's written notice of agreement / non-objection such that an objection may only be raised where a bylaw or bylaw clause has an unreasonable or undesirable effect on the national regulation of maritime transport;
- 17 **agree** to set requirements for councils to seek written notice from the Director of agreement / non-objection in respect of any bylaw clause that regulates a matter already regulated by a maritime rule and any bylaw clause that creates a ship traffic separation or management scheme;
- 18 **agree** that consultation with the Director is required when a navigation bylaw is being reviewed, whether or not changes are proposed;
- 19 **agree** that the Minister may amend, replace, or revoke bylaws that are unreasonable, undesirable or inconsistent with any enactment;

- 20 **note** that a broader review of the bylaw system is also underway, and may in future provide additional opportunities to set clearer requirements around some navigation bylaws;
- 21 **agree** that harbourmaster directions are limited to individual ships on specific occasions, but with flexibility to issue time-limited general directions in response to a maritime incident, or to address a particular occasion where there is a risk to navigation safety;
- 22 **agree** to set limits on harbourmaster directions, including that they may not be inconsistent with maritime rules, confer broad discretions or create powers that overlap with functions of the Director;
- 23 **agree** to remove unnecessary requirements for Director approval of aids to navigation, specify responsibilities for maintaining and removing them, and enable the Director to act where a regional council is not meeting those responsibilities;

Modernising maritime regulation to improve efficiency and effectiveness

- 24 **agree** to provide that secondary legislation made under the MTA may impose requirements on foreign-flagged vessels using New Zealand ports or in internal waters that have no comparable requirement under international law or are more stringent than relevant international law requirements;
- 25 **agree** to a package of amendments to ensure that Maritime NZ has the necessary tools to carry out its functions effectively and efficiently, and to remove regulatory requirements that are disproportionate to risk, as set out in Appendix 2;
- 26 **authorise** the Associate Minister of Transport to approve minor regulatory stewardship amendments to the MTA, subject to confirmation when the Bill is considered for introduction;

Next steps

- 27 **invite** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to the proposals in this paper, and further delegated decisions, including any necessary consequential, transitional, and savings provisions;
- 28 **authorise** the Associate Minister of Transport to make further detailed policy decisions that are consistent with the overall policy intent, provided that those decisions are confirmed by Cabinet when the Bill is considered for introduction;
- 29 **authorise** the Associate Minister of Transport to make further detailed policy decisions on the scope of, and penalties for, new and existing offences under the MSA and MTA, provided those decisions are consistent with the overall policy intent and are confirmed when the Bill is considered for introduction;
- 30 **authorise** the Associate Minister of Transport to make drafting corrections across the MTA and the MSA.

Authorised for lodgement

Hon James Meager

Associate Minister of Transport

Appendix 1: Maritime Legislation Review – summary of proposals

Maritime Transport Act 1994			
Maritime Security Act 2004	Effective prevention of and response to maritime incidents	Improve co-regulatory arrangements for navigation safety	Modernising maritime regulation to improve efficiency and effectiveness
Addressing insider threat Enable background checking of port workers to support a national identity card scheme Enable information sharing to support the identity card scheme Strengthen access control by linking it to the identity card scheme	Reducing the likelihood of maritime incidents Allow Maritime NZ to refuse access to New Zealand ports for foreign-flagged ships, to keep out substandard ships Timely and proportionate intervention in maritime incidents Allow the Director of Maritime NZ to: request information about non-notified accidents or incidents that may warrant intervention create exclusion zones and direct a ship's removal to manage risks from a maritime incident direct a port to provide facilities to a ship, to manage significant risks from a maritime incident	Navigation bylaws Set clearer limits on navigation bylaws Require a Director notice of agreement / non-objection for bylaws that regulate a matter already regulated by a maritime rule, or create a ship traffic separation or management scheme Clarify that consultation with the Director is required for bylaw reviews Allow the Minister to amend, replace, or revoke bylaws that are unreasonable, undesirable or inconsistent with any enactment	Legislate over a 1994 court decision to confirm the ability to regulate foreign flagged vessels Tools to support Maritime NZ to carry out its functions effectively and efficiently Remove regulatory requirements that are disproportionate to risk Regulatory stewardship changes Correcting drafting matters
Improve the framework for enforcement Enable infringement offences to be established through regulations. Update penalties for some existing offences	Application to domestic ships Enable specified provisions of the MSA to be extended to some higher risk domestic ships and ports that serve them, by Order-In-Council	Harbourmaster directions Provide that harbourmaster directions are limited to individual ships on specific occasions, with timebound exceptions in some circumstances Set clearer limits on navigation bylaws and harbourmaster directions	
Ensuring legislative coherence Amend the purpose of the MSA to include risk-based management of domestic threats while maintaining alignment with New Zealand's international obligations		Aids to navigation (AtoN) Remove unnecessary approval requirements Allow Maritime NZ to install, relocate or remove emergency AtoNs where a regional council has not done so Set maintenance and removal responsibilities	

Appendix 2: Proposals to support proportionate, effective, and efficient maritime regulation

Change	Benefit
Tools for Maritime NZ to carry out its functions effectively and efficiently	
Allow Maritime NZ to approve equally effective means of compliance with prescriptive rule requirements.	The MTA allows for exemptions where there is an effective alternative means of compliance, but a clearer framework for these approvals could better enable innovation and flexibility while maintaining safety and environmental outcomes.
Allow enforceable undertakings as an alternative to prosecution to address offences against the MTA.	Supports faster, more practical safety improvements while still holding the duty holder accountable. Aligns Maritime NZ's powers under the MTA and the Health and Safety at Work Act 2015.
Create reporting obligations, offences, and investigation powers for Annex VI substances.	A stronger regulatory framework for air pollution from ships that is consistent with regulation of other harmful substances, such as ballast water. Addresses gaps in relation to implementation of Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL), which New Zealand signed up to in 2022.
Increase penalty levels for existing offences in the MTA relating to environmental breaches, maritime and marine protection documents, and breaches of bylaws.	Aligns penalties with other offences in the MTA and other relevant legislation with comparable levels of harm.
Clarify Maritime NZ's function include preparing for and responding to maritime incidents involving non-oil fuels.	Improves certainty over Maritime NZ's mandate to plan for growing non-oil fuel use. Does not directly impose additional costs.
Require advance notification for ships arriving in New Zealand using or carrying fuel other than oil or transferring fuel other than oil.	Strengthens visibility of such vessels. Supports better mitigation of potential risks associated with transfers of fuel other than oil. Aligns approach with that for oil fuels and noxious liquid substances.
Removing regulatory requirements that are disproportionate to risk	
Enable the Director to determine which criteria are relevant for fit and proper person assessments.	Reduces unnecessary costs for Maritime NZ and barriers for the maritime workforce. Currently, the Director must request the same information for all fit-and-proper person despite variance in privileges and risk.
Repeal requirements for notification and for Director to be satisfied of adequacy of pleasure craft leaving New Zealand.	Removes unnecessary costs for Maritime NZ and users of pleasure craft and aligns regulatory approach taken for other recreational craft. Maritime NZ will assess the case for maritime rules for pleasure craft on higher risk voyages.

Appendix 3: Regulatory Analysis Summary – Targeted reform of the Maritime Security Act 2004

Appendix 4: Regulatory Analysis Summary – Maritime Transport Act 1994



Regulatory Analysis Summary: Targeted reform of the Maritime Security Act 2004

Decision sought	Cabinet decisions to authorise drafting instructions for a Maritime Legislation Bill – maritime security	
Agency responsible	Ministry for Cities, Environment, Regions & Transport	
Portfolio Minister(s)	Associate Minister of Transport	
Date finalised	14 July 2026	
Ministry for Regulation ID number		1578

Brief description of the Minister's regulatory proposal (preferred option)

The Minister proposes targeted reform of the Maritime Security Act 2004 (the Act). Amendments will:

- enable background checking of port workers and limited information sharing between government agencies
- strengthen access controls at ports and the framework for enforcement
- enable extension of the Act to certain domestic ships
- ensure that these proposals fit within the purpose of the Act.

Summary of the problem definition

The Act is misaligned with the current threat environment. It was designed primarily to address international terrorism and does not adequately support the management of contemporary risks such as organised crime, insider threats, and other emerging threats (e.g. foreign interference or unlawful disruption). This results in inconsistent and insufficient management of security risks, contributing to New Zealand's exposure to significant social and economic harm.

Summary of options considered for addressing the problem

A range of options for targeted reform of the Act are considered alongside non-statutory options and changes to regulations. Deregulatory options are not considered, due to the targeted nature of the review and the necessity of compliance with the International Ship and Port Facility Security (ISPS) Code.

Is the Minister's preferred option in the Cabinet paper the same as the preferred option in the RAS?

Yes

Summary of the main benefits of the Minister's preferred option

The preferred option strengthens maritime security by targeting insider threats, improving control over access to secure port areas, and enhancing the ability to detect, deter, and disrupt threats. If implemented effectively, it will reduce the risk of organised crime and unlawful activity in ports and on domestic vessels, and improve system integrity and public and economic security.

Summary of the main costs of the Minister's preferred option

The preferred option comprises amendments to primary legislation that are mainly enabling in nature. Implementation of these reforms is highly likely to increase operational and compliance costs for ports, ferry operators, and workers through enhanced access controls, identity verification and vetting requirements, and enforcement obligations, including upfront implementation costs and ongoing administrative and staffing requirements.

Does the RAS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

Yes.

Have any potential inconsistencies with the principles of responsible regulation in the Regulatory Standards Act been identified in relation to the Minister's preferred option?

No.

Limitations and constraints on analysis

Condensed timeframes	No	Constrained option set	Yes
Legislative constraints	No	Data and evidence gaps	Yes
Ministerial direction	No	Other	No
Limited public consultation	Yes		

Summary of limitations and constraints on analysis

The option set has been constrained by the scope of the targeted legislative review, with a focus on addressing identified gaps rather than undertaking first-principles reform. There are also data and evidence gaps, particularly in relation to the costs of maritime security measures, and the effectiveness of interventions in reducing organised crime risks. The enabling nature of the preferred options is a significant constraint on analysis, as detailed impacts depend on future regulatory design and implementation choices that cannot yet be specified. While consultation with affected stakeholders was undertaken, it was necessarily limited by the high-level and enabling nature of the proposals. This constrained the depth of information provided by stakeholders on compliance costs, operational impacts, and behavioural responses across the sector. The lack of full public consultation also constrains evidence covering impacts on certain communities such as those affected by drug harm, although these impacts are generally indirect and several stages removed from the proposals.

What are the implications of these limitations and constraints, and what has been done – or will be done – to mitigate and manage them?

These limitations mean that the quantitative analysis is necessarily indicative and relies on assumptions about implementation and behavioural responses. There is a risk that actual costs and benefits will vary depending on future design choices and how the regime is applied in practice. To mitigate this, the analysis adopts conservative assumptions, presents impacts as ranges rather than point estimates, and focuses on a central, risk-based implementation scenario. It also draws on international evidence and established economic reasoning where New Zealand-specific data is limited.

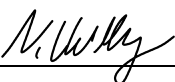
The impact of limited public consultation is mitigated by:

- the stakeholders most impacted being included in targeted engagement
- the primarily enabling and upstream nature of the proposals, which have limited direct impacts on the general public at this stage
- the opportunity for broader engagement through the select committee process
- expected further consultation on regulations to implement the powers created by the legislation.

The enabling design of the preferred options also mitigates risk by allowing requirements to be tailored through secondary legislation, enabling proportional and cost-effective implementation. More detailed analysis, including assessment of specific compliance costs and operational impacts, will be undertaken at the secondary legislation stage. Ongoing monitoring and review will allow the regime to be adjusted over time to ensure it remains effective and proportionate.

I am satisfied that, given the available evidence, this RAS represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

_____

Marian Willberg
Manager Maritime, Freight & Access,
Ministry for Cities, Environment,
Regions & Transport
14 July 2026

Quality Assurance Statement	
Reviewing Agency: Ministry of Cities, Environment, Regions and Transport	QA rating: Meets
Panel Comment: An MCERT panel has reviewed the Regulatory Analysis Summary (RAS) for the targeted reform of the Maritime Security Act 2004. The panel considers that the information and analysis summarised in the RAS meets the required quality assurance criteria. The high-level treatment of impacts, costs, and benefits appropriately reflects the enabling nature of the proposed legislative changes.	

Section 1: Diagnosing the policy problem

What is the policy problem?

Problem statement

1. The Maritime Security Act 2004 (the Act) has aged and become misaligned with New Zealand's maritime security risk environment. It was designed primarily to address international terrorism risks and does not adequately support the management of organised crime, insider threats, and other emerging threats (e.g. foreign interference or unlawful disruption of port activity). As a result, security controls are inconsistent across ports, key powers and systems are unclear or incomplete, and risks are not managed effectively. This increases New Zealand's exposure to social harm, supply chain disruption, and threats to public safety.

Nature, causes and likely persistence of the problem

2. The problem arises from both changes in the threat environment and limitations in the legislative framework. The Act was designed to implement the International Ship and Port Facility Security (ISPS) Code, which was developed through the International Maritime Organisation following the terrorist attacks of September 11, 2001. The Act is oriented toward low-frequency, high-impact international terrorism scenarios where threats could be identified in advance and security controls adjusted accordingly. By contrast, contemporary threats such as organised crime, insider activity, and less sophisticated 'lone actor' violence are more persistent and opportunistic, often with limited prior intelligence indicators.
3. While the Act establishes baseline security requirements, it produces variable implementation and relies on fragmented or adjacent regimes such as pre-employment checks by individual firms. Maritime security requires system-wide coordination and activity that individual firms are unlikely to provide on their own. Private actors face weak incentives to invest in security measures where benefits accrue to the wider public. These factors result in under-provision, inconsistency, and gaps in security across the system.
4. Without reform, organised crime and insider-enabled activity are likely to continue or increase. System inconsistencies and gaps will persist, and risks will grow with increasing supply chain complexity. Voluntary action or incremental change will not address these issues, given coordination constraints and misaligned incentives.

Key system gaps

5. The problem manifests in several key parts of the regulatory system and scheme:
 - **Insider threats** – We know that trusted insiders within ports are facilitating drug trafficking and other illicit activities, yet the management of insider threats is inconsistent and ineffective. Background checking is limited to pre-employment checks, which vary in scope and extent across different port operators and other firms that operate in port environments. Access control systems and standards also vary from port to port, with many ports lacking compartmentalisation of areas with differing risk profiles.
 - **Operational powers** – Operational powers for routine search and screening of people entering port security areas are not well understood and may be inconsistently applied. There is inconsistent understanding of the legal basis for search and screening by ports. These activities are effectively required by the Act and the Maritime Security Regulations 2004 in order to prevent weapons and other dangerous items from entering secure areas. However, port security staff do not hold powers of search and screening under the Act: the legal basis for these activities is in fact ports' rights as landowners under the common law.

Because these powers are not set in statute, there is greater room for inconsistent practice across ports and some risk of improper practice.

- **Enforcement gaps** – While noncompliance with the existing provisions of the Act is not a significant concern, there are gaps in the framework for enforcement. There is no graduated enforcement of offences under the Act – all penalties are maximum fines. The lack of infringement offences may have contributed to the lack of enforcement action despite a steady rate of ~100 annual low-level breaches of port security in recent years. Also, the existing maximum fines under the Act may be outdated in the context of both inflation and changes in the framework for determining transport-related penalties.
- **Domestic threats** – Domestic maritime activity is largely outside the Act's requirements, despite some domestic and international ships being subject to comparable threats. For example, international cruise ships and large domestic ferries are equally susceptible to violent attack, yet large domestic ferries only comply with the ISPS Code when leaving NZ waters for refit or maintenance. There is evidence that organised criminal groups use the Cook Strait ferries for transporting illicit goods between the North and South Islands, and there are no controls to prevent undeclared firearms being taken onboard concealed in luggage or vehicles. These likely threat items significantly increase the risk of a violent incident occurring.
- **Narrow focus of the purpose and framework of the Act** – The purpose and framework of the Act is somewhat narrowly focused on compliance with the ISPS Code and preventing international terrorism. While the purpose of the Act does include a broader limb ('to enhance port and ship security'), it is not clear that the purpose of the Act supports the proposals we are considering, some of which are driven largely (but not wholly) by the threat of organised crime. There are emerging international efforts to recognise transnational serious and organised crime as a core maritime security concern, but any resulting changes to the ISPS Code could take up to a decade or more to enter into force. In the meantime, any changes to the purpose and framework of the Act need to remain aligned with the ISPS Code to avoid creating barriers to trade, and a full redesign of the legislative framework is neither timely nor practical.

Scope and scale of the problem

6. The scale of the problem is significant. The \$1.5 billion annual social harm associated with methamphetamine and estimated \$300-800m of lost tax revenue from smuggled tobacco both highlight the magnitude of downstream impacts linked to maritime-enabled illicit activity. It is difficult to attribute a specific percentage of these harms to the system gaps outlined above, but ports are clearly one of the main pathways for the flow of illicit goods across the border and within the country. Also, the high prevalence of insider involvement (around 70% of seizures according to an international study) demonstrates systemic vulnerabilities in access and workforce-related controls. Together, these figures and the critical role of ports in New Zealand's economy and supply chains indicate that the problem is sufficiently large to warrant consideration of regulatory intervention.

What objectives are sought in relation to the policy problem?

7. The primary objective or overall purpose is to strengthen the resilience of New Zealand ports, supply chains and ships to maritime security threats.
8. Five objectives contribute to this overall purpose:
 - 1) **Improve the effectiveness of the regulatory framework** – Improve system capacity to effectively prevent, detect, and respond to current and emerging maritime security

threats, including insider threats, by ensuring appropriate accountability, obligations, and incentives for regulated parties.

- 2) **Increase system coordination and consistency** – Ensure security measures are applied more consistently across ports and operators, supported by better coordination and information sharing between system participants.
- 3) **Ensure the regulatory framework is durable and adaptable** – The framework needs to be responsive to evolving threats, technologies, and operating environments, including through flexible powers and future-proofed legislative settings.
- 4) **Ensure powers and requirements are clear, proportionate, and respect rights** – Regulatory powers, obligations, and enforcement mechanisms should be clear, risk-based, legally sound, and supported by appropriate safeguards and oversight.
- 5) **Maintain or improve system efficiency and minimise additional compliance costs** – System efficiency is crucial and any additional costs need to be well justified, because costs within the system are passed through to exporters (potentially reducing international competitiveness) and consumers (affecting the cost of living and inflation).

9. These objectives highlight the potential trade-offs to be considered:

- There is strong potential for improvements that fulfil Objectives 1-3 to trade-off against negative impacts on Objectives 4-5. Options that maximise system effectiveness, consistency, and durability may have legal risks, rights impacts, or compliance costs that need to be considered carefully.
- Another potential trade-off is between Objectives 1 and 3. Options that maximise system effectiveness against current and emerging threats may be less durable and adaptable to unforeseen future threats.
- Trade-offs between Objectives 1 and 2 are also possible. For example, an option could strengthen incentives for certain system actors to take effective action against a threat yet disrupt the overall coordination of the system by confusing roles and responsibilities.

What external consultation has been undertaken?

10. Targeted consultation was undertaken with maritime sector stakeholders (including ports, domestic and international shipping operators, recreational boating groups, unions and port workers, fishing sector representatives, and regional councils) and relevant government agencies between November 2025 and February 2026. We provided a detailed options paper setting out the issues and met with stakeholders to discuss the proposals and their views. We sought feedback on all aspects of the policy including issues, options preference and impacts. We received 24 submissions that commented on the Maritime Security Act.
11. Stakeholder views on the main options considered are summarised in Section 2, including instances where we have changed our preferred options in response to stakeholder feedback.

Section 2: Assessing options to address the policy problem

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

12. We have defined a set of criteria based on the objectives set out above:
 - **Effectiveness** – Does this option improve system capacity to address maritime security threats and incentives for system actors (Objective 1)?

- **Coordination and consistency** – Does this option improve consistency of the maritime security system and coordination across participants (Objective 2)?
- **Durability** – Does this option improve the framework’s ability to adapt to changing threats and environments (Objective 3)?
- **Proportionality, clarity and rights** – Does this option ensure powers and requirements are clear, proportionate and legally sound, with appropriate safeguards (Objective 4)?
- **Efficiency and cost** – Does the option affect compliance costs and system efficiency (Objective 5)?

13. The potential trade-offs between these criteria align with those outlined in paragraph 9 above. We have not weighted the criteria but note that a strongly negative ‘--’ rating for ‘Proportionality, clarity and rights’ makes an option unacceptable.

What scope will options be considered within?

14. The scope of options considered are:

- Changes to the Maritime Security Act 2004, including amendments to existing provisions and introducing new provisions
- Credible alternatives to primary legislative change, such as non-statutory guidance or changes to secondary legislation.

15. Where options involve the creation of new regulation-making powers (which have no operative effect without subsequent secondary legislation) our analysis is focused on assessing the potential costs and benefits of, and alternatives to, the primary legislative change. Further impact analysis is required when these regulation-making powers are utilised.

16. Out of scope are:

- First principles reform of the Act and its structure
- Operational improvements and changes to secondary legislation that do not have overlapping impacts with primary legislative change¹
- Specific options for how proposed new powers under the Act will be exercised and implemented (e.g. design options for a new port identity card scheme).

17. The rationale for this scope is that we are carrying out a targeted review of priority issues with maritime legislation. Because some of these issues are time-sensitive, we are setting the process of legislative change in motion before detailed design of implementation arrangements.

What options are being considered?

18. Options are organised into discrete sets, each relating to a specific system gap. There is no clear deregulatory option because the main aim is to fill gaps in the regulatory scheme and a first principles review of the Act is out of scope.² However, we considered alternatives to amending

¹ For example, a new round of Port Facility Security Assessments was not considered as an option as part of our review and analysis, because the impacts of this option do not address the system-level problems we are targeting. On the other hand, we did consider whether amendments to the Maritime Security Regulations 2004 could be an effective substitute for changes to the Act to strengthen port security.

² The main pathway to deregulation in the context of the Maritime Security Act 2004 would be to review whether the existing controls in the Act are necessary considering changes to the threat environment (e.g. lack of any international terrorism incidents in our region targeting ports or ships). However, these controls are necessary for compliance with the existing ISPS Code, which in turn is necessary for trade purposes.

primary legislation in every option set except Option 3 (Adjust enforcement framework). The preferred options are supported by both the Ministry and the Minister.

19. Stakeholder feedback on these options is included following a description of the option. This stakeholder input contributed significantly to our options development and analysis.

Option 0 – Status quo

20. No changes are made to the Act or its regulations, and no non-statutory measures are pursued to address the issues identified. Compliance, enforcement and education activity under the Act remains focused on implementing the existing ISPS Code. For example, ports will continue to attempt to address insider threats within their own organisations but lack any effective lever to compel contractors and port users to adopt equivalent measures.
21. Under this option, we anticipate that the inconsistency and relative ineffectiveness of the maritime security framework in relation to current threats would continue and worsen over time, as these threats become more severe and bad actors become more sophisticated.
22. One individual stakeholder favoured the status quo (as opposed to one of the alternative options included below) in preference to Option sets 4 and 5, suggesting that the case for change had not been convincingly made.

Option set 1 – Addressing insider threats

Option 1a – Background checking, information sharing, and strengthened access control (preferred)

23. Under our preferred option, the Act is amended to:

- enable background checking of workers who require access to port security areas (i.e. making an assessment of whether they would pose a threat to maritime security, drawing on suitable evidence such as a check of their criminal record or advice from intelligence and law enforcement agencies)
- link background checks to the existing power to set up an identity card regime, so that a background check can be required for certain classes of identity cards (anticipating that not all workers who require an identity card will be subject to background checks, and that the more stringent security requirements will be tied to the most sensitive roles, ports, or areas within ports)
- link Sections 46 and 71 of the Act (which restrict access to port security areas and make it an offence to fail to supply adequate evidence of identity and reason to be in these areas) to failure to provide the evidence of identity prescribed by regulations, so that the identity card regime can have operative effect on access control
- enable sharing of the identity information (names, addresses and birthdates) and access privileges (application history, level of access, ports they are associated with) of identity card applicants and holders with relevant enforcement agencies, such as Customs and Police, so that these agencies are aware of who is working on ports and can assess whether any of these individuals pose a threat.³

2. There was widespread but qualified support for enabling background checking for port workers. Stakeholders felt that this proposal would address insider threat, and there were no submissions in opposition. Stakeholders strongly supported a proportionate and risk-based national background checking regime, with transferable checks granting access for a set period (e.g. 3

³ Information-sharing was added to this option following engagement. Further information-sharing options were considered, which are outlined in the Privacy Impact Assessment (available on request from MCERT).

years). Some stakeholders had reservations about the scope and operationalisation of background checking, which should be considered when the proposed power is implemented.

3. Stakeholder and agency feedback led us to develop our preferred option from one focused on enabling background checking, to the more comprehensive set of measures outlined above which link together background checking, information sharing and strengthened access control.

Option 1b – Issue guidance to ports on background checking, information sharing and access control

24. A non-statutory alternative would be to provide guidance to ports on best practice for background checking, information sharing and access control. We anticipate that this would lead to some increased alignment across ports and more effective security measures. However, we consider it unlikely that the response to the guidance would be consistent and robust enough to effectively deter insider threats.
25. There was limited support for guidance as an alternative to Option 1a. Most stakeholders who commented preferred nationally consistent standards, credentials, vetting criteria and administration as a more effective means of addressing insider threats than relying on voluntary uptake of guidance. However, there was support for guidance as a tool to support implementation.

Option 1c – Strengthen port security using existing regulation-making powers

26. A further alternative would be to strengthen access control by prescribing more stringent security requirements through the Maritime Security Regulations 2004, such as minimum standards for CCTV coverage or compartmentalisation of sensitive areas.
27. Feedback from stakeholders emphasised the necessity of variation between security measures implemented at different ports, to support proportionate management of security risks. A few submissions and conversations with stakeholders indicated that option 1c runs counter to this approach and would likely create unjustified compliance costs.

Option set 2 – Powers of port security staff

Option 2a – Expand powers of port security staff

28. Under this option, a new role of ‘maritime security guard’ would be established under the Act, with powers to search, screen, seize risk items and potentially detain suspects until a constable or Customs officer can take custody. New training, certification and oversight requirements are put in place to ensure these statutory powers are exercised appropriately.
29. There was near-universal opposition to this option among stakeholders and agencies. Stakeholders were concerned about both the potential impacts on the rights of port workers to be free from unreasonable search and seizure, and the cost and risk involved for port operators.

Option 2b – Clarify powers of port security staff

30. As with Option 2a, but powers would be limited to search and screening. Because ports already search and screen using their powers under common law as landowners, this is seen as clarifying rather than increasing the powers of port security staff. This was our preferred option in the consultation paper. Feedback from agencies on the feasibility of this option led us to change our preference to Option 2c.
31. This was our preferred option prior to consultation. There was strong support among both ports and unions for clarifying the legal basis for search and screening carried out by port security staff. However, support for a new role of maritime security guard with powers and requirements

defined in legislation was more qualified, with concerns about compliance costs and alignment with the Bill of Rights Act. Critically, feedback from the Ministry of Justice cast doubt on the feasibility of giving coercive powers to private employees, which is without precedent in New Zealand law.

Option 2c – Issue guidance to ports on search and screening (preferred)

32. Guidance is issued to ports on how to fulfil their responsibility to prevent weapons and other risk items from entering port security areas. Ports security staff continue to search and screen utilising port operators' rights as landowners. These existing powers held by ports are sufficient for lawful consent-based screening and search, and access to the port can be denied to those who refuse to submit to screening.
33. Guidance would cover both the legal basis for search and screening by ports and good practice guidelines for these activities. We anticipate that guidance would moderately increase the clarity and consistency of practice across ports. In turn, this would provide a marginal improvement in security and mitigate rights impacts associated with search and screening.
34. Stakeholders did not comment on this option, which was framed as an alternative to Options 2a and 2b in our consultation document. Stakeholder feedback on these options, and discussions with agencies, led us to prefer non-statutory guidance as the most feasible, cost-effective, and low-risk option for clarifying the powers of port security staff.

Option set 3 – Adjust enforcement framework⁴

Option 3a – Establish infringement offence framework (preferred)

35. A modern infringement offence framework is introduced, including authority for authorised persons to issue infringement notices, the ability for regulations to specify infringement offences and fees, and a maximum fee set out in primary legislation. We consulted the Ministry of Justice on maximum infringement fees of \$250 for an individual, \$750 for a special regulated individual such as a port worker, and \$2500 for a body corporate. These maximum fees are based on the harms associated with the existing offence under Section 71, because we see lower-level offending of this type as most likely to be enforced using infringement notices.
36. A few stakeholders supported this option, including port operators and their security staff, on the basis that not every security breach warrants criminal prosecution. In this context, infringement notices were seen as another tool for deterring security breaches and ensuring compliance with the Act.

Option 3b – Increase selected penalties (preferred)

37. We have reviewed existing penalties for offences related to access control to ensure they are aligned with current best practice and sufficient to deter offending against the Act. We recommend increasing the maximum penalty offences by a body corporate under Sections 71 and 72 of the Act from \$30,000 to \$50,000 to better align with their harm profile and deter unlawful interference with port activities.
38. Stakeholder feedback on this option was either positive (supporting it as improving deterrence) or neutral (questioning whether it would have deterrent effect but not opposing it).

⁴ These options are additive measures for improving enforcement, rather than alternative approaches.

Option 3c – Require ports to address other maritime security threats

- 39. Section 50 of the Act is expanded to require search and screening to be for the purposes of preventing a broader range of risk items being taken into port security areas, such as illegal drugs or other illicit imports and exports.
- 40. There was near-universal opposition among stakeholders to this option, with stakeholders noting both the additional cost and risk that ports would face and the potential for this to duplicate or confuse the distribution of responsibilities for enforcement.

Option set 4 – Addressing domestic maritime security risks

Option 4a – Extend scope of the Act to include certain domestic ships

- 41. The scope of the Act is extended to include domestic ships that are subject to clear maritime security threats, such as Cook Strait ferries. All the primary provisions of the Act apply, although regulations may differentiate requirements for domestic and international ships.
- 42. This was our preferred option in the consultation paper, but feedback from stakeholders indicated that it would add compliance costs that may not be justified by the specific risks domestic operators are subject to. In response we developed Option 4b.

Option 4b – Enable extension of some provisions of the Act to certain domestic ships (preferred)

- 43. A new power is introduced enabling extension of specified provisions of the Act (by Order in Council) to certain classes of domestic ships (ships over 500GT and passenger vessels with capacity for 400pax or more) that may be subject to maritime security threats. An Order must specify the class of ships to which it applies and which provisions the ships must comply with.
- 44. This option has not been tested with stakeholders, but it responds directly to concerns raised by stakeholders during consultation. We anticipate that some stakeholders may still oppose this option, on the basis that they consider the status quo or Option 4c to be more proportional, but consider that the select committee process will provide a suitable opportunity to consider their views. Furthermore, consultation on any Order in Council made under this proposal will help further quantify and mitigate the compliance costs and other impacts that are of concern for stakeholders.

Option 4c – Provide guidance to domestic operators on security practices

- 45. The regulator provides guidance to domestic operators whose vessels are subject to clear maritime security threats, indicating that they are expected to voluntarily establish security controls to appropriately mitigate these threats.
- 46. One stakeholder supported this option as a more proportionate approach than 4a, allowing domestic operators to design requirements appropriate to their operational context.

Option set 5 – Amend the purpose of the Act

Option 5a – Broaden and modernise the purpose of the Act

- 47. The purpose of the Act is modernised and broadened to explicitly encompass a broader range of maritime security threats. For example, a modernised and broadened purpose provision might include an overarching purpose statement that references ‘resilience’ as well as security, followed by a more comprehensive set of subsidiary purposes that cover all the maritime security threats affecting New Zealand-flagged ships and New Zealand ports.

48. There was general support for amending the purpose of the Act, with some stakeholders in favour of recognising modern threats such as organised crime and cyber security to make the Act more durable as threats continue to evolve. However, consultation with the Legislative Design Advisory Committee (LDAC) indicated that this option is subject to risk. LDAC indicated that modernising the purpose of the Act could create misalignment between the purpose of the Act and its overall scheme and operative provisions, which will remain largely focused on implementing the ISPS Code even if the proposed reforms are progressed.

Option 5b – Adjust the purpose of the Act to clearly enable current proposals (preferred)

49. The purpose of the Act is amended to include risk-based management of domestic maritime security threats including organised crime and insider threats, while maintaining the existing purposes of enabling New Zealand to meet its obligations under the ISPS Code, and enhancing ship and port security. This is intended to clearly enable the preferred options above while remaining consistent with international frameworks and obligations. We developed this option in response to feedback from LDAC on Option 5a.

Option 5c – Maintain the current purpose of the Act (status quo)

50. The purpose of the Act is not amended while the preferred options under Option sets 1-4 above are progressed. Key policy documents articulate that the proposed amendments help fulfil the purpose under Section 3(b) of the Act: “to enhance ship and port security”. One stakeholder preferred this option on the basis the case for expansion had not been made, that any expansion should be tightly defined and limited, and that they opposed some of the proposals that the adjusted purpose is intended to support.

Key for qualitative judgements	
++	much better than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual
-	worse than doing nothing/the status quo/counterfactual
--	much worse than doing nothing/the status quo/counterfactual

How do the options compare with the status quo/counterfactual?

Addressing insider threats	Option 0 – Status Quo	Option 1a – Background checking, info sharing and stronger access control (preferred)	Option 1b – Issue guidance to ports	Option 1c – Strengthen port security using existing regulation-making powers
Effectiveness	0	++ Best mitigation of insider threats	+? May mitigate insider threat	+ Some mitigation of insider threats
Coordination and Consistency	0	++ Improves consistency of controls	+? May improve consistency	+ More consistent security controls
Durability and adaptability	0	0 Preserves adaptability across ports	0 Maintains adaptability	- Prescriptive controls likely to go out of date
Proportionality, clarity and rights	0	- Privacy impacts, mitigated appropriately	0	0
Efficiency and cost	0	- Costs for port workers and government	0	-- Increases cost, much less efficient
Overall assessment	0	++ Significant improvements to system effectiveness, coordination, and consistency outweigh potential costs and rights impacts, which have been mitigated as far as possible at the level of primary legislation.	+? Likely positive impact on system effectiveness, consistency, and coordination, but limited and subject to uncertainty.	- More prescriptive measures in regulations could strengthen access control over the short term, but costs would be disproportionate for ports less exposed to insider threats and regulations would not be durable.

Powers of port security staff	Option 0 – Status Quo	Option 2a – Expand powers of port security staff	Option 2b – Clarify powers of port security staff	Option 2c – Issue guidance to ports on search and screening (preferred)
Effectiveness	0	++ Ports' empowered to ensure security	+ Powers are clear and specific	+ Greater clarity for ports on status quo
Coordination and Consistency	0	++ Ensures consistency across ports	++ Ensures consistent practice	+ Supports consistent practice
Durability and adaptability	0	0	0	0
Proportionality, clarity and rights	0	-- Unacceptable rights impacts	- Considerable rights impacts	+ Reduces likelihood of improper practice
Efficiency and cost	0	-- Prohibitive costs	-- Requires setting up a costly regime	0 Low cost
Overall assessment	0	-- Would be without precedent and create significant legal risk and rights impacts that cannot be adequately mitigated.	- Creates legal risks and impacts the right to freedom from unreasonable search. Mitigating these risks and	+ A less costly and risky option for addressing ambiguity around how ports should fulfil their obligations under the Act.

Powers of port security staff	Option 0 – Status Quo	Option 2a – Expand powers of port security staff	Option 2b – Clarify powers of port security staff	Option 2c – Issue guidance to ports on search and screening (preferred)
			impacts would require setting up a costly certification and training scheme.	Guidance on good practice would reduce the likelihood of improper search and screening.

Adjust enforcement framework⁵	Option 0 – Status Quo	Option 3a – Establish infringement offence framework (preferred)	Option 3b – Increase selected penalties (preferred)	Option 3c – Require ports to address other maritime security threats
Effectiveness	0	+ Better deters offending	+ Improves incentives for compliance	+ Better deters drug trafficking
Coordination and Consistency	0	0	0	- Confuses agency roles and responsibilities
Durability and adaptability	0	+ Allows adjustment over time	0	0
Proportionality, clarity and rights	0	+/- Supports more proportional enforcement (+) but could have impacts on natural justice if infringement offences are poorly designed (-)	+ Support proportionality of penalties with similar regimes	-- Severe legal risk and rights impacts involved in private security staff being involved in law enforcement
Efficiency and cost	0	0	0	- Costly training required
Overall assessment	0	+ Improves incentives for compliance and adaptability by allowing for infringement offences to be created and amended over time. Potential rights impacts will need to be addressed when infringements are created in regulations.	+ Updates to existing maximum fines under the Act improve incentives for compliance with the Act.	-- Potential improvements to system effectiveness are outweighed by the likely cost, confusion and rights impacts involved in ports taking enforcement action targeting drugs and other illicit imports and exports.

Addressing domestic maritime security risks	Option 0 – Status Quo	Option 4a – Extend scope of the Act to include certain domestic ships	Option 4b – Enable extension of some provisions of the Act to certain domestic ships (preferred)	Option 4c – Provide guidance to domestic operators on security practices
Effectiveness	0	+ Improves resilience of domestic ships	+ Resilience of domestic ships	+? May improve resilience
Coordination and Consistency	0	+ Consistent controls across like vessels	+ Consistent controls across vessels	+? May lead to consistency

⁵ There are multiple preferred options because these are additive measures for improving enforcement, rather than alternative approaches to solving a discrete problem.

Durability and adaptability	0	0	+ Adaptable over time	0
Proportionality, clarity and rights	0	0	0	0
Efficiency and cost	0	-- Significant and unnecessary costs likely	- Costs mitigated and attuned to risk	-? May add cost if guidance complied with
Overall assessment	0	- Improvements to system would be offset by potentially disproportionate cost of domestic operators complying with all provisions of the Act.	+ Potentially realises the same benefits as 4a but at a lower cost (by targeting requirements to the risks specific classes of ship are subject to) and with greater adaptability over time.	0 Could potentially realise some of the same benefits as 4a and 4b at lower cost but would not create accountability and incentives for compliance.

Amend the purpose of the Act	Option 0 – Status Quo	Option 5a – Broaden and modernise the purpose of the Act	Option 5b – Adjust the purpose of the Act to enable current proposals (preferred)	Option 5c – Maintain the current purpose of the Act
Effectiveness	0	0	0	0
Coordination and Consistency	0	-? Potential confusion about effect	0	-? Potential confusion on scope of powers
Durability and adaptability	0	+ Act future-proofed against change	0	0
Proportionality, clarity and rights	0	- Legal risk from misalignment with operative provisions	+ Ensures new proposals are clearly enabled	- Legal risk of powers being ultra vires or narrowed by the Courts
Efficiency and cost	0	0	0	0
Overall assessment	0	-? Improvement to the durability and adaptability of the Act would be offset and outweighed by legal risks and potential confusion created by misalignment between the purpose of the Act and the operative provisions (which remain focused on compliance with the ISPS Code rather than broader maritime security threats).	+ Keeping changes to the purpose of the Act focussed on enabling the preferred options mitigates legal risk and avoids potential confusion among system actors.	- Creates a range of legal risks, due to potential for new provisions to be interpreted narrowly or framed as ultra vires. Also potential for operational confusion and disagreement among actors in the system.

Section 3: Cost-benefit analysis

What are the additional costs and benefits of the preferred option in the Cabinet paper?

Analytical approach

51. The analysis of costs and benefits presented in this RAS is necessarily high-level and indicative, reflecting the enabling nature of the proposed legislative amendments. The proposals establish frameworks and powers rather than imposing detailed regulatory requirements, and the magnitude and distribution of impacts will depend on how these powers are exercised through future secondary legislation, as well as on enforcement practice and behavioural responses. As a result, it is not possible to robustly estimate the costs or marginal impacts at this stage. The analysis therefore focuses on qualitative assessment of impact pathways, supported by indicative, order-of-magnitude information and contextual evidence on the scale of underlying harms. More detailed analysis will be undertaken and summarised in a subsequent RAS once specific regulatory settings are developed.
52. The analysis focuses on the elements of the preferred option expected to have the most material economic impacts: the introduction of a port identity card scheme (Option 1a), the targeted use of infringement notices (Option 3a), and the potential extension of Maritime Security Act requirements to certain domestic vessels (Option 4b).

Central implementation scenario

53. The analysis is based on a central, risk-based implementation scenario. This assumes that measures are applied in a targeted and proportionate way, rather than through comprehensive or universal controls. It also assumes that implementation builds on existing security practices where these are already in place, resulting in an incremental uplift rather than full system implementation from scratch.

Cost assumptions

54. Across the package, costs are driven primarily by staffing and operational intensity, particularly the number of security personnel at ports and the administration of identity verification and vetting processes. The proportion of workers subject to enhanced background checks and the degree of screening applied are the most significant policy levers affecting overall cost. For this reason, costs are presented as indicative ranges or orders of magnitude rather than as precise estimates.

Port identity card scheme (Option 1a)

55. For the port identity card scheme, the central case assumes a targeted approach to access control and monitoring, rather than full perimeter hardening or universal screening. The scheme is assumed to apply to workers requiring unsupervised access to secure areas and key systems, with selective background checking for higher-risk roles rather than across the entire workforce. Ongoing costs are expected to be largely recovered through fees.
56. Indicative unit cost estimates suggest identity verification in the order of tens of dollars per applicant and background checks in the low hundreds of dollars per applicant. However, there is significant uncertainty regarding the number of workers requiring access and the proportion

subject to enhanced vetting, which are key drivers of overall cost.⁶ These factors will be determined through subsequent regulatory design and consultation.

Infringement notices (Option 3a)

57. For infringement notices, it is assumed that their introduction leads to a modest reduction in repeat or low-level port security breaches (for example, from around 100 to 90 incidents per year), primarily through increased deterrence. These changes are not expected to materially affect system-wide costs but support improved compliance at relatively low administrative cost.

Domestic vessels (Option 4b)

58. For domestic vessels, the analysis assumes that the extension power is exercised only in relation to Cook Strait ferries. This materially limits the scale of costs. These vessels already maintain ship security plans and trained personnel for international compliance, and ports servicing them have some existing security capability. As a result, extending the Act's requirements is expected to involve activating and standardising existing practices, rather than introducing new systems, resulting in incremental operational and staffing costs rather than large capital expenditure.

Benefits assumptions

59. The benefits analysis is presented on an order-of-magnitude basis, drawing on estimates of the significant social harm from illicit drugs and substantial revenue losses from illicit tobacco. International evidence indicates that insider involvement is a common feature of maritime supply chain offending. Indicative estimates apply conservative assumptions about the share of these harms linked to port-based pathways and the extent to which the proposed measures reduce them, producing illustrative estimates of avoided harm.
60. While estimates are solely indicative, there is good evidence supporting the key mechanisms through which the most significant benefits are expected to arise. For example, international maritime security guidance identifies insider threats as a significant vulnerability because authorised personnel can provide access to secure locations, assets and information. Consistent identity management, including identity verification, differentiated access permissions and auditable access records, are widely recognised as means of strengthening access control, improving accountability and increasing the likelihood that inappropriate activity will be detected. These measures reduce opportunities for insider-enabled offending and support deterrence by increasing the visibility and traceability of individual actions in secure areas.
61. Some potentially significant benefits (reduced corruption risk, improved system integrity, and disruption of firearms movement) are not quantified.

⁶ The only available data covers the port workforce (9500 in 2024 according to the 2025 Ports and Maritime Transport Workforce Development Plan), which excludes truck drivers who regularly access ports. Moreover, the proportion of workers requiring background checks and/or identity cards will depend significantly on scheme design.

Cost-Benefit Analysis

Nature of the benefit/cost to New Zealand	Dollar value of impact (or quantified impact)	Scale of unquantifiable impact	Nature of impact – one-off or ongoing	Source of evidence
Additional benefits of the preferred option compared with taking no action				
Reduced organised crime harm (drugs, illicit tobacco) through disruption of port-based supply chains	Tens of millions per year, wide range highly sensitive to assumptions	High	Ongoing	NZ harm estimates (meth, tobacco); international evidence on insider threat
Improved deterrence and compliance with maritime security requirements	Small reduction in incidents (e.g. ~10% decrease)	Medium–high	One-off and ongoing	Economic theory of enforcement; comparable regimes
Reduced insider threat and corruption risk in port operations	Not quantified	High	Ongoing	International evidence; NZ enforcement experience
Improved system integrity, auditability, and ability to revoke access	Not quantified	Medium	Ongoing	
Improved public safety from reduced risk of violent incident on large ferries	Not quantified	Medium	Ongoing	
Total annual benefits	Tens of millions (wide range)	High (corruption prevention, integrity, crime disruption)	Ongoing	Indicative modelling (conservative assumptions)
Total one-off benefits	Not quantified	Medium	One-off	N/A
Additional costs of the preferred option compared with taking no action				
Incremental port infrastructure upgrades	Up to ten million	Low	One-off (capital)	Order-of-magnitude modelling based on ISPS-aligned cost structures
Port worker identity card scheme (identity verification, vetting, administration – largely user funded)	Low millions per year	Low	Ongoing	Comparable schemes; workforce assumptions
Implementation costs (system design, IT, setup of identity scheme)	Low tens of millions	Low	One-off	Comparable identity schemes
Ongoing administrative costs (scheme management, enforcement system operation)	Low millions per year	Low–medium	Ongoing	Programme assumptions

Incremental ferry and port security measures (staffing, monitoring, minor infrastructure)	Millions per year	Low	Ongoing	Order-of-magnitude modelling based on ISPS-aligned cost structures
Total annual costs	High millions to low tens of millions per year	Low-medium (labour impacts, admin burden)	Ongoing	Indicative modelling (conservative assumptions)
Total one-off costs	Low tens of millions	Low	One-off	Indicative modelling (conservative assumptions)
Net impacts compared with taking no action				
Total annual benefits minus costs	Likely positive on an expected-value basis; indicative range spans near-zero to substantial net annual benefit (e.g. ~\$0m to +\$70m+)	Positive (moderate-high confidence)	Ongoing	Indicative modelling (conservative assumptions)
Total one-off benefits minus costs	Net cost, likely offset by ongoing benefits over time	Neutral to positive (low to moderate confidence)	One-off	Indicative modelling (conservative assumptions)

Are the benefits of the preferred option in the Cabinet paper expected to exceed the costs?

62. Benefits are expected to exceed costs on an expected-value basis, provided implementation is risk-targeted and proportionate. Costs are expected to be frontloaded, with one-off establishment and implementation expenditure incurred in the early years, while benefits—particularly those associated with reduced organised crime harm and improved system integrity—are expected to accrue on an ongoing basis. This means that even relatively modest annual benefits would, over time, offset initial establishment costs. Under central assumptions, breakeven is expected within a reasonable timeframe, with positive net benefits emerging thereafter.
63. The analysis indicates a wide range of possible outcomes, reflecting uncertainty about both effectiveness and implementation intensity:
- In more effective, well-targeted implementation scenarios, relatively modest costs are likely to generate material reductions in organised crime harm, with benefits in the order of tens of millions annually outweighing both annual and one-off costs within a short period.
 - Under a more pessimistic scenario where measures are not targeted effectively to risk, costs could be higher and benefits more limited. This could see a low net annual benefit taking some years to offset one-off costs.
64. Given the high level of uncertainty and the order-of-magnitude nature of both costs and benefits, we have not calculated a Net Present Value.
65. Several important benefits are not monetised, including reduced corruption risk, improved system integrity, and disruption of firearms and other illicit goods. These are likely to be material and further strengthen the case for intervention. Conversely, unquantified costs (such as labour market impacts and compliance burden) are considered manageable and largely controllable through design and implementation choices.
66. Overall, considering both quantified and unquantified impacts, the preferred option is expected to deliver a net benefit over time. The key determinant of outcomes is not whether to act, but the extent to which the regime is implemented in a proportionate and risk-targeted manner.

What are the impacts on different groups of the preferred option compared with taking no action?

Distributional Analysis

Affected groups	How they are affected	Description of level of impact(s)	Source of evidence
Port facility operators and port companies	Responsible for implementing security measures; face compliance, administrative, and operational demands; exposed to risks of insider compromise and disruption	High operational exposure; moderate direct impact from regulatory requirements; high exposure to system risks	Stakeholder engagement; policy analysis
Port workers and contractors (e.g. stevedores, truck drivers)	Subject to access controls, vetting, and security processes; potential exposure to coercion or recruitment by organised crime	Medium–high direct impact (compliance, employment effects); high exposure to personal risk (coercion/exploitation)	Stakeholder engagement; international evidence on insider threats
Shipping companies and supply chain participants	Dependent on secure and efficient port operations; affected by disruptions, delays, and increased costs from security gaps	Medium indirect impact through supply chain inefficiency and risk exposure	Policy analysis; supply chain dependency evidence
Government agencies (Maritime NZ, Customs, Police, intelligence agencies)	Responsible for oversight, enforcement, and responding to security risks; face coordination challenges and enforcement limitations under current framework	Medium–high institutional impact; ongoing resource and system effectiveness implications	Policy analysis; agency input
Communities affected by illicit drug use (including Māori and other disproportionately impacted populations)	Bear downstream social harm from drug importation facilitated through ports	High but indirect impact; concentrated social harm and equity implications	National harm estimates (methamphetamine); policy analysis
Regional communities	Economic activity linked to port operations; exposed to impacts of disruption or reduced efficiency	Low–medium indirect impact; varies by dependence on port activity	Policy analysis
Unions representing port workers	Represent worker interests affected by security requirements, employment conditions, and safety risks	Medium impact; advocacy role in balancing security and worker protections	Stakeholder engagement

67. Port operators, cargo owners and unions representing port workers were consulted during targeted engagement on these proposals. We did not consult with communities affected by illicit drug use due to the targeted nature of the engagement, and because port-level security breaches are several stages upstream of the impacts and harm observable at the community level.

Conclusion

Which option is the most effective, efficient, and proportionate response to the problem?

68. The preferred package of options is the most effective, efficient and proportionate response to the problem.

Section 4: Delivering an option

What are the next steps for implementing the legislation?

69. Implementation will occur in stages following enactment of the legislative amendments. Initial steps will include developing and progressing secondary legislation to give effect to new powers, particularly for a port identity card scheme and any extension of MSA requirements to domestic vessels.
70. Detailed policy design will be undertaken alongside targeted consultation with affected stakeholders (including ports, operators, workers, and relevant agencies) to ensure requirements are proportionate and operationally feasible. Responsibility for implementation will primarily sit with Maritime NZ as the system regulator, with close involvement from MCERT as lead policy agency and in coordination with partner agencies such as Customs, Police, and intelligence agencies.
71. We anticipate that implementation will run alongside implementation of new requirements for Customs Controlled Areas (CCAs) under the proposed Customs and Excise (Border Security) Bill. We will continue to work closely with Customs to ensure integrated and complementary implementation of these related measures.
72. Key implementation risks include overly complex or costly requirements, inconsistent application across the system, and impacts on workforce availability; these may be mitigated through risk-based design, ongoing stakeholder engagement, and potentially phased implementation. Implementation will require a combination of policy, operational, and ICT capability (particularly for any identity scheme), with funding and resourcing to be confirmed through standard Budget processes and funding reviews where required.

How will the proposal be monitored, evaluated, and reviewed?

73. Planning of monitoring will form part of the implementation work. Evaluation of the effectiveness and proportionality of the new regime will be undertaken once implementation is sufficiently mature, with a view to refining regulatory settings where required.
74. Consistent with legislative stewardship obligations, a formal review of the relevant provisions will be undertaken within an appropriate timeframe and may be aligned with any wider future reform of the maritime regulatory system. For example, if there are changes to the ISPS Code then this will trigger a broader review of the Act.



Regulatory Analysis Summary: Maritime Transport Act 1994

Decision sought	Cabinet decisions to authorise drafting instructions for a Maritime Legislation Bill.	
Agency responsible	Ministry of Transport	
Portfolio Minister(s)	Associate Minister of Transport	
Date finalised	15 July 2026	
Ministry for Regulation tracking number	1578	

Brief description of the Minister's regulatory proposal (preferred option)

The Minister proposes a package of amendments to the Maritime Transport Act 1994 (MTA) across three themes:

- effective prevention of and response to maritime incidents
- effective co-regulatory arrangements between local and central government
- regulatory efficiency and effectiveness.

Summary of the problem definition

The MTA is 30 years old. While the fundamentals of the MTA are sound, several issues have developed or been identified over time. Issues include:

- gaps in Maritime NZ's powers to prevent and respond to maritime incidents
- some uses of local government regulatory powers are creating costs and uncertainty for regulated parties
- parts of the regulatory framework are unduly burdensome and disproportionate to risk
- the system could better enable adaptation to new technology.

Summary of options considered for addressing the problem

There are several areas where the MTA requires updating or could be improved to ensure that the regulatory system is fit-for-purpose, related to the three thematic areas.

Is the Minister's preferred option in the Cabinet paper the same as the preferred option in the RAS?
Yes.

Summary of the main benefits of the Minister's preferred option

The preferred options would provide ongoing benefits by avoiding costs from maritime incidents, improving confidence in the regulatory system, lowering compliance and coordination costs, and reducing unnecessary administrative burdens. They would also better enable innovation, support improved safety and productivity, and allow more proportionate, risk-based regulatory decision-making.

Summary of the main costs of the Minister's preferred option

The preferred options have mostly small to medium costs, with higher impacts possible but low probability in some incident-response situations. Costs include disruption from exclusion zones, compliance with information requests, potential supply chain impacts from refusal of access powers, costs of providing port facilities when directed, and transition costs for Maritime NZ and councils to update bylaws, guidance, and operational policy. Implementation and ongoing administrative costs are generally expected to be neutral, minimal or met within baselines.

Does the RAS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?
Yes.

Have any potential inconsistencies with the principles of responsible regulation in the Regulatory Standards Act been identified in relation to the Minister's preferred option?

No.

Limitations and constraints on analysis

Condensed timeframes	No	Constrained option set	No
Legislative constraints	No	Data and evidence gaps	Yes
Ministerial direction	No	Other	No
Limited public consultation	Yes		

Summary of limitations and constraints on analysis

Sector engagement was thorough and had a good level of feedback but did not include the wider public. Proposals to set maintenance standards for aids to navigation, and to confirm that secondary legislation can regulate foreign flagged vessels are 'enabling', meaning that the scale of the impact will be determined through future regulations or rule changes, which will be subject to their own regulatory analysis.

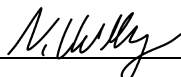
In relation to data and evidence gaps, some proposals have only qualitative information about their impacts. Our targeted consultation asked for information on impacts, including in some cases how we might value impacts, but feedback was qualitative only.

What are the implications of these limitations and constraints, and what has been done – or will be done – to mitigate and manage them?

Engagement included groups representing wide membership and can be expected to have captured the views of most of their members. There may be views from recreational boaters that were not captured, but the proposals generally do not create new regulatory obligations for that group. Our analysis identifies where the scale of impacts will be determined through future rule changes, and, where possible, indicates the potential range of impacts.

I am satisfied that, given the available evidence, this RAS represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



Marian Willberg

Manager, Maritime, Freight and Access

15 July 2026

Quality Assurance Statement

Reviewing Agency: Ministry of Cities, Environment, Regions and Transport

QA rating: Partially meets

Panel Comment:

The Regulatory Analysis Summary has been assessed as partially meeting the quality assurance criteria. The preferred options are generally supported by the analysis and aligned with the identified policy objectives. However, the assessment relies largely on qualitative evidence, contains limited quantified analysis of costs and benefits, and provides less detail on the implementation and impacts of some proposals. While these limitations reduce confidence in aspects of the assessment, they are not considered sufficient to undermine the overall analysis or the decisions.

Chapter 1: Effective prevention of and response to maritime incidents

Section 1: Diagnosing the policy problem

What is the policy problem?

Poor quality ships

1. There has been an increase in poor quality ships visiting New Zealand with resulting risks to health and safety and the environment.¹ Incidents, injuries and near misses because of ship deficiencies have included major incidents such as steering loss (through power loss or loss of a rudder), as well as more minor incidents such as a stevedore falling overboard due to faulty handrails, and injuries due to faulty pilot ladders and poor-quality ship cranes. Concerns about ship quality have been raised by Maritime NZ, harbourmasters, port companies, regional councils, marine pilots, and stevedores in recent years.
2. Maritime NZ has a power to prohibit a ship from entering a port or calling at an offshore terminal where that ship poses specific pollution risks. But it does not have any power to refuse entry to ships on the basis of safety or seafarer welfare violations, which may create health and safety risks in ports and an unfair playing field for New Zealand operators. Australia has broader powers to refuse entry to ports and is able to use those powers to create a deterrent effect by refusing access to groups of ships (e.g. all of an operator's ships where there is a history of systemic management failures or repeated non-compliance). The Tokyo MoU is also promoting use of such powers in the region.²

Gaps in response powers

3. Additionally, recent maritime incidents (e.g. the repeated breakdowns of the *Shiling* and the grounding of the *Manahau*) have exposed issues with response powers in the MTA. A high threshold for Maritime NZ to issue directions during safety incidents (i.e. that a ship is in 'distress', meaning grave and imminent danger) can prevent actions that could support resolution of an incident before it escalates. There are also gaps and inconsistencies in relation to what, when and to whom directions may be given during an incident response (e.g. directions can be given to keep ships away from an area where an oil spill response is underway, but not for other incidents, and only in respect of New Zealand ships). These issues can inhibit a timely and effective incident response, meaning higher risk of significant costs and damage to the environment and supply chains.

What objectives are sought in relation to the policy problem?

4. The key objectives are to ensure that:
 - the primary responsibility for a ship remains with the master, operator, or owner (depending on the context)
 - the regulator can intervene and lead prevention and response actions where warranted by risk
 - intervention measures are proportionate to risk.

¹ According to Maritime NZ's port state control data, in 2019, 3% (of 223 total) foreign ships were detained, with 12% having more than five deficiencies; in 2025, again, 3% (of 303 total) were detained, but 27% had five or more deficiencies.

² The Tokyo Memorandum of Understanding (Tokyo MOU) is a regional agreement among Asia-Pacific maritime authorities (New Zealand is a founding member). It facilitates the sharing of inspection information and the targeting of higher-risk foreign ships for port state control inspections across the region. Members are looking at options to coordinate refusal of access to raise the standard of ships in the region.

What external consultation has been undertaken?

5. We consulted maritime sector stakeholders and relevant government agencies between November 2025 and February 2026 and further engaged with the port sector in June 2026. Engagement indicated general support, but some raised concerns about unnecessary interventions, impacts on insurance, and misalignment with international conventions.

Section 2: Assessing options to address the policy problem

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

- **Effectiveness:** powers support timely and effective action to manage risks to people, property, and the environment.
- **Proportionality:** powers enable a balance between responsibilities of operators and the regulator and do not encourage unnecessary interventions.
- **International alignment:** powers are aligned with similar powers available in comparator jurisdictions. Powers are consistent with international law and do not create unintended effects for commercial arrangements that reflect international agreements.
- **Predictability:** produces predictable and consistent outcomes throughout New Zealand and over time.

What scope will options be considered within?

6. The policy intent is to address gaps in Maritime NZ's powers to prevent and respond to maritime incidents. All options are legislative, as non-regulatory options alone will not address the current gaps in the framework.

What options are being considered?

Power to refuse access to New Zealand ports

Option One – Status Quo

7. The MTA gives the Director of Maritime NZ (the Director) the power to prohibit a ship from entering a port or calling at an offshore terminal where there are clear grounds to believe it poses a risk to the marine environment, based on specified criteria. This power is not available in respect of other compliance issues (e.g. safety or seafarer welfare violations, which may create health and safety risks in ports and an unfair playing field for New Zealand operators), nor does it enable refusal of access in respect of a group of ships (e.g. those of a particular operator).

Option Two – Extend existing maritime safety enforcement powers to include refusal of access

8. The MTA gives the Director enforcement powers, including the ability to detain a ship or impose conditions on its use or operation, where there are clear grounds to believe that specified maritime requirements have not been complied with or that the ship represents a risk to safety. Option two would add to those powers by enabling Maritime NZ to refuse a ship access to a port where those existing non-compliance or safety thresholds are met. This additional power would be modelled on the power that exists under the status quo to prohibit a ship from entering a port on grounds related to the marine environment.

Option Three – A broader power to refuse access with a range of factors to consider

9. Option three would introduce a broader power for the Director to refuse access, that would: (a) enable refusal of access to one or more New Zealand ports; (b) allow refusal of access to one ship or a group of ships and; (c) set criteria that the Director may consider, such as significant safety, environment, or seafarer welfare risks, significant breaches of New Zealand laws or international conventions, and prior enforcement action here or overseas. The MTA would require that access would only be refused when in the public interest, and Maritime NZ would be able to consider factors not specified in the MTA such as impacts on supply chains. Maritime NZ would develop detailed operational policy to support its use of this power, to provide transparency to the sector.

Incident response powers

Option One – Status Quo

10. Identified gaps in the framework will remain. Some actions to deal with maritime incidents will be possible through voluntary actions rather than being directed. Harbourmaster powers can supplement Maritime NZ powers for some incidents, but there will not always be a harbourmaster with jurisdiction, and some incidents cross regional boundaries which makes relying on harbourmaster powers difficult.

Option Two – Narrow package of proposals

11. This is a package of new powers for Director to respond to maritime incidents, focussed on the clearest gaps in existing powers: a) a power to request information where the Director is aware of an accident or incident that may warrant intervention but has not been formally notified; (b) a power to establish an exclusion zone³ or remove a ship where necessary to manage risks to safety, property, or the environment from a maritime incident; c) a power to direct a port to provide services to a ship where there is a significant risk to maritime safety or to New Zealand's marine or coastal environment from a maritime incident and the direction is necessary to manage that risk.

Option Three – Broad package of proposals

12. This is the package that we consulted the sector on and is broader than option two. It included all proposals in option two, plus lower thresholds for powers to give directions to the ship involved in the incident (e.g. where a ship is in need of assistance rather than in distress). It also included specific powers to remove fuel, and deal with floating objects.

How do the options compare with the status quo/counterfactual?

Key for qualitative judgements (used for all options analyses)			
++	much better than doing nothing/the status quo/counterfactual	-	worse than doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual	--	much worse than doing nothing/the status quo/counterfactual
0	about the same as doing nothing/the status quo/counterfactual		

³ An area established around a ship or area, where access is restricted to protect safety, support response operations, and prevent interference.

How do the options compare with the status quo/counterfactual?

Power to refuse access to New Zealand ports			
	Option One – Status Quo	Option Two – Extend existing maritime safety enforcement powers to include refusal of access	Option Three – A broader power to refuse access with a range of factors to consider (preferred option)
Effectiveness	0	+ Power to refuse access where existing enforcement criteria are met will reduce major safety harms and can address seafarer welfare non-compliance. Does not enable refusal of access to a class of ships so limited effectiveness to address a history of systemic failures by an operator.	++ Will enable holistic assessment of risk across safety, seafarer welfare and environmental risk. Ability to refuse access for a class of ships will more effectively influence operator conduct.
Proportionate	0	+ Banning a ship can be more proportionate than other powers such as detaining a ship, as detention is a more direct intervention with property.	+ The breadth of the power could encourage unnecessary intervention, but this can be mitigated by design of the power (e.g. including factors to consider in legislation that reflect the intent that the power is intended to address significant risks) and by operational policy/guidance.
Internationally aligned	0	- Powers available in Australia are broader and this option has limited flexibility to align with developments under Tokyo MOU over time.	+ Supports regulatory alignment with Australia and enables flexibility to adapt to any changes from Tokyo MOU over time.
Predictability	0	0 Limited expansion of existing power under existing criteria means outcomes will be predictable.	- The broadness of the power could lead to lower predictability for operators, but this will be mitigated by its operational policy.
Overall assessment	0	+1 Will provide an additional tool but less effective than option three and does not support international alignment.	+3 More effective than option two and also supports international alignment. Operational policy will play an important role in ensuring proportionality and predictability.

Incident response powers			
	Option One – Status Quo	Option Two – Narrow package of proposals (preferred option)	Option Three – Broad package of proposals
Effectiveness	0	++ Supports early assessment of the situation and timely intervention. Power to direct a port will reduce risk of a major safety or environmental harm.	++ Equal to option two.

Proportionate	0	+ Clear and proportionate thresholds for early-intervention powers while keeping high thresholds for more interventionist powers encourages proportionality and reduces risk of unnecessary/contestable intervention.	- Could encourage unnecessary/contestable intervention by lowering thresholds for the most interventionist powers.
Internationally aligned	0	0 Does not materially risk decreased alignment, provided detailed legislative design remains consistent with applicable international conventions and obligations.	- While effort was taken to align proposals to international frameworks, complexities in those frameworks and how they have historically been implemented in NZ meant that proposals for lower thresholds for some powers, and for specific powers to remove fuel and deal with floating objects, were unlikely to significantly improve alignment and could have decreased alignment.
Predictability	0	+ Clarifies powers. Dealing with floating objects will still rely on harbourmaster powers which could limit predictability.	+ Clarifies powers, removing possibility of broad interpretations of powers under the status quo leading to uncertainty or disputes.
Overall assessment	0	+4 Achieves objectives in a proportionate way and avoids international misalignment.	+1 Could lead to more effective responses and removing uncertainty about scope of powers but risks disproportionate interventions and international misalignment.

Section 3: Cost-benefit analysis

Nature of the benefit/cost to New Zealand	Dollar value of impact	Scale of unquantifiable impact	Nature of impact – one-off or ongoing	Source of evidence
Additional benefits of the preferred option compared with taking no action				
Costs avoided when a maritime incident is resolved through use of early intervention powers and therefore does not progress to a major safety or pollution event.		Range of potential benefit is large. Avoided costs could be small or localised where the main avoided cost is damage to the affected ship. Avoided costs could be much larger where early intervention avoids loss of life, damage to third party property, or a large-scale oil spill. Significant events are rare ⁴ but potentially high impact. The grounding of the <i>Rena</i> provides an estimate of costs from the 'worst case scenario' from a serious incident; it resulted in a \$20 million taxpayer cost (not including indirect impacts on tourism, fishing or recreation). ⁵	Ongoing – applies to every incident or potential incident	Policy analysis, publicly available information about the compensation agreement for the <i>Rena</i> .

⁴ Since 2020, there have been four incidents requiring significant maritime response activity from Maritime NZ.

⁵ Note this is not to claim that the specific powers being considered would have averted the *Rena* grounding, but to illustrate the upper end of the scale of harm from maritime incidents.

Maritime incidents avoided because refusal of access means fewer high-risk ships coming to New Zealand over time.		Range of potential benefit is large. Factors to assess risk will include previous enforcement actions (e.g. detentions) here or overseas. Previous detentions and inspection deficiencies are recognised by international organisations as indicators of future risk.	Ongoing – builds over time	Policy analysis. TAIC report ⁶ MOU 2023-203 on the <i>Shiling</i> is an example of a vessel with a history of deficiencies leading to an incident. Tokyo MOU and Paris MOU treat past deficiencies as a risk indicator to target inspections.
Avoided costs from fewer ship detentions.		Small. Maritime NZ detained 20 ships under port state control in 2024/25. Not all detentions will be avoided. Detentions can be a cost to ports; while most costs would be borne by the ship owner, there can be downstream operational and service disruptions. ⁷		Policy analysis, Maritime NZ annual report 2024/25.
Total annual benefits		Range of potential benefit is large.		
Additional costs of the preferred option compared with taking no action				
Cost from maritime activity being disrupted due to an exclusion zone.		Small to medium. An exclusion zone could prevent, delay, or disrupt maritime activity, across commercial shipping, fishing, tourism or recreational boating. This could include downstream impacts where restrictions on movement cause missed berths – e.g. demurrage costs for containers disruptions to port and land transport operations.	Ongoing	Policy analysis, feedback from sector during consultation.
Cost of complying with information requests by Maritime NZ.		Small. The intention is to ensure Maritime NZ can monitor the situation where an event has occurred that may warrant intervention, e.g. to ask what operational steps are being undertaken/planned to manage a developing event.	Ongoing	Policy analysis
Potential supply chain impacts of refusal of access powers.		Small to medium. Refusal of access to a ship en route to or operating in NZ could cause short-term disruption but is expected to be rare. Ships avoiding NZ could have longer-term impacts, but we do not expect a major shift in supply	Ongoing	Policy analysis, comparison with volume of AMSA ⁸ refusal directions.

⁶ Transport Accident Investigation Commission (TAIC) independently investigates selected maritime accidents and incidents to identify safety issues and make recommendations to improve transport safety. The report on the *Shiling* is available at <https://taic.org.nz/inquiry/mo-2023-203>.

⁷ Note, costs to Maritime NZ from detentions are not included here, since those costs largely fall to the operator (e.g costs from follow up inspections are recovered via a charge out rate).

⁸ Australian Maritime Safety Authority.

		chains as the number of refusal directions will be low relative to total ship visits. Maritime NZ can adjust its use of this power as appropriate in response to any observed impacts.		
Costs of providing a berth/facility in compliance with a direction.		Small to medium, with higher impacts a low (but not zero) probability. Costs will only be additional to status quo where a port would not have provided facilities voluntarily (on commercial terms) under the status quo. Most costs will be covered by the ship operator/their insurer either as commercial charges, under cost recovery arrangements or under liability regimes for pollution damage. Ship operators and insurers could be in NZ but will often be offshore entities. Some costs may not be recoverable from operator/insurers (e.g. where insurance is insufficient or non-responsive, or where there are gaps in liability frameworks) so will be a cost to NZ.	Ongoing	Policy and legal analysis
Implementation costs.		Neutral or minimal. Operational policy/guidance for ship bans and port direction powers will be funded within baselines.	One off	Policy analysis
Ongoing administrative costs.		Neutral or minimal. New options and tools for existing functions can be accommodated within baselines.	Ongoing	Policy analysis
Total annual costs		Small-medium with higher impacts a low (but not zero) probability.		

Are the benefits of the preferred option in the Cabinet paper expected to exceed the costs?

13. Yes, we expect that benefits of the preferred option will exceed the costs. There is an inherent challenge in assessing costs and benefits of incident response powers that are intended for use in low probability high impact events – characterised by uncertainty about potential outcomes, if no action is taken in the specific circumstances.
14. Legislation will specify criteria for the use of new powers under the preferred option to ensure they are available only in circumstances warranted by risk – the intended criteria (subject to drafting decisions) are indicated in the option description and will require the Director to make an assessment about whether the relevant risk threshold is met. Assessing risk and making decisions about when use of these powers is appropriate requires good judgment, supported by planning and accountability. Maritime NZ tests and refines its incident response plans through workshops and exercises, with lessons identified to ensure any shortfalls in processes, actions, or overall response capability are addressed. Powers to refuse access, order exclusion zones, and give directions to ports will be vested in the Director, supporting accountability to the Maritime NZ Board (and from the Board to the Minister).

What are the impacts on different groups of the preferred option compared with taking no action?

15. The nature of the preferred option means that small/medium impacts on some groups are incurred in order to avoid larger or more widespread impacts. Maritime businesses (commercial shipping, fishing or tourism, and ports) will be most affected by use of the new response powers, but are also among those who benefit when a major incident is avoided. Recreational boaters may also be affected (e.g. by exclusion zones) but impacts on them are mainly inconvenience or short term loss of freedom, whereas businesses could also be exposed to economic losses.
16. Sector consultation indicated that impacts of this type are accepted as necessary in some circumstances to avoid larger harms from maritime incidents, but that proportionality is important. For incident response powers, the preferred option was developed in response to concerns that option three (which was consulted on) could encourage unnecessary interventions. As noted above, criteria in legislation will support proportionate use of powers under the preferred option. Maritime NZ will develop detailed operational policy to support decision making about the power to direct a port, including factors it will consider and processes for engaging with impacted parties – this was requested by ports during engagement.

Conclusion

Which option is the most effective, efficient, and proportionate response to the problem?

17. For refusal of access, option three is our recommended action to best achieve the policy objectives. It is more effective and efficient, and proportionality can be supported through operational policy. For incident response powers, option two is our recommended action to best achieve the policy objectives and is the most effective, efficient, and proportionate response. It focuses on the clearest gaps in existing powers and avoids changes that could have the unintended effect of encouraging disproportionate interventions.

Chapter 2: Effective co-regulatory arrangements between local and central government

Section 1: Diagnosing the policy problem

What is the policy problem?

18. The MTA gives regional councils regulatory powers to support navigation safety, but some powers are being used in ways that weaken the coherence of the national regulatory system, duplicate regulatory effort and create unnecessary costs.

Bylaws

19. Some bylaws are deferring unduly broad discretions to council officers or cutting across national regulation. There are several examples of bylaws that:
- give harbourmasters a power to suspend a commercial operation if the harbourmaster considers its safety practices deficient, cutting across Maritime NZ licensing decisions.
 - give harbourmasters powers of investigation that they do not have under the MTA.
 - empower harbourmasters or regional councils to grant exemptions from bylaws, creating uncertainty about obligations where a bylaw duplicates a maritime rule.
 - create discretions for regional councils or harbourmasters to create reserved areas or access lanes⁹ outside the consultation and transparency safeguards offered by the bylaw making process.
20. These issues cause uncertainty for regulated parties. Where it is not clear how bylaws interact with national rules, or when significant regulatory decisions are deferred to regional council officers, businesses cannot know what their obligations are nor plan investment around them. The use of unauthorised investigation powers could create issues under the New Zealand Bill of Rights Act 1990 and can interfere with enforcement decisions being made by Maritime NZ (e.g. via double jeopardy issues).
21. Bylaws can prescribe traffic separation and traffic management schemes, but as these may be created up to 12 nautical miles from the coast, they can affect coastal shipping and can have implications under the UN Convention on the Law of the Sea. There is therefore a strong national interest in the location, nature and effect of such schemes.
22. The MTA refers to navigation bylaws being made ‘in consultation’ with the Director, but it is not clear that this requirement applies when a bylaw is being reviewed but no changes are proposed. Maritime rules change over time, so consultation with Maritime NZ during reviews is important. Consultation feedback from Maritime NZ is not always taken on board.
23. Some bylaws described here may already be invalid. The MTA creates a regulatory hierarchy by specifying that: (i) bylaws may not impose licensing requirements in respect of any aspect of commercial shipping operations that is subject to any requirement contained in any maritime rule¹⁰; (ii) bylaws may not be inconsistent with regulations or rules made under the MTA¹¹ and; (iii) where a bylaw is inconsistent with or repugnant to any rule in force, the bylaw shall be construed subject to the rule.¹² However, these provisions on their own do not provide a practical way for regulated parties to have certainty on what their obligations are.

⁹ A reserved area is areas of water reserved for particular purposes, e.g. swimming or jet-skiing. An access lane is a designated corridor for boats to move safely between shore and deeper water.

¹⁰ Section 33M(2)(c) of the MTA.

¹¹ Section 33M(2)(d)(i) of the MTA.

¹² Section 451(7) of the MTA.

24. There are limited levers to address problematic bylaws once adopted. Regulated parties have the option of judicial review, but this is expensive. The level of cost or uncertainty for any individual operator may not incentivise judicial review but is a significant issue when spread across multiple operators and regions. Maritime NZ could also seek judicial review, but this would be expensive and damaging to relationships between the regulators.

Harbourmaster powers

25. A harbourmaster is a statutory role appointed by a regional council or other authority with responsibilities for navigational safety, including directing vessel movements and responding to navigational hazards. Harbourmasters have powers to give directions, and these are sometimes being used to impose ongoing or 'general' requirements (similar to rules or bylaws) that cut across national level regulation. Harbourmaster directions for individual ships have also been issued that regulate matters already regulated at the national level or alter the application of a maritime rule or bylaw. Examples include general directions that:
- alter vessel pilotage limits created under Maritime Rules Part 90.
 - give the harbourmaster the power to approve (or not) the design, and construction of vessels that want to operate in the waters the harbourmaster is appointed to. Ship design and construction is regulated under national maritime rules, and for the largest vessels, International Conventions.
 - give the harbourmaster a power to require vessels, already operating under a regulated safety system administered by the Director, to go through a risk assessment process before they are allowed to operate, or continue to operate, in the event of a navigation issue being reported.
26. Duplication of regulatory requirements or permissions causes extra cost and delays for regulated parties. They also cause uncertainty, which can affect investment decisions. Engagement confirmed that sector participants view these as significant problems. In practice, the sector tends to look to Maritime NZ to resolve issues with general directions. Maritime NZ has worked with regional councils when issues have arisen, sometimes resulting in the removal of general directions, but this process is resource intensive for Maritime NZ. Some general directions are about matters that do not cut across national regulation but are more appropriate to be addressed in bylaws, which are subject to consultation and review.

Aids to navigation

27. The MTA gives the Director responsibility for approving the placement of and changes to aids to navigation, (AtoNs), including where a maritime rule requires a regional council to install an AtoN, or in a circumstance where a harbourmaster urgently needs to install one consequential to a maritime incident. In such circumstances, Director approval requirements are unnecessary or can have the effect of delaying action to manage safety risks. Further, unclear maintenance and removal responsibilities create a risk that AtoNs installed by a council, or by any person with the required approval, will not be able to serve their purpose or will remain in place unnecessarily.

What objectives are sought in relation to the policy problem?

28. The key objectives are to ensure that:
- legal obligations and regulatory requirements are easy to access and understand
 - the regulatory system produces predictable and consistent outcomes across New Zealand
 - local regulation is responsive to local conditions and circumstances
 - regulators and regulated parties do not bear unnecessary costs.

What external consultation has been undertaken?

29. We consulted maritime sector stakeholders and relevant government agencies between November 2025 and February 2026. Eight submitters, mainly representing commercial and recreational operators, submitted on the co-regulation proposals. Sector consultation did not cover aids to navigation, but those proposals were shared via email with harbourmasters for comment. Engagement indicated general support for the policy intent of proposals relating to bylaws and aids to navigation.
30. Maritime NZ has been engaging with regional councils over the past year to clarify the co-regulatory role set out in the MTA. This included several meetings with harbourmasters relating to the proposals on bylaws and directions. While regional councils agree with the changes for bylaws, some harbourmasters would prefer greater flexibility to create general directions (applying more broadly than an individual ship) than is proposed under the Ministry's preferred option.

Section 2: Assessing options to address the policy problem

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

- **Cost effectiveness:** compliance, delivery, and transitional costs are minimised, for the benefits delivered.
- **Local decision-making:** regulatory decisions requiring local knowledge are made by local decision-makers.
- **Clear roles and requirements:** roles of national and local regulation, and regulatory requirements, are easy to understand and implement.
- **Predictability:** produces predictable and consistent outcomes throughout New Zealand.

What scope will options be considered within?

31. As problems with the use of bylaws and harbourmaster powers are about the relationship between different sets of regulator powers, we have considered a non-regulatory option but not a deregulatory option. We have not considered a deregulatory option for aids to navigation because there is very limited regulation under the status quo.

What options are being considered?

Bylaws

Option One – Status Quo

32. Ongoing coordination between Maritime NZ and regional councils on bylaws will continue, including through consultations on bylaw proposals, and through regular engagement between Maritime NZ and councils. Uses of bylaw making powers that give rise to uncertainty may change voluntarily over time.

Option Two – Retain framework with guidance (non-regulatory option)

33. No legislative changes, but current framework is supported by guidance – e.g. model bylaws, advice on the scope of powers and on consultation expectations and processes.

Option Three – Retain framework with clarifications and some central government oversight

34. This is a package of legislative changes to set clearer requirements and tools for central government oversight that would: (i) specify certain things that bylaws may not do (e.g. deferring broad discretions or creating powers that overlap with the Director's regulatory functions); (ii) clarify that consultation with the Director is required for all bylaw reviews; (iii) provide that a bylaw (or bylaw clause) may not regulate any matter already regulated by a maritime rule, and may not create a ship traffic separation or management scheme, unless the Director of Maritime NZ has provided written notice of agreement/

non-objection; (iv) set requirements for councils to seek such written notice and; (v) allow the Minister to amend, replace or revoke bylaws that are unreasonable, undesirable or inconsistent with any enactment.¹³ This Minister power has a high threshold but is a useful backstop to address bylaws that create significant problems for the regulatory system (an example might be where a rule change creates a new inconsistency for existing bylaws).

Option Four – A new framework with strong central government oversight (bylaws only)

35. This option would build on option three by either: (i) expanding the requirement for written notice of agreement/ non-objection into a broader approval requirement for all bylaws or; (ii) expanding the scope of the Minister's power to amend, replace or revoke a bylaw to include bylaws that are invalid on 'ultra vires' grounds.

Harbourmaster powers of direction

Option One – Status Quo

36. Ongoing coordination between Maritime NZ and regional councils on harbourmaster directions will continue. Harbourmasters will continue to be able to issue general and vessel specific directions, and their practices for using this power may change voluntarily over time.

Option Two – Retain framework with guidance (non-regulatory option)

37. No legislative changes, but current framework is supported by guidance that would encourage harbourmasters to use general directions only in specific circumstances (e.g. when necessary to deal with an immediate or impending maritime safety risk) and to only use vessel-specific directions in ways that do not over-ride or interfere with decisions made by the national regulator.

Option Three – Clarifying Harbourmaster powers of direction are limited to individual ships on specific occasions, but that in specified circumstances these can be of a more general but timebound in nature

38. This option would amend the MTA to specify that most harbourmaster directions are limited to individual ships on specific occasions. An existing exception for 'general' harbourmaster directions on the occasion of unusual or extraordinary maritime traffic would be expanded to also allow general directions in response to a maritime incident, or to address a particular occasion where there is a risk to navigation safety (e.g. a weather event). An amendment would provide that these general directions must be time-limited, and would specify things that harbourmaster directions (whether general or vessel-specific) may not do (e.g. be inconsistent with maritime rules, defer broad discretions or create powers that overlap with functions of the Director).

Option Four – Limit harbourmaster directions to individual ships on individual occasions

39. This option would amend the MTA to specify that most harbourmaster directions are limited to individual ships on specific occasions. The existing exception for 'general' harbourmaster directions on the occasion of unusual or extraordinary maritime traffic would remain, but would not be expanded.

Aids to navigation (AtoNs)

Option One – Status Quo

40. Maritime NZ would continue to engage to encourage maintenance and removal of AtoNs. Approval requirements will stay in place.

¹³ This reflects similar powers in land transport and aviation legislation. The Ministry's position on these existing powers is that 'inconsistent' does not extend to bylaws that are 'merely' ultra vires, rather the test is closer to repugnancy. Case law also sets a high threshold for unreasonableness.

Option Two – Retain framework with guidance (non-regulatory option)

41. No legislative changes, but Maritime NZ supplies guidance on installation of temporary aids, and maintenance expectations.

Option Three – Remove unnecessary approvals and set maintenance requirements

42. This option would: (i) amend the MTA to remove requirements for Director approval for obligatory aids and temporary aids installed in emergencies; (ii) set responsibilities for maintenance and removal (including through maintenance standards in rules) and; (iii) enable the Director to take action where a regional council, or any other person responsible for an aid to navigation, is not meeting its maintenance or removal responsibilities.

How do the options compare with the status quo/counterfactual?

Bylaw making powers				
	Option One – Status Quo	Option Two – Retain framework with non-binding guidance	Option Three – Retain framework with clarifications and some central government oversight (preferred option)	Option Four – Stronger central government oversight
Cost effectiveness	0	+ Detailed guidance should minimise costs, but limited certainty of outcomes.	++ Limits on bylaws, and the Director notice requirement, should reduce costs and uncertainty for regulated parties. There would still be limited levers to address invalid bylaws once adopted that do not meet the threshold for Minister intervention. Regulator costs for consultation and approval will increase initially but lower over time as requirements become more familiar.	++ Would lower costs for regulated parties as stronger tools for central oversight could resolve most issues. Higher transition /implementation costs, but this might be offset by less need for coordination in the longer term.
Local decision-making	0	0 Retaining current overall framework will keep local input similar to status quo.	- Retaining current overall framework will mostly keep local input similar to status quo. Director notice requirement could limit local decision making but is targeted to areas of overlap between rules and bylaws.	- - Director approval of all bylaws could override local decision making even where there is no overlap with rules and the matter being regulated under a bylaw is only of local relevance.
Clear roles and requirements	0	+ Guidance should improve clarity on roles, but limited certainty of outcomes.	++ Legislative change provides clearer roles which can be supported by co-ordination and guidance. Director notice requirement is limited to overlap between rules and bylaws.	- Narrow scope for bylaws could set very clear roles but wider Director approval could cause confusion about the Director's role. Extending Minister's power to ultra vires bylaws would overstep role of the courts.
Predictability	0	+ Guidance could help minimise bylaws that cut across national regulation, but limited certainty of outcomes.	++ Limits on bylaws, and the Director notice requirement, will help avoid bylaws that cut across national regulation, improving predictability and consistent outcomes.	+ Central government oversight should improve predictability and consistency of bylaws, but breadth of Director/Minister powers could introduce unpredictability.

Overall assessment	0	+3 Potential to achieve intended objectives, but less certainty of outcomes.	+5 Achieves intended objectives; resolves major compliance challenges, little disruption, greater predictability.	0 Enables easier compliance, but high transition costs, reduces local decision-making and expanded roles for Director and/or Minister would reduce clarity about their roles.
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Harbourmaster powers of direction				
	Option One – Status Quo	Option Two – Retain framework, with guidance	Option Three – Limit harbourmaster directions to individual ships on individual occasions, with exceptions (preferred option)	Option Four – Limit harbourmaster directions to individual ships on individual occasions, with no exceptions
Cost effectiveness	0	+ Guidance should reduce costs if followed, but limited certainty of outcomes.	++ Expected to lead to lower costs for the sector by avoiding harbourmaster directions that create confusion or additional compliance costs. Potential for some initial costs to be incurred by local govt as some matters currently regulated by directions will need to be transferred into bylaws.	++ Expected to lead to lower costs for the sector by avoiding harbourmaster directions that create confusion or additional compliance costs. Potentially some initial costs to be incurred by local govt as some matters currently regulated by directions will need to be transferred into bylaws.
Local decision-making	0	0 Harbourmasters will retain powers, similar to status quo.	- Expanded exceptions preserve local decision-making while also retaining limits. Expect some general directions.	-- Will provide clarity on the extent of harbourmaster powers but limits local decision-making because the existing exception will not be expanded.
Clear roles and requirements	0	+ Guidance can affirm expectations but with limited certainty.	++ Provides clear requirements for harbourmaster direction making powers and avoids any gaps in regulatory powers by allowing exceptions.	+ Clearly outlines limits but does not allow exceptions so may lead to gaps/risks going unaddressed.
Predictability	0	+ Guidance can lead to more predictable outcomes, but with limited certainty.	++ Provides more predictable outcomes with clear limitations on harbourmaster direction powers.	++ Provides greater certainty of national expectations.

Overall assessment	0	+3 Potential to achieve intended objectives, but less certainty of outcomes as guidance is non-binding.	+5 Achieves intended outcomes while allowing for flexibility where exceptions are required.	+3 Achieves objectives but does not allow for any flexibility.
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Aids to navigation			
	Option One – Status Quo	Option Two – Retain framework with non-binding guidance	Option Three – Retain framework with clarifications and more central government oversight (preferred option)
Cost effectiveness	0	0 Close to status quo as powers do not change.	++ Should minimise costs for regulators with quicker processes.
Local decision-making	0	0 Close to status quo as powers do not change.	+ Regional councils will have greater powers to install aids to navigation in the absence of Director approval.
Clear roles and requirements	0	+ Non-binding guidance can affirm expectations around temporary aids and on maintenance and removal of aids, but limited certainty of outcomes.	++ Clarifies responsibilities for maintenance, removal, and temporary installation in emergencies.
Predictability	0	+ Non-binding guidance can lead to more predictable outcomes, but with limited certainty.	++ Provides greater certainty of outcomes across regions.
Overall assessment	0	+2 Further guidance could help to set expectations and may drive some behaviour change but does not address the key problem around current administrative burden and lack of role clarity.	+7 Achieves intended objectives; resolves major compliance challenges, entails little disruption, provides greater predictability.

Section 3: Cost-benefit analysis

Nature of the benefit/cost to New Zealand	Dollar value of impact (or quantified impact)	Scale of unquantifiable impact	Nature of impact – one-off or ongoing	Source of evidence
Additional benefits of the preferred option compared with taking no action				
Improved certainty improves investor confidence		High. Improved confidence in effectiveness of the regulatory system as a whole creates a better environment for investment.	Ongoing	General policy analysis, feedback from sector consultation

Lower compliance costs		Medium-high. Less overlap between regional and national regulation will remove costs to find out what rules apply, and costs to comply with general/enduring harbourmaster directions.	Ongoing	General policy analysis, feedback from sector consultation
Avoided costs of co-ordination between regional councils and Maritime NZ		Small. There will still be a need for coordination through consultation and Director notice processes.	Ongoing, after a transition period	General policy analysis
Avoided costs of unnecessary approvals for aids to navigation		Small.	Ongoing	General policy analysis
Safety benefit from well-maintained aids to navigation		Small-medium with uncertain evidence. Maintenance standards set in rules will be subject to their own regulatory analysis.	Ongoing	General policy analysis
Additional costs of the preferred option compared with taking no action				
Increased costs of consultation and approval of bylaws during transition period		Small-medium. Cost of bylaw review and approval will increase the short term as new arrangements are transitioned in. Includes preparation of guidance/operational policy to support changes.	One off, over a transition period of ~ 3 years	
Costs to councils to review bylaws during transition		Small-medium.	One off, over a transition period of ~ 3 years	
Costs to councils to comply with clarified harbour master powers of direction		Small-medium. There may be some costs incurred by local government as some matters in harbourmaster directions may need to become bylaws.	One off	
Costs to councils of complying with aid to navigation maintenance standards, or removal requirements		Medium with uncertain evidence. Additional cost will only be on councils that are not voluntarily maintaining and removing aids under status quo. Maintenance standards set in rules will be subject to their own regulatory analysis.	Ongoing	
Net impacts compared with taking no action				
Total annual benefits minus costs		Small to medium but high benefits from increased certainty		
Total one-off benefits minus costs		Small to medium		

Are the benefits of the preferred option in the Cabinet paper expected to exceed the costs?

43. Yes, we expect that benefits of the preferred options will exceed the costs.

What are the impacts on different groups of the preferred option compared with taking no action?

44. Maritime businesses (commercial, fishing or tourism) will receive the most benefits from changes to bylaw powers and harbourmaster directions as they are more likely to operate across regions, and are subject to more national level regulation, than recreational boaters.

Conclusion

Which option is the most effective, efficient, and proportionate response to the problem?

45. Our recommended option for bylaw making powers is option three, supported by non-legislative guidance (similar to option two, e.g. model bylaws and guidance on consultation and approval processes) that will support implementation of legislative changes.
46. Option three will be more effective than guidance alone and can be delivered more cost effectively than option four. There is a tension between the objectives of responsive local regulation and predictable and consistent regulatory outcomes. Option three aims to strike the right balance between these objectives in a way that is proportionate to the scale of the problem – while the Director notice requirement and Minister’s power do place some limits on local decision-making, this is necessary to avoid potential overlap between national and local regulation in the maritime context, and to ensure that ship traffic separation or management schemes comply with international requirements. The Director notice requirement is targeted in scope, and the Minister power has a high threshold for its use.
47. Option three is recommended for harbourmaster powers. It is most effective, efficient and proportionate because although it will involve some transition costs, it removes significant system uncertainty while allowing appropriate powers for harbourmasters to manage immediate navigation safety risks.
48. Option three is recommended for aids to navigation. It will be more effective than guidance alone, and only legislative change can remove approvals that create unnecessary costs. Rules to set maintenance requirements will need to be proportionate – rules are subject to their own consultation and regulatory analysis requirements, as well as mandatory factors for the Minister to consider, and these safeguards should ensure that such rules are proportionate.

Chapter 3: Improving regulatory efficiency and effectiveness

Section 1: Diagnosing the policy problem

What is the policy problem?

49. There are parts of the regulatory framework in the MTA where Maritime NZ lacks a full suite of tools to undertake its functions, or where regulatory requirements are disproportionate to risk. There are also opportunities for the system to better enable adaptation to innovation. The issues outlined below are relatively low-impact and are addressed at a high level.
50. **Section 21:** Requiring the Director of Maritime NZ to determine the adequacy of pleasure craft departing on an international voyage is inconsistent with how recreational craft are otherwise regulated and is disproportionate to risk.
51. **Annex VI (MARPOL):** There are gaps in enforcement powers regarding the discharge of prohibited Annex VI substances compared to other harmful substances. There is no Act-level offence, and Maritime NZ lacks investigation powers.
52. **Fit and Proper Person Criteria:** The requirement for the Director to consider the same mandatory criteria for all fit and proper person assessments inhibits a risk-based approach that reflects differing privileges and risk for different roles (eg Masters vs deckhands). This adds unnecessary cost and creates barriers for applicants.
53. **Enforceable Undertakings:** Maritime NZ can accept enforceable undertakings as an alternative to prosecution under the Health and Safety at Work Act 2015 but not the MTA. This difference can create complexity and fairness issues for incidents where both Acts are relevant.
54. **Non-oil fuels:** The MTA framework for responding to spills or uncontrolled release of non-oil fuels is less developed than for oil, but the presence of ships using or carrying non-oil fuels is anticipated to increase.
55. **Equivalent Solutions:** The MTA already allows for exemptions where there is an effective alternative means of compliance, but the current framework is under pressure from proposals involving innovative technologies, with increasing costs and delays. A more coherent framework to enable approval of alternative means of compliance, distinct from exemptions, could enable more efficient resourcing and processing of requests. It could also signal to the sector that these approvals are intended to form an important part of Maritime NZ's regulatory approach.
56. **The effect of the *Sellers* decision:** A 1998 Court of Appeal decision has limited New Zealand's port state jurisdiction for foreign-flagged ships to enforcing internationally agreed standards. This limits New Zealand's ability to apply key regulations equally to domestic and foreign-flagged vessels.¹⁴
57. **Penalties for existing offences:** Penalty levels for offences in the MTA relating to environmental breaches, maritime and marine protection documents, and breaches of bylaws are not aligned with penalties for other offences in the MTA and other relevant legislation.

What objectives are sought in relation to the policy problem?

58. The key objectives are to ensure that:
- regulatory requirements are proportionate to risk
 - regulatory tools are responsive to current needs
 - the regulatory framework is coherent and consistent in application

¹⁴ While the general preference is to follow international standards, in some instances it is important to be able to set higher requirements than those agreed internationally for foreign-flagged vessels in port.

- the regulatory framework enables innovation.

What external consultation has been undertaken?

59. Consultation was undertaken with maritime sector stakeholders and relevant government agencies between November 2025 and February 2026. But issues related to fit and proper person assessments, enforceable undertakings, or increasing penalties for existing offences were identified too late to be included.

Section 2: Assessing options to address the policy problem

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

- **Enables innovation:** requirements enable use of and adaptation to technologies.
- **Proportionate:** powers are proportionate to the risk.
- **Coherence:** requirements are coherent and consistent in application.
- **Cost effectiveness:** compliance and transitional costs are minimised, for the benefits they deliver.

What scope will options be considered within?

60. Some proposals do not lend themselves well to alternative options, and where this is the case, our assessment has focused on whether the proposal better meets the objectives than the status quo.

What options are being considered?

61. The proposals in this package have been grouped because each is expected to have relatively lower impacts on stakeholders and the public. Multi-criteria analysis has been undertaken separately for each proposal to show how the preferred option meets the objectives for this package. In most cases, a wider range of options was considered during policy development, but only the preferred option and key alternatives are presented in this document for brevity. A single assessment of costs and benefits has been provided because separate assessments would add little value.

Section 21	Annex VI	Fit and Proper Person Criteria	Enforceable Undertakings
i) Status Quo. ii) Set master's duties in the MTA but remove Director's role. iii) Repeal section 21.	i) Status Quo. ii) Include obligations, offences, and investigation powers in the MTA.	i) Status Quo. ii) Set some mandatory and some discretionary criteria. iii) All criteria are discretionary.	i) Status Quo. ii) Enable MNZ to accept enforceable undertakings.
Non-oil fuels	Equivalent Solutions	Sellers	Penalties - existing offences
i) Status Quo. ii) Clarify MNZ functions include planning for non- oil fuels. Require notification of arrival, and transfers of fuel, for ships using or carrying non-oil fuels. iii) A full review of regulatory setting and liability rules for non-oil fuels.	i) Status Quo. ii) A framework for Maritime NZ to approve equally effective means of compliance with rule requirements – distinguishing between exemptions and equivalents.	i) Status Quo. ii) Amend MTA to confirm ability to regulate foreign flagged vessels and remove effect of Sellers court decision.	i) Status Quo. ii) Increase penalty levels to better reflect severity of harms and improve alignment.

How do the options compare with the status quo/counterfactual?

	Section 21			Annex VI	
	Status Quo	Revised framework in MTA	Repeal (preferred)	Status Quo	Obligations, offences, and investigative powers (preferred)
Enables innovation	0	0 Do not anticipate substantive change.	0 Do not anticipate substantive change.	0	+ Will support enforcement of upcoming decarbonisation measures from the International Maritime Organization.
Proportionate	0	- Remains inconsistent with how recreational craft are otherwise regulated.	+ Proportionate with regulation of other recreational craft, rules can regulate riskier voyages if warranted.	0	+ Serious offences reflect harm from most serious Annex VI breaches.
Coherence	0	- Detailed regulation should be in rules rather than primary legislation.	+ Consistent with how other recreational craft in NZ waters are regulated.	0	+ Coherent and consistent with similar penalties for discharging of substances under the RMA.
Cost effectiveness	0	0 Do not anticipate substantive change.	+ Removes current compliance costs that are incurred to meet s21 requirements.	0	0 Do not anticipate substantive change.
Overall assessment	0	-2 Not proportionate or coherent.	+3 Achieves intended objectives.	0	+3 Reflects level of harm and deters non-compliance; upholds international reputation for high environmental standards.

	Fit and Proper Person Assessment			Enforceable Undertakings	
	Status Quo	Mix of mandatory and discretionary criteria	All discretionary criteria (preferred)	Status Quo	Enable Maritime NZ to accept Enforceable Undertakings (preferred)
Enables innovation	0	+ Would enable some flexibility for new certificates and roles created through sector innovation.	++ Would enable full flexibility for new certificates and roles created through sector innovation.	0	0 Do not anticipate substantive change.
Proportionate	0	+ Assessments can reflect risk but with limitations as some criteria remain mandatory.	++ Proportionate as Director can determine assessment based on seniority/privileges of role.	0	+ Enforceable undertakings can reflect seriousness of breach and level of risk or harm involved.

Coherence	0	- Not consistent with other international regimes.	+ Consistent with other international regimes (UK, AU, US).	0	+ Enforceable undertakings can allow for clear, structured principles to apply to MNZ responses to breaches.
Cost effectiveness	0	+ Some cost reduction for MNZ but some “unnecessary” criteria would still need to be assessed.	++ Allows MNZ to focus on higher risk certificates; could reduce costs on operators in some circumstances.	0	+ Can achieve compliance and behavioural changes without time, expense and resource intensity of formal investigations and prosecutions; proposal allows for cost-recovery.
Overall assessment	0	+2 Some improvement for most criteria; reduces coherence.	+7 Achieves intended objectives.	0	+3 Achieves intended objectives.

	Non-oil fuels			Equivalent Solutions	
	Status Quo	Minor changes to the MTA (preferred)	Introduce fulsome framework for non-oil fuels	Status Quo	Enable recognition of Equivalent Solutions (preferred)
Enables innovation	0	+ Will clarify MNZs mandate to plan for non-oil fuels and allow for information gathering via notifications; allows for future planning for innovation adoption.	+ Will clarify MNZ’s mandate to plan for non-oil fuels and allow for information gathering via notifications; allows for future planning and implementation for innovation adoption.	0	++ Enables innovation by allowing different approaches to achieve the same outcome, encouraging creativity, flexibility, and improvement in efficiency or effectiveness.
Proportionate	0	++ This is proportionate to the multi-fuel future we anticipate; however, it allows room for further legislative change when extent of alternative fuels is clearer.	+ Anticipate a multi-fuel future in the interim; clarifying mandate to plan while scoping trends to determine which fuels are more likely to be adopted is more appropriate.	0	+ Would be scaled to risk by requiring more rigorous evidence, testing, or safeguards for higher-risk or higher-harm situations, while allowing simpler, more flexible approaches for lower-risk cases.
Coherence	0	+ This is consistent with global trends where multi-fuel use is prevalent. While this does not say that MNZ must plan for non-oil	+ Extent of use of non-oil fuels unknown; acting before international frameworks are established could limit coherence.	0	+ Clear distinction between exemptions and equivalent solutions. The distinction aligns with international maritime practice.

		fuels it created a de facto mandate to enable this.			
Cost effectiveness	0	+ This will be covered within baseline funding.	- Would require additional funding.	0	+ Proposals for new technologies have been dealt with previously by rule changes and exemptions, but this leads to high costs and longer approval times. This will streamline applicants through the equivalent solutions framework.
Overall assessment	0	+5 Achieves intended objectives; achieves proportionate futureproofing; can be accommodated within current funding.	+2 Achieves intended objectives; cannot be accommodated within current funding.	0	+5 Achieves intended objectives; reduces costs and enables innovation.

	Sellers		Penalties for existing offences	
	Status Quo	Amend MTA to regulate foreign flagged vessels and remove effect of Sellers court decision (preferred)	Status Quo	Aligning penalties for existing offences (preferred)
Enables innovation	0	0 Close to status quo.	0	0 Do not anticipate substantive change.
Proportionate	0	+ Allows regulations for foreign ships to reflect risks as assessed by Minister	0	++ Costs will be proportionate to existing penalty levels for offences in the MTA.
Coherence	0	+ Enabling equal application of regulation to domestic and foreign ships supports coherence	0	++ Improves coherence in the MTA.
Cost effectiveness	0	0 Close to status quo.	0	+ Appropriate levels of penalties/costs for offences.
Overall assessment	0	+2 Achieves intended objectives; achieves proportionate future-proofing; can be accommodated within current funding.	0	+5 Achieves intended objectives; is proportionate to what is in the Act; does not impact funding.

Section 3: Cost-benefit analysis

Nature of the benefit/cost to New Zealand	Dollar value of impact (or quantified impact)	Scale of unquantifiable impact	Nature of impact – one-off or ongoing	Source of evidence
Additional benefits of the preferred option compared with taking no action				
Fewer interventions.		Medium – could support reduction in interventions. Example: the notification requirements for non-oil fuels enable targeted risk management and could avoid expensive incidents or reactive regulatory responses.	Ongoing	General policy analysis
System benefits and environmental benefits from deterrence effect of Annex VI offences.		Medium – deterrence effects should arise not only from potential prosecution outcomes but also from the likelihood of investigation, which comes with reputational risk, operational disruption, and other costs. This can influence behaviour across the sector, making discharges or non-reporting of discharges less common.	Ongoing	General policy analysis
Administrative efficiencies.	Repeal of section 21 removes unnecessary costs for users of pleasure craft. Avoided costs to sector based on 25/26 FY revenue to Maritime NZ of \$72,030 including GST.	Medium – enabling equivalent solutions means fewer resources and time spent on new rules, flexible fit and proper assessments means fewer resources and time on low risk assessments.	Ongoing	General policy analysis, feedback from Maritime NZ
Improved safety.		Medium – enforceable undertakings are likely to provide genuine industry, sector and/or community-wide health and safety benefits by directing resources to harm prevention rather than penalties. Legislating over Sellers creates opportunities for rules for foreign ships that could have safety benefits, but these would be subject to separate regulatory and cost-benefit analysis.	Ongoing	General policy analysis
Improved productivity.		Medium – changes that enable innovation (equivalent solutions, flexible fit and proper assessments) have potential to improve sector productivity.		
Total annual benefits		The range of benefits is medium.		General policy analysis

Additional costs of the preferred option compared with taking no action				
Enabling changes.		Low – Through the introduction of new frameworks there may be new costs to the sector from changes like the introduction of equivalent solutions, however these will be applicant-driven.	Ongoing	General policy analysis
Annex VI costs.		Low – Cost of reporting discharges is likely to be low, as these are uncommon occurrences. Additional costs from new penalties will fall only on those who offend, ensuring responsibility is aligned with those creating the risk of harm.	Ongoing	General policy analysis, legal input
International supply chain.		Low impact – The extent to which penalty settings for Annex VI may alter shipping behaviour is uncertain and cannot be robustly quantified.	Ongoing	General policy analysis
Implementation costs.		Neutral or minimal. All proposals can be funded within baselines.	Ongoing	General policy analysis
Ongoing administrative costs.		Neutral or minimal. All proposals can be funded within baselines.	Ongoing	General policy analysis

Are the benefits of the preferred option in the Cabinet paper expected to exceed the costs?

59. Yes, we expect the preferred option will exceed the costs.

What are the impacts on different groups of the preferred option compared with taking no action?

60. Proposals to repeal section 21 will impact recreational/pleasure craft users. The proposal to legislate over the *Sellers* decision may also affect this group, since there is less international regulation of these craft, so more scope for new regulation to be enabled by this change. We met with representative bodies for pleasure craft who were supportive of these proposals.
61. Stakeholder feedback on the proposal to legislate over the *Sellers* decision included some in support others concerned about impacts on New Zealand's international reputation or attractiveness as a maritime destination, depending on how this power was used in secondary legislation. There are already mandatory considerations for the Minister to consider when making rules (which are the primary vehicle for detailed regulation under the MTA), and rules are also subject to consultation and regulatory analysis. We therefore think there are sufficient guardrails to address this concern. We also consulted with Crown Law on this proposal as required by the Legislation Design Advisory Committee Guidelines.

Conclusion

Which option is the most effective, efficient, and proportionate response to the problem?

62. Our recommended action is a package of changes using the option for each proposal that best meets the criteria. The preferred options are the most effective, efficient and proportionate.

Chapter 4: Delivering an option

What are the next steps for implementing the legislation?

63. The following proposals will require changes to maritime rules: Setting maintenance standards for aids to navigation, changes related to Annex IV substances, and arrival and transfer notification for non-oil ships. Maritime NZ will also undertake policy work to consider amendments to rules in relation higher-risk voyages by recreational craft. Maritime NZ aims to progress two Rules Amendment Packages (RAPs) per year, and work to implement the proposals will be undertaken as part of a future RAP, with timing dependent on the progress of a Maritime Legislation Bill. Changes related to a power to refuse access to ports, a power to direct a port, fit and proper person assessments, recognition of equivalent solutions and acceptance of enforceable undertakings will require Maritime NZ to create or amend operational policies and guidance.
64. Transition arrangements will be required for review of bylaws and harbourmaster directions to support compliance with the new framework. These changes will be supported by non-statutory guidance prepared by Maritime NZ.
65. Maritime NZ expects that resourcing for implementation can be accommodated within its normal funding arrangements.

How will the proposal be monitored, evaluated, and reviewed?

66. The Ministry will monitor the implementation of the changes over time, through oversight of the rules work programme and prioritisation undertaken by Maritime NZ and monitoring the implementation of guidance and operational policy. The Ministry will work with Maritime NZ to confirm deliverables, milestones, and timeframes. We will also provide quarterly progress updates to our Minister through our ministerial weekly report.
67. On 1 July 2026, the Ministry of Transport and local government policy teams from the Department of Internal Affairs merged into the Ministry for Cities, Environment, Regions and Transport. This may provide opportunities for more integrated monitoring of implementation of changes related to bylaws and harbourmaster directions.



Cabinet Economic Policy Committee

Minute of Decision

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

Maritime Legislation Review: Proposed Reforms

Portfolio **Associate Transport**

On 19 August 2026, the Cabinet Economic Policy Committee:

Background

- 1 **noted** that amendments are required across the Maritime Security Act 2004 (MSA) and Maritime Transport Act 1994 (MTA) to improve port security and ensure that the maritime regulatory system is fit-for-purpose;
- 2 **noted** the intention to progress the below amendments through the Maritime Legislation Bill, which holds a category 6 priority on the 2026 Legislation Programme (drafting instructions to be issued by the end of 2026);

Reforming the MSA to strengthen the maritime border and supply chains

- 3 **agreed** to create a background checking and identity card scheme for ports, including:
 - 3.1 enabling background checks (by the Director or via designated agencies) to assess whether individuals pose a risk to maritime security, and reconsideration of background checks where new information is made available or if there is reason to suspect a person may pose a threat;
 - 3.2 providing appropriate privacy and procedural safeguards, including mechanisms for independent review of adverse security determinations;
 - 3.3 providing for the collection, use, and sharing of relevant personal information between specified agencies (including national security agencies) for the purpose of conducting background checks;
 - 3.4 linking the identity card scheme with operative provisions restricting access to port security areas and creating new offences for:
 - 3.4.1 providing materially false or misleading information or failing to disclose relevant information without reasonable excuse; and
 - 3.4.2 misuse of a port identity card;
 - 3.5 providing for key operational matters to be set in regulations, including the circumstances in which background checks are required, the agencies authorised to undertake them, processes for issuing and managing identity credentials, and minor offences relating to identity cards;

- 4 **agreed** to enable the sharing of information related to a port worker's identity and access privileges with the New Zealand Customs Service, New Zealand Police, and other agencies specified in regulations, for the purposes of identifying and managing insider threat risks in port security areas, protecting maritime and border security in relation to port operations, and law enforcement, where directly related to risks arising from access to port security areas;
- 5 **agreed** to establish an infringement offence regime, including provision for regulations to prescribe infringement offences and fees for specified contraventions of the MSA and regulations made under the MSA;
- 6 **agreed** to enable the extension of specified provisions of the MSA to specified classes of domestic ships and the ports that service them, where required to respond to changes in the maritime security threat environment, address maritime security risks, or maintain an effective maritime security system;
- 7 **agreed** that the power outlined in paragraph 6 above may apply to any domestic vessel with capacity for 400 or more passengers, any domestic vessels of 500GT or more (excluding fishing vessels), or a subset of these vessels;
- 8 **agreed** to amend the purpose provision of the MSA to include risk-based management of domestic maritime security threats, including organised crime and insider threats;

Amendments to the MTA to improve the ability to prevent and respond to maritime incidents

- 9 **agreed** to give the Director of Maritime NZ (the Director) power to direct that a foreign-flagged ship or class of foreign-flagged ship may not use a particular port, or any New Zealand port;
- 10 **agreed** to enable the Director to require a master or operator to provide information where the Director becomes aware of an accident or incident that may warrant intervention;
- 11 **agreed** to enable the Director to create exclusion zones, or direct the removal of a ship, where necessary to manage a risk to safety, property, or the environment from a maritime incident or other incident that may significantly impact maritime activity;
- 12 **agreed** to give the Director power to direct a port or other appropriate entity to provide facilities to ships and cargo where there is a significant risk to maritime safety or to New Zealand's marine or coastal environment from a maritime incident;
- 13 **agreed** to provide that the owner of the ship receiving services under the power in paragraph 12 above will be liable for the costs of services provided to it, which may be recovered as a debt in Court;

Amendments to the MTA to improve co-regulatory arrangements for navigation safety

- 14 **agreed** to set limits on navigation bylaws, including that they may not confer broad discretions on council officers, or create powers that duplicate or overlap with the Director's statutory functions;
- 15 **agreed** that a bylaw (or bylaw clause) may not regulate a matter already regulated by a maritime rule, or create a ship traffic separation or management scheme, unless the Director has provided written notice of agreement/non-objection;

- 16 **agreed** to set criteria for the Director's written notice of agreement/non-objection such that an objection may only be raised where a bylaw or bylaw clause has an unreasonable or undesirable effect on the national regulation of maritime transport;
- 17 **agreed** to set requirements for councils to seek written notice from the Director of agreement/non-objection in respect of any bylaw clause that regulates a matter already regulated by a maritime rule and any bylaw clause that creates a ship traffic separation or management scheme;
- 18 **agreed** that consultation with the Director is required when a navigation bylaw is being reviewed, whether or not changes are proposed;
- 19 **agreed** that the Minister may amend, replace, or revoke bylaws that are unreasonable, undesirable or inconsistent with any enactment;
- 20 **noted** that a broader review of the bylaw system is also underway, and may in future provide additional opportunities to set clearer requirements around some navigation bylaws;
- 21 **agreed** that harbourmaster directions be limited to individual ships on specific occasions, but with flexibility to issue time-limited general directions in response to a maritime incident, or to address a particular occasion where there is a risk to navigation safety;
- 22 **agreed** to set limits on harbourmaster directions, including that they may not be inconsistent with maritime rules, confer broad discretions or create powers that overlap with functions of the Director;
- 23 **agreed** to remove unnecessary requirements for Director approval of aids to navigation, specify responsibilities for maintaining and removing them, and enable the Director to act where a regional council is not meeting those responsibilities;

Modernising maritime regulation to improve efficiency and effectiveness

- 24 **agreed** to provide that secondary legislation made under the MTA may impose requirements on foreign-flagged vessels using New Zealand ports or in internal waters that have no comparable requirement under international law or are more stringent than relevant international law requirements;
- 25 **agreed** to the package of amendments set out in Appendix 2 under ECO-26-SUB-0160 to ensure that Maritime NZ has the necessary tools to carry out its functions effectively and efficiently, and to remove regulatory requirements that are disproportionate to risk;
- 26 **authorised** the Associate Minister of Transport to approve minor regulatory stewardship amendments to the MTA, subject to confirmation by Cabinet when the Bill is considered for introduction;

Next Steps

- 27 **invited** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions, and any further delegated decisions, including any necessary consequential, transitional, and savings provisions;
- 28 **authorised** the Associate Minister of Transport to make further detailed policy decisions that are consistent with the overall policy intent, provided that those decisions are confirmed by Cabinet when the Bill is considered for introduction;

- 29 **authorised** the Associate Minister of Transport to make further detailed policy decisions on the scope of, and penalties for, new and existing offences under the MSA and MTA, provided those decisions are consistent with the overall policy intent and are confirmed by Cabinet when the Bill is considered for introduction;
- 30 **authorised** the Associate Minister of Transport to make drafting corrections across the MTA and the MSA.

Rachel Clarke
Committee Secretary

Present:

Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Brooke van Velden
Hon Paul Goldsmith
Hon Louise Upston
Hon Todd McClay
Hon Tama Potaka
Hon Simon Watts
Hon Casey Costello
Hon Nicola Grigg
Hon Andrew Hoggard
Hon Mark Patterson
Hon James Meager
Hon Scott Simpson
Hon Cameron Brewer
Simon Court MP

Officials present from:

Officials Committee for ECO



Minute of Decision

Report of the Cabinet Economic Policy Committee: Period Ended 21 August 2026

On 24 August 2026, Cabinet made the following decisions on the work of the Cabinet Economic Policy Committee for the period ended 21 August 2026:

[illegible]

[REDACTED]

Rachel Hayward
Secretary of the Cabinet