



8 July 2021

OC210558

Hon Michael Wood

Action required by:

Minister of Transport

Thursday, 15 July 2021

## LAND TRANSPORT (CLEAN VEHICLES) AMENDMENT BILL - APPROVAL FOR INTRODUCTION AND ADDITIONAL POLICY DECISIONS

### Purpose

To seek your feedback on a draft Cabinet paper seeking approval from the Cabinet Legislation Committee to introduce the Land Transport (Clean Vehicles) Amendment Bill (the Bill).

To seek your decision, in consultation with the Minister for Climate Change, on a number of additional policy matters that have arisen during drafting of the Bill.

### Key points

- A draft Cabinet paper has been prepared and is attached for your consideration. We seek your feedback on the draft paper and will incorporate any changes prior to commencement of cross-party consultation.
- We propose that the paper be considered by Cabinet Legislation Committee (LEG) on 12 August 2021, and subject to Cabinet approval, that introduction and first reading of the Bill takes place in August 2021.
- The Bill will need to be progressed within significantly condensed timeframes if regulations imposing charges on high emission vehicles are to be in force on 1 January 2022. This will involve seeking priority for the Bill in the House, requesting that the House agrees to a maximum 10 week period for select committee consideration of the Bill, and seeking a waiver of the 28 day rule for the regulations if required.
- Cabinet has authorised you, in consultation with the Minister for Climate Change, to make decisions that are consistent with the overall policy and support achievement of emissions reductions, provided that these decisions are confirmed when the Bill is considered by Cabinet for introduction. This paper seeks your decision on a number of additional policy matters that have arisen during drafting of the Bill, including setting long-term CO<sub>2</sub> targets.

**Recommendations**

We recommend you:

- 1 **note** that significantly condensed timeframes will be required for the Bill to be passed in the year and for Clean Vehicle Discount Scheme charges regulations to be in force on 1 January 2022
- 2 **agree** that the paper be considered by Cabinet Legislation Committee (LEG) on 12 August 2021, and subject to Cabinet approval, that introduction should take place in mid-August and first reading by the end of August 2021 Yes / No
- 3 **agree**, consistent with the authority given to you in CAB-21-MIN-0128.01, that the Bill assigns functions and powers related to the Clean Vehicle Standard to the Director of Land Transport, and functions and powers related to the Clean Vehicle Discount Scheme to Waka Kotahi, New Zealand Transport Agency Yes / No
- 4 **agree** to the updated tare-weight adjustment formula, which is required for the Clean Vehicle Standard Yes / No
- 5 **agree**, subject to consultation with the Minister for Climate Change, that the Bill will provide for the following:
  - a. Targets and charges for the Clean Vehicle Standard converted to the WLTP test procedure and targets reflecting the latest (2019/2020) vehicle data Yes / No
  - b. Prescribing penalties for offences in relation to the Clean Vehicle Standard for a body corporate, instead of a person or organisation other than an individual Yes / No
  - c. Providing for a new offence of failure or refusal to comply with a requirement of the Director of Land Transport concerning an inspection or audit, with a penalty of up to \$15,000 for an individual and \$75,000 for a body corporate Yes / No
  - d. Empowering the Director of Land Transport to require any person to supply information, produce documents, or give evidence, if necessary to enable the Director to perform functions and powers related to the Clean Vehicle Standard, and providing for a new offence of failing or refusing without reasonable excuse to comply with a requirement to provide information or give evidence, or provide information that the person knows to be false or misleading, with a penalty of a fine not exceeding \$15,000 for an individual or \$75,000 for a body corporate. Yes / No
- 6 **note** that the matters referred to in Recommendation 5 will need to be confirmed by Cabinet Legislation Committee
- 7 [REDACTED] Yes / No
- 8 [REDACTED] Yes / No
- 9 **agree** to set the 2026 to 2035 carbon dioxide emissions targets in:

Under active consideration

a. the Bill

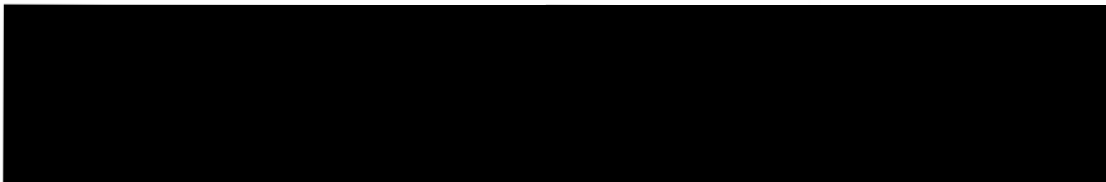
OR

b. by Order in Council

*Discuss, including option of dates to 2027 in Bill (5 yrs) + OIC after that*

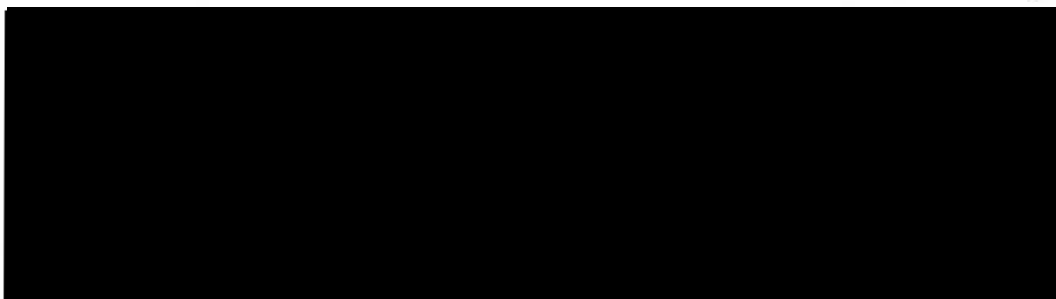
Yes / No

Yes / No



Under active consideration

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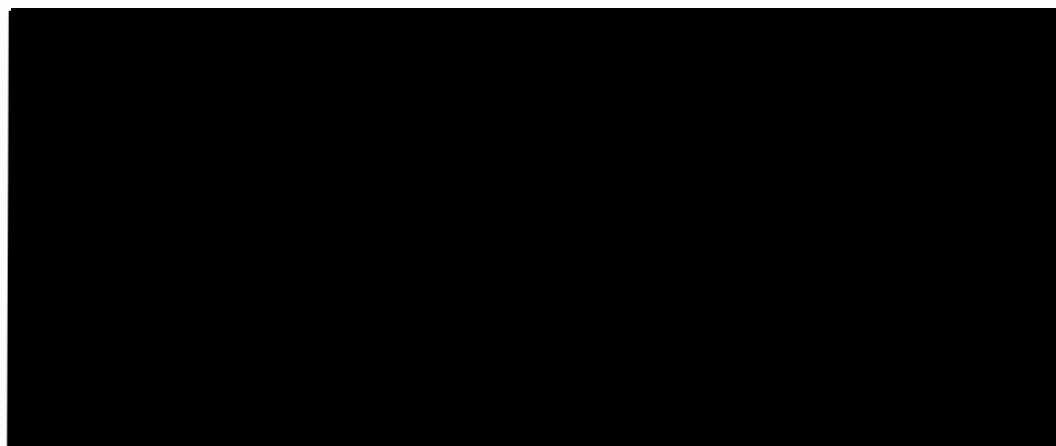


Yes / No

Yes / No

Under active consideration

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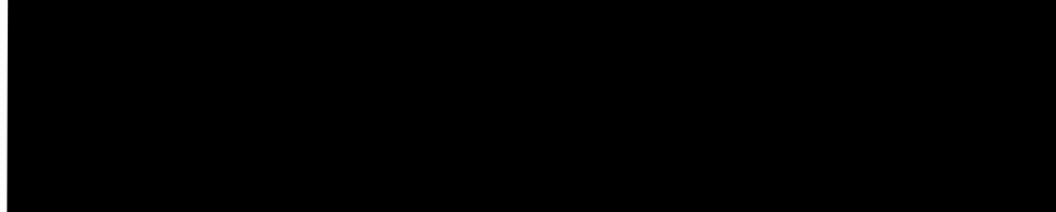


Yes / No

*NA*

Under active consideration

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Yes / No

14 advise transport officials either:

a. that you wish to make any changes to the draft Cabinet paper prior to commencing cross-party consultation

Yes / No

OR

*↳ just add reference to emissions reductions*

b. you will commence cross-party consultation now

Yes / No

Yes / No

BY TEMANATIUM

NSPORT

15 forward a copy of this briefing to the Minister for Climate Change



Ewan Delany  
Manager, Environment, Emissions  
and Adaptation Policy

08/7/2021



Hon Michael Wood  
Minister of Transport

9.7.21

Minister's office to complete:

Approved

Declined

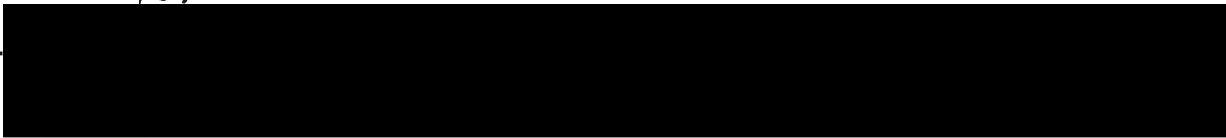
Seen by Minister

Not seen by Minister

Overtaken by events

Comments

1) Discuss targets to 2027, consistent w/ AAC  
test. Under active consideration



Name	Telephone	First contact
Ewan Delany, Manager, Environment, Emissions and Adaptation Policy		✓
Sigurd Magnusson, Senior Policy Adviser		
Emma Petersen, Senior Solicitor, Legal		

Personal contact details

## LAND TRANSPORT (CLEAN VEHICLES) AMENDMENT BILL - APPROVAL FOR INTRODUCTION AND ADDITIONAL POLICY DECISIONS

### A draft Cabinet paper has been prepared for your consideration

- 1 A draft Cabinet paper has been prepared and is attached for your consideration. The paper seeks the approval of the Cabinet Legislation Committee to introduce the Land Transport (Clean Vehicles) Amendment Bill (the Bill). A draft version of the Bill is also attached for your consideration.
- 2 We seek your feedback on the draft paper and the Bill and will incorporate any changes prior to commencement of cross-party consultation.

### *Policy approval*

- 3 The Bill implements the Cabinet decisions made in January 2021 to advance a Clean Vehicle Standard [CAB-21-MIN-0004 refers] and in April and May 2021 to advance a Clean Vehicle Discount Scheme [CAB-21-MIN-0128.01 and CAB-21-MIN-0186 refers].
- 4 The Clean Vehicle Standard is designed to stimulate the supply of zero and low emission light vehicles into the New Zealand market, while the Clean Vehicle Discount Scheme is designed to stimulate consumer demand for zero and low emission light vehicles.
- 5 Together, these policies are intended to be part of the response to Parliament's declaration of a Climate Change Emergency and will also give effect to the commitment in the Labour Party's Clean Energy Plan to accelerate the electrification of the transport sector. The policies will give effect to the Co-operation Agreement with the Green Party to increase the uptake of zero emission vehicles and introduce clean car standards. These policies will also form part of the transport contribution to the Emissions Reduction Plan which will be published by the end of 2021, and to the Climate Change (Zero Carbon) Amendment Act 2019 requirements.

### The Bill will need to be progressed within significantly condensed timeframes

- 6 The Bill holds a priority of category 2 (must be passed in the year) on the 2021 Legislation Programme under the title Land Transport (Vehicle CO<sub>2</sub>) Amendment Bill. The title of the Bill was amended to the Land Transport (Clean Vehicles) Amendment Bill during drafting to better reflect the core policies contained in the Bill, being the Clean Vehicle Standard and the Clean Vehicle Discount Scheme.
- 7 The Bill needs to be passed in the year to enable the Clean Vehicle Discount Scheme regulations imposing charges on high emitting vehicles to be in effect on 1 January 2022.
- 8 To achieve this result, the Bill will need to be progressed within significantly condensed timeframes. This will involve seeking priority for the Bill throughout all stages in the House, requesting that the House agrees to a maximum 10 week period

for select committee consideration of the Bill, and seeking Cabinet agree to a waiver of the 28 day rule for the Clean Vehicle Discount Scheme regulations if required.

- 9 We propose that the paper be considered by Cabinet Legislation Committee (LEG) on 12 August 2021, and subject to Cabinet approval, that introduction and first reading of the Bill takes place in August 2021.

### **Your decision is sought on two minor policy matters**

#### *Assignment of functions and powers*

- 10 Cabinet has authorised you to determine which of Waka Kotahi, the Director of Land Transport or the Registrar of Motor Vehicles should have particular powers and functions in the legislation. This decision does not require further confirmation by LEG [CAB-21-MIN-0128.01 refers].
- 11 We recommend that functions and powers related to the Clean Vehicle Standard are assigned to the Director of Land Transport in the Bill. These functions align best with the regulatory role of the Director, which includes monitoring, investigating, managing and enforcing compliance with land transport legislation. We recommend that functions and powers related to the Clean Vehicle Discount Scheme are assigned to the Agency in the Bill. It is appropriate that the funding goes to the Agency to administer the scheme, and as these functions will not fall within the statutorily independent functions of the Agency, there is scope for the Minister to provide more direction over the ongoing administration of the scheme.
- 12 We also raise an additional matter for you to note. Cabinet agreed that Waka Kotahi develop a register of vehicle importers to assist in administering the Standard, and that only importers listed on this register be able to get entry certification on vehicles for use on New Zealand roads. Cabinet also agreed that where an importer fails to comply with their obligations and requirements under the Standard, Waka Kotahi may remove the importer from the register for a period of up to five years [CAB-21-MIN-0004]. In drafting the Bill, we have given effect to these decisions through a carbon dioxide account framework. Every vehicle importer must hold a carbon dioxide account and must provide their account number to obtain entry certification for their vehicles. The Director must maintain a record of all carbon dioxide account holders, and this information will be available on request. Vehicle importers may be disqualified from holding a carbon dioxide account if convicted of an offence related to the Standard within the last five years, and the Director may close their account where the Director is satisfied the importer has failed to comply with specified provisions of the Act or regulations.

#### *Finalising the weight-adjustment formula to support Clean Vehicle Standard regulations*

- 13 Cabinet agreed that headline targets be weight adjusted formulaically to afford heavier vehicles, such as utes, numerically higher targets than lighter vehicles. Cabinet also agreed that small vehicles with a tare weight under a specific value all have the same non-weight adjusted annual targets. The provisional agreement was that those targets would be set through the weight adjustment formula for vehicles under 1,200 kilograms, and the final weight value would be agreed by the Minister of Transport following further advice on the most recent vehicle registration data and



how to apply appropriate pressure on emission reduction on vehicles with different weights.

- 14 We have now updated the tare-weight adjustment formula to be used for the Standard, and we recommend you agree to the new formula. The formula reflects the latest vehicle data available (2019/20) and introduces a ceiling<sup>1</sup> over which vehicles are not given more generous carbon dioxide targets. This approach better reflects the vehicles in New Zealand, and, enables more of New Zealand's low emitting hybrids to be judged in 2025 as meeting the target whereas they did not earlier. Refer to **Annex 2** for more narrative, graphs, and examples of additional vehicles that now can meet the target.
- 15 This decision does not need to be confirmed by Cabinet and is necessary to inform the drafting of the regulations to support the Standard rather than the Bill. Making these decisions now will allow the motor vehicle industry to confirm how their products will sit against the targets and make planning decisions to better enable them to meet the targets.

**There are some policy decisions which will require Cabinet confirmation, after consultation with the Minister for Climate Change**

- 16 Cabinet has authorised the Minister of Transport, in consultation with the Minister for Climate Change, to make decisions that are consistent with the overall policy and support achievement of emissions reductions, provided that these decisions are confirmed when the Bill is considered for introduction [CAB-21-MIN-0004 and CAB-21-MIN-01.28.01 refer].
- 17 We recommend you take the following decisions in consultation with the Minister for Climate Change, which we consider to be consistent with the overall policy and support the achievement of emissions reductions:
- 17.1 The targets and charges for the Clean Vehicle Standard approved by Cabinet in CAB-21-MIN-0004 are based on the outdated New European Drive Cycle (NEDC) test cycle. Cabinet also agreed that the values of vehicle carbon dioxide emissions for all targets and vehicles be determined by or converted to the three-phase Worldwide Harmonised Light Vehicle Test Procedure (WLTP) [CAB-21-MIN-0004 refers]. We recommend you agree that all figures for the targets and charges are converted to figures based on WLTP in the Bill. This will remove unnecessary complexity in the legislation. In converting these figures, the carbon dioxide reduction ambition is unchanged. The new figures are derived by using a mathematical formula agreed in January to convert between NEDC and WLTP. **Annex 1** includes a comparison of the targets and charges based on NEDC and WLTP.
- 17.2 The offences agreed by Cabinet for the Clean Vehicle Standard prescribe penalty levels for an individual and for "a person or organisation other than an individual". In drafting, it has become clear that referring to a "body corporate" is necessary to ensure alignment with other Land Transport Act provisions, such as the empowering provisions for infringement offences, and offences against

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<sup>1</sup> The tare weight ceiling is 2000 kg for passenger cars and SUVs (covering 6% of that vehicle segment) and 2200 kg for light commercial vehicles (utes and vans), covering 14% of that vehicle segment.

rules and regulations. These provisions empower regulations to set maximum infringement fees, or penalties for any offence against rules or regulations, in respect of an individual or a body corporate. We recommend you agree that the offences in the Bill refer to “body corporate” instead of “a person or organisation other than an individual”.

- 17.3 Cabinet has agreed that it be an offence for an importer to fail to keep the necessary accounts or records required to provide the data needed for the Standard, or to knowingly provide information that is incorrect or incomplete. Cabinet has also agreed that Waka Kotahi have the power to investigate and access records [CAB-21-MIN-0004 refers]. To support this power, we recommend you agree that the Bill requires vehicle importers to undergo such inspections and audits as the Director of Land Transport considers necessary to establish compliance with the Standard, and that the Director may require an importer to provide information relevant to the inspection or audit. To ensure vehicle importers comply with such a requirement, we recommend that you agree to a new offence of failure or refusal to comply with a requirement concerning an inspection or audit, with a penalty of up to \$15,000 for an individual, and \$75,000 for a body corporate. This penalty aligns with the other penalties in relation to records and data agreed by Cabinet [CAB-21-MIN-0004] and is consistent with penalties for failure to provide information under a regional fuel tax scheme.
- 17.4 Cabinet has agreed that Waka Kotahi has the power to investigate and access records [CAB-21-MIN-0004]. This naturally applies to vehicle importers, but we recommend you agree to extend this power to third parties. Where vehicle importers do not hold the required information to establish compliance with the Standard, the Director will need to rely on evidence from third parties to hold vehicle importers to account and maintain the integrity of the system. We recommend that the Bill includes provisions to allow the Director of Land Transport to require any person to supply information, produce documents or appear before a specified person, if necessary to support the Director to carry out functions and powers related to the Standard. We also recommend that it be an offence to fail, without reasonable excuse, to comply with a notice issued by the Director requiring information, documents or for the person to appear to give evidence, or to provide information that the person knows to be false or misleading. We recommend that the penalties for this offence align with the other penalties for the Standard – a fine of up to \$15,000 for an individual and \$75,000 for a body corporate.

**Long term targets for the Clean Vehicle Standard need to be considered by Cabinet**

- 18 Cabinet invited the Minister of Transport to report back to the Cabinet Environment, Energy and Climate Committee (ENV) with recommendations for provisional CO<sub>2</sub> targets for 2030 and 2035, informed by the advice of the Climate Change Commission, at the same time in 2021 as the Committee considers decisions on the Emissions Reduction Plan to respond to New Zealand’s first emissions budgets. Cabinet also agreed to set CO<sub>2</sub> targets on an ongoing basis such that there are always targets set for at least 12 months into the future, and to maintain one or more provisional CO<sub>2</sub> targets that are at least five or more years in the future, and that such targets are to be ambitious, achievable, and clear [CAB-21-MIN-0004 refers].



- 19 We are now in a position to recommend targets out to 2035 because the Climate Change Commission has recently published its final recommendations. Agreeing on targets now will provide the vehicle industry with certainty and time to make large-scale changes.

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*We have considered whether the targets from 2025 should be set in primary legislation or by Order in Council*

- 21 The targets for 2023 to 2025 are set in the draft Bill, and the Bill is currently drafted so that future targets from 2025 may be set by Order in Council.
- 22 Before recommending an Order in Council, it is proposed that the Minister must take into account the anticipated reduction in vehicle carbon dioxide emissions resulting from the targets and the expected impact of the targets on vehicle safety, affordability and availability. This provides a mechanism to ensure targets can be set on an ongoing basis, and amended if necessary, over time.
- 23 The other option is to prescribe targets for the years 2026 to 2035 (inclusive) in the Bill. The targets would then be contained in primary legislation and could only be changed by amending the Act. This option provides less flexibility, but greater long-term certainty to the industry and embeds a stronger medium-term commitment to reducing CO<sub>2</sub>.
- 24 In order to capture the benefits described by paragraph 23, officials now recommend that you consider setting long-term targets in primary legislation. We will update the draft Bill if needed following your decision.

Active consideration

B

**There are other decisions that will be made later in relation to secondary legislation**

- 32 You will need to seek Cabinet approval of the final schedule of charges and rebates for the Clean Vehicle Discount Scheme in September 2021 to inform the regulations that are anticipated to be in force on 1 January 2022.

**Timetable and next steps**

- 33 We seek your feedback on the draft Cabinet paper and will incorporate your comments prior to commencement of cross-party consultation.
- 34 We will also update the Cabinet paper to reflect your decisions on the matters discussed in this briefing.
- 35 We are working to the following timetable to support the Bill's introduction in the week of 23 August 2021:

Action	Due date
Feedback received from you or your office on the draft Cabinet paper	Thursday 15 July
Departmental consultation	Monday 12 July
Revised draft Cabinet paper and draft Bill to Minister's office	Monday 19 July
Cross party consultation	Monday 19 July to Wednesday 28 July
Feedback received following consultation from the Ministers office	Wednesday 28 July
Revised draft Cabinet paper to Minister's office	Monday 2 August
Lodge for LEG	Thursday 5 August
LEG	Thursday 12 August
Cabinet	Monday 16 August
Introduction	Week of 23 August
First reading	Tuesday 31 August

## ANNEX 1: TEST CYCLE CONVERSIONS

### Targets and charges converted from NEDC to WLTP

#### Targets

Grams CO <sub>2</sub> /km	2023		2024		2025	
	NEDC	WLTP	NEDC	WLTP	NEDC	WLTP
Cars and SUVs ("Type A vehicles" in the Bill)	130	145	120	133.9	102	112.6 <sup>2</sup>
Vans and Utes ("Type B vehicles" in the Bill)	190	218.3	175	201.9	132	155
Average	139	156	128	144.1	105	117.9

#### Charges

Grams CO <sub>2</sub> /km		From 2023		From 2025		Measurement
		NEDC	WLTP	NEDC	WLTP	
New vehicle importers ("Category 1 vehicle importers" in the Bill)	Used vehicles	\$25.00	\$22.50	\$37.50	\$33.75	Per gram CO <sub>2</sub> in excess multiplied by number of vehicles in fleet
	New vehicles	\$50.00	\$45.00	\$75.00	\$67.50	
Used vehicle importers ("Category 2 vehicle importers" in the Bill)	Used vehicles	\$20.00	\$18.00	\$30.00	\$27.00	Per gram CO <sub>2</sub> vehicle exceeds target
	New vehicles	\$40.00	\$36.00	\$60.00	\$54.00	

<sup>2</sup> Refer Annex 2 paragraph 7 regarding a 1g reduction.

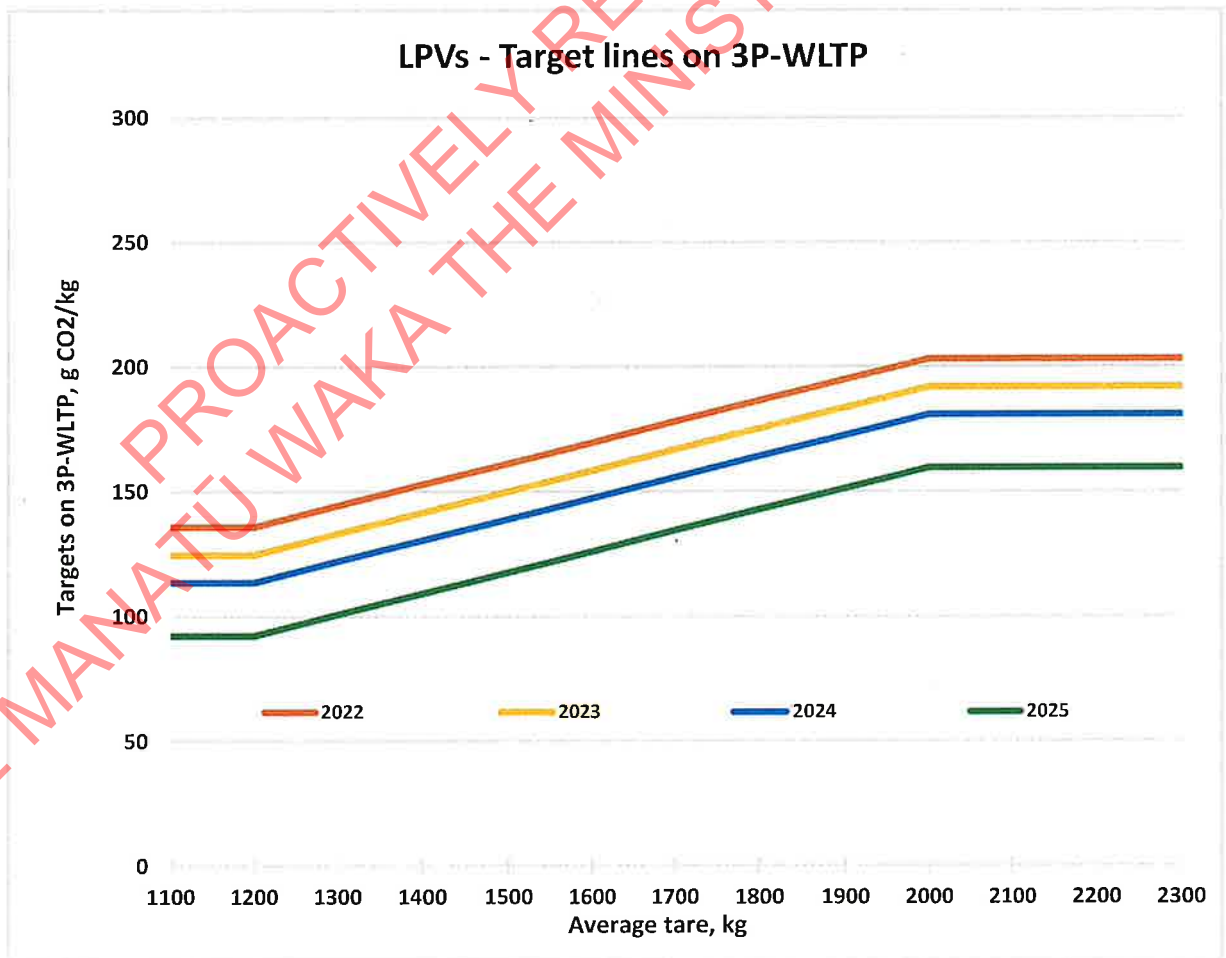
## ANNEX 2: TARE WEIGHT ADJUSTMENTS

- 1 The tare-weight adjustment formula agreed in January was provisional, in that it used 2019 vehicle data, and that 1200kg “floor” would be finalised by you. (CAB-21-MIN-0004 refers). Here we recommend updates.
- 2 The summary of changes is below. **Green** text shows changes, which are explained in proceeding paragraphs:

Formula:	Passenger vehicles (Cars, SUVs)		Commercial vehicles (Utes, vans)	
	Now	Was	Now	Was
Line Slope on 3pWLTP	<b>0.0841</b>	0.09	<b>0.0576</b>	0.04
Average Tare Weight:	<b>1441 kg</b>	1438 kg	<b>1999 kg</b>	1998 kg
Tare Weight Floor:	1200 kg	1200 kg	1200 kg	1200 kg
Tare Weight Ceiling:	<b>2000 kg</b>	(none)	<b>2200 kg</b>	(none)

*Finalising the passenger (cars and SUVs) weight-adjustment formula*

- 3 The following graph depicts the light passenger weight-adjusted formula visually across the years 2022 to 2025:



- 4 The minimum “tare weight floor” of 1200kg has been maintained. This means that all vehicles below 1200kg receive the same target as though they weigh 1200kg. This follows discussion with the vehicle industry on different options. Officials discussed a

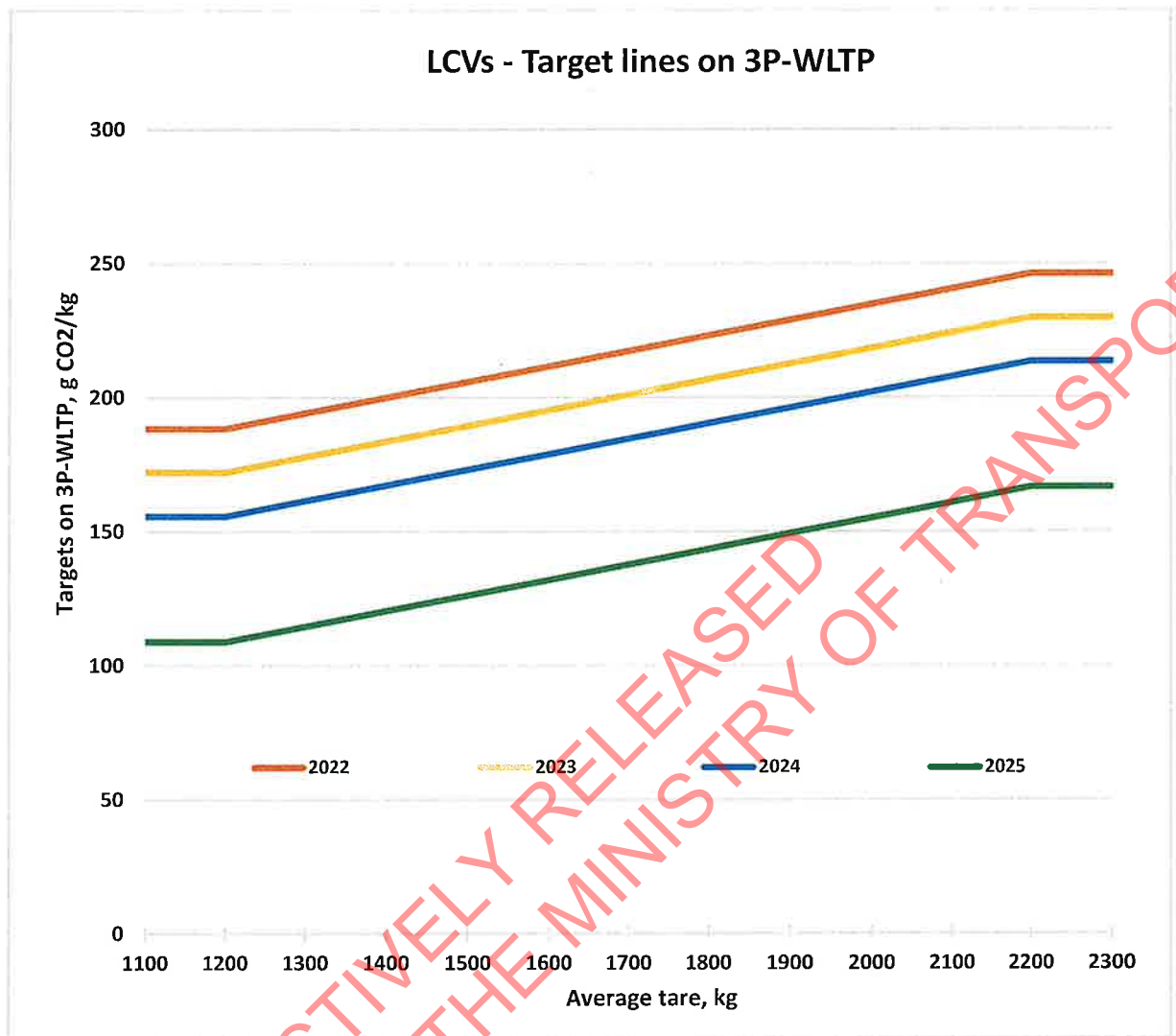


1000kg floor that would allow average to heavy vehicles a more generous target, and investigated raising the floor above 1200kg, but that would made it too difficult on the majority of vehicles to achieve. The VIA and MIA supports keeping the weight floor at 1200kg, even when considering the impact on smaller vehicles.

- 5 The slope and average weight has been updated on the registrations of 2019 and 2020 vehicles. This has slightly 'flattened' the line, which means the smallest vehicles get a slightly more generous target than before.
- 6 In order to provide smaller and average vehicles with a slightly more generous target, we have introduced a "tare weight ceiling" at 2000kg. While the MIA commented this makes it harder on the heaviest vehicles (6% of imports), we consider the overall benefit is positive, and, it puts pressure on the highest CO<sub>2</sub> emitting vehicles to improve.
- 7 Due to the small rounding differences when performing conversions from NEDC to WLTP, and the adjustments above, in order for the overall 2025 ambition level to be preserved, the passenger annual fleet has to achieve slightly lower emissions, from 113.8 down to 112.6 grams CO<sub>2</sub>/km (WLTP). This specific change is noted in the Bill.
- 8 There are some subtle but important differences that arise through these adjustments when particular vehicles are considered. For example:
  - 8.1 The Toyota Aqua hybrid now passes the 2025 target where previously it did not. The Aqua is New Zealand's top-selling used import, and as with the Prius, is available in very large numbers.
  - 8.2 A variety of other hybrids that previously met the 2025 target have been checked to confirm they still do, including: Toyota RAV4 (top-selling new hybrid), Toyota Prius, Toyota Yaris, and two people-movers (Toyota Estima and Nissan Serena e-power).
  - 8.3 New Zealand's top-selling sub-1200kg vehicle, the Suzuki Swift, now meets the 2023 target whereas previously it failed the 2023 target. The hybrid version attains the 2024 target, and only just misses the 2025 target. Suzuki may be able to achieve the 2025 target using credits from selling the hybrid and plug-in hybrid versions of SUVs and larger vehicles that it currently sells in the UK.

*Finalising the commercial (utes and vans) weight-adjustment formula*

- 9 The following graph depicts the light commercial vehicle weight-adjusted formula visually across the years 2022 to 2025:

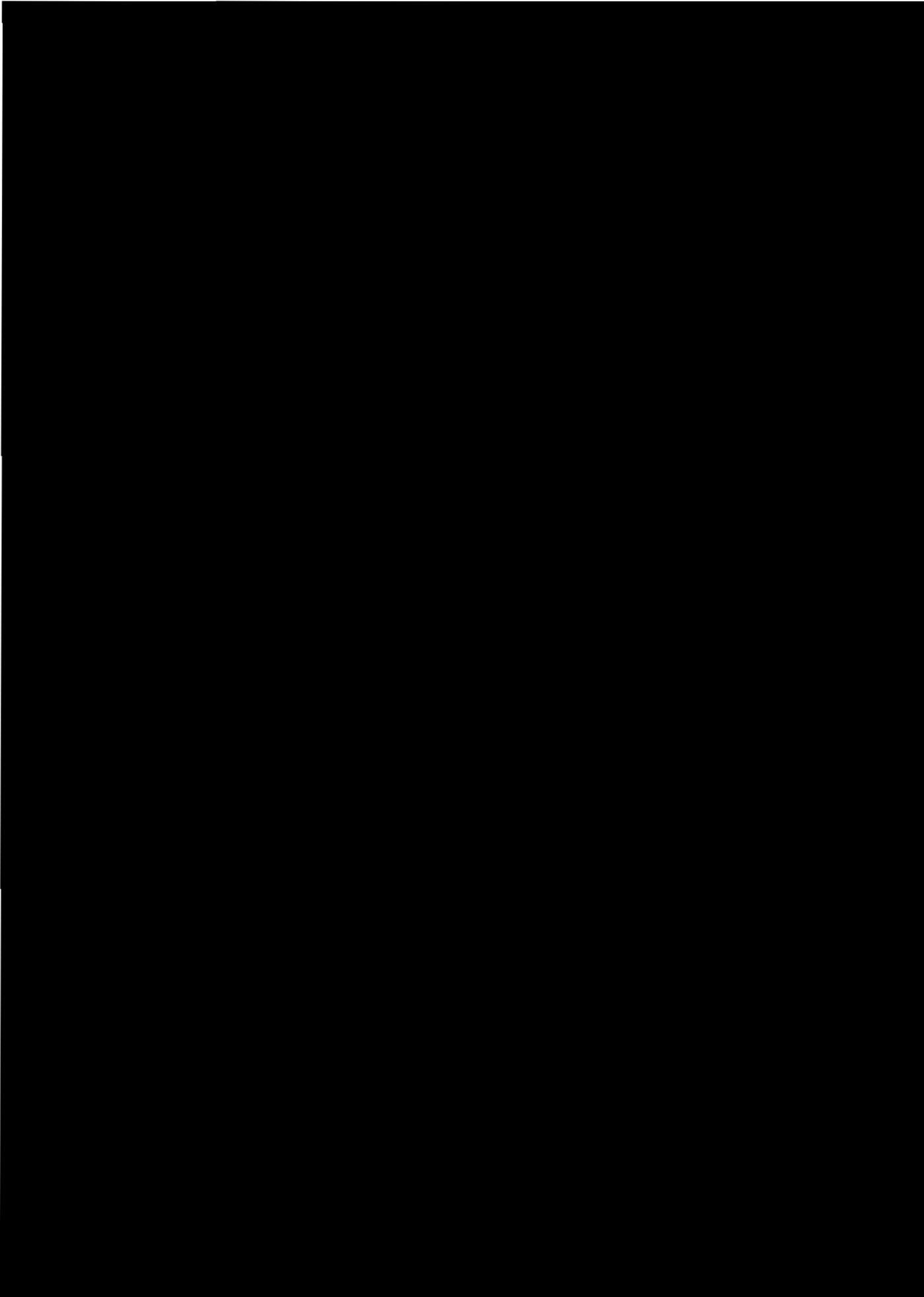


- 10 The 1200kg target has been maintained, consistent with passenger vehicles. There was no pressing need re-evaluate this element, because almost no commercial vehicles sit under this weight.
- 11 The slope and average weight has been updated on the registrations of 2019 and 2020 vehicles. This has slightly 'steepened' the line, which means the vehicles over the average weight are given more generous targets.
- 12 To compensate for this, we have introduced a ceiling at 2200kg. The MIA has not offered objection to this. This ceiling is introduced also to prevent a perverse outcome where vehicle manufacturers increase the tare weight of the vehicle in order to be supplied with a more generous CO<sub>2</sub> target. Examination of utes imported 2019/20, shows that vehicles over the ceiling weight do not need higher targets: the engine in a vehicle weighing 2200kg is usually sufficiently powerful enough to power a vehicle at the maximum classification of a 'light' vehicle (3500kg GVM), and so more powerful, higher emitting engines (and thus targets) are unnecessary.
- 13 These changes do not make any significant difference to particular makes and models of utes, or other commercial vehicles, in achieving their targets. This partly reflects that little has occurred to the weight and emission levels of these vehicles being imported over the last three years.

*Weight-adjusted targets would be set in regulations, which can be reviewed in 2024*

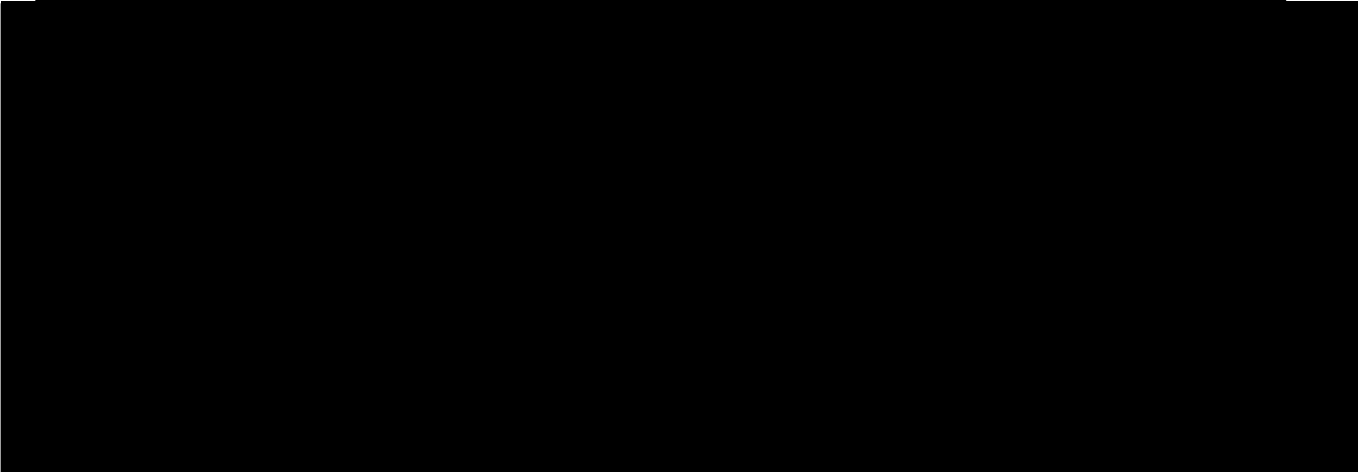
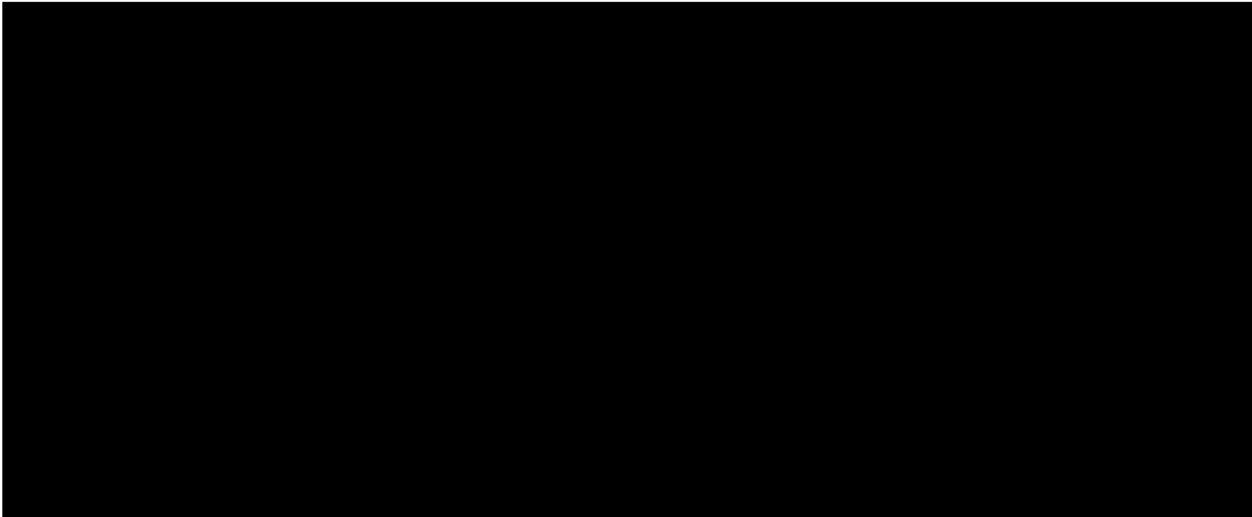
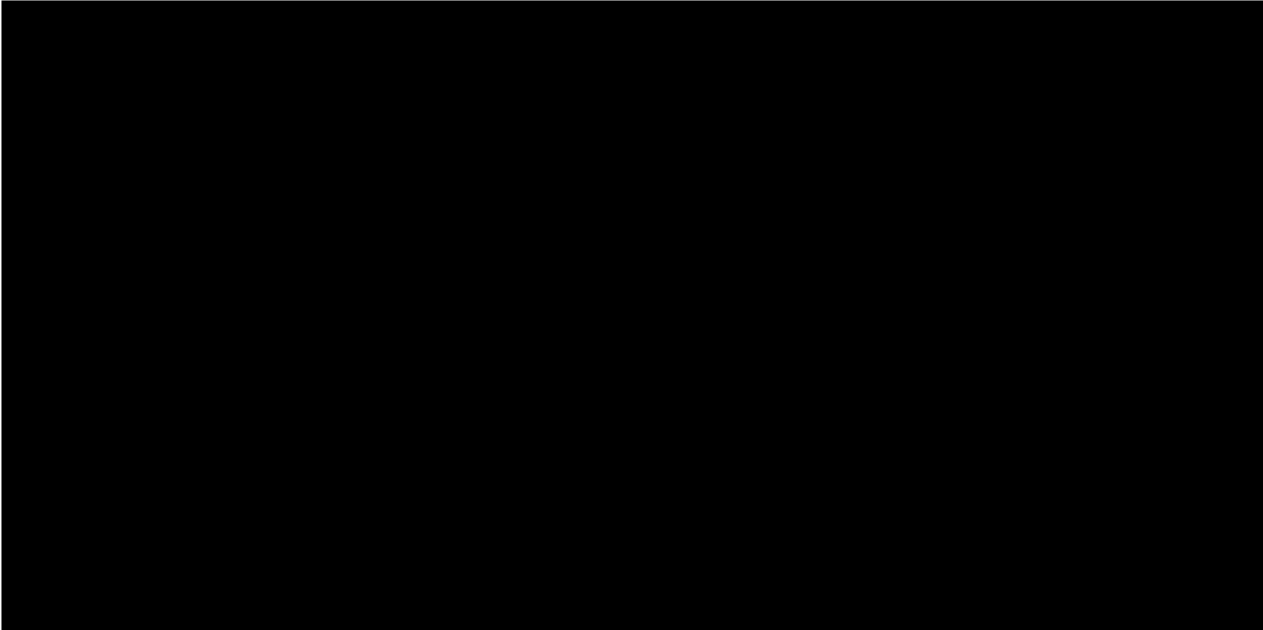
- 14 Cabinet agreed that in 2024 we would review the slope and other particulars of the weight-adjustment formula. As the formulas would be set in regulation, any review would need to amend regulation to give effect. The formulas outlined here, if adopted, would continue to be used in 2025 and onwards.

PROACTIVELY RELEASED  
BY TE MANATŪ WAKA THE MINISTRY OF TRANSPORT

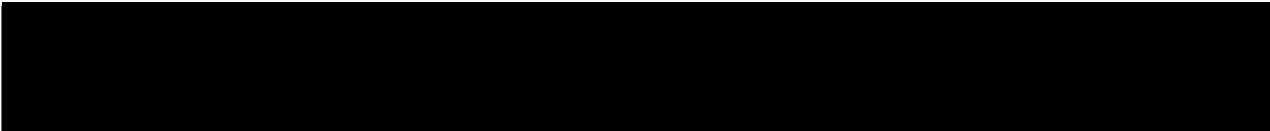
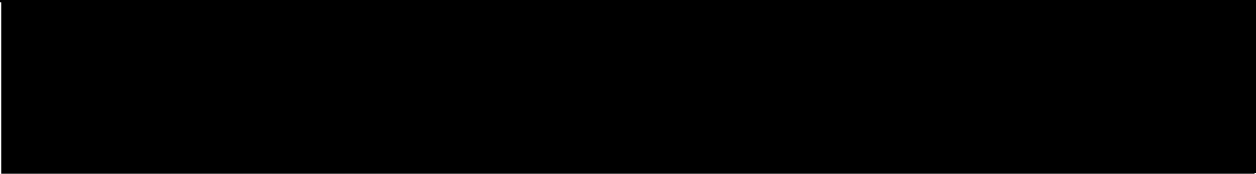


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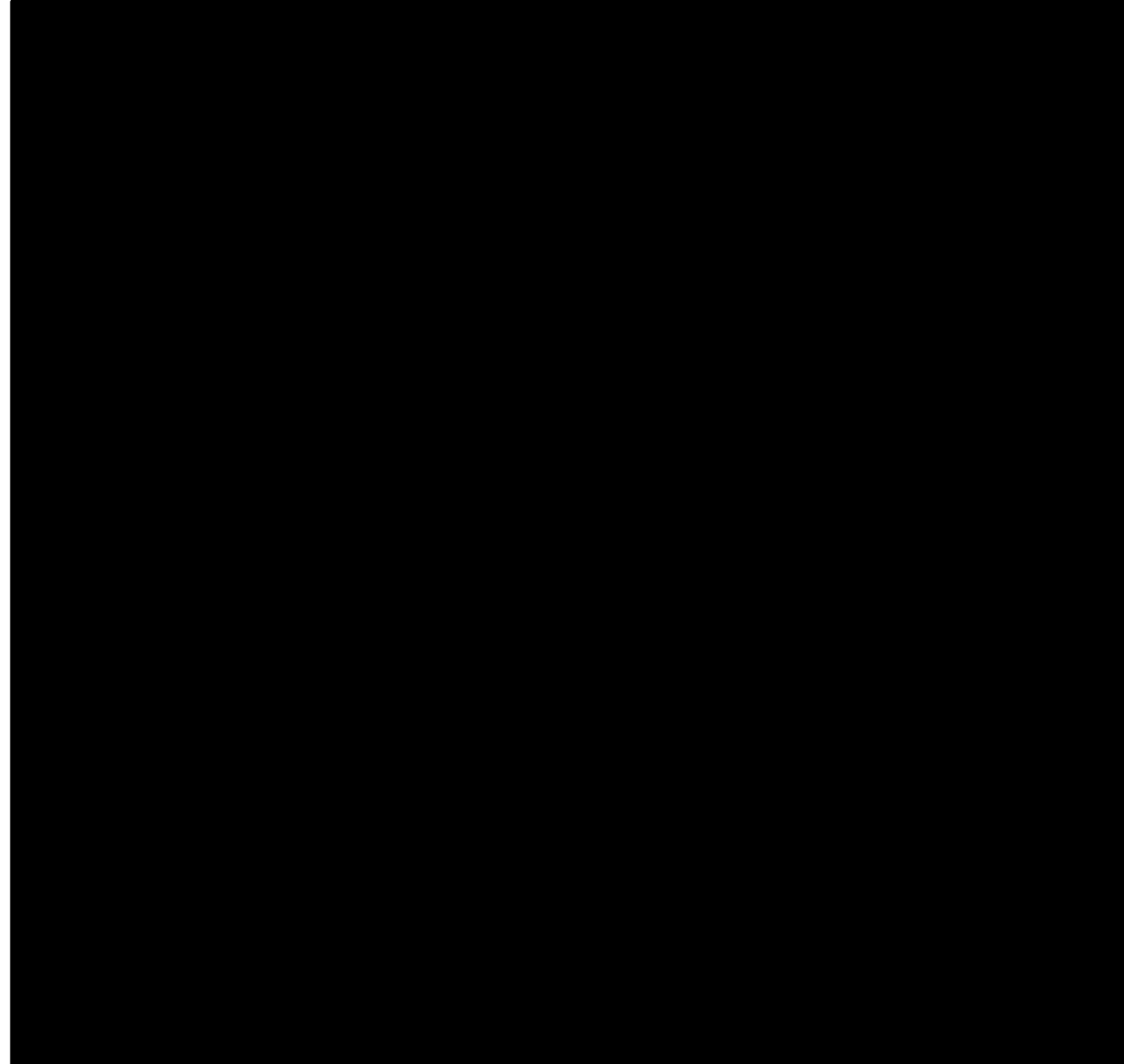
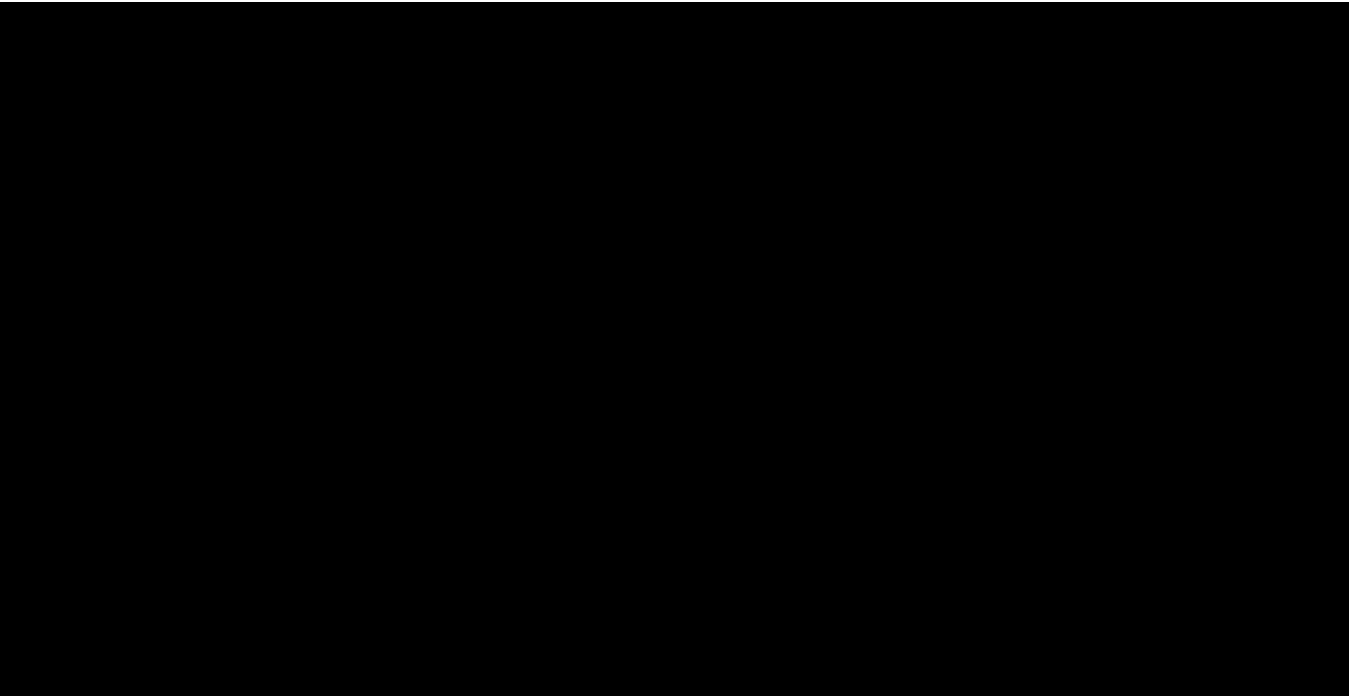
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