

OC230862

13 November 2023

Tēnā koe

I refer to your Official Information Act 1982 (the Act) request received on 2 October 2023 requesting the following information:

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

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

There were 22 documents in scope of your request:

- 18 are released with some information withheld or refused
- one is withheld
- three are refused.

Certain information is withheld under the following sections of the Act:

- 6(b)(i) as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by the Government of any other country or any agency of such a Government
- 9(2)(a) to protect the privacy of natural persons
- 9(2)(b)(ii) to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
- 9(2)(ba)(i) to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied

- 9(2)(f)(iv) to maintain the constitutional conventions for the time being which protects the confidentiality of advice tendered by Ministers of the Crown and officials
- 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
- 9(2)(h) to maintain legal professional privilege
- 9(2)(i) to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities
- 9(2)(j) to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)
- 18(d) the information requested is or will soon be publicly available

The above information is summarised in the document schedule at Annex 1.

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

You have the right to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman's website [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

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

Nāku noa, nā



Robert McShane  
**Acting Manager, Accountability and Correspondence**

## Annex 1 - Document Schedule

Doc #	Reference	Document	Decision on release
1	OC230732	Monthly Dashboard ERP - June 2023	Refused under Section 18(d). The briefing is available on the Ministry's website here: (refer to page: 17) <a href="https://www.transport.govt.nz/assets/Uploads/6BriefingsfromJuly2023-1.pdf">https://www.transport.govt.nz/assets/Uploads/6BriefingsfromJuly2023-1.pdf</a>
2	OC230777	Monthly Dashboard ERP - July 2023	Refused under Section 18(d). The briefing is available on the Ministry's website here: (refer to page: 19) <a href="https://www.transport.govt.nz/assets/Uploads/6BriefingsfromJuly2023-1.pdf">https://www.transport.govt.nz/assets/Uploads/6BriefingsfromJuly2023-1.pdf</a>
3	OC230592	Advice on the Northport Dry Dock: Supporting the Blue Economy Business Case	Refused under Section 18(d). Once published, it will be available here: <a href="https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm">https://www.transport.govt.nz/about-us/what-we-do/proactive-releases/SearchForm</a>
4	OC230773	Cabinet Paper for the Euro 6/VI Vehicle Noxious Emissions Exhaust Standard	Released with some information withheld under Sections 6(b)(i), 9(2)(a) and 9(2)(h).
5	OC230779	Letters to Waka Kotahi New Zealand Transport Agency and Councils Regarding Waka Kotahi's Status as a Requiring Authority for Rapid Transit	Released with some information withheld under Section 9(2)(a).
6	OC230753	Quarter 1 Updates to Output Plan 2023/24	Released with some information withheld under Sections 9(2)(a) and 9(2)(f)(iv).
7	OC230783	Quarter 4 Output Plan Report 2022/23	Released with some information withheld under Sections 9(2)(a), 9(2)(b)(ii), 9(2)(ba)(i) and 9(2)(f)(iv).
8	OC230801	Aide Memoire: Correspondence from North Shore Aero Club	Released with some information withheld under Section 9(2)(h).
9	OC230744	Approval to Submit Waka Kotahi and KiwiRail Severe Weather Emergency Recovery Orders In Council and Supporting Documents to the Review Panel and Party Leaders	Released with some information withheld under Sections 9(2)(a), 9(2)(ba)(i) and 9(2)(f)(iv). Draft OICs refused under Section 18(d) as the final OICs are available online: <a href="https://www.legislation.govt.nz/regulation/public/2023/0279/latest/LMS896222.html">https://www.legislation.govt.nz/regulation/public/2023/0279/latest/LMS896222.html</a> <a href="https://www.legislation.govt.nz/regulation/public/2023/0278/latest/LMS900243.html">https://www.legislation.govt.nz/regulation/public/2023/0278/latest/LMS900243.html</a> Attachment 4 has previously been released to you on 1 August 2023 under the request you made to Minister of Transport (ref: OIA1260-23)



Doc #	Reference	Document	Decision on release
10	OC230799	Draft Letters to KiwiRail, Waka Kotahi, and Councils on the Rapid Review	Released with some information withheld under Sections 9(2)(a), 9(2)(f)(iv) and 9(2)(g)(i).  Annex 1 is refused under Section 18(d) and can be found here:  <a href="https://www.kiwirail.co.nz/assets/Uploads/Who-we-are/Publications-v2/Information-released-by-KiwiRail/Rapid-Review/13-KiwiRail-Letter-to-Ministers-in-response-to-the-Rapid-Review.pdf">https://www.kiwirail.co.nz/assets/Uploads/Who-we-are/Publications-v2/Information-released-by-KiwiRail/Rapid-Review/13-KiwiRail-Letter-to-Ministers-in-response-to-the-Rapid-Review.pdf</a>
11	OC230772	Bus and Coach Association Conference	Released with some information withheld under Sections 9(2)(a) and 9(2)(f)(iv).  Annex 1 is refused under Section 18(d) as it is publicly available at this link:  <a href="https://busandcoach.co.nz/assets/Uploads/EVENTS/BCA-Conference-Programme-v26.pdf">https://busandcoach.co.nz/assets/Uploads/EVENTS/BCA-Conference-Programme-v26.pdf</a>
12	OC230820	Ministry of Transport Draft Annual Report 2022/23	Released with some information withheld under Section 9(2)(a).  Attached Annual report is refused under Section 18(d) as its available on the Ministry's website:  <a href="https://www.transport.govt.nz/assets/Uploads/MOT-4894-Annual-Report-2023_FA2_web.pdf">https://www.transport.govt.nz/assets/Uploads/MOT-4894-Annual-Report-2023_FA2_web.pdf</a>
13	OC230176	Ministerial Direction to Waka Kotahi to Collect Tyre Product Stewardship Fees	Released with some information withheld under Sections 9(2)(a) and 9(2)(h).
14	OC230762	Managing Access to the Milford Road	Released with some information withheld under Sections 9(2)(a), 9(2)(f)(iv) and 9(2)(h).
15	OC230819	Aide Memoire: City Rail Link Targeted Hardship Fund	Released with some information withheld under Section 9(2)(a).
16	OC230824	Road User Charges System: Challenges, Changes, and Comparisons	Released with some information withheld under Section 9(2)(a) and 9(2)(f)(iv).
17	OC230816	Proposed Enactment of Severe Weather Emergency Recovery (Waka Kotahi and KiwiRail) Orders 2023	Released with some information withheld under Section 9(2)(a).
18	OC230836	Aide Memoire: Updated Letters to KiwiRail, Waka Kotahi and Councils on the Rapid Review	Released with some information withheld under Sections 9(2)(a), 9(2)(f)(iv) and 9(2)(g)(i).
19	OC230638	Air Navigation System Review - Initial Actions	Released with some information withheld under Section 9(2)(a).  Annex 1 is refused under Section 18(d) and is available here:



Doc #	Reference	Document	Decision on release
			<a href="https://www.transport.govt.nz/assets/Uploads/Air-Navigation-System-Review-phase-two-report-May-2023.pdf">https://www.transport.govt.nz/assets/Uploads/Air-Navigation-System-Review-phase-two-report-May-2023.pdf</a>
20	OC230825	Improving the Resilience of Franz Josef	Withheld in full under Sections 9(2)(f)(iv) and 9(2)(g)(i).
21	OC230842	Letters to Waka Kotahi and KiwiRail Board Chairs on Funding Decisions for Cyclone Recovery	Released with some information withheld under Sections 9(2)(a), 9(2)(f)(iv), 9(2)(i) and 9(2)(j).
22	OC230823	Draft Government Policy Statement 2024 (GPS 2024) Summary of Feedback from Consultation	Released with some information withheld under Sections 9(2)(a) and 9(2)(f)(iv).



Document 4

5 September 2023

OC230773

Hon David Parker

Action required by:

Minister of Transport

Wednesday, 13 September 2023

## CABINET PAPER FOR THE EURO 6/VI VEHICLE NOXIOUS EMISSIONS EXHAUST STANDARD

### Purpose

To provide for your comment the draft Cabinet paper seeking agreement to align the phase-in of the Euro 6/VI noxious vehicle exhaust emissions standards with Australia's. As you have instructed, the Cabinet paper is to target the 18 September 2023 meeting of the Cabinet Business Committee.

### Recommendations

We recommend you:

- 1 **consider** the attached draft Cabinet paper and inform officials of any changes you would like made Yes / No
- 2 **note** that the draft Cabinet paper incorporates feedback from departmental consultation
- 3 **note** that the Cabinet paper is intended to be lodged by 14 September 2023 to enable it to be considered by the Cabinet Business Committee on 18 September 2023.

A handwritten signature in black ink, appearing to read "Matt Skinner", is written over a horizontal line.

Matt Skinner  
Manager Environment and Emissions  
Policy Design

5 / 9 / 23

Hon David Parker  
Minister of Transport

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Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

**Comments****Contacts**

Name	Telephone	First contact
Matt Skinner, Manager Environment and Emissions Policy Design	s 9(2)(a)	
Gayelene Wright, Principal Adviser, Environment and Emissions Policy Design		✓

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982



## **CABINET PAPER FOR THE EURO 6/VI VEHICLE NOXIOUS EMISSIONS EXHAUST STANDARD**

**The attached Cabinet paper recommends the draft Rule for Euro 6/VI be finalised prior to the 2023 General Election**

- 1 The attached draft Cabinet paper seeks Cabinet's endorsement of your decision to align the shift to the Euro 6/VI vehicle exhaust emissions standards with Australia's.
- 2 It reflects your instruction that the Cabinet Business Committee be specifically asked whether the draft Land Transport Rule: Vehicle Exhaust Emissions Amendment 2023<sup>1</sup>, which would phase-in Euro 6/VI, be finalised and published in the New Zealand Gazette prior to the 2023 General Election. This is covered in paragraphs 12, 50, 51 and recommendation 8.

**The draft Cabinet paper was well supported across government agencies**

- 3 Following approval from your staff the draft Cabinet paper was sent out for departmental consultation on 29 August 2023. The paper was well supported across agencies except for Te Whatu Ora - The National Public Health Service, which noted its disappointment that the shift to the Euro 6/VI emissions standards would be delayed. However, Te Whatu Ora did not request any specific comment be added to the paper.

### **Next steps**

- 4 Once we have actioned the changes you would like made to the attached draft Cabinet paper, we can finalise it for lodgement. The paper is intended to be lodged with the Cabinet Office on 14 September 2023 for consideration by the Cabinet Business Committee on 18 September 2023. This timeline assumes that the paper undergoes Ministerial and cross-party consultation over 6 September–13 September 2023.
- 5 If Cabinet agrees to progress the amendment Rule prior to the 2023 General Election officials will forward the finalised Rule for your signature. Once the final Rule is signed, officials would arrange for its publication in the New Zealand Gazette. The final Rule would come into effect 28 days after publication.
- 6 The phased transition would then begin with Euro VI-c required from 1 November 2024 for newly approved heavy vehicle models, and from 1 November 2025 for existing models. Euro 6d would be required for light vehicles from 1 July 2028 and from 1 January 2031 for used-import disability vehicles. Euro 5 would be required for motorcycles and mopeds from 1 January 2027.

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<sup>1</sup> This draft Rule amends Land Transport Rule: Vehicle Exhaust Emissions 2007.

In Confidence

Office of the Minister of Transport

Chair, Cabinet Business Committee

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

### Proposal

- 1 This paper seeks agreement to align the phase-in of the Euro 6/VI noxious vehicle exhaust emissions standards with Australia's. This change responds to issues raised in public consultation on the draft Land Transport Rule: Vehicle Exhaust Emissions Amendment 2023<sup>1</sup> (the amendment Rule), which set out the proposed phase-in of Euro 6/VI. It also seeks Ministers agreement to the amendment Rule being finalised and published in the New Zealand Gazette prior to the 2023 General Election.

### Relation to government priorities

- 2 Strengthening the vehicle exhaust emissions standards to Euro 6/VI will reduce noxious air pollution in a way that supports:
  - 2.1 priority three of the interim Government Policy Statement on Health: "keeping people well in their communities"
  - 2.2 nitrogen dioxide (NO<sub>2</sub>) reductions sought through the Resource Management (National Environmental Standards for Air Quality) Regulations 2004
  - 2.3 preventative measures to improve health and wellbeing under the Pae Ora Act
  - 2.4 the Wai ora component of He Korowai Oranga (HKO) (Māori Health Strategy)
  - 2.5 Pacific Aotearoa Lalanga Fou Goal 3: Resilient, Healthy Pacific Peoples, and the Pacific Wellbeing Strategy.
- 3 Adopting the Euro VI emissions standard for heavy vehicles is an action included in the Government's 2022 Emissions Reduction Plan (the ERP). ERP action 10.3.1: *Support the decarbonisation of freight, requires the Government to consider the implementation timing of Euro VI standard for heavy vehicles.*

### Executive Summary

- 4 Noxious emissions from motor vehicles are annually responsible for more than 330,000 restricted activity days<sup>2</sup>, nearly 9,400 hospitalisations and 2,200 premature

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<sup>1</sup> This draft Rule amends Land Transport Rule: Vehicle Exhaust Emissions 2007.

<sup>2</sup> A restricted activity day is one in which a person due to exposure to air pollution does not feel well enough to go to work, school or undertake their normal activities.

deaths<sup>3</sup>. Monetised the harm is estimated to be \$10.5 billion each year, which is around \$2.5 billion higher than the annual social cost of road crashes.

- 5 Globally, exhaust emissions standards are a key tool to reduce noxious emissions. They set minimum emissions standards that vehicles must meet to enter the fleet. Internationally, Euro 6 and Euro VI are the benchmark standards for light and heavy vehicles respectively and have been required in Europe since 2014. They have proven to be effective in reducing the large discrepancy between the level of emissions emitted when vehicles are tested under laboratory conditions, and the much higher level when driven in the real-world.
- 6 New Zealand and Australia are the only remaining developed countries to not require Euro 6/VI or their international equivalents. Australia has regulated Euro VI-c for heavy vehicles from 1 November 2024 and will soon be taking decisions on the date Euro 6d will be required for light vehicles.
- 7 To catch-up with other developed countries, on 3 May 2023 the Economic Development Committee agreed to publicly consult on a phase-in of the Euro 6/VI emissions standards over 2024–2028. Public consultation occurred over 11 May–22 June 2023 and revealed strong support for phasing in the Euro 6/VI emissions standards.
- 8 Support from the vehicle industry, the Automobile Association and the road freight industry is conditional on our shift to Euro 6/VI aligning with Australia's. While Australia is yet to confirm final policy, current indications are that for new light vehicles this would delay the shift by 29 months compared to the dates we consulted on. For heavy vehicles alignment would mean the standard stays at Euro VI-c in 2026, rather than further strengthening to Euro VI-e.
- 9 While there are conflicting views, the predominant one is that moving to Euro 6/VI ahead of Australia will unnecessarily expose New Zealand to vehicle supply disruptions and cause price increases greater than they would otherwise have been. If this were to occur the number of Euro 6/VI vehicles entering the fleet would be reduced eroding the public benefit of the reform. It could also disrupt the significant progress being achieved by the new vehicle industry in shifting to zero and low carbon vehicles.
- 10 I have considered either progressing the amendment Rule's phase-in or aligning with Australia. Aligning has the potential to forego a net benefit of around \$322–\$334 million. However, officials have not been able to quantify how much of this value will likely be eroded by the supply and price risks submitters identified. Given the uncertainty I recommend aligning our shift to Euro 6/VI with Australia's.
- 11 A consequence of aligning with Australia is that Euro 6d would be required for both new and used-import light vehicles in 2028. However, I do not consider it necessary to alter the proposed phase-in for used-imports as it has a high level of support, and the feedback is that used importers will continue to have sufficient options to maintain supply.

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<sup>3</sup> The 2022 Health and Air Pollution in New Zealand report.



- 12 As the proposal to shift to Euro 6/VI in alignment with Australia is well supported across stakeholders, and is modelled to save between \$3.5–\$6.4 billion to 2050 in avoided health costs, I recommend the amendment Rule be finalised and published in the New Zealand Gazette prior to the 2023 General Election. Apart from the magnitude of the difference it will make to the health of New Zealanders, prioritising this change is important to give new vehicle distributors certainty and as much time as possible to secure changed fleets of vehicles from their overseas manufacturers.
- 13 In the event that the Australian Government subsequently decides not to proceed with Euro 6d for light vehicles, I will update the Cabinet Economic Development Committee with new options to consider prior to the relevant commencement dates.

## Background

- 14 To reduce the health harm from noxious vehicle emissions, on 21 January 2021 Cabinet agreed to amend the Land Transport Rule: Vehicle Exhaust Emissions 2007 by the end of 2022 to require Euro 6 for light vehicles entering the fleet [CAB-21-MIN-004 refers]. This decision was expanded in the First Emissions Reduction Plan to include Euro VI for heavy vehicles. Although the proposal refers to the Euro 6/VI standards, it includes their equivalent United States and Japanese standards.
- 15 On 3 May 2023 the Cabinet Economic Development Committee agreed to publicly consult on a phase-in of the Euro 6/VI emissions standards over 2024–2028 [DEV-23-MIN-0160 refers]. The key dates for the phase-in that was consulted on were:
- 1 November 2025 for all heavy vehicles, both new and used, to meet Euro VI-c. The standard would then strengthen to Euro VI-e from 1 November 2026
  - 1 February 2025 for newly approved light vehicle models to meet Euro 6d and 1 February 2026 for new existing light vehicle models
  - 1 January 2027 at the latest for all motorcycles and mopeds (new and used) to meet Euro 5. Globally Euro 5 is the strictest standard
  - 1 January 2028 at the latest for all used light vehicles, including disability vehicles, to meet Euro 6d. Before this date, used light vehicles would shift from Euro 4 to Euro 5 six months after the amendment Rule is published in the New Zealand Gazette.
- 16 The Cabinet Economic Development Committee noted that following public consultation the Minister of Transport would not report back unless material changes are needed to the amendment Rule. I am reporting back because the proposals in this paper materially change the Euro 6/VI phase-in that the Committee considered on 3 May 2023.

## **There is a high level of support for Euro 6/VI but the vehicle industry wants the shift to Euro 6/VI to align with Australia's**

- 17 Public consultation, run by Te Manatū Waka, commenced on 11 May 2023 and ended on 22 June 2023. It focused on whether the amendment Rule's phase-in is reasonable and feasible for the industry and vehicle consumers. This focus reflected the inherent trade-off with strengthening the emissions standards. This is that the

health benefits are maximised by requiring Euro 6/VI as soon as possible. However, moving too fast risks disrupting vehicle supply, increasing vehicle prices, and slowing down the entry of cleaner vehicles that reduce the health harm.

- 18 Seventy-seven submissions were received of which 34 were from private individuals and 21 were from the vehicle industry. The rest were from representatives of vehicle users including the road freight industry, local government, health and air quality professionals, representatives of disabled people, and walking and cycling advocates.
- 19 All but one of the submissions from private individuals favoured either proceeding with the proposed phase-in or bringing forward implementation. Similarly, submissions from health and air quality practitioners, walking and cycling advocates, local government, Consumer New Zealand and Fonterra all support the proposed phase-in, with the majority favouring a faster implementation.
- 20 Submissions from the vehicle industry, the road freight industry, the Automobile Association of New Zealand, and representatives of disabled people also support requiring Euro 6/VI. However, these submitters seek changes to the phase-in with the most significant one being to align our shift to Euro 6/VI with Australia's.

#### **The Australian timeline for phasing in Euro 6/VI**

- 21 Australia has already regulated Euro VI for heavy vehicles. The Euro VI-c standard will apply from 1 November 2024 for newly approved models, and from 1 November 2025 for existing models. The amendment Rule's phase-in aligns with Australia until 1 November 2026 when our standard would have strengthened further to Euro VI-e, whereas Australia is not currently proposing moving to Euro VI-e.
- 22 For light vehicles the Australian Government has consulted on proposed dates but is yet to take its final decisions on the timeline for Euro 6d. However, the proposal it will soon be considering is for Euro 6d to apply to newly approved models from either 1 July 2025 or 1 July 2027, and to existing models from 1 July 2028.
- 23 In comparison, our amendment Rule requires Euro 6d for newly approved models from 1 February 2025 and from 1 February 2026 for existing models. Based on the date for existing models, the difference between our proposals is up to 29 months.

#### **Alignment with Australia would avoid the risk of disrupting new vehicle supply and minimise price increases**

- 24 Submitters advocate for alignment to avoid restricting new vehicle supply and to minimise increases in vehicle prices and compliance costs. They emphasise that these outcomes will likely slow the rate of fleet renewal resulting in fewer new Euro 6/VI vehicles entering the fleet. If this happens the potential health benefits from the shift to Euro 6/VI will be lower.
- 25 The key obstacle in moving ahead of Australia relates to the production, supply and timing decisions of overseas vehicle manufacturers where:
  - for volume brands like Toyota, Mitsubishi, Suzuki and Isuzu, production costs are minimised by building vehicles to the specifications regulated in the destination

markets. As Australia and New Zealand regulate Euro 5, Euro 6 vehicles with better but more costly emission technologies are not supplied, and our vehicles are manufactured and supplied from the same plants

- the timeframes between vehicle distributors ordering vehicles and those vehicles being scheduled, produced and dispatched for New Zealand can be as long as two or more years.

26 Having our market supplied as part of the Australian market has entrenched over time because we have benefited from the arrangement. It has afforded our small market a priority for supply that it would not otherwise have.

27 The Motor Industry Association (MIA) submitted that supply shortages are likely if we move ahead of Australia because most distributors would be forced to:

- seek alternative supply of Euro 6d/VI-e compliant vehicles from plants manufacturing for left-hand drive countries, other than Australia. For some distributors this would mean volumes are not guaranteed and prices could be higher. Some distributors could face periods of no alternative supply and the potential removal of some models from our market
- request their associated manufacturers to supply vehicles specifically for our market. This would spread the full cost of Euro 6/VI compliance across New Zealand volumes only, resulting in higher costs per vehicle. This could lead to some vehicle models no longer being competitive on our market.

**Not all vehicle distributors advocate for alignment because their supply is not reliant on Australia**

28 However, some vehicle distributors are not supplied as part of Australia and do not advocate for alignment. These distributors are:

- Ford, which decoupled its supply from Australia over the past two-years enabling it to offer Euro 6 vehicles. For the first six months of 2023, almost 35 percent of Ford's light passenger vehicle registrations were Euro 6. However, the standard is less common among Ford's light commercial vehicles, with only 7 percent of registrations being Euro 6
- Scania, which customises its heavy vehicles to suit client need. This includes offering a choice of Euro V or Euro VI vehicles. Scania can do this because it uses a flexible manufacturing model. Over 2022 it supplied 7 percent of the new heavy vehicles that entered the fleet with almost 58 percent of them being Euro VI vehicles.

**Fonterra sees moving to Euro VI as part of its commitment to sustainability**

29 Similarly, unlike most others in road freight, Fonterra supports the proposed phase-in. It sees the shift to Euro VI as part of its commitment to community and environmental sustainability. Thirty-five of its current fleet of 156 high productivity milk tankers are Euro VI vehicles. From the next financial year, all new tankers coming into its fleet will be Euro VI.



**Following a reassessment of the risks, costs and benefits I recommend aligning with Australia**

- 30 If there were no supply and price risks, the Ministry of Transport estimate that delaying the shift to Euro 6d for new light vehicles by 29-months, to align with Australia, would result in a foregone net benefit of around \$322–\$334 million. Most of this relates to the foregone health benefits from reduced noxious emissions from light diesel vehicles.
- 31 However, while there are conflicting views the predominant one is that there would be significant supply and price risks in moving ahead of Australia. Most, but not all, new vehicles distributors would likely face supply disruptions to some degree, which would likely place upward pressure on new vehicle prices and slow the rate at which we benefit from Euro 6d.
- 32 Officials are not privy to the industry information needed to estimate the size of the likely reduction in the number of new Euro 6d vehicles entering the fleet. Most vehicle distributors submit that the slow-down would be sizable enough to greatly diminish the benefit from the reform. However, the vehicle industry made similar comments as part of consultation on the Clean Car Standard and Discount that have not eventuated.
- 33 In addition to the risk of price increases from disrupted supply, submitters have highlighted that Euro 6/VI vehicles are more expensive to manufacture than advised in the May 2023 Cabinet paper. We can expect the increased manufacturing costs to flow through into retail prices. Information from MIA and the European Union suggests more reliable estimates of the increase in per vehicle manufacturing costs are as follows.
- For a Euro 6d petrol vehicle (i.e. most passenger cars) \$300–\$4,000 depending on make and model. The previous estimate was \$300.
  - For a Euro 6d diesel vehicle (i.e. most vans and utes) \$2,700–\$5,000 depending on make and model. The previous estimate was \$900.
  - For Euro VI heavy vehicles, \$4,000–\$5,000 for small heavy trucks and \$8,000–\$20,000 depending on make and model for large ones. The previous estimate was \$4,000.
- 34 Given the significance of the above likely cost increases and the uncertainty about the impact on vehicle supply, I recommend aligning our phase-in with Australia's. Alignment will avoid the risk of supply disruptions and offers a way to minimise the likely price increases from Euro 6d as production and type approval costs will be able to be spread over a larger volume of vehicles. In this way it will help realise the value of the net benefit possible from Euro 6/VI.
- 35 Alignment will also help minimise compliance costs for new vehicle distributors as they will have more time to plan ahead for the change. The MIA submitted that its members need a minimum 24-month notice period prior to the adoption of Euro 6d to allow for industry production planning timeframes.

- 36 Moreover, alignment avoids disrupting the significant progress being achieved by the new vehicle industry in shifting to zero and low carbon vehicles. This transition could prove to have a greater impact on reducing noxious emissions than the exhaust emission standards. In the first half of 2023, over a third of all new vehicles that entered New Zealand, were a hybrid or an EV. These vehicles emit lower levels of noxious emissions with EVs having zero tailpipe emissions.

**For heavy vehicles the impact of staying at Euro VI-c in 2026 would be limited until the Japanese and United States standards strengthen**

- 37 Alignment with Australia would mean the standard for heavy vehicles would remain at Euro VI-c in 2026 rather than strengthening to Euro VI-e as proposed in the amendment Rule. European evidence shows Euro VI-e is superior to Euro VI-c in reducing noxious emissions when heavy vehicles are driven in urban areas. Urban areas are where the impact of noxious emissions on human health is greatest.
- 38 The issue is that Euro VI-c vehicles stay within the Euro VI emission limits when driven at steady high speeds, however, they exceed the limits when driven at slower and variable speeds. To rectify this, Euro VI-e uses a more stringent on-road test that mimics what occurs with urban driving.
- 39 Foregoing the shift to Euro VI-e in 2026 may have little impact on the level of benefit foregone at least initially. This is because Japan and the United States have not yet moved to an equivalent of Euro VI-e, and the amendment Rule proposed to continue to recognise Japanese and United States standards once Euro VI-e came into force.
- 40 When Japanese and United States standards strengthen to Euro VI-e we will need to reconsider the heavy vehicle standard for the post 2026 period. This reflects that across the vehicle fleet the emissions standard applying to heavy vehicles is the most critical because:
- while these vehicles only account for 7 percent of the vehicle kilometres travelled, they are responsible for 32 percent of particulate matter and 37 percent of nitrogen oxides
  - for light vehicles the low carbon transition provides significant co-benefits in reducing noxious emissions, with EVs providing cleaner air than even the latest Euro 7/VII standards as they do not produce any tailpipe emissions. Unfortunately for heavy vehicles, with the exception of buses, the technologies to transition are not yet as readily available or affordable.
- 41 I therefore propose that when the Japanese and United States' standards strengthen to be equivalent with Euro VI-e, the Minister of Transport report back to the Cabinet Economic Development Committee to enable a reconsideration of the heavy vehicle standard for the post 2026 period.

**Aligning with Australia would mean all light vehicles shift to Euro 6d in 2028**

- 42 A consequence of aligning with Australia is that both new and used-import light vehicles would be required to shift to Euro 6d in 2028. This contrasts with the amendment Rule where used-imports shift two years after new vehicles.

43 Officials considered pushing out the date for used-imports to 2030 but advise that the dates for new and used can be aligned to July 2028 because:

- used-vehicle importers can easily adjust the vehicles they buy to sell in New Zealand as they source their vehicles from any vehicle auction selling right-hand drive vehicles. The source markets of Japan, the United Kingdom, Ireland and Singapore have required Euro 6/VI or a close equivalent for a number of years
- the 2028 timeline has a high-level of support among submitters. The Imported Motor Vehicle Industry Association is the exception, with its support conditional on the recognition of weaker Japanese standards than those in the amendment Rule<sup>4</sup>.

44 Nevertheless, to align the commencement months in 2028 I recommend the amendment Rule's phase-in for used-imports proceed with a change to the application date for Euro 6d from 1 January 2028 to 1 July 2028.

#### **What if the Australian Government decides not to move to Euro 6d for light vehicles?**

45 s 6(b)(i)

46 Nevertheless, to manage the uncertainty officials will continue to engage with Australian officials on the progress with Euro 6d. If the Australian Government subsequently decides not to proceed with Euro 6d for light vehicles, I will update the Cabinet Economic Development Committee with new options to consider.

#### **The timeframe for disability vehicles would be extended to avoid increasing transport disadvantage**

47 Submissions from people in the disability sector support the shift to Euro 6/VI. However, all submitted that the current proposal to require Euro 6d (or the equivalent Japanese standard Japan 2018) from 1 January 2028 for used-imported disability vehicles will increase transport disadvantage. This is because it will force people to buy newer vehicles that tend to be more expensive.

48 This issue arises because the Toyota Hiace Welcab, currently the most cost-effective vehicle for people needing wheelchair assistance, only started being manufactured to the Japan 2018 standard for the Japanese domestic market in 2020. If we require this standard from 1 January 2028, people who can not afford new vehicles face the financial challenge of buying a used-import Hiace Welcab that is 8 years old and younger. These vehicles would be materially more expensive than the 10–12 year old vehicles that currently tend to be purchased.

49 To address this issue, I recommend extending the date for imported used-disability vehicles to meet Japan 2018 from 1 January 2028 to 1 January 2031.

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<sup>4</sup> Officials recommended against progressing the Imported Motor Vehicle Industry Association's proposal because it would effectively result in used-vehicle imports meeting a standard weaker than Euro 5 in 2024 and a standard weaker than Euro 6/VI in 2028.



## **Implementation of the finalised Rule**

- 50 I seek the Committee's agreement to the amendment Rule being finalised and published in the New Zealand Gazette prior to the 2023 General Election. The public consultation has caused a high degree of uncertainty among new vehicle distributors and risks undermining support for the wider Clean Car reforms.
- 51 As the proposal has been changed in line with the view of the vehicle industry there is a strong case to prioritise the finalisation of the amendment Rule. Industry participants want a decision so they can have certainty and as much time as possible to secure changed fleets of vehicles from their overseas manufacturers.
- 52 If Cabinet endorses the proposals in this paper officials will finalise the amendment Rule for my signature. Once signed the final Rule would come into effect 28 days after it is published in the New Zealand Gazette.
- 53 The phased transition would then begin with Euro VI-c required from 1 November 2024 for newly approved heavy vehicle models, and from 1 November 2025 for existing models. Euro 6d would be required for light vehicles from 1 July 2028 and from 1 January 2031 for used-import disability vehicles. Euro 5 would be required for motorcycles and mopeds from 1 January 2027.

## **Cost of living implications**

- 54 Overall, the Euro 6/VI requirements are unlikely to have a noticeable impact on transport costs. There will be a small increase in new vehicle prices, however, the extent of the increase will be minimised by the standards' introduction being aligned to Australia's.
- 55 It is unlikely that the price of the average used-import vehicle will increase. This is because over 85 percent of used-imports already meet the Japanese standard (Japan 2005 Low Harm) that will be required in 2024. Similarly, in 2028 large volumes of used vehicles will be available to buy that meet the accepted Japanese version of Euro 6/VI. The technology costs associated with their emissions systems are not likely to be discernible in vehicle prices. This is because the technology would have been required in vehicles sold on the Japanese domestic market from 2018.

## **Financial Implications**

- 56 There are no financial implications for the Crown associated with this paper.
- 57 Waka Kotahi expects that the funding for this change would be covered by its baseline. However, it notes that the work would need to be considered alongside other Ministerial priorities and funding may be required if there are competing priorities for limited Waka Kotahi resources. Waka Kotahi has calculated the approximate cost of updating its systems to give effect to changes to be \$350,000.

## **Legislative Implications**

- 58 The changes to the exhaust emissions standards will be given effect via an amendment to the Land Transport Rule: Vehicle Exhaust Emissions 2007.

### **Impact Analysis - Regulatory Impact Statement**

- 61 The regulatory impact statement for the Euro 6/VI requirement was attached to the May 2023 Cabinet paper and has been made publicly available.

### **Climate Implications of Policy Assessment**

- 62 The Climate Implications of Policy Assessment (CIPA) team was consulted in April 2023 and confirmed that the CIPA requirements do not apply to the Euro 6/VI proposal as it does not meet the threshold for significance.

### **Population Implications**

- 63 There are no significant gender, or other population implications from the Amendment Rule.

### **Human Rights**

- 64 The proposals in this paper are consistent with the fundamental freedoms in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Use of External Resources**

- 65 Consultants or contractors have not been used in the development of this policy, and are not intended to be engaged as part of its implementation.

### **Consultation**

- 66 The following agencies were consulted on this paper: Waka Kotahi, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, the Treasury, Ministry for the Environment, Ministry of Health, Te Aka Whai Ora Māori Health Authority, Department of Conservation, Department of Internal Affairs, New Zealand Defence Force, Ministry of Social Development, Whaikaha – Ministry of Disabled People, Ministry for Primary Industries, Inland Revenue, Te Puni Kokiri, Ministry for Pacific Peoples, WorkSafe New Zealand, New Zealand Customs Office,

and the Energy Efficiency and Conservation Authority. The Department of Prime Minister and Cabinet has been informed.

## Communications

- 67 I will issue a media statement as soon as practicable following Cabinet's consideration of the proposals in this paper.
- 68 Waka Kotahi will develop communication and education materials for the vehicle industry.

## Proactive Release

- 69 I propose to proactively release this Cabinet paper, and briefings I have received, subject to any necessary redactions. This would be done within 30 business days of decisions being confirmed by Cabinet. I will also proactively release material relating to the adoption of the Amendment Rule shortly after it is signed.

## Recommendations

The Minister of Transport recommends that the Committee:

1. **note** that on 3 May 2023 the Cabinet Economic Development Committee agreed to release the draft Land Transport Rule: Vehicle Exhaust Emissions Amendment 2023 (the amendment Rule) for public consultation that set out a phase-in of the Euro 6/VI exhaust emissions standards for heavy and light vehicles entering the fleet [DEV-23-MIN-0160 refers]
2. **note** that public consultation occurred over 11 May 2023–22 June 2023 and revealed a high level of support for moving to Euro 6/VI, however, the predominant view from the vehicle industry, the road freight industry and New Zealand Automobile Association is that the phase-in should be changed to align with Australia's
3. **agree** to amend the phase in set out in the draft Land Transport Rule: Vehicle Exhaust Emissions Amendment 2023 so its dates and stages align with Australia's, with the specific amendments being that:
  - 3.1 Euro 6d be required for newly approved light vehicle models from 1 July 2025 or 1 July 2027, depending on the date chosen by the Australian Government, rather than on or after 1 February 2025
  - 3.2 Euro 6d be required for new existing light vehicle models from 1 July 2028 rather than on or after 1 February 2026
  - 3.3 Euro VI-c remain the exhaust emissions standard for heavy vehicles on or after 1 November 2026 rather than strengthening to Euro VI-e at that date
4. **note** that should the Australian Government subsequently decide not to proceed with Euro 6d for light vehicles, the Minister of Transport will update the Cabinet Economic Development Committee with new options to consider prior to the relevant commencement dates

5. **agree** that when the Japanese and United States' heavy vehicle standards strengthen to be equivalent with Euro VI-e the Minister of Transport report back to the Cabinet Economic Development Committee to enable a reconsideration of the heavy vehicle standard for the post 2026 period
6. **agree** to change the application date for Euro 6d for used-imports from 1 January 2028 to 1 July 2028 to align with new vehicles
7. **agree** to limit the potential for the compliance date for Euro 6d for imported used-disability vehicles to cause transport disadvantage for disabled people by extending it from 1 January 2028 to 1 January 2031
8. **agree** that the amendment Rule be finalised in line with the decisions on the above recommendations and signed and published in the New Zealand Gazette prior to the 2023 General Election.

Authorised for lodgement

Hon David Parker  
**Minister of Transport**

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Document 5

5 September 2023

OC230779

Hon David Parker

Minister of Transport

## LETTERS TO WAKA KOTAHİ NEW ZEALAND TRANSPORT AGENCY AND COUNCILS REGARDING WAKA KOTAHİ'S STATUS AS A REQUIRING AUTHORITY FOR RAPID TRANSIT

### Purpose

- 1 This briefing responds to a request from your office for letters to send to councils regarding Waka Kotahi NZ Transport Agency's (Waka Kotahi) application to become a requiring authority for rapid transit projects under the Resource Management Act 1991 (RMA).

### Key points

- 2 In your capacity as Minister for the Environment, you intend to grant Waka Kotahi requiring authority status, under the RMA, for rapid transit projects. The basis for granting Waka Kotahi this authority status is based on Waka Kotahi's functions under the Crown Entities Act 2004.
- 3 You directed Te Manatū Waka Ministry of Transport (MoT) to prepare letters for you to send to councils who gave feedback to the Ministry for the Environment (MfE) on Waka Kotahi's application. These letters respond, at a high level, to the key themes provided by the councils. They are attached to this briefing for your approval.
- 4 We consider it is appropriate for you, in your capacity as Minister of Transport, to also write a letter to Waka Kotahi outlining your expectations for how it should undertake its role as a rapid transit requiring authority.
- 5 You have separately directed us, as required by s115A of the Crown Entities Act 2004, to review the underlying direction to Waka Kotahi that provides the basis for its rapid transit functions. Your decision regarding requiring authority status does not affect the scope of that review, or recommendations that MoT might make because of it. We will provide you with additional advice on the scope of the review and opportunities to bring this review forward.

**Recommendations**

We recommend you:

- 1 **sign** the attached letters to Waka Kotahi and councils regarding the decision to grant Waka Kotahi rapid transit requiring authority status Yes / No



Nick Potter  
Acting Manager, Placemaking and Urban  
Development

05/09/2023

Hon David Parker  
Minister of Transport

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

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

Name	Telephone	First contact
Daniel Cruden, Principal Adviser, Placemaking and Urban Development	s 9(2)(a)	✓
Nick Potter, Acting Manager, Placemaking and Urban Development		

## **Waka Kotahi's status as a requiring authority for rapid transit**

### *Background*

- 6 A direction was issued in May 2018 under the Crown Entities Act 2004 (CEA) that afforded Waka Kotahi the ability to “*plan, fund, design, supervise, construct and maintain rapid transit networks and/or projects, including light rail.*”
- 7 With reference to its rapid transit functions, and citing its involvement in current rapid transit projects, Waka Kotahi applied to become a requiring authority for rapid transit projects under Section 167 of the RMA in May 2023.
- 8 MfE provided independent advice to you on Waka Kotahi's application. As part of its assessment, MfE sought the comments from all Tier 1 councils (as defined in the National Policy Statement for Urban Development 2020) and the relevant Post-Settlement Governance Entities and mandated entities within the territorial extent of those councils to understand their experience in dealing with Waka Kotahi in its capacity as a requiring authority on other projects (BRF-3255 refers)
- 9 We understand that, after reviewing MfE's advice, you intend to grant Waka Kotahi rapid transit requiring authority status in your capacity as Minister for the Environment.
- 10 To help manage any concerns councils may have regarding Waka Kotahi becoming a rapid transit requiring authority under the RMA, you requested MoT to prepare letters to councils on your behalf.

### *We considered whether conditions should be imposed on Waka Kotahi to address some stakeholders' concerns*

- 11 We discussed with MfE the possibility of imposing conditions on Waka Kotahi as part of granting it rapid transit requiring authority, under s167(3) of the RMA, for the purposes of encouraging collaboration with local government authorities, mana whenua, and other partners.
- 12 MfE's view is that this would be unnecessary. This is because the process for submitting a Notice of Requirement already enables public notification and submissions along with rights of appeal. It also gives the relevant local government organisation several potential grounds to recommend withdrawal of such a notice. The relevant local government organisation may also recommend conditions be imposed on a designation.
- 13 While we acknowledge that a local government organisation can recommend a Notice of Requirement be withdrawn, we note that there is no ability for the local government authority to reject a Notice of Requirement.<sup>1</sup> We also note that there is no statutory obligation under the RMA to engage with affected parties prior to lodging a Notice of Requirement, although this is encouraged.

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<sup>1</sup> Refer to s171 of the Resource Management Act (1991)

*We have attached letters to councils that provided feedback on Waka Kotahi's application for rapid transit requiring authority*

- 14 The letters to councils broadly convey the contents of the letter of expectations to Waka Kotahi, including working in partnership with key stakeholders and in a mode-neutral manner. In addition, the letters respond at a high level to the key themes raised by councils and note that a review of Waka Kotahi's rapid transit functions is in progress.

*Iwi and Māori could be affected by the decision to grant Waka Kotahi requiring authority status*

- 15 MfE received feedback from four iwi organisations.<sup>2</sup> Your office did not directly ask for letters to organisations representing Māori and/or iwi. As these were not asked for, we did not prepare any letters to these groups.
- 16 Given the concerns raised by some iwi organisations to MfE, you may wish to take additional steps to provide assurance and support those relationships. We note MfE has provided separate advice to you addressing engagement on Waka Kotahi's application with iwi and Māori Post Settlement Governance Entities and mandated entities within Tier 1 councils' areas.

*We have drafted letters to additional stakeholders who did not provide feedback to MfE*

- 17 As far as we are aware, Auckland Council (and its relevant Council Controlled Organisations, including Auckland Transport) did not provide a response to MfE regarding Waka Kotahi's application to become a rapid transit requiring authority. While we do not know their views, we have drafted a letter to the Mayor of Auckland on your behalf.
- 18 We also note that MfE did not appear to consult with KiwiRail, and so may not have had the opportunity to consider the implications of Waka Kotahi's new requiring authority status on their functions.<sup>3</sup> We anticipate that KiwiRail will be consulted as part of the statutory review of Waka Kotahi's rapid transit functions under the CEA.

*There are risks regarding Waka Kotahi's execution of its rapid transit requiring authority status*

- 19 Rapid transit projects, particularly very large-scale ones, are often funded on a case-by-case basis, with a mix of funding from local contributions, the National Land Transport Fund (NLTF), and Crown contributions. There is a risk that Waka Kotahi will not be able to fully fund its share of rapid transit costs from the NLTF alone.
- 20 Collaboration between partners will be needed to ensure funding options are explored early and risks identified and managed. In addition to this, rapid transit projects often rely on enabling urban development and infrastructure (three waters etc.) to realise project outcomes.

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<sup>2</sup> Feedback was provided by Ngāti Tahu - Ngāti Whaoa Rūnanga Trust, Te Rūnanga o Toa Rangatira Inc., Te Atiawa ki te Upoko o te Ika a Māui Pōtiki Trust and Te Whakakitenga o Waikato Incorporated.

<sup>3</sup> KiwiRail Holdings Limited is a requiring authority under section 167 of the Resource Management Act 1991, for its network utility operation being the construction, operation, maintenance, replacement, upgrading, improvement and extension of its railway line.

- 21 To address this risk, we suggest you provide Waka Kotahi with clear expectations regarding how you expect it to collaborate with key stakeholders to ensure Waka Kotahi and its respective partners can meet their funding obligations and have undertaken the wider investment and planning that is necessary to enable rapid transit projects, including zoning changes.

*We have prepared a letter of expectations for you to the Chair of the Waka Kotahi Board*

- 22 This letter sets out your general expectations for the exercise of the rapid transit function. This is primarily intended to support your objective of reassuring councils, but also provides an opportunity to restate your expectations for how Waka Kotahi will execute its role in rapid transit projects. In particular, the letter to Waka Kotahi states your expectations that Waka Kotahi will:

- exercise its rapid transit functions collaboratively, and work in partnership with a range of key stakeholders and affected parties (as well as ensuring partners can meet their funding obligations)
- show genuine commitment to Te Tiriti o Waitangi and the principles that underpin the relationship between Government and Māori
- act consistently with its statutory obligations.

- 23 The letter also states that the decision to grant requiring authority status for rapid transit does not predetermine the outcome of an upcoming review of the underlying rapid transit direction.

*We will be undertaking a review of Waka Kotahi's rapid transit requiring authority function*

- 24 You have separately asked us to review, as required by the Crown Entities Act 2004, the underlying direction to Waka Kotahi that provides the basis for its rapid transit functions (OC230683 refers). We will come back to you shortly with advice on the opportunities of bringing this review forward.

- 25 The decision regarding requiring authority status will not affect the scope of the review, or recommendations that the Ministry of Transport might make because of it.

*Next steps*

- 26 We have attached letters to councils and Waka Kotahi's Board Chair for you to consider. If you are satisfied with these letters, please sign them so that your office can send them on individually.





Dr Paul Reynolds  
Chair  
Waka Kotahi NZ Transport Agency

Dear Paul

I am writing to you following the decision I recently made in my capacity as Minister for the Environment to grant Waka Kotahi NZ Transport Agency (Waka Kotahi) status as a rapid transit requiring authority under section 167 of the Resource Management Act 1991 (RMA).. The purpose of this authority is for *“constructing or operating (including maintaining, replacing, upgrading, improving, enhancing, expanding, realigning, and altering) rapid transit networks and projects and their ancillary structures, works and activities in New Zealand on a mode-neutral basis (either road or rail or both).”*

The Government recognises the potential transformational benefits that rapid transit projects can deliver for New Zealanders and our growing cities. Therefore, it is important that Waka Kotahi continues with its positive and collaborative approach towards its key rapid transit stakeholders and affected parties including Māori and iwi, local government (and its relevant organisations), government agencies, the private sector, and the public.

When exercising its rapid transit functions, it is my expectation that Waka Kotahi will continue to act consistently with statutory responsibilities, including obligations under the RMA, the Land Transport Management Act 2003, the Local Government Act 2002, the Government Rounding Powers Act 1989, and the Climate Change Response Act 2002 and other relevant legislation. I also expect Waka Kotahi to show genuine commitment to Te Tiriti o Waitangi and the principles that underpin the relationship between Government and Māori.

As you are aware, I have separately directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose. My decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

I am writing separately to councils in affected areas to inform them of this decision, and the expectations outlined in this letter.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to:       Nicole Rosie  
                    **Chief Executive, Waka Kotahi NZ Transport Agency**

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Wayne Brown  
Mayor  
Auckland Council

Dear Wayne Brown

In May 2023, Waka Kotahi NZ Transport Agency (Waka Kotahi) applied to the Ministry for the Environment to become a requiring authority under the Resource Management Act 1991. I have recently granted the application in my role as Minister for the Environment.

As you are aware, it is important to integrate rapid transit projects with broader transport networks, infrastructure, and land-use planning to achieve the outcomes sought in plans and strategies. Waka Kotahi has advised me it sought rapid transit requiring authority status to help achieve this integration through a mode-neutral and collaborative approach.

Waka Kotahi's requiring authority status is based on their functions under the Crown Entities Act 2004 and applies generally. I note that Waka Kotahi will need to apply to the appropriate council if they intend to use this authority in specific locations, following the designation processes set out in the RMA.

I have written to Waka Kotahi to outline my expectations that it exercises its rapid transit functions collaboratively with key partners, including local government (including its organisations), Māori and iwi, and relevant stakeholders. This collaboration is also essential to deliver the outcomes sought in national and local government plans and strategies, and to ensure partners can meet their funding obligations.

The Government recognises the important role that rapid transit can have in shaping our cities. Rapid transit can support emissions reductions, improve transport choices, and help enable more housing choices for New Zealanders. As there are several types of rapid transit initiatives happening across New Zealand cities, I have directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose.

My recent decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Phil Wilson  
**Chief Executive (Acting), Auckland Council**  
[phil.wilson@aucklandcouncil.govt.nz](mailto:phil.wilson@aucklandcouncil.govt.nz)

Wayne Donnelly  
**Acting Chair, Auckland Transport**  
s 9(2)(a) [REDACTED]

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Doug Leeder  
Chair  
Bay of Plenty Regional Council

Dear Doug Leeder

Thank you for Bay of Plenty Regional Council's submission to the Ministry for the Environment on Waka Kotahi NZ Transport Agency's (Waka Kotahi) application to become a rapid transit requiring authority under the Resource Management Act 1991 (RMA), dated 8 August 2023. I have recently granted the application in my capacity as Minister for the Environment.

As you are aware, it is important to integrate rapid transit projects with broader transport networks, infrastructure, and land-use planning to achieve the outcomes sought in plans and strategies. Waka Kotahi has advised me it sought rapid transit requiring authority status to help achieve this integration through a mode-neutral and collaborative approach.

Waka Kotahi's requiring authority status is based on their functions under the Crown Entities Act 2004 and applies generally. I note that Waka Kotahi will need to apply to the appropriate council if they intend to use this authority in specific locations, following the designation processes set out in the RMA.

I have written to Waka Kotahi to outline my expectations that it exercises its rapid transit functions collaboratively with key partners, including local government (including its organisations), Māori and iwi, and relevant stakeholders. This collaboration is also essential to deliver the outcomes sought in national and local government plans and strategies, and to ensure partners can meet their funding obligations.

The Government recognises the important role that rapid transit can have in shaping our cities. Rapid transit can support emissions reductions, improve transport choices, and help enable more housing choices for New Zealanders. As there are several types of rapid transit initiatives happening across New Zealand cities, I have directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose.



My recent decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Reuben Fraser  
**Tumu Whakarite Ture - General Manager Regulatory Services, Bay of  
Plenty Regional Council**  
[reuben.fraser@boprc.govt.nz](mailto:reuben.fraser@boprc.govt.nz)

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Peter Scott  
Chair  
Environment Canterbury

Dear Peter Scott

Thank you for Environment Canterbury's submission to the Ministry for the Environment on Waka Kotahi NZ Transport Agency's (Waka Kotahi) application to become a rapid transit requiring authority under the Resource Management Act 1991 (RMA), dated 18 August 2023.

I have recently granted the application in my capacity as Minister for the Environment. As you are aware, it is important to integrate rapid transit projects with broader transport networks, infrastructure, and land-use planning to achieve the outcomes sought in plans and strategies. Waka Kotahi has advised me it sought rapid transit requiring authority status to help achieve this integration through a mode-neutral and collaborative approach.

Waka Kotahi's requiring authority status is based on their functions under the Crown Entities Act 2004 and applies generally. I note that Waka Kotahi will need to apply to the appropriate council if they intend to use this authority in specific locations, following the designation processes set out in the RMA.

I have written to Waka Kotahi to outline my expectations that it exercises its rapid transit functions collaboratively with key partners, including local government (including its organisations), Māori and iwi, and relevant stakeholders. This collaboration is also essential to deliver the outcomes sought in national and local government plans and strategies, and to ensure partners can meet their funding obligations.

The Government recognises the important role that rapid transit can have in shaping our cities. Rapid transit can support emissions reductions, improve transport choices, and help enable more housing choices for New Zealanders. As there are several types of rapid transit initiatives happening across New Zealand cities, I have directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose.

My recent decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Dr Stefanie Rixecker,  
**Chief Executive, Environment Canterbury**  
[stefanie.rixecker@ecan.govt.nz](mailto:stefanie.rixecker@ecan.govt.nz)

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Daran Ponter  
Chair  
Greater Wellington Regional Council

Dear Daran Ponter

Thank you for Greater Wellington Regional Council's submission to the Ministry for the Environment on Waka Kotahi NZ Transport Agency's (Waka Kotahi) application to become a rapid transit requiring authority under the Resource Management Act 1991 (RMA), dated 25 August 2023. I have recently granted the application in my capacity as Minister for the Environment.

As you are aware, it is important to integrate rapid transit projects with broader transport networks, infrastructure, and land-use planning to achieve the outcomes sought in plans and strategies. Waka Kotahi has advised me it sought rapid transit requiring authority status to help achieve this integration through a mode-neutral and collaborative approach.

Waka Kotahi's requiring authority status is based on their functions under the Crown Entities Act 2004 and applies generally. I note that Waka Kotahi will need to apply to the appropriate council if they intend to use this authority in specific locations, following the designation processes set out in the RMA.

I have written to Waka Kotahi to outline my expectations that it exercises its rapid transit functions collaboratively with key partners, including local government (including its organisations), Māori and iwi, and relevant stakeholders. This collaboration is also essential to deliver the outcomes sought in national and local government plans and strategies, and to ensure partners can meet their funding obligations.

The Government recognises the important role that rapid transit can have in shaping our cities. Rapid transit can support emissions reductions, improve transport choices, and help enable more housing choices for New Zealanders. As there are several types of rapid transit initiatives happening across New Zealand cities, I have directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose.

My recent decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Nigel Corry  
**Chief Executive, Greater Wellington Regional Council,**  
[nigel.corry@gw.govt.nz](mailto:nigel.corry@gw.govt.nz)

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Jacqui Church  
Mayor  
Waikato District Council

Dear Jacqui Church

Thank you for Waikato District Council's submission to the Ministry for the Environment on Waka Kotahi NZ Transport Agency's (Waka Kotahi) application to become a rapid transit requiring authority under the Resource Management Act 1991 (RMA), dated 9 August 2023. I have recently granted the application in my capacity as Minister for the Environment.

As you are aware, it is important to integrate rapid transit projects with broader transport networks, infrastructure, and land-use planning to achieve the outcomes sought in plans and strategies. Waka Kotahi has advised me it sought rapid transit requiring authority status to help achieve this integration through a mode-neutral and collaborative approach.

Waka Kotahi's requiring authority status is based on their functions under the Crown Entities Act 2004 and applies generally. I note that Waka Kotahi will need to apply to the appropriate council if they intend to use this authority in specific locations, following the designation processes set out in the RMA.

I have written to Waka Kotahi to outline my expectations that it exercises its rapid transit functions collaboratively with key partners, including local government (including its organisations), Māori and iwi, and relevant stakeholders. This collaboration is also essential to deliver the outcomes sought in national and local government plans and strategies, and to ensure partners can meet their funding obligations.

The Government recognises the important role that rapid transit can have in shaping our cities. Rapid transit can support emissions reductions, improve transport choices, and help enable more housing choices for New Zealanders. As there are several types of rapid transit initiatives happening across New Zealand cities, I have directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose.

My recent decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Vishal Ramduny,  
**Strategic Initiatives and Partnerships Manager, Waikato District Council**  
[vishal.ramduny@waidc.govt.nz](mailto:vishal.ramduny@waidc.govt.nz)

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Pamela Storey  
Chair  
Waikato Regional Council

Dear Pamela Storey

Thank you for Waikato Regional Council's feedback to the Ministry for the Environment on Waka Kotahi NZ Transport Agency's (Waka Kotahi) application to become a rapid transit requiring authority under the Resource Management Act 1991 (RMA). I have recently granted its application in my capacity as Minister for the Environment.

As you are aware, it is important to integrate rapid transit projects with broader transport networks, infrastructure, and land-use planning to achieve the outcomes sought in plans and strategies. Waka Kotahi has advised me it sought rapid transit requiring authority status to help achieve this integration through a mode-neutral and collaborative approach.

Waka Kotahi's requiring authority status is based on their functions under the Crown Entities Act 2004 and applies generally. I note that Waka Kotahi will need to apply to the appropriate council if they intend to use this authority in specific locations, following the designation processes set out in the RMA.

I have written to Waka Kotahi to outline my expectations that it exercises its rapid transit functions collaboratively with key partners, including local government (including its organisations), Māori and iwi, and relevant stakeholders. This collaboration is also essential to deliver the outcomes sought in national and local government plans and strategies, and to ensure partners can meet their funding obligations.

The Government recognises the important role that rapid transit can have in shaping our cities. Rapid transit can support emissions reductions, improve transport choices, and help enable more housing choices for New Zealanders. As there are several types of rapid transit initiatives happening across New Zealand cities, I have directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose.

My recent decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Chris McLay  
**Chief Executive, Waikato Regional Council**  
[chris.mclay@waikatoregion.govt.nz](mailto:chris.mclay@waikatoregion.govt.nz)

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Tory Whanau  
Mayor  
Wellington City Council

Dear Tory Whanau

Thank you for Wellington City Council's submission to the Ministry for the Environment on Waka Kotahi NZ Transport Agency's (Waka Kotahi) application to become a rapid transit requiring authority under the Resource Management Act 1991 (RMA), dated 28 August 2023. I have recently granted the application in my capacity as Minister for the Environment.

As you are aware, it is important to integrate rapid transit projects with broader transport networks, infrastructure, and land-use planning to achieve the outcomes sought in plans and strategies. Waka Kotahi has advised me it sought rapid transit requiring authority status to help achieve this integration through a mode-neutral and collaborative approach.

Waka Kotahi's requiring authority status is based on their functions under the Crown Entities Act 2004 and applies generally. I note that Waka Kotahi will need to apply to the appropriate council if they intend to use this authority in specific locations, following the designation processes set out in the RMA.

I have written to Waka Kotahi to outline my expectations that it exercises its rapid transit functions collaboratively with key partners, including local government (including its organisations), Māori and iwi, and relevant stakeholders. This collaboration is also essential to deliver the outcomes sought in national and local government plans and strategies, and to ensure partners can meet their funding obligations.

The Government recognises the important role that rapid transit can have in shaping our cities. Rapid transit can support emissions reductions, improve transport choices, and help enable more housing choices for New Zealanders. As there are several types of rapid transit initiatives happening across New Zealand cities, I have directed Te Manatū Waka Ministry of Transport to review the direction which forms the basis for Waka Kotahi's rapid transit functions, as required by the Crown Entities Act 2004. This is to ensure that any current and future direction continues to be fit for purpose.



My recent decision to grant Waka Kotahi with requiring authority status for rapid transit does not predetermine the outcome of that review.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to:      Liam Hodgetts  
                    **Chief Planning Officer, Wellington City Council**  
                    [liam.hodgetts@wcc.govt.nz](mailto:liam.hodgetts@wcc.govt.nz)

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Document 6

6 September 2023

OC230753

Hon David Parker

Action required by:

Minister of Transport

Tuesday, 26 September 2023

Hon Damien O'Connor

Associate Minister of Transport

## QUARTER 1 UPDATES TO OUTPUT PLAN 2023/24

### Purpose

Seek your agreement to three changes to the Quarter 1 (Q1) Output Plan deliverables.

### Key points

- The Output Plan is an agreement between the Transport Ministers and the Ministry on the key deliverables we expect to deliver for you. The current Output Plan runs to the end of Q1 (September) 2023/24. For the Output Plan to remain up-to-date, there is a need to amend it during the year. This briefing proposes three changes to the Output Plan, relating to the following projects:

- Road Safety Penalties Review – move deliverable '*Draft Cabinet paper seeking approval of discussion document*' from Q1 to Q3.

This update is requested as the Prime Minister's letter of priorities indicated Cabinet would reconsider approving the discussion document for public consultation in 2024.

- s 9(2)(f)(iv)

- Legislative amendments to enable roadside oral fluid testing – Move deliverable '*Communications material to support Bill introduction to House (subject to drafting and Cabinet approval)*' from Q1 to Q3 (within the Associate Minister of Transport's delegations).

This update is requested as the required legislative amendments have not been drafted, due to limited availability of drafting resource.

- Separate copies of this briefing are being provided to the Minister of Transport and Associate Minister of Transport for their decision-making.

- The Ministry proposes to discuss the development of the full 2023/24 Output Plan with Transport Ministers following the election.

## Recommendations

We recommend that the Minister of Transport **agree**:

### 1 **Project: Road Safety Penalties Review**

Move deliverable 'Draft Cabinet paper seeking approval of discussion document' from Q1 to Q3

Yes / No

2

s 9(2)(f)(iv)

We recommend that the Associate Minister of Transport **agree**:

### 3 **Project: Legislative amendments to enable roadside oral fluid testing**

Move deliverable 'Communications material to support Bill introduction to House (subject to drafting and Cabinet approval)' from Q1 to Q3.

Yes / No



Robyn Smith  
**Deputy Chief Executive, Corporate Services**

..06 / 09 / 2023..

Hon David Parker  
**Minister of Transport**

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

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

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

**Minister's office to complete:**

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

UNCLASSIFIED

**Comments****Contacts**

Name	Telephone	First contact
Robyn Smith	s 9(2)(a)	✓
Hilary Penman, Manager Ministerial Services		
Robert McShane, Principal Adviser, Ministerial Services		

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Document 7

6 September 2023

OC230783

Hon David Parker

Action required by:

Minister of Transport

Tuesday, 19 September 2023

## QUARTER 4 OUTPUT PLAN REPORT 2022/23

### Purpose

Provides an update on previously agreed projects from the Output Plan.

### Key points

- The Ministry previously agreed to provide quarterly updates against identified initiatives from the Output Plan. The Quarter 4 Output Plan Report is attached (Appendix A refers).
- The Ministry has, separately, provided you with a briefing on the 'Quarterly report on implementation progress of the Emissions Reduction Plan Transport Chapter Actions – April-June 2023' (OC2306690 refers). These briefings, together, constitute the Ministry's Q4 reporting to you.
- Thirteen of the fifteen reported Output Plan projects are assessed as 'green', meaning the forecasted September 2023 position is on track to be achieved
- The Government Policy Statement 2024 (GPS 2024) project is assessed as being 'amber', meaning there is some risk to the forecasted September 2023 position being achieved. This is because Cabinet decisions on the draft GPS 2024 were not taken until after June 2023.
- The Congestion Charging project is assessed as being 'red', meaning the forecasted September 2023 position will not be achieved. This is because the Land Transport Management (Congestion Charging) Amendment Bill is awaiting introduction to the House.
- We intend to discuss Output Plan deliverables for quarters 2 – 4 of 2023/24 with Transport Ministers after the election.

## Recommendations

We recommend you:

- 1 **Review** the attached Quarter 2 Output Plan Report and discuss any issues that you may have on progress-to-date for individual initiatives with officials. Yes / No



Robyn Smith  
**Deputy Chief Executive, Corporate Services**

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

Hon David Parker  
**Minister of Transport**

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

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

## Comments

## Contacts

Name	Telephone	First contact
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Hilary Penman Manager Ministerial Services		
Robert McShane, Principal Adviser, Ministerial Services		



## Quarter 4 2022/23 Output Plan Report to the Minister of Transport

### Contents

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 <b>Programme 2: Transit</b>	 <b>p.8</b>	 <b>Programme 4: Other Key Initiatives</b>	 <b>p.177</b>
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## Programme 1: Decarbonising Transport

SRO Bryn Gandy – s 9(2)(a)

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Project 1D: National Freight & Supply Chain Strategy		Quarter 4 2022/23															
Key Contacts:	DCE: Bryn Gandy s 9(2)(a) Manager: Jacob Ennis	Overall Status RAG: <div></div>															
Project Purpose:	To produce a shared view of the supply chain system and develop a future direction for the supply chain.																
Forecasted Sep 2023 Status:	Strategy launched, implementation programme underway.																
<b>Progress against last quarter report</b> <ul style="list-style-type: none"><li>The strategy has been finalised and agreed by Cabinet. We have arranged for the Minister to launch the strategy at Ruakura on 18 August.</li></ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"><li>Once released we will engage with key stakeholders on the content of the strategy. This will feed into an action plan to be finalised in mid-2024, s 9(2)(f)(iv).</li><li>We will be commissioning a study into the current and future freight network needs, to better understand how we can build resilience and improve productivity in our freight network. We will also be commissioning work on removing regulatory barriers to green shipping.</li></ul>		<b>Progress against current and future deliverables/milestones</b> <table><tr><th>Due date/Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr><tr><td>August 23</td><td>Strategy launched</td><td></td></tr><tr><td>December 23</td><td>s 9(2)(f)(iv)</td><td></td></tr><tr><td>February 24</td><td>Draft action plan shared with stakeholders</td><td></td></tr><tr><td>April 24</td><td>Draft action plan shared with Minister</td><td></td></tr></table>	Due date/Timeframe	Deliverables/milestones	Status (RAG)	August 23	Strategy launched		December 23	s 9(2)(f)(iv)		February 24	Draft action plan shared with stakeholders		April 24	Draft action plan shared with Minister	
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August 23	Strategy launched																
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April 24	Draft action plan shared with Minister																



## Project 1E: Freight Decarbonisation Programme Quarter 4 2022/23

Key Contacts:	DCE: Bryn Gandy s 9(2)(a) Manager: Jacob Ennis	Overall Status RAG: <div></div>						
Project Purpose:	Development of a range of initiatives to accelerate zero emissions heavy vehicle uptake and progress other emissions reduction measures, in particular the development of the Clean Truck Discount and Standard							
Forecasted Sep 2023 Status:	Clean Truck Grant scheme design and implementation timeframes agreed							
<b>Progress against last quarter report</b> <ul style="list-style-type: none"><li>Funding was allocated through Budget 2023 for the Clean Heavy Vehicle Grant Scheme delivered by EECA; and EECA and MBIE are preparing a final briefing to seek agreement from the Minister of Energy and Resources, and Minister of Finance to draw down on this funding. The Scheme is currently due to be in place by 1 October 2023.</li><li>The EV charging strategy draft was updated with more refined actions for heavy vehicle charging, following good engagement with the freight sector. This includes an initial step to establish a public/private forum to work collaboratively on heavy vehicle charging infrastructure. The final strategy is with Ministers for consideration.</li><li>The Ministry partnered with the Sustainable Business Council (SBC) to assess the feasibility of implementing a Renewable Freight Certificate system. There may be opportunities to progress this work further and establish a more formal partnership with SBC.</li></ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"><li>Te Manatū Waka will work with Waka Kotahi to scope a review into removing regulatory barriers to zero emissions heavy vehicles while EECA implements the Grant scheme. s 9(2)(f)(iv)</li></ul>		<b>Progress against current and future deliverables/milestones</b> <table><tr><th>Due date/Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr><tr><td>September 23</td><td>Scope and timeline agreed between Waka Kotahi and MOT on review of regulatory barriers to zero emission heavy vehicles.</td><td></td></tr></table>	Due date/Timeframe	Deliverables/milestones	Status (RAG)	September 23	Scope and timeline agreed between Waka Kotahi and MOT on review of regulatory barriers to zero emission heavy vehicles.	
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Project 1S: Congestion Charging		Quarter 4 2022/23													
Key Contacts:	DCE: Bryn Gandy s 9(2)(a) Manager: Marian Willberg		Overall Status RAG: <div></div>												
Project Purpose:	To implement a legislative framework for congestion charging in New Zealand.														
Forecasted Sep 2023 Status:	Legislative process complete														
<b>Progress against last quarter report</b> <ul style="list-style-type: none"><li>We provided a draft of the Land Transport Management (Congestion Charging) Amendment Bill on 5 April 2023. Cabinet Legislation Committee approved the Bill for introduction on 11 May 2023, however, a decision is yet to be made on if/when the Bill will be introduced.</li></ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"><li>We will work with you to determine when the Bill might be introduced. Given that the Bill has not yet been introduced, it will not be possible to meet the forecasted September 2023 status of the legislative process being completed.</li><li>We are continuing to monitor activity in Auckland and Wellington and will engage with councils if appropriate.</li></ul>			<b>Progress against current and future deliverables/milestones</b> <table><tr><th>Due date/Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr><tr><td>April 23</td><td>Final Cabinet paper seeking approval to introduce the Bill</td><td></td></tr><tr><td>May/June 2023</td><td>Support Select Committee process</td><td></td></tr><tr><td>Jun 23</td><td>Departmental Report following Select Committee</td><td></td></tr></table>	Due date/Timeframe	Deliverables/milestones	Status (RAG)	April 23	Final Cabinet paper seeking approval to introduce the Bill		May/June 2023	Support Select Committee process		Jun 23	Departmental Report following Select Committee	
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## Programme 2: Transit

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Project 2A: Auckland Light Rail Quarter 4 2022/23														
<b>Key Contacts:</b>	DCE: David Wood <span style="background-color: #cccccc;">s 9(2)(a)</span> Manager: Chris Gulik	Overall Status RAG:												
<b>Project Purpose:</b>	Stewardship and oversight of the ALR project, with specific responsibilities for governance and funding, review and assurance of ALR Limited's work and deliverables, and developing and implementing a policy work programme	<div style="background-color: #008000; width: 50px; height: 20px; border: 1px solid black;"></div>												
<b>Forecasted Sep 2023 Status:</b>	Notice of requirement will be lodged.													
<b>Progress against last quarter report</b> <ul style="list-style-type: none"> <li>Ongoing policy work in relation to governance, the acquisition of land, funding, and finance, future operating arrangements, and business case assurance.</li> <li>Supported Ministers and their offices in contributing to the Routes and Stations workshops. This has involved clarifying the nature, implications and sequencing of decisions that were required by ALRL and provided second-stream advice in respect of the recommendations made to Sponsors on Route and Station decisions in May. Sponsors successfully made decisions on Routes and Stations.</li> <li>Supported the Minister with the provision of material supporting an oral update at the Cabinet Priorities Committee on 2 May on the decision-making alignment of ALR, Waitematā Harbour Crossing and Tāmaki Makaurau Transport Plan.</li> <li>Confirmed arrangements for ongoing support and relationship management with two Mana whenua Sponsors and their advisors.</li> <li>Confirmed the procurement of independent advice for mana whenua representatives and the remuneration for mana whenua Sponsors.</li> <li>Briefed Ministers to allow ALR Ltd to progress with early strategic land acquisition to support the authorisation of acquisitions <span style="background-color: #cccccc;">s 9(2)(b)(ii)</span></li> <li>Established Ownership and operating working group and conducted a workshop with key stakeholders on draft principles and options.</li> </ul>		<b>Progress against current and future deliverables/milestones</b> <table border="1"> <thead> <tr> <th>Due date/ Timeframe</th><th>Deliverables /milestones</th><th>Status (RAG)</th></tr> </thead> <tbody> <tr> <td>Aug 23</td><td>Advice to Ministers on approach to Ownership &amp; Operations of ALR assets</td><td><div style="background-color: #008000; width: 20px; height: 20px;"></div></td></tr> <tr> <td>Aug 23</td><td>Second stream advice to Ministers relating to Lodgement of the Notice of Requirement</td><td><div style="background-color: #008000; width: 20px; height: 20px;"></div></td></tr> <tr> <td>Aug 23</td><td><span style="background-color: #cccccc;">s 9(2)(f)(iv)</span></td><td><div style="background-color: #008000; width: 20px; height: 20px;"></div></td></tr> </tbody> </table>	Due date/ Timeframe	Deliverables /milestones	Status (RAG)	Aug 23	Advice to Ministers on approach to Ownership & Operations of ALR assets	<div style="background-color: #008000; width: 20px; height: 20px;"></div>	Aug 23	Second stream advice to Ministers relating to Lodgement of the Notice of Requirement	<div style="background-color: #008000; width: 20px; height: 20px;"></div>	Aug 23	<span style="background-color: #cccccc;">s 9(2)(f)(iv)</span>	<div style="background-color: #008000; width: 20px; height: 20px;"></div>
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Aug 23	<span style="background-color: #cccccc;">s 9(2)(f)(iv)</span>	<div style="background-color: #008000; width: 20px; height: 20px;"></div>												
<b>Key focus for next quarter</b> <ul style="list-style-type: none"> <li>Further policy work surrounds the decision-making associated with the Final Investment Decision.</li> <li>Supporting Mana whenua Sponsors leading to the Sponsors meeting in August.</li> <li>Providing support to ALRL and advice to Ministers ahead of the sponsors' workshop in July and meeting in August to examine issues regarding the lodgement of Notices of Requirement.</li> <li>Progressing work to embed processes to meet approval requirements for early land acquisitions <span style="background-color: #cccccc;">s 9(2)(b)(ii)</span></li> <li>Provide initial advice to Ministers on the approach to ownership and operations of the ALR assets.</li> <li><span style="background-color: #cccccc;">s 9(2)(f)(iv)</span></li> <li>Understanding the implication of the SDP assessment on the ALR policy work programme and working with KO and HUD to integrate the SDP work.</li> </ul>														



Project 2C: Transit Framework

Quarter 4 2022/23

Key Contacts:	Director: Siobhan Routledge, s 9(2)(a)      Manager: Daniel Cruden	Overall Status RAG: <div></div>
Project Purpose:	Planning for mass rapid transit projects in Auckland, Wellington, and Christchurch is underway, but each has bespoke arrangements and lacks consistent central government guidance on key issues. We are designing a framework for decision-makers that will reduce friction in the system and support more clarity and consistency in decision-making when progressing mass rapid transit.	
Forecasted Sep 2023 Status:	A framework will be in place to guide decision-makers as they plan and deliver mass transit projects.	

Progress against last quarter report

- We provided the draft framework to the previous Minister. We have agreed that the finalisation of the framework will take place following the general election. In the interim we have agreed with you that we can commence some targeted engagement with councils to better understand their challenges and needs, in development rapid transit proposals. This engagement will allow officials to ensure that the further work on the framework is well informed by council perspectives.

Key focus for next quarter

- The key focus is undertaking targeted engagement with councils. This will enable us to test our thinking and get councils' perspectives and insights.
- We will also provide advice to you in August 2023, outlining the key rapid transit policy issues identified through our work so far and the targeted engagement.
- Stakeholders across central government are positively engaged with this work. However, some have high expectations of what the framework can achieve in terms of being a definitive guide to rapid transit development. We are continuing to manage these expectations and remain clear about the scope and intent of the framework
- Resourcing is a key risk, and we are reprioritising resource to ensure this project can proceed at pace.





Progress against current and future deliverables/milestones

Due date/Timeframe	Deliverables/milestones	Status (RAG)
April 23	Draft framework to Minister	
July 23	Targeted engagement with councils on the draft framework	
August 23	Cabinet consideration of the draft framework	
September 23	Implementation of framework underway	





## Project 2E: Inter-Regional Passenger Rail Select Committee Inquiry Quarter 4 2022/23

<b>Key Contacts:</b>	Director: Siobhan Routledge, s 9(2)(a) Manager: Daniel Cruden	Overall Status RAG:						
<b>Project Purpose:</b>	The Transport and Infrastructure Committee (the Committee) is holding an inquiry into the future of inter-regional passenger rail in New Zealand. It seeks to gain insights into the viability of passenger rail and investigating potential rail expansions and investments in specific areas. The inquiry will also look at the climate and emissions reduction possibilities of passenger rail.							
<b>Forecasted Sep 2023 Status:</b>	The Inquiry should be completed by September 2023. Any recommendations resulting from the inquiry are not yet known and will be dependent on the Transport and Infrastructure Committee's approach to the inquiry and findings.							
<b>Progress against last quarter report</b> <ul style="list-style-type: none"> <li>There were no deliverables this quarter. The Committee has published its final report into the future of inter-regional passenger rail in New Zealand.</li> </ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"> <li>The key focus of our work will be preparing the government response to the Committee's recommendations.</li> </ul>		<b>Progress against current and future deliverables/milestones</b> <table border="1"> <thead> <tr> <th>Due date/ Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr> </thead> <tbody> <tr> <td>March 23</td><td>Departmental report completed and submitted to the Committee</td><td></td></tr> </tbody> </table>	Due date/ Timeframe	Deliverables/milestones	Status (RAG)	March 23	Departmental report completed and submitted to the Committee	
Due date/ Timeframe	Deliverables/milestones	Status (RAG)						
March 23	Departmental report completed and submitted to the Committee							

## Programme 3: Revenue and Investment





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Project 3A: GPS 2024		Quarter 4 2022/23													
Key Contacts:	DCE: Bryn Gandy, s 9(2)(a) Manager: Tim Herbert		Overall Status RAG: <div></div>												
Project Purpose:	To develop the Government Policy Statement 2024 on Land Transport. The GPS 2024 will reflect the latest Government priorities for transport. It will ensure available funding from both the National Land Transport Fund and Crown sources are used efficiently and effectively to meet these priorities.														
Forecasted Sep 2023 Status:	The GPS 2024 project will be completed with expected publication of the final draft by mid-2024.														
<b>Progress against last quarter report</b> <ul style="list-style-type: none"><li>We completed all of the deliverables that were due this quarter.</li><li>The funding package for GPS24 as currently agreed has now been incorporated into the draft GPS2024.</li><li>We have provided a draft Cabinet paper, draft GPS and cover briefing for DEV in early June, with an intention of releasing the consultation draft of GPS24 in mid/ late July for four weeks.</li><li>We completed the GPS24 Review by KPMG and Mott MacDonald and have used the results of this to refine Activity Class settings.</li><li>We are preparing the necessary engagement, press and communications material for the release of the consultation version of GPS24 in July.</li></ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"><li>Provide any necessary support material for DEV/Cabinet approval of the consultation draft of GPS24.</li><li>Provide all necessary communications and engagement material to allow the consultation phase of GPS24 to occur.</li><li>Undertake the four week engagement phase and provide any analysis/ reporting on submissions.</li><li>Revise GPS24 based on the engagement and submit the final version for Ministerial/ Cabinet approval and release.</li></ul>			<b>Progress against current and future deliverables/milestones</b> <table><tr><th>Due date/ Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr><tr><td>Dec 22</td><td>Draft GPS submitted to the Minister for consideration</td><td></td></tr><tr><td>May/ June 23</td><td>Cabinet approves release of draft GPS for consultation and engagement roadshow occurs</td><td></td></tr><tr><td>Sept 23</td><td>Release of GPS24</td><td></td></tr></table>	Due date/ Timeframe	Deliverables/milestones	Status (RAG)	Dec 22	Draft GPS submitted to the Minister for consideration		May/ June 23	Cabinet approves release of draft GPS for consultation and engagement roadshow occurs		Sept 23	Release of GPS24	
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Project 3B: Budget 2023		Quarter 4 2022/23																
Key Contacts:	DCE: Bryn Gandy, s 9(2)(a) Manager: Tim Herbert		Overall Status RAG: <div></div>															
Project Purpose:	Support the Minister of Transport to develop the Budget 2023 Vote Transport package (including the Climate Emergency Response Fund), for the Minister of Finance and Treasury's consideration.																	
Forecasted Sep 2023 Status:	Vote Transport Budget 2023 initiatives agreed by Cabinet (in April 2023) will have begun implementation, and strategic planning for Budget 2024 will have commenced.																	
<b>Progress against last quarter report</b> <ul style="list-style-type: none"><li>Budget 23 has now been completed</li><li>Material for the proactive release of budget related material is underway and expected to be completed by July 23</li></ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"><li>Begin the planning and development of Budget 24</li></ul>		<b>Progress against current and future deliverables/milestones</b> <table><tr><th>Due date/Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr><tr><td>Dec 22</td><td>Minister receives advice on full Vote Transport Budget 2023 package (including new spending, CERF, and cost pressure initiatives)</td><td></td></tr><tr><td>Feb 23 (</td><td>Early Treasury assessment provided and advice provided to Minister</td><td></td></tr><tr><td>Mar 23</td><td>Budget Economic and Fiscal Update - Specific Fiscal Risks</td><td></td></tr><tr><td>March/ May 23</td><td>Ongoing budget support and provide final Budget briefings and financial recommendations</td><td></td></tr></table>		Due date/Timeframe	Deliverables/milestones	Status (RAG)	Dec 22	Minister receives advice on full Vote Transport Budget 2023 package (including new spending, CERF, and cost pressure initiatives)		Feb 23 (	Early Treasury assessment provided and advice provided to Minister		Mar 23	Budget Economic and Fiscal Update - Specific Fiscal Risks		March/ May 23	Ongoing budget support and provide final Budget briefings and financial recommendations	
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March/ May 23	Ongoing budget support and provide final Budget briefings and financial recommendations																	

Project 3C: Future of the Revenue System      Quarter 4 2022/23								
<b>Key Contacts:</b>	DCE: Bryn Gandy s 9(2)(a) <i>Manager:</i> Marian Willberg	Overall Status RAG:  						
<b>Project Purpose:</b>	To develop and implement a new, or renewed, transport revenue system by 2030 that will be fit for purpose for the next 30 to 50 years. This project is both in response to and in support of the Emissions Reduction Plan to ensure that we can pay for the land transport system we need in the future.							
<b>Forecasted Sep 2023 Status:</b>	By Sep 2023 we will have provided advice to the Minister on options to consider for the future revenue system. We will be in the process of planning the next phase of the project - preparing to test and consult on options from early 2024 in wider public engagement.							
<b>Progress against last quarter report</b> <ul style="list-style-type: none"> <li>The primary deliverable for Q4 was the advice to the Minister on future options. This was sent 7 July, in agreement with the Minister's office.</li> <li>Final reporting from the Deliberative Consultation pilot projects was received from Kōi Tū Centre for Informed Futures, and this contract is now complete.</li> <li>Engagement with close government departments has continued as required, in particular for the problem definition and the recent advice to the Minister. This will continue as our policy work progresses.</li> </ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"> <li>Planning for the next phase of the project, including more detailed options development, engagement approach for Phase 2, and briefing the Minister post-election.</li> </ul>		<b>Progress against current and future deliverables/milestones</b> <table border="1"> <thead> <tr> <th>Due date/Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr> </thead> <tbody> <tr> <td>Jun 2023</td><td>Advice to the Minister on future options, pathways to implementation, and approaches to engagement</td><td></td></tr> </tbody> </table>	Due date/Timeframe	Deliverables/milestones	Status (RAG)	Jun 2023	Advice to the Minister on future options, pathways to implementation, and approaches to engagement	
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Jun 2023	Advice to the Minister on future options, pathways to implementation, and approaches to engagement							

## Programme 4: Other Key Initiatives

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Project 4D: Reshaping Streets		Quarter 4 2022/23													
Key Contacts:	DCE: Bryn Gandy s 9(2)(a) Manager: Jessica Ranger	Overall Status RAG: <div></div>													
Project Purpose:	Reducing administrative barriers so it is easier for road controlling authorities to make street changes that support active and public transport, and placemaking.														
Forecasted Sep 2023 Status:	Street Layouts Rule in place and drafting instructions for the Government Roding Powers Amendment Bill issued.														
<b>Progress against last quarter report</b> <ul style="list-style-type: none"><li>We completed all the deliverables due this quarter. The new Streets Layout Rule was signed and gazetted in the week ending 21 July 2023. It implements most of the Reshaping Streets proposals</li></ul> <b>Key focus for next quarter</b> <ul style="list-style-type: none"><li>The focus of our work will be preparing and issuing drafting instructions to implement the remaining Reshaping Streets proposals via the Government Roding Powers Amendment Bill.</li></ul>		<b>Progress against current and future deliverables/milestones</b> <table><tr><th>Due date/Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr><tr><td>March 23</td><td>Briefing on final policy recommendations</td><td></td></tr><tr><td>May 23</td><td>Cabinet paper seeking approval to the Street Layouts Rule and approval to draft Government Roding Powers Bill</td><td></td></tr><tr><td>June 23</td><td>New rule developed and out for consultation</td><td></td></tr></table>		Due date/Timeframe	Deliverables/milestones	Status (RAG)	March 23	Briefing on final policy recommendations		May 23	Cabinet paper seeking approval to the Street Layouts Rule and approval to draft Government Roding Powers Bill		June 23	New rule developed and out for consultation	
Due date/Timeframe	Deliverables/milestones	Status (RAG)													
March 23	Briefing on final policy recommendations														
May 23	Cabinet paper seeking approval to the Street Layouts Rule and approval to draft Government Roding Powers Bill														
June 23	New rule developed and out for consultation														



Project 4E: Northland Dry Dock		Quarter 4 2022/23							
Key Contacts:	DCE: Bryn Gandy s 9(2)(a) Manager: Jacob Ennis		Overall Status RAG: <div></div>						
Project Purpose:	To undertake a business case examining the feasibility of a Northland Dry Dock (one large enough to cater for our increasingly growing and large fleet, e.g., KiwiRail ferries, Navy vessels, other commercial coastal ships etc).								
Forecasted Sep 2023 Status:	The Minister will have seen the final business case and our advice, and had an opportunity to set the future direction on this project.								
Progress against last quarter report		Progress against current and future deliverables/milestones							
<ul style="list-style-type: none"><li>We have received the final strategic case which has been shared with agencies for feedback. Feedback has been largely positive.</li><li>s 9(2)(ba)(i)</li></ul>		<table><tr><th>Due date/Timeframe</th><th>Deliverables/milestones</th><th>Status (RAG)</th></tr><tr><td>August 2023</td><td>Delivery of business case and policy advice to Ministers, recommending next steps.</td><td></td></tr></table>		Due date/Timeframe	Deliverables/milestones	Status (RAG)	August 2023	Delivery of business case and policy advice to Ministers, recommending next steps.	
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August 2023	Delivery of business case and policy advice to Ministers, recommending next steps.								
Key focus for next quarter									
<ul style="list-style-type: none"><li>The business case and our advice on options for next steps will be provided in early August.</li><li>Options will include progressing the Dry Dock through the development of a Detailed Business Case s 9(2)(f)(iv)</li><li></li><li>Hapū retain a strong interest in engaging with the Minister. This will be an important step if a decision is made to progress the detailed business case.</li></ul>									



s 9(2)(f)(iv)

**Key Contacts:**

DCE: Bryn Gandy s 9(2)(a) *Director:* Karen Lyons

Overall Status RAG:

s 9(2)(f)(iv)

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Project 4J: Manukau Harbour Feasibility Study      Quarter 4 2022/23											
<b>Key Contacts:</b>	DCE: Bryn Gandy <span style="background-color: #cccccc;">§ 9(2)(a)</span> <i>Manager:</i> Jacob Ennis	Overall Status RAG: <div style="border: 1px solid black; width: 100px; height: 50px; background-color: #008000; margin: 10px auto;"></div>									
<b>Project Purpose:</b>	To undertake a technical feasibility study exploring whether the Manukau Harbour could serve as a location for a future large-scale port. This is a technical exercise which will lead to a recommendation on whether a large-scale port is technically feasible in the Manukau Harbour.										
<b>Forecasted Sep 2023 Status:</b>	The feasibility study will be progressing with analysis of the data underway.										
<b>Progress against last quarter report</b> <ul style="list-style-type: none"> <li>Tonkin &amp; Taylor (T&amp;T) have completed an interim report which we have shared with the Minister and intend to release on our website. It does not make any recommendations but summarises the technical analysis to date.</li> <li>T&amp;T have progressed their field work to observe and measure waves, currents, and water levels, and map the contours of the seafloor. This work will occur until around November 2023 and be complemented by desktop analysis and modelling.</li> <li>We have engaged with various iwi/hapū that have interests in the harbour <span style="background-color: #cccccc;">§ 9(2)(f)(iv)</span></li> </ul>		<b>Progress against current and future deliverables/milestones</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #0056b3; color: white;">Due date/ Timeframe</th><th style="background-color: #0056b3; color: white;">Deliverables/milestones</th><th style="background-color: #0056b3; color: white;">Status (RAG)</th></tr> </thead> <tbody> <tr> <td>June 2023</td><td>Delivery of interim report to Minister</td><td style="background-color: #008000;"></td></tr> <tr> <td>Late 2023 / early 2024</td><td>Completion of work and delivery of final work to incumbent Government with policy advice</td><td style="background-color: #008000;"></td></tr> </tbody> </table>	Due date/ Timeframe	Deliverables/milestones	Status (RAG)	June 2023	Delivery of interim report to Minister		Late 2023 / early 2024	Completion of work and delivery of final work to incumbent Government with policy advice	
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June 2023	Delivery of interim report to Minister										
Late 2023 / early 2024	Completion of work and delivery of final work to incumbent Government with policy advice										
<b>Key focus for next quarter</b> <ul style="list-style-type: none"> <li>Iwi engagement is a key focus for the next couple of months. We are shortly going out to various iwi/hapū to introduce this work where this Kaupapa falls in their rohe. It is difficult to anticipate the level of interest, but we intend to hold the first hui in May.</li> <li>The interim report will be delivered late, in late July 2023.</li> </ul>											



7 September 2023

Hon David Parker

Minister of Transport

## AIDE MEMOIRE: CORRESPONDENCE FROM NORTH SHORE AERO CLUB

From: Brendan Booth, Chief Legal Adviser and Procurement Manager

### Summary

- 1 On 8 June 2023 the North Shore Aero Club wrote to the Minister requesting a review of the July 2022 decision former Minister of Transport Hon Michael Wood made in response to the Club's application for airport authority status under the Airport Authorities Act 1966. s 9(2)(h)

2 s 9(2)(h)

3

4

### Background

- 5 In 2021 North Shore Aero Club applied for airport authority status under the Airport Authorities Act 1966.
- 6 The Ministry provided advice to the Minister of Transport on 11 March 2021 (OC210040), 8 September 2021 (OC210685), and 15 July 2022 (OC220569). In July 2022 the Minister (Hon Michael Wood) sent a letter to the North Shore Aero Club setting out his decision. Relevant parts are provided below:

*As you will be aware, and as I reiterated during the Town Hall meeting on 14 May, the Act does not provide any criteria to guide decision making. As Minister of Transport, I have discretion on the criteria I use to decide whether or not to grant Airport Authority status to any applicant.*



*I noted at the Town Hall meeting in May that my decision would be guided by some of the following criteria:*

- *the social and economic costs and benefits that may result*
- *how the proposal fits into efficient and effective transport*
- *the government policy statement on land transport*
- *the reductions in emissions across the transport system that may result*
- *stakeholder and community views*

*Guided by the above criteria, I have decided not to make a recommendation to the Governor General to grant Airport Authority status to North Shore Airport. More specifically, my decision has been driven by the following:*

1. *I am not convinced that granting Airport Authority status to the Airport would be a helpful addition to the transport network in general and the aviation network in particular; and*
2. *I believe there are unresolved questions about what future infrastructure requirements could be were the airport to grow; and*
3. *I do not consider that the Airport has undertaken sufficient consultation with the community about its future plans. In particular, I note that consultation on the Airport's Master Plan was not as widespread as recommended by the New Zealand Airports Association Airport Master Planning Good Practice Guide.<sup>1</sup> The Guide notes that "the airport operator should anticipate the need for regular and ongoing consultation with airport users, local authorities, and the neighbouring community to improve information sharing and strengthen planning and development outcomes".*

7 On 8 June 2023 the Club wrote to the Minister requesting "your urgent consideration of a review of the decision Minister Wood made in respect of our application." That letter was then followed on 10 July by a letter to the Minister from the Club's legal representative asking "one of your officials advise whether the review is being actioned."

8 s 9(2)(h)

## Advice

9 s 9(2)(h)

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11

<sup>1</sup> Airport Master Planning Good Practice Guide, February 2017

12

s 9(2)(h)

13

14

15

**Proposed response**

16

s 9(2)(h)



Document 9

8 September 2023

OC230744

**Hon David Parker**

**Action required by:**

**Minister of Transport**

Tuesday, 12 September 2023

cc Hon Damien O'Connor

Associate Minister of Transport

## **APPROVAL TO SUBMIT WAKA KOTAHI AND KIWIRAIL SEVERE WEATHER EMERGENCY RECOVERY ORDERS IN COUNCIL AND SUPPORTING DOCUMENTS TO THE REVIEW PANEL AND PARTY LEADERS**

### **Purpose**

This paper seeks your approval for the draft Severe Weather Recovery (Waka Kotahi) Order 2023 and the draft Severe Weather Recovery (KiwiRail Holdings Limited) Order 2023 (the Waka Kotahi and KiwiRail OiCs) and supporting documents, to be submitted to the Review Panel and each leader of a political party represented in the House at the time of dissolution (the Party Leaders).

This paper also seeks your approval for Te Manatū Waka to make minor amendments to the Waka Kotahi and KiwiRail OiCs if required, before they are submitted to the Review Panel and the Party Leaders.

### **Key points**

- At our officials meeting with you on 28 August 2023, you agreed to an updated timeframe for the following two OiCs:
  - An OiC for Waka Kotahi to enable regulatory approvals for repair and recovery works within the legal road corridor and within 50m of the legal road boundary, including modifications to powers to compulsorily acquire temporary interests in land (the Waka Kotahi OiC)
  - An OiC for KiwiRail to enable regulatory approvals for repair and recovery works within and adjacent to the legal rail corridor, including modifications to powers to compulsorily acquire temporary and freehold interests in land at Awatoto and Esk Valley (the KiwiRail OiC).
- As a result, these OiCs have been moved from Tranche 5B to Tranche 6 with further compressed timeframes and some amended steps given that Parliament would have been dissolved on 8 September 2023.



- The next step of the process for the Waka Kotahi and KiwiRail OiCs is for the following documents (attached) to be submitted to the Review Panel:
  - Cover sheet
  - Two Draft Orders, one for each agency
  - Cabinet paper with policy approvals
  - Engagement documents provided to those consulted with
  - Impact assessment table
  - Engagement feedback table
  - Draft Statement of Reasons.
- Given the dissolution of Parliament, the following documents are to be submitted to each leader of a political party represented in the House, at the same time as the above listed documents go to the Review Panel:
  - Two Draft Orders, one for each agency
  - Draft Statement of Reasons.
- The Cyclone Recovery Unit within the Department of Prime Minister and Cabinet (DPMC) will provide the above documents to the Review Panel and Party Leaders once you have approved them.
- These OiCs have been prepared at pace and officials will need to continue to work with the Parliamentary Counsel Office (PCO) to refine the content before they are submitted to the Review Panel and Party Leaders. This refinement will reflect ongoing feedback from agencies including the Ministry for the Environment, Department of Conservation, Land Information New Zealand, the Treasury, Waka Kotahi and KiwiRail; iwi in Tairāwhiti and Heretaunga; and councils.
- This briefing seeks your approval for these documents to be submitted as the next step in the OiC process, and for minor amendments to the Waka Kotahi and KiwiRail OiCs to be made as a result of the above feedback.

## Recommendations

We recommend you:

- 1 **agree** that Te Manatū Waka will continue to work with the Parliamentary Counsel Office to make minor amendments to the draft Severe Weather Recovery (Waka Kotahi) Order 2023 and the draft Severe Weather Recovery (KiwiRail Holdings Limited) Order 2023 Yes / No
- 2 **agree** for the listed material, subject to recommendation 1 above, to be submitted to the Review Panel and Party Leaders, through the Cyclone Recovery Unit within DPMC, Yes / No



Carmen Mak  
**Director, System & Regulatory Design**  
 8 / 9 / 2023

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

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

Name	Telephone	First contact
Carmen Mak, Director, System & Regulatory Design	s 9(2)(a)	✓
Rebecca Beals, Principal Adviser, Placemaking and Urban Development		

## **APPROVAL TO SUBMIT WAKA KOTAHI AND KIWI RAIL SEVERE WEATHER EMERGENCY RECOVERY ORDERS IN COUNCIL AND SUPPORTING DOCUMENTS TO THE REVIEW PANEL AND PARTY LEADERS**

### **Process to date**

- 1 On 26 June 2023, Cabinet made policy decisions on three transport Orders in Council (OiCs) [CAB-23-Min-0256 refers] related to:
  - 1.1 An OiC to modify the Land Transport Management Act 2003 (LTMA) to enable funding to be released for recovery activities (the LTMA OiC)
  - 1.2 An OiC for Waka Kotahi to enable regulatory approvals for repair and recovery works within the legal road corridor and within 50m of the legal road boundary, including modifications to powers to compulsorily acquire temporary interests in land (the Waka Kotahi OiC)
  - 1.3 An OiC for KiwiRail to enable regulatory approvals for repair and recovery works within and adjacent to the legal rail corridor, including modifications to powers to compulsorily acquire temporary and freehold interests in land at Awatoto and Esk Valley (the KiwiRail OiC).
- 2 The LTMA OiC came into force on 1 September 2023 after approval at the Cabinet Legislation Committee on Thursday 24 August 2023 and confirmation at Cabinet on Monday 28 August 2023 [CAB-23-MIN-0406 refers].
- 3 The Waka Kotahi and KiwiRail OiCs are now being progressed through Tranche 6 and are ready to be submitted to the Review Panel and to each leader of a political party represented in the House at the time of dissolution.

### **The Waka Kotahi and KiwiRail Orders will facilitate an effective and efficient rebuild**

- 4 When undertaking the repair and recovery works required, Waka Kotahi and KiwiRail rely on a range of regulatory frameworks to get the necessary planning, funding, and delivery approvals. However, these standard approval processes are not well coordinated. They each have different process steps, different requirements, and different decision makers. Most of them can take several years to complete, particularly for larger and/or more complex construction works spread across multiple sites.
- 5 If the transport network is unable to recover in an expedited manner, there will be ongoing social and economic impacts for affected communities, regions, and New Zealand more broadly. This is because of the critical role transport plays in moving people, goods, services and in enabling other sectors (e.g. agriculture, horticulture and forestry) to flourish.
- 6 The modifications in the Waka Kotahi and KiwiRail OiCs are proposed to last until 31 March 2028. This timeframe is to allow for temporary and then permanent repair and

recovery solutions to be implemented, and for engagement to be undertaken in a meaningful manner where this is required.

## Engagement on Orders

- 7 Initial engagement on the Waka Kotahi and KiwiRail OiCs was undertaken in conjunction with the LTMA OiC.
- 8 All local authorities identified in the Severe Weather Emergency Recovery Legislation Act 2023, and iwi/hapū from each of the affected regions where the OiC's will apply were all supplied material and invited to hui to discuss the OiCs. The engagement included providing email content, distribution of the engagement document (attached to this briefing), and the undertaking of six online hui, two for Councils and four for iwi. These included an open forum where participants could ask questions, and the ability for formal written feedback to be supplied.
- 9 Some local authorities questioned why the OiCs did not apply to Road Controlling Authorities for local roads. As amending the proposed OiCs to include additional powers for Road Controlling Authorities for local roads would be a significant expansion of these powers, and no information has been provided to be able to justify that the expansion of the powers is 'necessary or desirable', we have not sought to make changes to the proposed OiCs to include powers for Road Controlling Authorities for local roads. We have advised the local authorities of that position, and have further advised that if information is provided that could be used to justify an OiC, a further OiC could be considered in future.
- 10 Iwi and hapū raised some particular concerns with respect to the proposed modifications to the Public Works Act 1981 (PWA) (in relation to the potential acquisition of Māori land), and mitigating the risk of any adverse environmental or cultural impacts when the OiCs are relied on for projects.
- 11 Following feedback from iwi and hapū, we amended the Waka Kotahi and KiwiRail OiCs to:
  - 11.1 exclude protected Māori Land from PWA modifications – noting the definition used is that as included in the PWA already
  - 11.2 require Waka Kotahi and KiwiRail to enable the identification of and reliance on Kaitiaki Advisers for the recovery and rebuild projects enabled by these OiCs.
- 12 We have had subsequent engagement with Ngāti Kahungunu and Tairāwhiti Iwi following the formal consultation period, where we advised of our proposed changes to the OiCs. Their feedback is as follows:
  - 12.1 Ngāti Kahungunu confirmed that our proposed changes address the concerns that they had previously raised, but also requested additional changes to conditions in relation to the number of persons to be involved as Kaitiaki Advisers to reflect that different people hold different knowledge and skillsets. No change to the conditions has been proposed as they already enable the information and site monitoring support to be different persons, reflecting the different knowledge and skillsets.

- 12.2 Tairāwhiti Iwi requested changes to the conditions attached to the OiCs to enable Kaitiaki Advisers to take on an economic role and an additional cultural role. We have proposed changes to the conditions and are awaiting further feedback from Tairāwhiti Iwi.
- 13 Iwi/hapū also raised concerns which cannot be addressed by the OiCs themselves, but which we note below and will continue to consider when supporting agencies in implementing these OiCs. These concerns include:
- 13.1 that the engagement approach on the OiCs (as provided for under the Severe Weather Emergency Recovery Legislation Act 2023) did not meet the expectations of iwi as a Treaty partner;
- 13.2 the need to engage with the right entity with respect to any potential acquisition of Māori Land under the PWA (note this is not applicable to the OiCs as 'protected Maori land' is now to be excluded from the PWA modifications; however this concern is relevant to any potential acquisition of Māori Land under the standard processes under the PWA).

#### **Next steps for this OiC**

- 14 Following the Review Panel and Party Leaders processes, further modifications to these OiCs may be required. In the event these require policy decisions, we will provide a briefing seeking approval for this in mid September 2023.
- 15 If no policy decisions are required to deliver any modifications, we will provide you with a draft LEG paper on Wednesday 20 September for Ministerial and departmental consultation, prior to the OiCs being considered by Cabinet on 2 October. We note this is the last Cabinet meeting before the General Election, and therefore the last opportunity for Cabinet decisions to enable the OiCs to be enacted in the current term of government.

**ATTACHMENT ONE: Cover Sheet**

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## KiwiRail and Waka Kotahi Repair and Recovery OIC's

Prompt	Response
<p>What is the problem you are addressing?</p> <p>How big is the problem?</p>	<p>Transport networks (e.g., road, rail and cycling/walkways) need restoring following damage in the North Island severe weather events. The required restoration can broadly be broken into three categories:</p> <ul style="list-style-type: none"> <li>• <b>Emergency works activities</b> – immediate restoration of basic access, necessary to effect immediate or temporary repair of damage, such as a clearing a slip, opening a single lane, or temporarily installing a bailey bridge</li> <li>• <b>Recovery activities</b> – short-medium-term reinstatement works – <ul style="list-style-type: none"> <li>• immediate (no regrets) investment works to reinstate sites or sections of state highways online (e.g., retaining wall, new bridge)</li> <li>• medium term investment works to reinstate sites or sections of state highway that are primarily online but may involve site-specific offline works (e.g., change in bridge location, realigning around a slip site)</li> </ul> </li> <li>• <b>Rebuild activities</b> - larger/longer term investments (including investing in future planning work) to major offline sections of state highways</li> </ul> <p>Recent severe weather events have extensively damaged rail routes, including associated land, infrastructure, and other property throughout the North Island.</p> <p><u>Rail</u>: The previously operational rail network from Dannevirke through to Wairoa was no longer able to be used for the movement of trains as a result of the severe weather events. There are also landowners who access their properties via level crossings over the rail network, who are unable to safely do so while the track is so extensively damaged. The economic consequences of the closure of the track for the regions has meant that the movement of freight has transferred to the road network, which in itself is extensively damaged, and therefore the timeliness and efficiency of the freight movement is reduced. Further, there are likely parties who are unable to safely access their properties via what may be the only vehicle access route. The scale of the damage at two sites, Awatoto and Eskdale Valley, has meant realignment is required as the current route is no longer viable. This will require land acquisition to be undertaken by the NZ Railways Corporation on behalf of KiwiRail Holdings Limited (KiwiRail). Irrespective of whether the corridor is used for the movement of goods and people, KiwiRail have a responsibility to make the corridor safe, which could result in works occurring through to Tairāwhiti.</p> <p><u>Road</u>: Some slips extend outside the legal road corridor, and in some instance temporary access and occupation of adjoining land is required for recovery and repair works. Currently some roads are not passable or have restricted access, impacting economic recovery of the affected areas as well as private property owners who are unable to access, or unable to easily access, their properties.</p> <p>It is therefore necessary and desirable to undertake recovery works, without undue delay, in order to restore the function of affected rail and road routes and enable it to be used fully, effectively, and safely.</p> <p>Under current legislation, multiple regulatory processes (resource consent, permissions and authorities under conservation legislation), each with separate and often differing processes, are required to be complied with which can result in a lengthy and uncoordinated approach to the recovery. Such processes are also often duplicated where temporary solutions are built prior to a permanent solution. In a standard process, approvals are</p>

	<p>typically secured over a two plus year timeframe following extensive design and investigation processes, before works can commence. In this standard process, each approval is obtained independent of other approvals required for the same project. Some Acts include emergency work provisions already, however these existing provisions are inconsistent between the Acts. Current frameworks are also not established to facilitate recovery from a sudden event causing widespread damage that will take extended time to repair, and requires an immediate response and certainty for KiwiRail, Waka Kotahi, and the affected community.</p> <p>The approvals for both KiwiRail and Waka Kotahi to undertake their recovery works span the Resource Management Act 1991, the Conservation Act 1987, the Reserves Act 1977, the Wildlife Act 1953, the Freshwater Fisheries Regulations 1983 and the Public Works Act 1981. For KiwiRail, this also includes the Railways Corporation Act 1981 and the Railways Act 2005.</p>
<p><b>What is your proposed resolution of that problem (plain English) and why?</b></p>	<p>The Ministry proposes making temporary modifications through the Order-in-Council mechanism enabled by the Severe Weather Emergency Legislation Act to different regulatory frameworks that provide approval processes for planning, funding, and delivering repair and recovery works by Waka Kotahi and KiwiRail. These OiCs have been designed to streamline these regulatory frameworks. These streamlined processes will not remove the need to get these regulatory approvals, they instead will provide more certainty to transport agencies about the process to follow, the information required, the outcome of applications, and the conditions imposed.</p> <p>For the Conservation permissions, the Order-in-Council removes the need for Wildlife Act approvals if conditions in the Order are met. For other Conservation permissions, the Order provides for a decision to be made within 20 working-days after application to DOC.</p> <p>By providing a well-coordinated and streamlined approach to land use approvals, resources can be allocated more efficiently, the possibility of increased costs may be avoided, and uncertainty is reduced, and transport agencies can respond to the damage with limited delays to decision-making. This will enable transport infrastructure to be safe and operations for affected communities and other sectors that rely on transport for movement of people, goods, and services. The modifications sought are provided in <b>Annex 1</b>.</p>
<p><b>Why is it necessary or desirable relating to the purposes of the Act?</b></p>	<p>The proposal will assist communities and local authorities to provide for the planning, rebuilding, and recovery of affected communities and persons, including:</p> <ul style="list-style-type: none"> <li>• the rebuilding of land, infrastructure, and other property of affected communities or of any affected persons</li> <li>• the development, building, or rebuilding of land, infrastructure, or other property or access to resources or services in areas not affected by the severe weather events</li> <li>• safety enhancements to, and improvements to the resilience of, that land, infrastructure, or other property</li> <li>• facilitating co-ordinated efforts and processes for short-term, medium-term, and long-term recovery</li> <li>• facilitating the restoration and improvement of the economic, social, and cultural well-being, and enhancing the resilience, of affected communities or of any affected persons</li> <li>• facilitating the restoration and resilience of the environment</li> </ul> <p>Relying on standard process was considered but discounted, as we anticipate it would result in an inefficient allocation of resources and misalignment between regulatory processes, delaying recovery works.</p>
<p><b>Who exactly does it apply to, and why them?</b></p>	<p>The OiC's respectively apply to Waka Kotahi and KiwiRail, as the two parties requiring the necessary regulatory approvals to deliver the repair and recovery of their land transport networks severely affected by the weather events.</p>

<p><b>How have you made sure the Order goes no further than intended?</b></p>	<p>The proposal is limited to some districts and regions in the SWERLA and would have effect from the date of enactment through to 31 March 2028. Measures have been taken to ensure that the proposed modifications go no further than intended. The modifications are limited in regard to:</p> <ul style="list-style-type: none"> <li>• the geographic location they will apply to, being a subset of the listed districts and regions in the primary Act</li> <li>• only those activities directly related to the severe weather event and where existing emergency provisions are not sufficient to enable recovery and rebuild</li> <li>• avoiding adverse effects where practicable and otherwise applying effects management through the adoption of a conditions on resource consents and conservation permissions to ensure a consistent approach to the works</li> <li>• including controls via conditions that are designed to ensure a level of engagement with relevant parties, including iwi, continues via the streamlined process</li> <li>• restricting the application of some powers, particularly the Public Works Act powers, from being applicable to sensitive land ownership arrangements in order to protect natural justice.</li> </ul> <p>The modification chosen departs from the status quo (and purpose of the statutory requirement) because the current frameworks are not sufficient to address large scale, and geographically spread, damage from the severe weather events.</p> <p>We have considered non-legislative alternatives and they are not preferred because these could result in slower decision making, greater uncertainty and likely lead to judicial challenge based on the framing of legislation in this area (i.e. approvals are required by virtue of the legislation).</p> <p>The efficiency benefits of delivering recovery activities through the OiC include that using existing processes would be more efficient than undertaking the policy work to design and establish a new framework for decision making and oversight of provide the necessary regulatory approvals for Waka Kotahi and KiwiRail in relation to recovery and rebuild activities. Finding resources (e.g. personnel) to run those alternative arrangements would be a challenge.</p>
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## Annex 1 – Proposed modifications

	What is proposed?	Why?
Resource Management Act 1994 (RMA)		
Sections 9, 12, 13, 14 and 15	Modifications to provisions in the RMA requiring a resource consent under sections 9, 12, 13, 14 and 15, that have a status other than that of a permitted activity. Further, that in instances where a consent is required, that these consents are processed as a controlled activity. The detail of the modification mirrors clause 5(2) of the Hurunui/Kaikōura Earthquake Recovery Order 2016 (Kaikōura OiC).	<p>Will ensure currently permitted recovery works under existing Plan documents remain permitted, and any that currently require a consent have a consent sought.</p> <p>Processing consents as controlled activities is intended to provide certainty for all consent applications. This will ensure that all environmental effects managed via consents by the local authority remain able to be managed.</p>
Sections 87A and 104A	Modifications to shorten consent processing timeframes and remove the ability for extensions as provided for in the RMA. All approvals will still be processed by the local authority. The modifications would also ensure that consents sought under these provisions are classified as a “controlled activity” and would provide a suite of conditions that the local authority could impose on the consent. The detail of the modification mirrors clause 6 of the Kaikōura OiC.	<p>To ensure a consistent consent classification, surety of approvals, consistent conditions of granted consents, and consistency with the purpose and intent of the SWERL Act. This modification will also take pressure off councils and stakeholders who are otherwise impacted by the resource consent processes.</p> <p>Conditions have been strengthened based on engagement feedback, particularly with iwi to ensure these achieve the intended management of environmental effects.</p>
Section 88	<p>Modifications to allow desktop assessments of effects of proposals, rather than in-depth investigation. This includes allowing for broader identification of the location and activities being undertaken as part of the recovery works. The detail of the modification mirrors clause 7 of the Kaikōura OiC.</p> <p>An additional modification is sought to enable approvals issued for the purposes of the recovery works to be rationalised, amalgamating consents for recovery works in the same geographic area. Local authorities would be required to grant amalgamated consents without notification. This is a new modification not provided for in the Kaikōura OiC.</p>	<p>Much of the information currently required by section 88(2) cannot be determined before the recovery works are undertaken (e.g., all activities that will be undertaken cannot be listed without knowing the extent of damage). This modification is intended to ensure works can be undertaken without undue delay.</p> <p>Allowing consents to be amalgamated will ensure that the approvals better reflect operation, reconstruction, and maintenance activities in a post-recovery (rather than recovery) environment.</p>



Sections 95 to 99A, 104, 104A, 105, 107, 108, 115	<p>These modifications:</p> <ul style="list-style-type: none"> <li>provide an alternative consent application pathway for works undertaken during a state of emergency, or when the subsequent transition period has not ended, including a reduced timeframe for notices of decision.</li> <li>retention of the existing limit on notification of controlled activities while adopting a specified consultation process.</li> </ul> <p>An additional modification outlines who must be advised and invited to comment on an application lodged with the consent authority. These modifications mirror detail in clauses 8, 9, 10 and 11 of the Kaikōura OiC.</p>	<p>The proposed alternative consent pathway ensures works can be undertaken without delay.</p> <p>A specified consultation process balances the need to engage with potentially affected persons with the time pressures imposed by the recovery efforts.</p> <p>The additional modification facilitates streamlined consultation (similar to the fast-track consenting process) as opposed to the time and resource intensive submission process under the RMA.</p>
Sections 330 and 330B	<p>This modification specifies that where an application for retrospective consent is required for recovery purposes, the same regulatory process for applications made under the Order-in-Council (OiC) can be used. The detail of the modification mirrors clause 12 of the Kaikōura OiC.</p>	<p>This modification ensures consents can be obtained quickly using the OiC process as opposed to the standard RMA process which can require detailed investigation as part of an application.</p>
Sections 89, 116 and 245	<p>Modifications to streamline processes associated with the reclamation of land and its subsequent use, allowing reclamation consents and subsequent use consents for reclaimed land to be considered simultaneously. The detail of the modification mirrors clause 13 of the Kaikōura OiC.</p>	<p>Currently, reclamation consents are required to be approved and works completed before reclaimed areas can be deemed land, and approvals for land use be obtained. Allowing both consents to be considered simultaneously ensures the process can be completed without delay.</p>
Section 87A	<p>The modification specifies that activities generally required as part of significant recovery works, such as temporary depots, storage facilities, and parking, are permitted activities. The detail of the modification mirrors clause 14 of the Kaikōura OiC.</p>	<p>This ensures ancillary activities associated with the use of land for recovery efforts are included in with the scope of the works, without specific applications or information required.</p>
Section 176A	<p>Modification to remove the requirement to prepare an Outline Plan of Works, allowing the agencies to be more responsive when undertaking recovery works within an existing designation. The detail of the modification mirrors clause 16 of the Kaikōura OiC.</p> <p>An additional provision allows a requiring authority to temporarily transfer the rights and responsibilities for a designation to another, to allow relocation of infrastructure within the designation boundaries. This</p>	<p>The first modification responds to uncertainty about which activities may be required as part of recovery works within an affected area, as it is unlikely to be practicable to prepare an outline plan prior to works commencing.</p> <p>The additional provision provides optionality for the agency with the designation to better work with other requiring authorities where</p>

	modification is based on a provision in the Natural and Built Environment Bill and was not included in the Kaikōura OiC.	relocation of infrastructure is needed within a designation to undertake recovery works quickly and effectively.
Section 181	Modification to allow alterations to designations to be applied for and approved after works have been completed, assuming all works are either permitted or have the necessary resource consents, to ensure lawfulness even without the designation in place. There is no obligation in the existing RMA for a designation to be sought before works occur, and the modification ensures that this presumption is expressly retained. The detail of the modification mirrors clause 17 of the Kaikōura OiC.	Where severe weather events have impacted areas within an existing designation, it may be necessary to alter designation boundaries to ensure the agency can undertake all recovery works, including realignment where required. RMA alteration processes can be time and resource intensive; streamlining this is intended to avoid delaying works.
Conservation Act 1987		
Sections 17N, 17R, 17S, 17SA, 17SB, 17SC, 17SD, 17SE, 17T, 17U, 17W, 17X, 17Y 26ZI, 26ZJ, 26ZIA, 26ZM	<p>Proposed modifications affect the application process for concessions to occupy and use conservation land, and for the transfer of fish and other aquatic life outside the works footprint.</p> <p>Within 50m from the boundary of the legal road or rail corridor the modification provides a suite of standards and conditions to allow agency contractors to quickly understand and comply with what is required of them, on a recovery area wide basis. The modification also includes a specified time frame to allow recovery works requiring direct Ministerial approval to be undertaken with expediency.</p> <p>The modification also removes the effect of general policies, conservation management strategies and management plans from decision-making.</p> <p>The detail of the modification does not mirror clause 19 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed. While timeframes will be included as in 19(5), these are 20 working days not 5. There will continue to be a schedule of conditions to be imposed as per clause 19(6).</p>	These modifications, while approval is still required, ensure greater flexibility (in light of the uncertainty associated with most of the necessary activities and location) and certainty for when applications are required, the process to be followed, and the conditions imposed. The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.
Reserves Act 1977		



Section 59A	<p>Proposed modifications would align the concession process for Crown reserves managed by the Department of Conservation with the amended concession process under the Conservation Act (above), and allow local authorities to permit agencies to temporarily occupy and use reserves they manage.</p> <p>The detail of the modification does not mirror clause 19 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed.</p> <p>While timeframes for decision-making on concessions and approvals will be included as in 19(5) of the Kaikōura OiC, these are 20 working days not 5, and the obligation to grant is not proposed to be included. There will continue to be a schedule of conditions to be imposed as per clause 19(6).</p> <p>OiCs providing for occupation and use of local authority reserves were made after both the Canterbury and Kaikōura earthquakes. While similar intent, the proposed modifications contain improved guidance for decision-making in part because the extent of need for this power is as yet unclear.</p>	This modification is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.
Wildlife Act 1953		
Sections 9, 10, 14, 14A, 14AA, 14B, 53, 71	<p>Modifications are proposed to affect both interactions with wildlife and land managed under the Act.</p> <p>For works in corridor, the OiC will streamline the approval process for taking, killing and otherwise interacting with wildlife by removing the requirement for an approval and instead requiring a suite of conditions to be complied with. Works within 50m of the existing corridor still require approval but modifications are proposed to ensure greater certainty for the agencies.</p>	The modifications proposed are intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.

	<p>For land managed by the Department of Conservation under the Wildlife Act, the modification for the Wildlife Act will mirror the approach for the Conservation Act concessions.</p> <p>The detail of the modification does not mirror clauses 25 and 26 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed. While timeframes will be included as in 25(6) and 26(6), these are 20 working days instead of 5, and the obligation to grant is not proposed to be included. There will continue to be a schedule of conditions to be imposed as per clause 25(7) and 26(7).</p>	
Freshwater Fisheries Regulations 1983		
Regulation 21 42, 43, 44	<p>This modification allows the agency to take fish from or near fish traps within 100 metres of traps, nets or devices for monitoring sports fish (for purposes authorised by the Fish and Game Council) when carrying out recovery work. The detail of the modification mirrors clause 20 of the Kaikōura OiC.</p> <p>The modification also streamlines recovery works by removing requirements for approval under these regulations where fish passage is provided and providing a framework for evaluating applications under the regulations where fish passage isn't provided.</p> <p>The detail of the second modification proposed does not mirror clause 21 of the Kaikōura OiC, mainly reflecting regulatory changes since 2016, and agreement reached with the Department of Conservation as to the approach proposed. While timeframes will be included as in 21(4) these are 20 working days instead of 5, and the obligation to grant is not proposed to be included. There will continue to be a schedule of conditions to be imposed as per clause 21(5).</p>	<p>The intention for this modification is that fish passage is always provided, however there are some situations where perched culverts are unable to be avoided as a result of existing topography and geometry of the road network, therefore this modification is sought as a precautionary measure for the instances where fish passage cannot be achieved, and an application is required to be supplied and assessed by DOC. This provides a consistent and certain process for agencies to respond to the severe weather event.</p>
Public Works Act 1981		



<p>Section 18, 23, 24, 25, 26</p>	<p>These modifications are proposed to apply to the Waka Kotahi and KiwiRail OiCs differently.</p> <p><b>Waka Kotahi:</b> This modification makes temporary land acquisition processes for temporary occupation and temporary access, more suited for recovery works where compulsory acquisition of those interests is required. The modification also changes the requirement to serve notice on those who own or have a registered interest in the land. The modification replaces the ability for these persons to object to the taking of their land to the Environment Court with the ability to have their objections heard by the relevant Minister as part of the acquisitions process. No changes to the compensation provisions within the Act are proposed.</p> <p>Safeguards include ensuring existing structures are not interfered with without landowner approval, that the modified process does not apply to land managed under any other legislation other than the PWA, that appropriate compensation is provided and that the land is returned to the landowner in an appropriate state. The detail of the modifications mirror clauses 32 to 38 of the Kaikōura OIC, as required to only enable temporary acquisition of interests in land.</p> <p><b>KiwiRail:</b> This modification makes land acquisition processes more suited for recovery works where compulsory acquisition is required. This modification is to only apply at two sites of the listed works, where KiwiRail have confirmed land acquisition is required. These areas are the area surrounding Awatoto Bridge and the Eskdale Valley. The modification provides a reduced standard for a cadastral survey.</p> <p>The modification also changes the requirement to serve notice on those who own or have a registered interest in the land and removes the ability for these persons to object to the taking of their land. No changes to compensation provisions within the Act are proposed.</p>	<p><b>Waka Kotahi:</b> Modification of these obligations will streamline the compulsory acquisition process, enabling the agency to acquire temporary interests in land and undertake recovery works with the speed necessary to respond to the impacts of severe weather events.</p> <p><b>KiwiRail:</b> The modification also removes or alters the requirement for a survey and plan to be prepared and lodged which may not be possible given damage in areas that may affect its ability to be surveyed.</p> <p>Modification of these obligations will streamline the compulsory acquisition process, enabling the agency to acquire land and undertake recovery works with the speed necessary to respond to the impacts of severe weather events.</p>
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	<p>Additional modifications are proposed to alter the requirements for a survey to be made and a plan to be prepared and lodged with the Chief Surveyor (s23(1)(a)) showing the land required to be taken.</p> <p>The reduced requirements for the s23 cadastral survey provide an interim solution which meets the needs of the owner and the requiring authority. This will support the initial proclamation process.</p> <p>Additional modifications are proposed to allow for a two staged process of giving effect to the compulsory acquisition of the required land.</p> <p>Following completion of the physical recovery works, a final full cadastral survey will be required. This final cadastral survey will confirm the boundary of land needed to support the sustainable maintenance of infrastructure. This allows the Registrar-General of Land to issue clean title to the affected landowners.</p> <p>Safeguards will be in place for the temporary occupation and the return of the land to ensure that existing structures are not interfered with without landowner approval, that the modified process does not apply to land managed under any other legislation other than the PWA, appropriate compensation is provided and that the land is returned to the landowner in an appropriate state. The detail of the modifications mirror clauses 32 to 38 of the Kaikōura OIC.</p>	
Railways Act 2005		
Sections 77 and 78	<p>This modification ensures that trees / hedges can be trimmed or removed for the safety of the railway as soon as possible. The ability to object to the notice is removed and the time for the owner to comply to be reduced to 10 working days from 20. This modification was not provided for in the Kaikōura OIC.</p>	<p>The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.</p>
Section 86	<p>The modification seeks to include provisions that apply to all railway infrastructure and need to apply to repair, upgrade and rebuild rather than just inspecting, operating or operation, to ensure that the repair and</p>	<p>The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.</p>

	recovery from the severe weather events is enabled. This modification was not provided for in the Kaikōura OiC.	
New Zealand Railways Corporation Act 1981		
Section 14	The modification seeks to enable, to the extent there needs to be any temporary closure of a railway line to traffic, that this is approved in the OiC. This modification was not provided for in the Kaikōura OiC.	The provision is intended to allow recovery works to be undertaken without needing to follow the typical process for temporary line closure, so works can proceed with the necessary expediency to respond to the impacts of severe weather events.
Section 31	This modification ensures that trees / hedges can be trimmed or removed for the safety of the railway as soon as possible. The ability to object to the notice is removed and the time for the owner to comply to be reduced to 10 working days from one month. This modification was not provided for in the Kaikōura OiC.	The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.
Section 48	The modification proposed ensures that the Corporation can temporarily close a branch / siding immediately upon notice to the owner or manager. This modification was not provided for in the Kaikōura OiC.	The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.

## **ATTACHMENT Two: Draft Waka Kotahi OiC**

Refused under Section 18(d) as the final Order in Council is available here:

<https://www.legislation.govt.nz/regulation/public/2023/0279/latest/LMS896222.html>

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## **ATTACHMENT Three: Draft KiwiRail OiC**

Refused under Section 18(d) as the final Order in Council is available here:

<https://www.legislation.govt.nz/regulation/public/2023/0278/latest/LMS900243.html>

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#### **ATTACHMENT FOUR: Cabinet Paper**

This paper has previously been released to you on 1 August 2023 under the request you made to the Minister of Transport.

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**ATTACHMENT FIVE: Engagement Document**

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# Repairing damaged state highways and railway lines

Orders in Council engagement material  
Severe Weather Transport Response

June 2023

RELEASED UNDER  
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## Glossary of terms and abbreviations

DOC	Department of Conservation
GPS-LT	Government Policy Statement – Land Transport
LTMA	Land Transport Management Act 2003
MfE	Ministry for the Environment
Ministry	Te Manatū Waka   Ministry of Transport
NAL	North Auckland Line
NLTF	National Land Transport Fund
NLTP	National Land Transport Plan
OiC	Order in Council
PNGL	Palmerston North to Gisborne Line
PWA	Public Works Act 1981
RLTP	Regional Land Transport Plan
RMA	Resource Management Act 1991
Recovery Act	Severe Weather Emergency Recovery Legislation Act 2023

## 1 We want to know what you think

Te Manatū Waka | The Ministry of Transport (**the Ministry**) is proposing temporary law changes through three Orders-in-Council under the Severe Weather Emergency Recovery Legislation Act 2023 (**the Recovery Act**) to support Waka Kotahi New Zealand Transport Agency (**Waka Kotahi**) and KiwiRail to do recovery and rebuild works on damaged state highways and rail lines.

This public engagement is designed to get your feedback on these proposals and will run from 27 June 2023 to 10 July 2023. We have identified several questions on page 7 which would be useful to get your responses to.

This public engagement does not replace any engagement requirements on Waka Kotahi or KiwiRail prior to undertaking recovery work.

## 2 State highways and railway lines are substantially damaged

In January and February 2023, the North Island experienced a series of severe weather events. This caused large-scale and geographically spread damage to the state highway and rail network. It also weakened areas that will continue to be damaged in future weather events over the coming months.

Sections of the state highway are impassable or have restricted access, with some landowners unable to get on to their property easily or at all. The rail network is just as impacted with some lines no longer usable or viable.

This damage has disrupted communities and the supply chain, and impacted on people's ability to access employment, education, and other key services. Many of the affected areas have high Māori populations, particularly in Northland, Auckland, Tairāwhiti and Hawke's Bay.

If the damage to state highways and rail lines is not addressed as soon as possible, there will be ongoing social and economic impacts for affected whānau, communities, regions, and New Zealand more broadly. This is because of the critical role transport plays in connecting people and goods and services, and in enabling sectors such as agriculture, horticulture, and forestry to flourish.

## 3 Recovery and rebuild works are needed at pace and scale

Waka Kotahi and KiwiRail are already doing works to repair damage and restore immediate access to communities. These kinds of works include clearing a slip, opening a single lane, or temporarily installing a bailey bridge. There are processes available to progress these emergency works in a timely way.

The next step for Waka Kotahi and KiwiRail is to get started on recovery and rebuild works for more significant damage. Examples of these kinds of works include building a new bridge or retaining wall or realigning a state highway or rail line. It will take time to inspect the damage, determine solutions, and then undertake the construction. While this happens, communities will remain disconnected or have less access than they are used to.

The approval processes needed to get started on works is a key reason why it takes time to undertake recovery and rebuild works. Waka Kotahi and KiwiRail need to get approvals for planning, funding, and implementing works. However, these approvals are not well-coordinated. They have different timeframes, different information requirements, and different decision-makers. They must all be applied for separately. Sometimes it can take years to get them all sorted so construction can begin.

## 4 Temporary law changes will enable recovery and rebuild works to get underway more quickly

The Ministry is proposing temporary law changes to enable Waka Kotahi and KiwiRail to use streamlined approval processes so they can get started on recovery and rebuild works more quickly and in a more coordinated way. This will help to reduce disruption, complexity, duplication of effort and cost. The mechanism to do this is a piece of secondary legislation called an Order in Council (**OiC**).

The Recovery Act enables OiCs to be put in place to help communities recover from the impacts of the severe weather events. Key steps in creating an OiC under the Recovery Act include public engagement and review by an independent panel.

These temporary law changes will only apply to recovery and rebuild works undertaken by Waka Kotahi and KiwiRail on their state highways and rail lines. They will not apply to local roads administered by local authorities.

The OiC mechanism was successfully used to respond to the Kaikōura earthquake for a range of response and recovery activities, including the successful rebuild of the Coastal Route by Waka Kotahi and KiwiRail. The Ministry has drawn on lessons from the Kaikōura earthquake experience when developing the proposed temporary law changes.

## 5 Three Orders-in-Council are proposed

The Ministry is proposing to progress the temporary law changes through three OiCs that will:

- modify the Land Transport Management Act 2003 (**LTMA**) to streamline some of the planning and funding approval processes that apply to activities funded by the National Land Transport Fund (**NLTF**);
- support recovery works by Waka Kotahi within the legal road boundary or within 50 metres either side of it;
- support recovery and rebuild works by KiwiRail, with realignment at two sites (Awatoto and Esk Valley).



The table below sets out the legislation where temporary changes are proposed.

Table 1 Legislation where temporary changes are proposed

Proposed OiC	OiC to modify the Land Transport Management Act 2003	OiC for repair and recovery works to be undertaken by Waka Kotahi	OiC for repair and recovery works to be undertaken by KiwiRail
Relevant legislation	Land Transport Management Act 2003	Resource Management Act 1991 Conservation Act 1987 Reserves Act 1977 Wildlife Act 1953 Freshwater Fisheries Regulations 1983 Public Works Act 1981	Resource Management Act 1991 Conservation Act 1987 Reserves Act 1977 Wildlife Act 1953 Freshwater Fisheries Regulations 1983 Public Works Act 1981 Railways Act 2005 New Zealand Railways Corporation Act 1981

The OiCs do not apply to all recovery and rebuild works. **Annex 1** sets out the specific parts of the state highway and rail networks that will be covered by the OiCs and provides a summary of the types of works required to address the damage. These are locations where emergency works processes are not sufficient to enable the recovery and rebuild.

## 5.1 OiC 1: Modifying the LTMA to streamline planning and funding approval processes

The Ministry is proposing an OiC that will streamline certain requirements in the LTMA that could make it difficult to do recovery and rebuild works quickly and divert resources away from the recovery and rebuild effort. This OiC will be in place until 31 August 2024.

Waka Kotahi and the Minister of Transport in relation to rail activities must meet various requirements before approving activities through the National Land Transport Fund (NLTF). While the LTMA largely exempts emergency works activities from these requirements, the usual processes apply once basic access and public safety is restored. This makes it challenging to plan and deliver recovery works activities.

For example, without this OiC, recovery activities could not receive NLTF funding without Waka Kotahi or KiwiRail modifying existing three-yearly planning documents including the Government Policy Statement on land transport (GPS-LT), the National Land Transport Plan (NLTP) and Regional Land Transport Plans (RLTP). This can be time-consuming and complex.

This OiC will extend the exemptions that apply to emergency works activities to recovery activities. This will streamline the planning and approval of NLTF-funded transport recovery works, and provide minimal need to change existing planning documents or procurement procedures.

The OiC will not apply to rebuild works.



## 5.2 OiCs 2 and 3: Supporting works by Waka Kotahi and KiwiRail

The Ministry is proposing two OiCs that will streamline and coordinate key approval processes so recovery and rebuild works by Waka Kotahi and KiwiRail can proceed in a seamless and timely manner. These OiCs will be in place until 31 March 2028.

The OiCs will make temporary changes to approval processes relating to resource consenting, land acquisition and conservation. These are the key approvals for planning and delivering recovery and rebuild works.

Waka Kotahi and KiwiRail will still need to get the approvals required to get started on recovery and rebuild works. The proposed OiCs mean that they will be able to use processes that are simplified or shortened.

Table 2: Proposed temporary changes

Primary legislation	Temporary changes
<b>Resource Management Act 1991</b>  Applies to Waka Kotahi and KiwiRail	<p>Temporary changes are proposed to simplify and speed up the resource consent and designation processes. Proposed changes include reducing processing times for resource consents, removing notification requirements, clarifying the level of detail required for consent applications and conducting emergency works, and requiring engagement with affected individuals and/or groups.</p> <p>Other proposals include clarifying that consented activities are controlled activities, outlining the conditions that can be imposed on consents, allowing the agency to decide conditions imposed, and altering appeal rights for approvals granted under the OiC.</p> <p>An environmental management plan approach will be adopted, along with a liaison group approach.</p> <p>A key check and balance will be imposing standardised conditions across all regions to address environmental impacts.</p> <p>The temporary changes will also exempt Waka Kotahi and KiwiRail from Outline Plan of Works requirements.</p> <p>Monitoring and enforcement provisions of the RMA remain unchanged, with these rights remaining with local authorities.</p>
<b>Public Works Act 1981</b>  Applies to Waka Kotahi and KiwiRail	<p>Temporary changes are proposed to simplify land acquisition processes and make survey plan and proclamation process and administrative changes. This includes reducing or removing requirements to give notice and limiting rights of objection.</p> <p>KiwiRail will be able to use the simplified land acquisition processes for compulsory acquisition for freehold title only in Awatoto and Esk Valley. This is because of the need to do realignment in these locations as the current route is no longer viable, as well as when taking climate change considerations for rebuild into account. However, any use of these processes will be a last resort.</p>



Primary legislation	Temporary changes
	<p>The intention is for agreement to be reached with owners to avoid the need for compulsory acquisition.</p> <p>Waka Kotahi will only be able to use the simplified land acquisition processes for temporary rights in land for access and occupation required while the recovery works are undertaken. It will need to rely on existing PWA processes if compulsory acquisition for freehold title is required for works undertaken under its proposed OIC.</p> <p>No modification to Te Ture Whenua Maori Act 1993 is proposed as part of these temporary changes. Waka Kotahi and KiwiRail will need to comply with this Act as part of the repair and rebuild works.</p>
<p><b>Conservation Act 1987</b>  <b>Wildlife Act 1953</b>  <b>Reserves Act 1977</b></p> <p>Applies to Waka Kotahi and KiwiRail</p>	<p>Temporary changes are proposed to streamline the process to obtain concessions for use of land, and authorisation to take, kill or interact with protected wildlife. A two-tier approach will be taken that distinguishes between in-corridor works with values that trigger the approval process, and near-corridor works.</p> <p>Wildlife Act approvals for works within some areas will be waived in most circumstances.</p> <p>Where approval is required under all three Acts, an abbreviated process will apply, providing certainty on the information required in an application, the processing timeframes and condition requirements. There will also be modifications to the Reserves Act to enable councils to allow non-compliant temporary uses of council reserves for the purposes of recovery works (e.g. equipment and machinery storage), including restrictions on people entering or remaining on a reserve.</p>
<p><b>Freshwater Fisheries Regulations 1987</b></p> <p>Applies to Waka Kotahi and KiwiRail</p>	<p>Temporary changes are proposed to exempt Waka Kotahi and KiwiRail from the setback requirement for taking fish near fish traps. Proposed changes include a processing timeframe and approval process to enable prompt recovery works in relation to structures that may impede fish passage.</p>
<p><b>Railways Act 2005</b></p> <p>Applies to KiwiRail</p>	<p>Temporary changes are proposed that will make it easier for KiwiRail to trim or remove trees and hedges, lower fences and/or walls, and implement measures to protect land where rail infrastructure is located. The right of entry for existing rail infrastructure will be broadened and will apply to all existing infrastructure and enable its repair, upgrade, and rebuild.</p>
<p><b>New Zealand Railways Corporation Act 1981</b></p> <p>Applies to KiwiRail</p>	<p>Temporary changes are proposed that will make it easier for KiwiRail to cease, withdraw or reduce services on a railway line when doing repair and recovery works. Other modifications include making it easier for KiwiRail to get owners to trim or remove trees and hedges, and close branch lines and sidings.</p>

The OiC for Waka Kotahi is unlikely to address all the approvals required for the recovery and rebuild works. The Ministry continues to work with Waka Kotahi to ascertain any requirements for a future OiC and what that might enable. If a future OiC is proposed, it will be subject to its own future engagement process; however we draw this to your attention now for your awareness and to avoid any future confusion.

## 6 Key checks and balances have been maintained

A key consideration for the proposed OiCs is the importance of balancing the need for speed and certainty for recovery and rebuild works, with protecting the rights and protections provided by the primary legislation that are proposed to be modified.

The Ministry is not proposing to remove any existing rights and protections. The following will be retained:

- engagement requirements with iwi, hapū, Māori and affected stakeholders
- consent or approvals for works are still required
- the need to provide the necessary detail to ensure an application can be robustly evaluated
- conditions remain able to be imposed on approvals
- compliance monitoring and enforcement powers remain with Councils

Requirements will largely be shortened or replaced with simpler processes.

## 7 Upholding Māori rights and interests is an important consideration

Restoring access to, and providing a safe and resilient transport network for, Māori populations as soon as possible is a key priority for transport agencies.

Waka Kotahi, KiwiRail, the Department of Conservation and local authorities will still need to engage with iwi, hapū and Māori in relation to any potential impacts on public, private and Māori owned land, Treaty settlements and cultural values. The proposed OiCs will not modify Acts including the Te Ture Whenua Maori Act 1993, and therefore those existing obligations and processes remain. No temporary changes are proposed to key provisions in the primary legislation covered by the OiCs that provide for Te Tiriti and Crown obligations.

Relevant rights and protections for Māori that will need to be upheld in any specific area will become apparent when the temporary changes are implemented in that area. Examples include:

- culturally significant areas as defined in section 331B(7) of the Resource Management Act 1991
- protected and available rights and interests under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Nga Rohe Moana o Nga Hapu o Ngati Porou Act 2019
- notification requirements under section 95B of the Resource Management Act 1991



- for protected customary rights groups, customary marine title groups, and post settlement governance entities with statutory acknowledgements.

It will also be important that the framework the OiCs establish ensures Māori rights and interests are upheld when doing the recovery and repair works and addresses future implementation challenges. This includes giving consideration to absentee owners and ungoverned land affected by proposed works. Engaging with only local iwi on a particular parcel of land does not account for the array of different Māori interests, and therefore clarity on how this can be addressed through implementation will be key.

## 8 Meeting the purpose of the Recovery Act

The proposals outlined above meet the purpose of the Recovery Act as set out in section 3(1) as it will assist communities and councils to focus on planning, rebuilding, and recovery by:

- supporting the rebuilding of state highway and rail infrastructure
- reconnecting communities to whānau, employment, education, and other key services
- minimising disruption to the supply chain and key sectors of the economy
- ensuring the safety and resilience of state highway and rail infrastructure
- facilitating coordinated recovery and rebuild efforts for short, medium, and long-term recovery.

## 9 How to provide feedback and next steps

We invite you to provide feedback on these proposals, which will be provided to the review panel considering these OiCs under the Recovery Act. It will also inform final advice to Ministers on the temporary law changes in the OiCs.

Please email your feedback to [transportrecovery@transport.govt.nz](mailto:transportrecovery@transport.govt.nz) by **11:59pm on Monday 10 July 2023**.

We are keen to know:

1. What are your views whether the OiCs will achieve their intended objectives to support the repair and recovery of the Waka Kotahi and KiwiRail land transport networks?
2. Are there any changes you would like to see in the OiC proposing streamlined LTMA planning and funding processes?
3. Are there any specific requirements you think the two OiCs supporting Waka Kotahi and KiwiRail to undertake recovery and rebuild works need to provide for?

4. Please provide us with any other views or feedback on the proposed OiCs.

The Ministry will also run a series of online hui for iwi, hapū and Māori in regions affected by the severe weather events, and local authorities in areas covered by the proposed OiCs.

We are aware other government agencies are engaging on other OiCs at a similar time. Where possible, we are looking to work alongside each other as much as possible.

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## Annex 1: Location of damaged state highway and rail infrastructure

This following detail outlines the location of the damaged road and rail infrastructure to be covered by the OiCs. This is not a complete list of all damage sustained following the severe weather events. It is the locations where existing approval processes will not sufficiently enable the repair and rebuild works.

Table 3 Damaged state highway network sections

Relevant Region	Significance and scale of issue
Hawkes Bay Region	<p>SH2 – Waikare River Bridge to district boundary (about 107km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH2 – SH5 intersection through to Waikare Bridge (55km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH38 – Wairoa to Tuai (47km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH5 – intersection with SH2 to Pohokura Road (76km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH50 – Mangamate Stream / Tukipo Stream / Makaretu River / Glencoe Gorge / Manga-o-nuku (each about 250m) – earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH51 – Tutaekuri Bridge (1km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management</p>
Gisborne	<p>SH35 – Cemetery Road to Tokomaru township (8.5km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works</p> <p>SH35 – Te Puia to Makarika Road (14km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH35 – Poroporo Road to Whakaangi Road (13km), earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH35 – Turihaua (1.5km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works</p> <p>SH35 – Hikuwai Bridge (500m) - earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH2 – Waihuka Road to Te Wera Road (31km) earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works</p>
Waikato Region	<p>SH25A – Taparahi (200m) – earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH25A – Troups Falls (100m) earthworks and associated works in watercourses, vegetation clearance, stormwater management</p> <p>SH25 – earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works at various locations along the route</p> <p>SH2 – Karangahake Gorge (100m) - earthworks and associated vegetation clearance, stormwater management, erosion protection</p>

	SH27 – Kiahore (1km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management
Auckland	SH1 – Puhoi to Dome Valley (10km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management SH1 – Puhoi / Pohuehue (1km) – earthworks and vegetation clearance SH1 – South of Warkworth (500m) – earthworks and associated works in watercourses, vegetation clearance, stormwater management
Northland Region	SH1 – Brynderwyns (15km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management SH10 – Waitangi River Bridge (100m) - earthworks and associated works in watercourses, vegetation clearance, stormwater management

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Table 4 Damaged rail network sections

Region	Significance and scale of issue
Manawatu – Wanganui Region	Palmerston North to Gisborne Line ( <b>PNGL</b> ): multiple damage sites requiring slip remediation between Dannevirke and the Kopua Viaduct (22km), involving earthworks and associated works in watercourses, vegetation clearance, stormwater management and coastal activities.
Hawkes Bay Region	PNGL: mass and multiple damage sites from the south of Hastings through to Wairoa (104km) involving earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	PNGL: Wairoa to regional boundary (51km) has not been inspected yet, KiwiRail has responsibility to make safe, involving earthworks and associated works in watercourses, vegetation clearance, stormwater management. Works at Awatoto and Eskdale Valley to include off-corridor recovery works.
Gisborne	PNGL: full distance in Gisborne Region (44km) inspection pending, although not operational KiwiRail has responsibility to make safe involving earthworks and associated works in watercourses, vegetation clearance, stormwater management
Auckland	North Auckland Line ( <b>NAL</b> ): Kanohi to regional boundary (47km) slip remediation, mud spot/over slip remediation and remediation at two bridges, involving earthworks and associated works in watercourses, vegetation clearance, stormwater management and coastal activities
Northland Region	NAL: regional boundary to south of Whangārei (67km) slip remediation, mud spot/over slip remediation involving earthworks and associated works in watercourses, vegetation clearance, stormwater management and coastal activities

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**ATTACHMENT SIX: Second Engagement Document**

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## Proposed Transport Orders in Council - Iwi Māori Engagement Materials

### Summary

Temporary law changes are being proposed through the Order in Council (OiC) mechanism under the Severe Weather Emergency Recovery Legislation Act 2023 (Recovery Act) to support whānau and communities recover from the impacts of the recent severe weather events in the North Island, including Cyclones Hale and Gabrielle and the Auckland floods.

The severe weather events of early 2023 have significantly impacted whānau and communities and recovery is ongoing. The impact of these weather events has made it difficult for agencies repairing the land transport network to comply with regulatory requirements and RMA planning processes.

We would like to:

- hear your whakaaro on the proposed transport OiCs
- understand your issues, needs and aspirations regarding these proposals, and
- explore how the proposed OiCs might include appropriate solutions for you whānau, hapū, iwi, and communities.

### What OiCs are being proposed?

Te Manatū Waka Ministry of Transport (the Ministry) is proposing OiCs which will enable land transport repair and recovery efforts in response to Cyclone Gabrielle and Hale, and the Auckland flood events. The proposed OiCs will enable Waka Kotahi to perform recovery and rebuild works on or near the state highway corridor, and for KiwiRail to perform recovery and rebuild works on or near rail infrastructure.

The proposed OiCs will modify statutory processes and timeframes for the two transport agencies to allow them to obtain necessary statutory approvals for the repair and recovery works that are required to reinstate the safe and efficient operation of the state highway and rail networks damaged by the weather events.

### What modifications do the OiCs propose?

The two proposed OiCs will be limited to those locations where the extent of the damage to the land transport network means that the existing land use approval processes in primary legislation will not facilitate recovery and rebuild at the pace and scale required.

Overview of legislation modifications for transport OiCs

Enabling works by KiwiRail	Enabling works by Waka Kotahi
Resource Management Act 1991	Resource Management Act 1991
Public Works Act 1981	Public Works Act 1981
Conservation Act 1987	Conservation Act 1987



Enabling works by KiwiRail	Enabling works by Waka Kotahi
Reserves Act 1977	Reserves Act 1977
Freshwater Fisheries Regulations 1987	Freshwater Fisheries Regulations 1987
Wildlife Act 1953	Wildlife Act 1953
Railways Act 2005	
New Zealand Railways Corporations Act 1981	

## What would the proposed OiCs do?

### Modifications to the Resource Management Act 1991 (RMA) relating to resource consenting

To support transport recovery works, it is important to provide Waka Kotahi and KiwiRail greater certainty around timelines and processes for getting resource consent approvals. Modifications are proposed to:

- alter processing timeframes and application requirements
- enable any required resource consent applications to be controlled activities, which must be granted (this does not extend to prohibited activities)
- alter the resource consenting process so that it is a streamlined process which a council must use; this streamlined process includes a consultation process, and limits the process for setting resource consent conditions to those set out in the OiC, or those agreed between the council and the agency following the consultation process
- require engagement with specified persons (including iwi authorities, local authorities and adjacent landowners) as part of the streamlined approval process to ensure, for instance, affected protected customary rights groups, affected customary marine title groups, post settlement governance entities with affected statutory acknowledgements are still engaged with in the process.

Other proposed modifications include:

- clarifying that retrospective resource consents that are required under the emergency works provisions of the RMA are considered to be controlled activities and follow the proposed streamlined process for consents as outlined above, and administrative efficiencies (e.g., amalgamating and transferring consents)
- streamlining the approval for reclamation of land where this might be required
- enabling a set of standard conditions to be imposed to ensure environmental effects are appropriately avoided, remedied or mitigated.

### Modifications to the RMA relating to designations

The RMA establishes a process for designating an area of land for a particular purpose. Modifications are proposed to streamline the designation process so designations can be updated once works are completed. This will prevent piecemeal updates to designation boundaries while works are being completed. It also recognises that works will often be occurring in one part of a transport corridor while another is being assessed.

As corridors for state highways and railway lines are already designated, modifications are proposed to exempt Waka Kotahi and KiwiRail from the requirement for an Outline Plan of Works. Given the uncertainty about which activities may be required as part of recovery works within an affected area, it is unlikely to be practicable to prepare an Outline Plan of Works prior to works commencing. Administrative efficiencies will also be incorporated into the OiCs.

### **Modifications to the Public Works Act 1981 (PWA)**

The PWA gives the Crown power to acquire land from private landowners for public works.

The scale of damage from the severe weather events is significant. It is highly likely Waka Kotahi and KiwiRail will need to acquire land outside of the current transport corridors to support the remediation, repair, rebuild and realignment of state highways and railways. Standard processes risk significantly delaying the recovery works.

While the intention is for agreements to be reached with owners to avoid the need for compulsory acquisition of the temporary interest in the land, this does not always happen. Modifications are proposed to provide an alternative streamlined pathway through the PWA process for recovery works in proximity to the existing transport corridors where alternative routes that avoid this process have been explored. Such process is required to be carefully provided for and managed to ensure no conflict with Treaty of Waitangi obligations arise.

### **Modifications to the Conservation Act 1987**

The Conservation Act 1987 sets out the framework for processing concessions to enable activities on land held and managed under the Act. Modifications are proposed to streamline the concession application process and limit Ministerial discretion to ensure greater speed, flexibility and certainty when undertaking recovery works.

### **Modifications to the Reserves Act 1977**

The Reserves Act 1977 mirrors the Conservation Act framework for processing concessions on Crown reserves managed by the Department of Conservation (DOC).

Modifications are proposed to streamline the concession application process and limit Ministerial discretion to ensure greater speed, flexibility and certainty when undertaking recovery works.

Modifications are also proposed to provide councils with the powers necessary to allow Waka Kotahi and KiwiRail to undertake recovery works on council-managed reserves even if those works are non-compliant with the Act. This will enable recovery works that would otherwise be prevented. For clarification, this modification does not apply to reserves vested in post settlement governance entities as cultural redress in Treaty settlements.

### **Modifications to the Freshwater Fisheries Regulations 1983**

The Freshwater Fisheries Regulations 1983 manage fish passage in waterways.

Modifications are proposed to support recovery works by exempting Waka Kotahi and KiwiRail from the setback for taking fish near fish traps, to facilitate fish translocation, and to provide a quick process for decision-making where fish passage is not proposed to be provided. The requirement that fish passage is provided in the first instance, is still retained.

Modifications are proposed to streamline the concession application process and limit Ministerial discretion to ensure greater speed, flexibility and certainty when undertaking recovery works.

## Modifications to the Railways Act 2005

Modifications are proposed to enable KiwiRail to manage access to its rail network more efficiently when undertaking recovery works. The proposed modifications:

- remove the right of objection so KiwiRail can:
  - trim or remove trees and hedges
  - lower a fence or wall, or
  - take measures to prevent damage to land on which railway infrastructure or premises are situated
- broaden the right of entry for existing railway infrastructure so it applies to all railway infrastructure
- broaden the right of entry for existing railway infrastructure so it applies to repair, upgrade and rebuild rather than just inspecting, operating and operation.

## Modifications to the New Zealand Railways Corporation Act 1981

The New Zealand Railways Corporations Act 1981 sets out the functions and powers of KiwiRail.

Modifications are proposed to allow necessary works to be done to railway lines with urgency. These include:

- deem any cessation, withdrawal, or reduction of service on, or closure of, a railway line because of the severe weather event or as part of the recovery as having Ministerial approval
- remove the right to objection and reduce the time for the owner to comply when trimming or removing trees and hedges for the safety of the railway
- give KiwiRail the ability to close a branch or siding immediately on notice to the owner or manager
- make it easier for KiwiRail to make immediate changes to the scale of charges to be paid in respect of railways, any specified railway or part of railway, or road passenger service.

Making these modifications creates alignment between the New Zealand Railways Corporation Act 1981 and the Railways Act 2005 regarding managing vegetation.

## Where would the proposed OICs apply and for how long?

The proposals would be limited to the regions where the severe weather events significantly impacted the work programme and workloads of Waka Kotahi and KiwiRail.

The proposed OICs are intended to be enacted in September 2023 and come into force the day after they are enacted, given the need for urgency.

Each OIC would be in effect until the end of March 2028 to ensure that each achieves its specific purpose and the two transport agencies are able to obtain the necessary approvals for their repair and recovery works.

## Meeting the purpose of the Severe Weather Emergency Recovery Legislation Act

The proposals meet the purpose of the SWERLA as they will assist agencies, and thereby communities, to focus on planning, rebuilding, and recovering.

## He pātai – questions

- What are your views on the proposed legislative modifications outlined above, for the purposes of enabling recovery and rebuild works?
- How would the proposed legislative modifications impact on you/your hapū/iwi or whānau/community/business?

## Whakahoki kōrero - How to provide feedback

We welcome your feedback on how best to ensure the proposals work well in practice. Feedback will be provided to the review panel considering these Orders in Council under the Severe Weather Emergency Recovery Legislation Act 2023.

Please email your feedback to: [transportrecovery@transport.govt.nz](mailto:transportrecovery@transport.govt.nz).

Feedback must be received by 5pm Tuesday 15 August 2023.

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**ATTACHMENT SEVEN: Impact Assessment Table**

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## Impact Assessment Table

### Te Manatū Waka | Ministry of Transport: Orders-in-Council for repair and recovery works for Waka Kotahi and KiwiRail

This impact assessment table refers to two Orders-in-Council (OIC) which address repair and recovery works to damaged land transport infrastructure (road and rail) following the severe weather events throughout the North Island in early 2023. One OIC supports repair and recovery works by Waka Kotahi within the legal road boundaries or 50m either side of this, and the other support repair and recovery works by KiwiRail. These two OICs have been addressed in one impact assessment table as they both propose similar modifications to a similar suite of legislation. Where a component of the order applies to only one (or both) of the agencies, this has been indicated in the 'order components' section.

These OICs will temporarily provide streamlined regulatory approval processes so planning, funding and delivery of repair and recovery works by Waka Kotahi and KiwiRail can happen at the pace and scale required. These streamlined processes will not remove the need to get these regulatory approvals, they instead will provide more certainty to transport agencies about the process to follow, the information required, and the conditions imposed. By reducing the risk of diverting of resources away from the recovery effort, transport agencies can efficiently respond to the damage with limited delays to decision-making, enabling an efficient and timely recovery and rebuild.

Te Manatū Waka Ministry of Transport is the agency responsible for this OIC, although it includes changes to legislation that is administered by other agencies. The administering agency for each order component is listed in the description of each of these components below.

We have taken a precautionary approach in identifying those potentially impacted by the Orders-in-Council. For example, the geographic locations identified as affected do not span the entirety of the identified region; instead, they extend only to the locations where damage to road or rail infrastructure has occurred.

Description of Order component	Geographic areas of impact	Interests in area (including iwi, Hapū, Marae, Whānau).	Other groups with rights and interests* (eg Māori freehold landowners and/or PSGEs)	Settlement terms that are engaged by OIC	Potential impacts on other rights and interests	Timing requirements	Proposed points of contact for consultation	Appropriate method of consultation (consider cost/time and other obligations like Kaupapa inquiries)
<b>Resource Management Act 1991</b> – applies to both Waka Kotahi and KiwiRail  Administered by the Ministry for the Environment  To streamline resource consenting and designations processes  <b>Conservation Act 1987</b> – applies to both Waka Kotahi and KiwiRail  Administered by the Department of Conservation  To streamline decision-making processes for concessions  <b>Reserves Act 1977</b> – applies to both Waka Kotahi and KiwiRail  Administered by the Department of Conservation  To streamline decision-making processes for concessions and allow non-compliant use of	Annex 1 and annex 2	<b>Local authorities</b> <ul style="list-style-type: none"> <li>Northland Regional Council</li> <li>Far North District Council</li> <li>Whangārei District Council</li> <li>Kaipara District Council</li> <li>Auckland Council</li> <li>Waikato Regional Council</li> <li>Thames-Coromandel District Council</li> <li>Hauraki District Council</li> <li>Waikato District Council</li> <li>Ōtorohanga District Council</li> <li>Gisborne District Council</li> <li>Hawke's Bay Regional Council</li> <li>Central Hawke's Bay District Council</li> <li>Hastings District Council</li> <li>Napier City Council</li> <li>Wairoa District Council</li> <li>Manawatu-Wanganui Regional Council</li> <li>Taranui District Council</li> </ul> <b>Iwi, hapū and marae – Waikato Region</b> <ul style="list-style-type: none"> <li>Maniapoto - 49 hapū, 52 known marae</li> <li>Ngāti Hako - 3 known marae</li> <li>Ngāti Tai ki Tāmaki - 2 known marae</li> <li>Ngāti Hei - 10 hapū, 1 known marae</li> <li>Ngāti Hinerangi - 9 hapū, 4 known marae</li> <li>Ngāti Hineuru - 1 known marae</li> <li>Ngāti Kea / Ngāti Tuarā - 2 hapū, 3 known marae</li> <li>Ngāti Koroki Kahukura - 3 hapū, 4 known marae</li> <li>Ngāti Maru - 18 hapū, 4 known marae</li> <li>Ngāti Pāoa - 36 hapū, 3 marae</li> </ul>	<b>PSGEs – Waikato Region</b> <ul style="list-style-type: none"> <li>Te Nehenehenui Trust</li> <li>Hako Tūpuna Trust</li> <li>Ngāti Tai ki Tāmaki Trust</li> <li>Hei o Wharekaho Settlement Trust</li> <li>Te Puāwaitanga o Ngāti Hinerangi Trust</li> <li>Hineuru Iwi Trust</li> <li>Te Pūmāutanga o Te Arawa Trust</li> <li>Te Arawa Lakes Trust</li> <li>Taumata WaiWai Trust</li> <li>Ngāti Pāoa Iwi Trust</li> <li>Te Tāwharua o Ngāti Pūkenga</li> <li>Ngāti Tūmūtumu Trust</li> <li>Te Pūmāutanga o Te Arawa Trust</li> <li>Ngāti Tamaoho Settlement Trust</li> <li>Ngāti Tamatera Treaty Settlement Trust</li> <li>Ngāti Tara Tokanui Trust</li> <li>Ngāti Tūrangitukua Charitable Trust</li> <li>Te Kotahitanga o Ngāti Tūwharetoa</li> <li>Tūwharetoa Settlement Trust</li> </ul>	<b>Settlement Acts – Waikato Region</b> <ul style="list-style-type: none"> <li>Maniapoto Claims Settlement Act 2022</li> <li>Ngāti Tai ki Tāmaki Claims Settlement Act 2018</li> <li>Ngāti Hineangi Claims Settlement Act 2021</li> <li>Hineuru Claims Settlement Act 2016</li> <li>Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008</li> <li>Te Arawa Lakes Settlement Act 2006</li> <li>Ngāti Koroki Kahukura Claims Settlement Act 2014</li> <li>Ngāti Pāoa Claims Settlement Bill 2022</li> <li>Ngāti Pūkenga Claims Settlement Act 2017</li> <li>Ngāti Tamaoho Claims Settlement Act 2018</li> <li>Ngāti Tūrangitukua Claims Settlement Act 1999</li> <li>Ngāti Tūwharetoa Claims Settlement Act 2018</li> <li>Central North Island Forests Land</li> </ul>	<b>Local authorities – What obligations will this OIC require us to comply with regarding consents?</b> This OIC will impact local authorities by providing a different process for issuing consents than the current process local authorities are familiar with.  <b>Conservation values – Will this OIC enable the degradation of conservation land?</b> Controls are proposed to ensure that impacts on the conservation estate from the works are minimised, including providing strict controls on how works can occur, and the ability for the Department of Conservation to decline an application if necessary to protect rare / threatened ecosystems / species including taonga species.  <b>Taonga species - Will this OIC affect taonga species?</b> The OIC has	<b>Local authorities – what are the timing requirements associated with consents?</b> The consent process in the OIC outlines the activity status of any applications, with the restrictions around how controlled activities are processed being provided in the RMA.  <b>Community members – How long will works impact my ability to travel within my region and between regions?</b> The works could take a number of years to be completed, however access will progressively be reinstated as works progress from site to site.	Council – Chief Executives  Iwi Chairs	Te Manatū Waka contacted all councils identified within the SWERLA, and as many iwi/hapū as practicable based on the affected areas to be included within the OIC.  Te Manatū Waka undertook consultation via six online hui with a number of affected councils and iwi and hapū.  The Department of Conservation used its Operations network to pass on online hui invitations to whanau, hapu & iwi that staff normally engage with.  An in-person conversation was also held with iwi in Tairāwhiti as part of a broader government hui with Tairāwhiti iwi.  An in-person conversation was also held with iwi in Heretaunga as part of a broader government hui with Heretaunga iwi.



Description of Order component	Geographic areas of impact	Interests in area (including Iwi, Hapū, Marae, Whānau).	Other groups with rights and interests* (eg Māori freehold landowners and/or PSGEs)	Settlement terms that are engaged by OIC	Potential impacts on other rights and interests	Timing requirements	Proposed points of contact for consultation	Appropriate method of consultation (consider cost/time and other obligations like kaupapa inquiries)
<p>reserves to be authorised</p> <p><b>Wildlife Act 1953</b> – applies to both Waka Kotahi and KiwiRail</p> <p>Administered by the Department of Conservation</p> <p>To streamline decision-making processes for authorisations and approvals</p> <p><b>Freshwater Fisheries Regulations 1983</b> – applies to both Waka Kotahi and KiwiRail</p> <p>Administered by the Department of Conservation</p> <p>To provide an exemption from the setback for taking fish near fish traps, to allow limited translocations, and to streamline any approval process where fish passage is proposed to not be provided</p>		<ul style="list-style-type: none"> <li>Ngāti Porou ki Harataunga ki Mataora - 2 known marae</li> <li>Ngāti Pūkenga ki Waiau - 3 hapū, 1 known marae</li> <li>Ngāti Rāhiri Tumutumu - 10 hapū, 1 known marae</li> <li>Ngāti Tahu / Ngāti Whaoa - 5 hapū, 4 known marae</li> <li>Ngāti Tamakōpiri - 11 hapū, 2 known marae</li> <li>Ngāti Rehua - 4 known marae</li> <li>Ngāti Tamaterā - 3 marae</li> <li>Ngāti Tara Tokanui - 1 known marae</li> <li>Ngāti Tūrangitukua - 1 known marae</li> <li>Ngāti Tūwharetoa - 29 hapū, 30 known marae</li> <li>Ngāti Whānaunga - 1 known marae</li> <li>Raukawa - 28 hapū 19 known marae</li> <li>Te Patukirikiri - 3 hapū, 1 known marae</li> <li>Waikato - 35 hapū, 69 known marae</li> </ul> <p><b>Iwi, hapū and marae – Manawatū – Whanganui Region</b></p> <ul style="list-style-type: none"> <li>Muaupoko - 7 hapū, 2 known marae</li> <li>Ngā Rauru Kītahi - 16 hapū, 12 known marae</li> <li>Ngā Wairiki Ngāti Apa - 33 hapū, 4 known marae</li> <li>Ngāti Hāua (Upper Whanganui) - 11 hapū, 13 known marae</li> <li>Ngāti Hauiti - 11 hapū, 3 known marae</li> <li>Ngāi Te Ohuake - 7 hapū, 4 known marae</li> <li>Ngāti Kahungunu - 114 hapū, 80 known marae</li> <li>Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua - 9 hapū, 14 known marae</li> <li>Ngāti Maru (Te Iwi o Maruwharanui) - 8 hapū, 1 known marae</li> <li>Ngāti Rangī - 12 hapū, 15 known marae</li> <li>Ngāti Raukawa ki te Tonga - 22 hapū, 20, known marae</li> <li>Ngāti Tamakōpiri- 11 hapū, 2 known marae</li> <li>Ngāti Tūwharetoa - 29 hapū, 30 known marae</li> <li>Ngāti Whitikaupeka - 6 hapū, 2 known marae</li> <li>Rangitāne - 13 hapū, 11 known marae (in horizons)</li> </ul>	<ul style="list-style-type: none"> <li>Ngaati Whanaunga Incorporated Society</li> <li>Raukawa Settlement Trust</li> <li>Te Patukirikiri Iwi Trust</li> <li>Te Whakakitenga o Waikato Incorporated</li> </ul> <p><b>PSGEs – Manawatū – Whanganui Region</b></p> <ul style="list-style-type: none"> <li>Te Kaahui o Rauru</li> <li>Ngā Wairiki-Ngāti Apa Charitable Trust</li> <li>Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua Settlement Trust</li> <li>Te Kāhui Maru Trust</li> <li>Te Tōtarahoe o Paerangi Trust</li> <li>Te Kotahitanga o Ngāti Tūwharetoa</li> <li>Tūwharetoa Settlement Trust</li> <li>Rangitāne Tū Mai Rā Trust</li> <li>Rangitāne o Manawatū Settlement Trust</li> <li>Ngā Tāngata Tiaki o Whanganui Trust</li> </ul> <p><b>PSGEs – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Mana Ahuriri Trust represented Ahuriri hapū as a PSGE for the Deed of Settlement signed with the Crown on 02 November 2016</li> <li>Heretaunga Tamatea Settlement Trust"</li> <li>Maungaharuru-Tangitū Trust</li> <li>Hineuru Iwi Trust</li> <li>Ngāti Pāhauwera Development Trust</li> <li>Tātau Tātau o Te Wairoa Trust</li> <li>Tūhoe - Te Uru Taumatua</li> </ul> <p><b>PSGEs – Gisborne</b></p> <ul style="list-style-type: none"> <li>Tāmanuhiri Tutu Poroporo Trust</li> </ul>	<p>Collective Settlement 2008</p> <ul style="list-style-type: none"> <li>Raukawa Claims Settlement Act 2014</li> <li>Waikato Raupatu Claims Settlement Act 1995</li> <li>Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008</li> </ul> <p><b>Settlement Acts – Manawatū – Whanganui Region</b></p> <ul style="list-style-type: none"> <li>Ngāa Rauru Kītahi Claims Settlement Act 2005</li> <li>Ngāti Apa (North Island) Claims Settlement Act 2010</li> <li>Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua Claims Settlement Act 2022</li> <li>Ngāti Maru (Taranaki) Claims Settlement Act 2022</li> <li>Ngāi Tūwharetoa Claims Settlement Act 2016</li> <li>Central North Island Forests Land Collective Settlement 2008</li> <li>Rangitāne Tū Mai Rā (Wairarapa Tāmaki nui-ā-Rua) Claims Settlement Act 2017</li> <li>Rangitāne o Manawatū Claims Settlement Act 2016</li> <li>Te Awa Tupua (Whanganui River Claims Settlement) Act 2017</li> </ul> <p><b>Settlement terms – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Ahuriri Hapū Claims Settlement Act 2021</li> <li>Heretaunga Tamatea Claims Settlement Act 2018</li> <li>Maungaharuru-Tangitū Hapū Claims Settlement Act 2014</li> </ul>	<p>been designed to ensure taonga species are identified and managed, including by translocation. The Department of Conservation can decline an application if necessary to protect taonga species.</p> <p><b>Fish passage – Will this OIC impact fish, fish habitat and spawning movement of native fish?</b> This OIC may impact fish, fish habitat and spawning movement of native fish while works are undertaken, however ecological principles are proposed to ensure that fish passage is provided where this is possible.</p> <p><b>Community members – Will this OIC impact my ability to travel by road or rail in my region?</b> This OIC will facilitate the recovery of the land transport networks to reduce the current disruption being experienced on parts of the networks following the North Island Weather Events from early 2023.</p> <p><b>Cultural values –</b> the OIC includes conditions for the appointment of a Kaitiaki adviser and that cultural values are taken into account in the design and approval of works, as well as during construction.</p> <p><b>Treaty of Waitangi -</b> Treaty settlement legislation and other provisions reflecting an obligation in relation to the Treaty of Waitangi, such as section 4 of the Conservation Act, are not altered by the OIC.</p>			<p>Te Manatū Waka also provided a number of updates on the OICs via the DIA fortnightly local authority Chief Executives forum.</p>



Description of Order component	Geographic areas of impact	Interests in area (including Iwi, Hapū, Marae, Whānau).	Other groups with rights and interests* (eg Māori freehold landowners and/or PSGEs)	Settlement terms that are engaged by OIC	Potential impacts on other rights and interests	Timing requirements	Proposed points of contact for consultation	Appropriate method of consultation (consider cost/time and other obligations like kaupapa inquiries)
		<ul style="list-style-type: none"> <li>Te Korowai o Wainuiārua (Central Whanganui) - 28 hapū, 6 known marae</li> <li>Whanganui Iwi / Te Atihaunui a Pāpārangi - 28 hapū, 35 known marae</li> <li>Whanganui Land Settlement (Lower Whanganui) - 18 hapū, 19 known marae</li> </ul> <p><b>Iwi, hapū and marae – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Ngāi Te Ohuake - 7 hapū, 4 known marae</li> <li>Ngāti Hineuru - 1 known marae</li> <li>Ngāti Kahungunu - 114 hapū, 80 known marae</li> <li>Ngāti Pāhauwera - 84 hapū, 5 known marae</li> <li>Ngāti Ruapani ki Waikaremoana - 5 hapū, 3 known marae</li> <li>Ngāti Whitikaupēka - 6 hapū, 2 known marae</li> <li>Te Wairoa Iwi and Hapū - 84 hapū, 30 known marae</li> <li>Tūhoe - 32 hapū, 42 known marae</li> <li>Heretaunga Tamatea - 42 hapū, 47 known marae</li> <li>Ahuriri Hapū</li> <li>a group of 7 hapū, 9 known marae</li> <li>Maungaharuru-Tangitū Hapū - a group of 6 Ngāti Kahungunu hapū, 1 associated marae</li> </ul> <p><b>Iwi, hapū and marae – Gisborne</b></p> <ul style="list-style-type: none"> <li>Ngāi Tāmanuhiri - 5 hapū, 3 known marae</li> <li>Ngāti Porou - 49 hapū, 48 known marae</li> <li>Rongowhakaata - 5 hapū, 5 known marae</li> <li>Te Aitanga ā Māhaki - 9 hapū, 13 known marae</li> <li>Te Wairoa Iwi and Hapū - 84 hapū, 30 known marae</li> </ul> <p><b>Iwi, hapū and marae – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki - 2 known marae</li> <li>Ngāti Hako - 3 known marae</li> <li>Ngāti Manuhiri - 1 known marae</li> <li>Ngāti Maru - 18 hapū, 4 known marae</li> <li>Ngāti Pāoa - 36 hapū, 3 known marae</li> <li>Ngāti Rehua - 4 known marae</li> <li>Ngāti Tamaoho - 3 known marae</li> <li>Ngāti Tamaterā - 3 known marae</li> </ul>	<ul style="list-style-type: none"> <li>Te Rūnanganui o Ngāti Porou Trust</li> <li>Rongowhakaata Settlement Trust</li> <li>Tātau Tātau o Te Wairoa Trust</li> </ul> <p><b>PSGEs – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki Trust</li> <li>Hako Tūpuna Trust</li> <li>Ngāti Manuhiri Settlement Trust</li> <li>Ngāti Pāoa Iwi Trust</li> <li>Ngāti Rehua - Ngātiwai Ki Aotea Trust</li> <li>Ngāti Tamaoho Settlement Trust</li> <li>Ngāti Tamaterā Treaty Settlement Trust</li> <li>Ngaati Whanaunga Incorporated Society</li> <li>Ngā Maunga Whakahi o Kaipara Development Trust</li> <li>Ngāti Whātua o Ōrākei Trust Board</li> <li>Te Ākitai Waiohū Settlement Trust</li> <li>Te Kawerau Iwi Settlement Trust</li> <li>Te Patukirikiri Iwi Trust</li> <li>Te Uri o Hau Settlement Trust</li> <li>Te Whakakitenga o Waikato Incorporated</li> </ul> <p><b>PSGEs – Northland Region</b></p> <ul style="list-style-type: none"> <li>Te Rūnanga o Ngāi Takoto</li> <li>Kahukuraariki Trust</li> <li>Te Manawa o Ngāti Kuri Trust</li> <li>Te Rūnanga Nui o Te Aupōuri Trust</li> <li>Te Rūnanga o Te Rārawa</li> <li>Te Roroa Whatu Ora Trust</li> <li>Te Uri o Hau Settlement Trust</li> </ul>	<ul style="list-style-type: none"> <li>Hineuru Claims Settlement Act 2016</li> <li>Ngāti Pāhauwera Claims Settlement Act 2012</li> <li>Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018</li> <li>Tūhoe Claims Settlement Act 2014</li> </ul> <p><b>Settlement terms – Gisborne</b></p> <ul style="list-style-type: none"> <li>Ngāi Tāmanuhiri Claims Settlement Act 2012</li> <li>Ngāti Porou Claims Settlement Act 2012</li> <li>Rongowhakaata Claims Settlement Act 2012</li> <li>Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018</li> </ul> <p><b>Settlement terms – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki Claims Settlement Act 2018</li> <li>Ngāti Manuhiri Claims Settlement Act 2012</li> <li>Ngāti Pāoa Claims Settlement Bill 2022</li> <li>Ngāti Tamaoho Claims Settlement Act 2018</li> <li>Ngāti Whātua o Kaipara Claims Settlement Act 2013</li> <li>Ngāti Whātua Ōrākei Claims Settlement Act 2012</li> <li>Te Kawerau ā Maki Claims Settlement Act 2015</li> <li>Te Uri o Hau Claims Settlement Act 2002</li> <li>Waikato Raupatu Claims Settlement Act 1995</li> </ul> <p><b>Settlement terms – Northland Region</b></p>	<p><b>Hauraki Gulf Marine Park Act - Sections 7 &amp; 8</b> of this Act must continue to be taken into account in decision-making under the OIC.</p>			



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		<ul style="list-style-type: none"> <li>Ngāti Te Ata - 20 hapū, 1 known marae</li> <li>Ngāti Whānaunga - 1 known marae</li> <li>Ngāti Whātua - 5 hapū, 6 known marae (in Auckland)</li> <li>Ngāti Whātua o Kaipara - 4 hapū, 5 known marae</li> <li>Ngāti Whātua o Ōrākei - hapū, 1 known marae</li> <li>Ngātiwai - 10 hapū, 14 known marae</li> <li>Te Ākitai Waiohūa - 3 hapū, 1 known marae</li> <li>Te Kawerau a Maki - 1 known marae</li> <li>Te Patukirikiri - 3 hapū, 1 known marae</li> <li>Te Uri o Hau - 8 hapū, 14 known marae</li> <li>Waikato - 35 hapū, 69 known marae</li> </ul> <p><b>Iwi, hapū and marae – Northland Region</b></p> <ul style="list-style-type: none"> <li>Ngāi Takoto - no hapū, 4 known marae</li> <li>Ngāpuhi / Ngāti Kahu ki Whangaroa - 18 hapū, 18 known marae</li> <li>Ngāti Kahu - 12 hapū, 13 known marae</li> <li>Ngāti Kahu ki Whangaroa - 11 hapū, 7 known marae</li> <li>Ngāti Kurī - 2 known marae</li> <li>Ngāti Whātua - 5 hapū, 21 known marae (in Northland)</li> <li>Ngātiwai - 10 hapū, 14 known marae</li> <li>Te Aupōuri - 1 known mrae</li> <li>Te Rārawa - 33 hapū, 24 known marae</li> <li>Te Roroa - 6 known marae</li> <li>Te Uri o Hau - 8 hapū - 14 known marae</li> </ul> <p><b>Private landowners adjacent to the road and rail networks</b></p> <p><b>Local communities who use the state highway and railway networks</b></p> <p><b>Department of Conservation / Fish and Game / interest groups</b></p>		<ul style="list-style-type: none"> <li>Ngāi Takoto Claims Settlement Act 2015</li> <li>Ngatikahu ki Whangaroa Claims Settlement Act 2017</li> <li>Ngāti Kurī Claims Settlement Act 2015</li> <li>Te Aupouri Claims Settlement Act 2015</li> <li>Te Rarawa Claims Settlement Act 2015</li> <li>Te Roroa Claims Settlement Act 2008</li> <li>Te Uri o Hau Claims Settlement Act 2002</li> </ul>				
<b>Public Works Act 1981</b> – applies to Waka Kotahi only	Annex 1	<p><b>Local authorities</b></p> <ul style="list-style-type: none"> <li>Northland Regional Council</li> <li>Far North District Council</li> <li>Whangārei District Council</li> </ul>	<p><b>PSGEs – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Mana Ahuriri Trust represented Ahuriri</li> </ul>	<p><b>Settlement Acts – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Ahuriri Hapū Claims Settlement Act 2021</li> </ul>	Iwi and hapū – <i>Could this OIC alienate iwi and hapū access to community, land, marae?</i>	Māori freehold landowners – <i>What are the timing requirements associated with</i>		



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Administered by Land Information New Zealand  To streamline temporary land acquisition processes		<ul style="list-style-type: none"><li>• Kaipara District Council</li><li>• Auckland Council</li><li>• Waikato Regional Council</li><li>• Thames-Coromandel District Council</li><li>• Hauraki District Council</li><li>• Waikato District Council</li><li>• Ōtorohanga District Council</li><li>• Taupo District Council</li><li>• Gisborne District Council</li><li>• Hawke's Bay Regional Council</li><li>• Central Hawke's Bay District Council</li><li>• Hastings District Council</li><li>• Napier City Council</li><li>• Wairoa District Council</li><li>• Manawatu-Wanganui Regional Council</li></ul> <p><b>Iwi, hapū and marae – Hawke's Bay Region</b></p> <ul style="list-style-type: none"><li>• Ngāi Te Ohuake - 7 hapū, 4 known marae</li><li>• Ngāti Hineuru - 1 known marae</li><li>• Ngāti Kahungunu - 114 hapū, 80 known marae</li><li>• Ngāti Pāhauwera - 84 hapū, 5 known marae</li><li>• Ngāti Ruapani ki Waikaremoana - 5 hapū, 3 known marae</li><li>• Ngāti Whitikaupēka - 6 hapū, 2 known marae</li><li>• Te Wairoa Iwi and Hapū - 84 hapū, 30 known marae</li><li>• Tūhoe - 32 hpu, 42 known marae</li><li>• Maungaharuru-Tangitū Hapū – a group of 6 Ngāti Kahungunu hapū, 1 associated marae</li><li>• Heretaunga Tamatea - 42 hapū, 47 known marae</li><li>• Ahuriri Hapū – a group of 7 hapū, 9 known marae</li></ul> <p><b>Iwi, hapū and marae – Gisborne</b></p> <ul style="list-style-type: none"><li>• Ngāi Tāmanuhiri - 5 hapū, 3 known marae</li><li>• Ngāti Porou - 49 hapū, 48 known marae</li><li>• Rongowhakaata - 5 hapū, 5 known marae</li><li>• Te Aitanga ā Māhaki - 9 hapū, 13 known marae</li><li>• Te Wairoa Iwi and Hapū - 84 hapū, 30 known marae</li></ul> <p><b>Iwi, hapū and marae – Waikato Region</b></p> <ul style="list-style-type: none"><li>• Maniapoto - 49 hapū, 52 known marae</li><li>• Ngāti Hako - 3 known marae</li><li>• Ngāi Tai ki Tāmaki - 2 known marae</li><li>• Ngāti Hei - 10 hapū, 1 known marae</li></ul>	<p>hapū as a PSGE for the Deed of Settlement signed with the Crown on 02 November 2016</p> <ul style="list-style-type: none"><li>• Heretaunga Tamatea Settlement Trust</li><li>• Maungaharuru-Tangitū Trust</li><li>• Hineuru Iwi Trust</li><li>• Ngāti Pāhauwera Development Trust</li><li>• Tātau Tātau o Te Wairoa Trust</li><li>• Tūhoe - Te Uru Taumatua</li></ul> <p><b>PSGEs – Gisborne</b></p> <ul style="list-style-type: none"><li>• Tāmanuhiri Tutu Poroporo Trust</li><li>• Te Rūnanganui o Ngāti Porou Trust</li><li>• Rongowhakaata Settlement Trust</li><li>• Tātau Tātau o Te Wairoa Trust</li></ul> <p><b>PSGEs – Waikato Region</b></p> <ul style="list-style-type: none"><li>• Te Nehenehenui Trust</li><li>• Hako Tūpuna Trust</li><li>• Ngāi Tai ki Tāmaki Trust</li><li>• Hei o Wharekaho Settlement Trust</li><li>• Te Puāwaitanga o Ngāti Hinerangi Trust</li><li>• Hineuru Iwi Trust</li><li>• Te Pūmautanga o Te Arawa Trust</li><li>• Te Arawa Lakes Trust"</li><li>• Taumata Wāwāi Trust</li><li>• Ngāti Pāka Iwi Trust</li><li>• Te Tāwharau o Ngāti Pūkenga</li><li>• Ngāti Tumutumu Trust</li><li>• Te Pūmautanga o Te Arawa Trust</li><li>• Ngāti Tamaoho Settlement Trust</li><li>• Ngāti Tamatera Treaty Settlement Trust</li><li>• Ngāti Tara Tokanui Trust</li><li>• Ngāti Tūrangitukua Charitable Trust</li><li>• Te Kotahitanga o Ngāti Tūwharetoa</li></ul>	<ul style="list-style-type: none"><li>• Heretaunga Tamatea Claims Settlement Act 2018</li><li>• Maungaharuru-Tangitū Hapū Claims Settlement Act 2014</li><li>• Hineuru Claims Settlement Act 2016</li><li>• Ngāti Pāhauwera Claims Settlement Act 2012</li><li>• Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018</li><li>• Tūhoe Claims Settlement Act 2014</li></ul> <p><b>Settlement Acts – Manawatu – Wanganui Region</b></p> <ul style="list-style-type: none"><li>• Ngāa Rauru Kītahi Claims Settlement Act 2005</li><li>• Ngāti Apa (North Island) Claims Settlement Act 2010</li><li>• Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua Claims Settlement Act 2022</li><li>• Ngāti Maru (Taranaki) Claims Settlement Act 2022</li><li>• Ngāti Tūwharetoa Claims Settlement Act 2018</li><li>• Central North Island Forests Land Collective Settlement 2008</li><li>• Rangitāne Tū Mai Rā (Wairarapa Tāmaki nui-ā-Rua) Claims Settlement Act 2017</li><li>• Rangitāne o Manawatu Claims Settlement Act 2016</li><li>• Te Awa Tupua (Whanganui River Claims Settlement) Act 2017</li></ul> <p><b>Settlement Acts – Gisborne</b></p> <ul style="list-style-type: none"><li>• Ngai Tāmanuhiri Claims Settlement Act 2012</li><li>• Ngati Porou Claims Settlement Act 2012</li></ul>	<p>This OIC is not expected to adversely impact iwi and hapū access to community, land or marae in light of restrictions on the use of the powers proposed to be included within the OIC.</p> <p><b>Māori land– Will this OIC enable compulsorily acquisition of Māori land?</b> The OIC contains specific provisions to ensure that the modified process is not used for compulsory acquisition of protected Māori land.</p>	<p><i>negotiation if acquisition (temporary or permanent) is required under the PWA?</i> The PWA processes and timing are not proposed to be altered with the OIC in relation to Māori freehold land acquisition.</p> <p><b>Private landowners – If works are being done on my land and it is being temporarily acquired, how long will this be for?</b> The temporary acquisition could last for an extended period of time. The duration will be made clear in the negotiation stage so all parties know what is being agreed to. The agency is required to make good any damage the temporary occupation results in to ensure when the works are complete, the landowner is returned the land in an agreed state.</p>		



Description of Order component	Geographic areas of impact	Interests in area (including Iwi, Hapū, Marae, Whānau).	Other groups with rights and interests* (eg Māori freehold landowners and/or PSGEs)	Settlement terms that are engaged by OIC	Potential impacts on other rights and interests	Timing requirements	Proposed points of contact for consultation	Appropriate method of consultation (consider cost/time and other obligations like kaupapa inquiries)
		<ul style="list-style-type: none"> <li>Ngāti Hinerangi - 9 hapū, 4 known marae</li> <li>Ngāti Hineuru - 1 known marae</li> <li>Ngāti Kea / Ngāti Tuarā - 2 hapū, 3 known marae</li> <li>Ngāti Korokī Kahukura - 3 hapū, 4 known marae</li> <li>Ngāti Maru - 18 hapū, 4 known marae</li> <li>Ngāti Pāoa - 36 hapū, 3 marae</li> <li>Ngāti Porou ki Harataunga ki Mataora - 2 known marae</li> <li>Ngāti Pūkenga ki Waiau - 3 hapū, 1 known marae</li> <li>Ngāti Rāhiri Tumutumu - 10 hapū, 1 known marae</li> <li>Ngāti Tahu / Ngāti Whaoa - 5 hapū, 4 known marae</li> <li>Ngāti Tamakōpiri - 11 hapū, 2 known marae</li> <li>Ngāti Rehua - 4 known marae</li> <li>Ngāti Tamaterā - 3 marae</li> <li>Ngāti Tara Tokanui - 1 known marae</li> <li>Ngāti Tūrangitukua - 1 known marae</li> <li>Ngāti Tūwharetoa - 29 hapū, 30 known marae</li> <li>Ngāti Whānaunga - 1 known marae</li> <li>Raukawa - 28 hapū 19 known marae</li> <li>Te Patukirikiri - 3 hapū, 1 known marae</li> <li>Waikato - 35 hapū, 69 known marae</li> </ul> <p><b>Iwi, hapū and marae – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki - 2 known marae</li> <li>Ngāti Hako - 3 known marae</li> <li>Ngāti Manuhiri - 1 known marae</li> <li>Ngāti Maru - 18 hapū, 4 known marae</li> <li>Ngāti Pāoa - 36 hapū, 3 known marae</li> <li>Ngāti Rehua - 4 known marae</li> <li>Ngāti Tamaoho - 3 known marae</li> <li>Ngāti Tamaterā - 3 known marae</li> <li>Ngāti Te Ata - 20 hapū, 1 known marae</li> <li>Ngāti Whānaunga - 1 known marae</li> <li>Ngāti Whātua - 5 hapū, 6 known marae (in Auckland)</li> <li>Ngāti Whātua o Kaipara - 4 hapū, 5 known marae</li> <li>Ngāti Whātua o Ōrākei - hapū, 1 known marae</li> <li>Ngātiwai - 10 hapū, 14 known marae</li> <li>Te Ākitai Waiohūa - 3 hapū, 1 known marae</li> <li>Te Kawerau a Maki - 1 known marae</li> <li>Te Patukirikiri - 3 hapū, 1 known marae</li> <li>Te Uri o Hau - 8 hapū, 14 known marae</li> <li>Waikato - 35 hapū, 69 known marae</li> </ul>	<ul style="list-style-type: none"> <li>Tūwharetoa Settlement Trust</li> <li>Ngaati Whanaunga Incorporated Society</li> <li>Raukawa Settlement Trust</li> <li>Te Patukirikiri Iwi Trust</li> <li>Te Whakakitenga o Waikato Incorporated</li> </ul> <p><b>PSGEs – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki Trust</li> <li>Hako Tūpuna Trust</li> <li>Ngāti Manuhiri Settlement Trust</li> <li>Ngāti Pāoa Iwi Trust</li> <li>Ngāti Rehua - Ngātiwai Ki Aotea Trust</li> <li>Ngāti Tamaoho Settlement Trust</li> <li>Ngāti Tamaterā Treaty Settlement Trust</li> <li>Ngaati Whanaunga Incorporated Society</li> <li>Ngā Maunga Whakahii o Kaipara Development Trust</li> <li>Ngāti Whātua o Ōrākei Trust Board</li> <li>Te Ākitai Waiohūa Settlement Trust</li> <li>Te Kawerau Iwi Settlement Trust</li> <li>Te Patukirikiri Iwi Trust</li> <li>Te Uri o Hau Settlement Trust</li> <li>Te Whakakitenga o Waikato Incorporated</li> </ul> <p><b>PSGEs – North and Region</b></p> <ul style="list-style-type: none"> <li>Te Rūnanga o Ngāi Takoto</li> <li>Kahukuraariki Trust</li> <li>Te Manawa o Ngāti Kuri Trust</li> <li>Te Rūnanga Nui o Te Aupōuri Trust</li> <li>Te Rūnanga o Te Rarawa</li> <li>Te Roroa Whatu Ora Trust</li> <li>Te Uri o Hau Settlement Trust</li> </ul>	<ul style="list-style-type: none"> <li>Rongowhakaata Claims Settlement Act 2012</li> <li>Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018</li> </ul> <p><b>Settlement Acts – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki Claims Settlement Act 2018</li> <li>Ngāti Manuhiri Claims Settlement Act 2012</li> <li>Ngāti Pāoa Claims Settlement Bill 2022</li> <li>Ngāti Tamaoho Claims Settlement Act 2018</li> <li>Ngāti Whātua o Kaipara Claims Settlement Act 2013</li> <li>Ngāti Whātua Ōrākei Claims Settlement Act 2012</li> <li>Te Kawerau a Maki Claims Settlement Act 2015</li> <li>Te Uri o Hau Claims Settlement Act 2002</li> <li>Waikato Raupatu Claims Settlement Act 1995</li> </ul> <p><b>Settlement Acts – Northland Region</b></p> <ul style="list-style-type: none"> <li>Ngāi Takoto Claims Settlement Act 2015</li> <li>Ngatikahu ki Whangaroa Claims Settlement Act 2017</li> <li>Ngāti Kuri Claims Settlement Act 2015</li> <li>Te Aupouri Claims Settlement Act 2015</li> <li>Te Rarawa Claims Settlement Act 2015</li> <li>Te Roroa Claims Settlement Act 2008</li> <li>Te Uri o Hau Claims Settlement Act 2002</li> </ul>				



Description of Order component	Geographic areas of impact	Interests in area (including Iwi, Hapū, Marae, Whānau).	Other groups with rights and interests* (eg Māori freehold landowners and/or PSGEs)	Settlement terms that are engaged by OIC	Potential impacts on other rights and interests	Timing requirements	Proposed points of contact for consultation	Appropriate method of consultation (consider cost/time and other obligations like kaupapa inquiries)
		<b>Iwi, hapū and marae – Northland Region</b> <ul style="list-style-type: none"><li>Ngāi Takoto - no hapū, 4 known marae</li><li>Ngāpuhi / Ngāti Kahu ki Whaingaroa - 18 hapū, 18 known marae</li><li>Ngāti Kahu - 12 hapū, 13 known marae</li><li>Ngāti Kahu ki Whangaroa - 11 hapū, 7 known marae</li><li>Ngāti Kuri - 2 known marae</li><li>Ngāti Whātua - 5 hapū, 21 known marae ( in Northland)</li><li>Ngātiwai - 10 hapū, 14 known marae</li><li>Te Aupōuri - 1 known mrae</li><li>Te Rārawa - 33 hapū, 24 known marae</li><li>Te Roroa - 6 known marae</li><li>Te Uri o Hau - 8 hapū - 14 known marae</li></ul>						
<b>Public Works Act 1981</b> – applies to KiwiRail only  Administered by Land Information New Zealand  To streamline land acquisition processes	Awatoto and Esk Valley, Hawke's Bay	<b>Local authorities</b> <ul style="list-style-type: none"><li>Hawkes Bay Regional Council</li><li>Hastings District Council</li><li>Napier City Council</li><li>Wairoa District Council</li><li>Central Hawke's Bay District</li></ul> <b>Iwi, hapū and marae – Hawke's Bay Region</b> <ul style="list-style-type: none"><li>Ngāi Te Ohuake - 7 hapū, 4 known marae</li><li>Ngāti Hineuru - 1 known marae</li><li>Ngāti Kahungunu - 114 hapū, 80 known marae</li><li>Ngāti Pāhauwera - 84 hapū, 5 known marae</li><li>Ngāti Ruapani ki Waikaremoana - 5 hapū, 3 known marae</li><li>Ngāti Whitikaupēka - 6 hapū, 2 known marae</li><li>Te Wairoa Iwi and Hapū - 84 hapū, 30 known marae</li><li>Tūhoe - 32 hpu, 42 known marae</li><li>Heretaunga Tamatea - 42 hapū, 47 known marae</li><li>Ahuriri Hapū</li><li>a group of 7 hapū, 9 known marae</li><li>Maungaharuru-Tangitū Hapū - a group of 6 Ngāti Kahungunu hapū, 1 associated marae</li></ul>	<b>PSGEs – Hawke's Bay Region</b> <ul style="list-style-type: none"><li>Mana Ahuriri Trust represended Ahuriri hapū as a PSGE for the Deed of Settlement signed with the Crown on 02 November 2016</li><li>Heretaunga Tamatea Settlement Trust"</li><li>Maungaharuru-Tangitū Trust</li><li>Hineuru Iwi Trust</li><li>Ngāti Pāhauwera Development Trust</li><li>Tātau Tātau o Te Wairoa Trust</li><li>Tūhoe - Te Uri Taumatua</li></ul>	<b>Settlement Acts – Hawke's Bay Region</b> <ul style="list-style-type: none"><li>Ahuriri Hapū Claims Settlement Act 2021</li><li>Heretaunga Tamatea Claims Settlement Act 2018</li><li>Maungaha uru-Tangitū Hapū Claims Settlement Act 2014</li><li>Hineuru Claims Settlement Act 2016</li><li>Ngāti Pāhauwera Claims Settlement Act 2012</li><li>Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018</li><li>Tūhoe Claims Settlement Act 2014</li></ul>	<b>Private landowners – Will this OIC be used to take ownership of my land?</b> This OIC will only be used for permanent acquisition of land in Esk Valley and Awatoto in the Hawke's Bay where KiwiRail may have to realign the railway  <b>Iwi and hapū – Could this OIC alienate iwi and hapū access to community, land, marae?</b> This OIC is not expected to adversely impact iwi and hapū access to community, land or marae in light of restrictions on the use of the powers proposed to be included within the OIC, in particular the inability for the PWA powers to apply to protected Māori land as defined under the Urban Development Act.  <b>Māori land– Will this OIC enable compulsorily acquisition of Māori land?</b> The OIC contains specific provisions to ensure that the modified process is used for compulsory	<b>Māori freehold landowners – What are the requirements associated with negotiation if acquisition (temporary or permanent) is required under the PWA?</b> The PWA processes and timing for each step in the process, are not proposed to be altered with the OIC in relation to Māori freehold land acquisition.  <b>Private landowners – If works are being done on my land and it is being temporarily acquired, how long will this be for?</b> The temporary acquisition could last for an extended period of time. The duration will be made clear in the negotiation stage so all parties know what is being agreed to. The agency is required to make good any damage the temporary occupation results in to ensure when the works are complete, the landowner is returned the land in an agreed state.		



Description of Order component	Geographic areas of impact	Interests in area (including Iwi, Hapū, Marae, Whānau).	Other groups with rights and interests* (eg Māori freehold landowners and/or PSGEs)	Settlement terms that are engaged by OIC	Potential impacts on other rights and interests	Timing requirements	Proposed points of contact for consultation	Appropriate method of consultation (consider cost/time and other obligations like kaupapa inquiries)
<p><b>Railways Act 2005</b> – applies to KiwiRail only</p> <p>Administered by the Ministry of Transport</p> <p>To enable KiwiRail to manage access to its rail network more efficiently</p> <p><b>New Zealand Railways Corporation Act 1981</b> – applies to KiwiRail only</p> <p>Administered by the Treasury</p> <p>To make changes to notification processes to make it easier to do repair and recovery works</p>	Annex 2	<p><b>Local authorities</b></p> <ul style="list-style-type: none"> <li>Northland Regional Council</li> <li>Whangārei District Council</li> <li>Kaipara District Council</li> <li>Auckland Council</li> <li>Gisborne District Council</li> <li>Hawke's Bay Regional Council</li> <li>Central Hawke's Bay District Council</li> <li>Hastings District Council</li> <li>Napier City Council</li> <li>Wairoa District Council</li> <li>Manawatu-Wanganui Regional Council</li> <li>Taranaki District Council</li> </ul> <p><b>Iwi, hapū and marae - Manawatu – Wanganui Region</b></p> <ul style="list-style-type: none"> <li>Muaūpoko - 7 hapū, 2 known marae</li> <li>Ngā Rauru Kītahi - 16 hapū, 12 known marae</li> <li>Ngā Wairiki Ngāti Apa - 33 hapū, 4 known marae</li> <li>Ngāti Hāua (Upper Whanganui) - 11 hapū, 13 known marae</li> <li>Ngāti Hauiti - 11 hapū, 3 known marae</li> <li>Ngāi Te Ohuake - 7 hapū, 4 known marae</li> <li>Ngāti Kahungunu - 114 hapū, 80 known marae</li> <li>Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua - 9 hapū, 14 known marae</li> <li>Ngāti Maru (Te Iwi o Maruwaharangi) - 8 hapū, 1 known marae</li> <li>Ngāti Rangī - 12 hapū, 15 known marae</li> <li>Ngāti Raukawa ki te Tonga - 22 hapū, 20, known marae</li> <li>Ngāti Tamakōpiri- 11 hapū, 2 known marae</li> <li>Ngāti Tūwharetoa - 29 hapū, 30 known marae</li> <li>Ngāti Whitikaupeka - 6 hapū, 2 known marae</li> <li>Rangitāne - 19 hapū, 11 known marae (in horizons)</li> <li>Te Korowai o Wainuiārua (Central Whanganui) - 28 hapū, 6 known marae</li> <li>Whanganui Iwi / Te Atihauānui a Pāpārangi - 28 hapū, 35 known marae</li> </ul>	<p><b>PSGEs – Manawatu – Wanganui Region</b></p> <ul style="list-style-type: none"> <li>Te Kaahui o Rauru</li> <li>Ngā Wairiki-Ngāti Apa Charitable Trust</li> <li>Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua Settlement Trust</li> <li>Te Kāhui Maru Trust</li> <li>Te Tōtarahoe o Paerangi Trust</li> <li>Te Kotahitanga o Ngāti Tūwharetoa</li> <li>Tūwharetoa Settlement Trust</li> <li>Rangitāne Tū Mai Rā Trust</li> <li>Rangitāne o Manawātū Settlement Trust"</li> <li>Ngā Tāngata Tiaki o Whanganui Trust</li> </ul> <p><b>PSGEs – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Mana Ahuriri Trust represented Ahuriri hapū as a PSGE for the Deed of Settlement signed with the Crown on 02 November 2016</li> <li>Heretaunga Tamatea Settlement Trust</li> <li>Maungaharuru-Tangitū Trust</li> <li>Hineuru Iwi Trust</li> <li>Ngāti Pāhauwera Development Trust</li> <li>Tātau Tātau o Te Wairoa Trust</li> <li>Tūhoe - Te Uru Taumatua</li> </ul> <p><b>PSGEs – Gisborne</b></p> <ul style="list-style-type: none"> <li>Tāmanuhiri Tutu Poroporo Trust</li> <li>Te Rūnanganui o Ngāti Porou Trust</li> <li>Rongowhakaata Settlement Trust</li> <li>Tātau Tātau o Te Wairoa Trust</li> </ul>	<p><b>Settlement Acts – Manawatu – Wanganui Region</b></p> <ul style="list-style-type: none"> <li>Ngāa Rauru Kītahi Claims Settlement Act 2005</li> <li>Ngāti Apa (North Island) Claims Settlement Act 2010</li> <li>Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua Claims Settlement Act 2022</li> <li>Ngāti Maru (Taranaki) Claims Settlement Act 2022</li> <li>Ngāti Tūwharetoa Claims Settlement Act 2018</li> <li>Central North Island Forests Land Collective Settlement 2008</li> <li>Rangitāne Tū Mai Rā (Wairarapa Tāmaki nui-ā-Rua) Claims Settlement Act 2017</li> <li>Rangitāne o Manawātū Claims Settlement Act 2016</li> <li>Te Awa Tupua (Whanganui River Claims Settlement) Act 2017</li> </ul> <p><b>Settlement Acts – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Ahuriri Hapū Claims Settlement Act 2021</li> <li>Heretaunga Tamatea Claims Settlement Act 2018</li> <li>Maungaharuru-Tangitū Hapū Claims Settlement Act 2014</li> <li>Hineuru Claims Settlement Act 2016</li> <li>Ngāti Pāhauwera Claims Settlement Act 2012</li> <li>Iwi and Hapū of Te Rohe o Te Wairoa</li> </ul>	acquisition of protected Māori land.			



Description of Order component	Geographic areas of impact	Interests in area (including Iwi, Hapū, Marae, Whānau).	Other groups with rights and interests* (eg Māori freehold landowners and/or PSGEs)	Settlement terms that are engaged by OIC	Potential impacts on other rights and interests	Timing requirements	Proposed points of contact for consultation	Appropriate method of consultation (consider cost/time and other obligations like kaupapa inquiries)
		<ul style="list-style-type: none"> <li>Whanganui Land Settlement (Lower Whanganui) - 18 hapū, 19 known marae</li> </ul> <p><b>Iwi, hapū and marae – Hawke's Bay Region</b></p> <ul style="list-style-type: none"> <li>Ngāi Te Ohuake - 7 hapū, 4 known marae</li> <li>Ngāti Hineuru - 1 known marae</li> <li>Ngāti Kahungunu - 114 hapū, 80 known marae</li> <li>Ngāti Pāhauwera - 84 hapū, 5 known marae</li> <li>Ngāti Ruapani ki Waikaremoana - 5 hapū, 3 known marae</li> <li>Ngāti Whitikaupēka - 6 hapū, 2 known marae</li> <li>Te Wairoa Iwi and Hapū - 84 hapū, 30 known marae</li> <li>Tūhoe - 32 hpu, 42 known marae</li> <li>Heretaunga Tamatea - 42 hapū, 47 known marae</li> <li>Ahuriri Hapū</li> <li>a group of 7 hapū, 9 known marae</li> <li>Maungaharuru-Tangitū Hapū - a group of 6 Ngāti Kahungunu hapū, 1 associated marae</li> </ul> <p><b>Iwi, hapū and marae – Gisborne</b></p> <ul style="list-style-type: none"> <li>Ngāi Tāmanuhiri - 5 hapū, 3 known marae</li> <li>Ngāti Porou - 49 hapū, 48 known marae</li> <li>Rongowhakaata - 5 hapū, 5 known marae</li> <li>Te Aitanga ā Māhaki - 9 hapū, 13 known marae</li> <li>Te Wairoa Iwi and Hapū - 84 hapū, 30 known marae</li> </ul> <p><b>Iwi, hapū and marae – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki - 2 known marae</li> <li>Ngāti Hako - 3 known marae</li> <li>Ngāti Manuhiri - 1 known marae</li> <li>Ngāti Maru - 18 hapū, 4 known marae</li> <li>Ngāti Pāoa - 36 hapū, 3 known marae</li> <li>Ngāti Rehua - 4 known marae</li> <li>Ngāti Tamaoho - 3 known marae</li> <li>Ngāti Tamaterā - 3 known marae</li> <li>Ngāti Te Ata - 20 hapū, 1 known marae</li> <li>Ngāti Whānaunga - 1 known marae</li> <li>Ngāti Whātua - 5 hapū, 6 known marae (in Auckland)</li> <li>Ngāti Whātua o Kaipara - 4 hapū, 5 known marae</li> <li>Ngāti Whātua o Ōrākei - hapū, 1 known marae</li> </ul>	<p><b>PSGEs – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki Trust</li> <li>Hako Tūpuna Trust</li> <li>Ngāti Manuhiri Settlement Trust</li> <li>Ngāti Pāoa Iwi Trust</li> <li>Ngāti Rehua - Ngātiwai Kī Aotea Trust</li> <li>Ngāti Tamaoho Settlement Trust</li> <li>Ngāti Tamaterā Treaty Settlement Trust</li> <li>Ngaati Whanaunga Incorporated Society</li> <li>Ngā Maunga Whakahi o Kaipara Development Trust</li> <li>Ngāti Whātua o Ōrākei Trust Board</li> <li>Te Ākitai Waiohūa Settlement Trust</li> <li>Te Kawerau Iwi Settlement Trust</li> <li>Te Patukirikiri Iwi Trust</li> <li>Te Uri o Hau Settlement Trust</li> <li>Te Whakakitenga o Waikato Incorporated</li> </ul> <p><b>PSGEs – Northland Region</b></p> <ul style="list-style-type: none"> <li>Te Rūnanga o Ngāi Takoto</li> <li>Kahukura iwi Trust</li> <li>Te Manawa o Ngāti Kuri Trust</li> <li>Te Rūnanga Nui o Te Aupōuri Trust</li> <li>Te Rūnanga o Te Rarawa</li> <li>Te Roroa Whatu Ora Trust</li> <li>Te Uri o Hau Settlement Trust</li> </ul>	<p>Claims Settlement Act 2018</p> <ul style="list-style-type: none"> <li>Tūhoe Claims Settlement Act 2014</li> </ul> <p><b>Settlement Acts – Gisborne</b></p> <ul style="list-style-type: none"> <li>Ngāi Tāmanuhiri Claims Settlement Act 2012</li> <li>Ngāti Porou Claims Settlement Act 2012</li> <li>Rongowhakaata Claims Settlement Act 2012</li> <li>Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018</li> </ul> <p><b>Settlement Acts – Auckland</b></p> <ul style="list-style-type: none"> <li>Ngāi Tai ki Tāmaki Claims Settlement Act 2018</li> <li>Ngāti Manuhiri Claims Settlement Act 2012</li> <li>Ngāti Pāoa Claims Settlement Bill 2022</li> <li>Ngāti Tamaoho Claims Settlement Act 2018</li> <li>Ngāti Whātua o Kaipara Claims Settlement Act 2013</li> <li>Ngāti Whātua Ōrākei Claims Settlement Act 2012</li> <li>Te Kawerau ā Maki Claims Settlement Act 2015</li> <li>Te Uri o Hau Claims Settlement Act 2002</li> <li>Waikato Raupatu Claims Settlement Act 1995</li> </ul> <p><b>Settlement Acts – Northland Region</b></p> <ul style="list-style-type: none"> <li>Ngāi Takoto Claims Settlement Act 2015</li> <li>Ngatikahu ki Whangaroa Claims Settlement Act 2017</li> <li>Ngāti Kuri Claims Settlement Act 2015</li> <li>Te Aupouri Claims Settlement Act 2015</li> <li>Te Rarawa Claims Settlement Act 2015</li> </ul>				

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		<ul style="list-style-type: none"> <li>Ngātiwai - 10 hapū, 14 known marae</li> <li>Te Ākitai Waiohū - 3 hapū, 1 known marae</li> <li>Te Kawerau a Maki - 1 known marae</li> <li>Te Patukirikiri - 3 hapū, 1 known marae</li> <li>Te Uri o Hau - 8 hapū, 14 known marae</li> <li>Waikato - 35 hapū, 69 known marae</li> </ul> <p><b>Iwi, hapū and marae – Northland Region</b></p> <ul style="list-style-type: none"> <li>Ngāi Takoto - no hapū, 4 known marae</li> <li>Ngāpuhi / Ngāti Kahu ki Whaingaroa - 18 hapū, 18 known marae</li> <li>Ngāti Kahu - 12 hapū, 13 known marae</li> <li>Ngāti Kahu ki Whangaroa - 11 hapū, 7 known marae</li> <li>Ngāti Kurī - 2 known marae</li> <li>Ngāti Whātua - 5 hapū, 21 known marae ( in Northland)</li> <li>Ngātiwai - 10 hapū, 14 known marae</li> <li>Te Aupōuri - 1 known mrae</li> <li>Te Rārawa - 33 hapū, 24 known marae</li> <li>Te Roroa - 6 known marae</li> <li>Te Uri o Hau - 8 hapū - 14 known marae</li> </ul>		<ul style="list-style-type: none"> <li>Te Roroa Claims Settlement Act 2008</li> <li>Te Uri o Hau Claims Settlement Act 2002</li> </ul>				

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982



# Annex 1 – Damaged road network sections

Relevant Region	Significance and scale of issue	
Hawke's Bay Region	SH2 – Waikare River Bridge to district boundary (about 107km) SH2 – SH5 intersection through to Waikare Bridge (55km) SH38 – Wairoa to Tuai (47km) SH5 – intersection with SH2 to Pohokura Road (76km) SH50 – Mangamate Stream / Tukipo Stream / Makaretu River / Glencoe Gorge / Manga-o-nuku (each about 250m) SH51 – Tutaekuri Bridge (1km)	
Gisborne	SH35 – Cemetery Road to Tokomaru township (8.5km) SH35 – Te Puia to Makarika Road (14km) SH35 – Poroporo Road to Whakaangiangi Road (13km) SH35 – Turihaua (1.5km) SH35 – Hikuwai Bridge (500m) SH2 – Waihuka Road to Te Wera Road (31km)	
Waikato Region	SH25A – Taparahi (200m) SH25A – Troups Falls (100m) SH25 –various locations along the route SH2 – Karangahake Gorge (100m) SH27 – Kiahare (1km)	
Auckland	SH1 – Puhoi to Dome Valley (10km) SH1 – Puhoi / Pohuehue (1km) SH1 – South of Warkworth (500m)	
Northland Region	SH1 – Brynderwyns (15km) SH10 – Waitangi River Bridge (100m)	

# Annex 2 – Damaged rail network sections

Region	Significance and scale of issue
Manawatu – Wanganui Region	Palmerston North to Gisborne Line (PNGL): multiple damage sites requiring slip remediation between Dannevirke and the Kopua Viaduct (22km)
Hawke's Bay Region	PNGL: mass and multiple damage sites from the south of Hastings through to Wairoa (104km) PNGL: Wairoa to regional boundary (51km). Works at Awatoto and Eskdale Valley to include off-corridor recovery works.
Gisborne	PNGL: full distance in Gisborne Region (44km)
Auckland	North Auckland Line (NAL): Kanihi to regional boundary (47km)
Northland Region	NAL: regional boundary to south of Whangārei (67km)

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**ATTACHMENT EIGHT: Engagement Feedback Table**

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TRANCHE SIX					
Order: Land use Orders-in-Council for Waka Kotahi and KiwiRail			Agency leading consultation: Ministry of Transport		
Consulted party	When they were consulted	Feedback received	Response provided	Method of response	Contact in agency
Bay of Plenty Regional Council Carterton District Council Far North District Council Gisborne District Council Hamilton City Council Hastings District Council Hauraki District Council Kaipara District Council Kawerau District Council Manawatu District Council Manawatū-Whanganui Regional Council Masterton District Council Matamata-Piako District Council Napier City Council Northland Regional Council Ōpōtiki District Council Ōtorohanga District Council Rangitikei District Council Rotorua District Council South Waikato District Council South Wairarapa District Council Tararua District Council Taupo District Council Tauranga City Council Waikato District Council Waikato Regional Council Waipa District Council Wairoa District Council Waitomo District Council Wellington Regional Council Western Bay of Plenty District Council Whakatane District Council Whangarei District Council	Received written correspondence and discussion document on 28 June 2023  Invited to both Hui held for Councils on 29 June and 3 July 2023  Received meeting material on 5 July 2023	Nil	N/A	N/A	
Ahuriri Hapū Heretaunga Tamatea Maniapoto Maraeroa A & B (Land Block) Maungaharuru-Tangitū Hapū Muaūpoko Ngā Rauru Kītahi Ngā Wairiki Ngāti Apa Ngāi Tai ki Tāmaki Ngāi Takoto Ngāi Tāmanuhiri Ngāi Te Ohuake Ngāpuhi / Ngāti Kahu ki Whaingaroa Ngāti Hako Ngāti Hāua (Upper Whanganui) Ngāti Hauiti Ngāti Hei	Received written correspondence and discussion document on 29 June 2023  Invited to Hui held for all Māori/iwi/hapū on 3, 5 and 7 July 2023  Received meeting material on 5 July 2023	Nil	N/A	N/A	

Ngāti Hinerangi Ngāti Hineuru Ngāti Kahu Ngāti Kahu ki Whangaroa Ngāti Kahungunu Ngāti Kahungunu ki Wairarapa - Tāmaki Nui ā Rua Ngāti Kea / Ngāti Tuarā Ngāti Korokī Kahukura Ngāti Kuri Ngāti Manuhiri Ngāti Maru Ngāti Maru (Te Iwi o Maruwharanui) Ngāti Pāhauwera Ngāti Pāoa Ngāti Porou Ngāti Pūkenga ki Waiau Ngāti Rāhiri Tumutumu Ngāti Rangī Ngāti Raukawa ki te Tonga Ngāti Rehua Ngāti Ruapani ki Waikaremoana Ngāti Tahu / Ngāti Whaoa Ngāti Tamakōpiri Ngāti Tamaoho Ngāti Tamaterā Ngāti Tara Tokanui Ngāti Te Ata Ngāti Tūrangitukua Ngāti Tūwharetoa Ngāti Whanaunga Ngāti Whātua Ngāti Whātua o Kaipara Ngāti Whātua o Ōrākei Ngāti Whitikaupeka Ngātiwai Pouākani (Land Block) Rangitāne Raukawa Rongowhakaata Te Aitanga ā Māhaki Te Ākitai Waiohua Te Aupōuri Te Kawerau a Maki Te Korowai o Wainuiārua (Central Whanganui) Te Patukirikiri Te Rarawa Te Roroa Te Uri o Hau Te Wairoa Iwi and Hapū Tūhoe Waikato Whanganui Iwi / Te Atihaunui a Pāpārangi Whanganui Land Settlement (Lower Whanganui) Patuharakeke Ngāti Wai Ngati Pū					
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<p>Ngāti Porou Te Whanua a-āpanui Ngāi Tāmanuhiri Iwi; Hineuru Iwi Trust Te Aitanga ā Māhaki Ngāti Kahungunu Iwi Tatau Tatau o Te Wairoa Ngāti Pāhauwera Ngai Tuhoe Iwi Mangaharuru Tangitū Trust Ngāti Hineuru Ngāti Pārau Mana Ahuriri Te Taiwhenua o Heretaunga Te Taiwhenua o Tamatea Heretaunga Tamatea iwi Manaahuriri Trust Maungaharuru-Tangitu Trust Ngā Ariki Kaiputahi Iwi Whanau Trust Rongowhakaata iwi</p>	<p>Received written correspondence and discussion document on 29 June 2023</p> <p>Invited to Hui held for Māori/iwi/hapū in Tairāwhiti and Hawke's Bay on 4 July 2023 and for all Māori/iwi/hapū held on 7 July 2023</p> <p>Received meeting material on 5 July 2023</p>				
Feedback from Council hui held on 29 June 2023					
<p>§ 9(2)(a), Central Hawke's Bay District Council</p>	<p>Received written correspondence and discussion document on 28 June 2023</p> <p>Invited to both Hui held for Councils on 29 June and 3 July 2023</p>	<p>Enquired whether a copy of the Hui recording will be available to attendees.</p>	<p>The Ministry of Transport advised that the recording will be made available to attendees and explained the process to be followed to obtain a CoreShare link to the recording.</p>	<p>Answered directly during hui.</p>	<p>§ 9(2)(a)</p>
<p>§ 9(2)(a), Thames-Coromandel District Council</p>	<p>Received written correspondence and discussion document on 28 June 2023</p> <p>Invited to both Hui held for Councils on 29 June and 3 July 2023</p>	<p>Enquired whether the OIC for roadworks would apply to Thames Coromandel District.</p>	<p>The Ministry of Transport confirmed that there are four sections of the highway corridor within the Thames Coromandel District that are to be included in the Waka Kotahi OIC</p>	<p>Answered directly during the hui</p>	<p>Rebecca Beals</p>
		<p>Suggested including the Building Act under the OICs.</p>	<p>The Ministry of Transport advised that, while they are aware that some of the provisions in the Building Act are relied on by KiwiRail and Waka Kotahi, there is no intention to include this legislation in either of the OICs.</p>	<p>Answered directly during the hui.</p>	<p>Rebecca Beals</p>
<p>§ 9(2)(a), Hawkes Bay Regional Council</p>	<p>Received written correspondence and discussion document on 28 June 2023</p> <p>Invited to both Hui held for Councils on 29 June and 3 July 2023</p>	<p>Enquired whether the OIC's propose to override rules and national standards that currently classify some activities as prohibited activities where NO resource consent can be granted</p>	<p>The Ministry of Transport advised that the section of the RMA that restricts applications from being made for prohibited activities specifically remains in place, and that anything identified as prohibited will not be able to be subject of an application under this OIC</p>	<p>Answered directly during the hui.</p>	<p>Rebecca Beals</p>
		<p>Enquired whether the consent processes apply to regional council consents (water permits, discharge permits, coastal permits, land use consents) or only land use consents as per city/district councils.</p>	<p>The Ministry of Transport advised that consents would apply to all consent frameworks across regional and district council authorities including water permits, discharge permits, coastal permits, and regional and district land use consents.</p>	<p>Answered directly during the hui.</p>	<p>Rebecca Beals</p>



s 9(2)(a), Auckland Transport	Received written correspondence and discussion document on 28 June 2023	Noted that the powers focused on the streamlining of the physical assets and enquired whether the Ministry is considering streamlining the processes for traffic and parking controls on the repaired roads, or enabling the construction work.	The Ministry of Transport advised that traffic and parking controls would not be subject to the OiCs, but that the OiCs will enable the approvals to be sought for construction work associated with the repair and recovery.	Answered directly during the hui.	Rebecca Beals
	Invited to both Hui held for Councils on 29 June and 3 July 2023	Suggested having the Minister sign the Layout of Streets Rule to provide a streamlined approach rather than continuing to rely on current bylaw powers.	Useful suggestion about the layout of streets rule; streamlined approach not included in this OiC but it might be something separate we can take on board and look at progressing outside of this process.	Answered directly during the hui.	Rebecca Beals
		Enquired why the OiCs do not extend to local roads.	The Ministry of Transport noted that, while they are cognisant of those affected by the damage to local roads, the scope of this work is restricted to affected highways.	Answered directly during the hui.	Rebecca Beals
Feedback from Council hui held on 3 July 2023					
s 9(2)(a), Gisborne DC	Received written correspondence and discussion document 28 June 2023	Enquired whether this OiC content aligned with that of MfE's OiC regarding consenting requirements for infrastructure activities.	The Ministry of the Environment advised that they are supporting the Ministry of Transport in developing this order, and that policies are being aligned where possible.	Answered directly during the hui by MfE.	Rebecca Beals Sarah McCarthy
	Invited to both Hui held for Councils on 29 June and 3 July 2023	Enquired whether there is there a reason other RCAs are not included in this OiC, and noted that Councils are facing many of the same challenges. DIA have been advised of local roads requiring some flexibility	The Ministry of Transport noted that, while they are cognisant of those affected by the damage to local roads, the scope of this work is restricted to affected highways.  We will also follow-up with DIA – we are not aware of information coming through on the need for OiCs for local roads.	Answered directly during the hui.	Rebecca Beals
s 9(2)(a) Whangarei District Council	Received written correspondence and discussion document on 28 June 2023	Enquired whether the OICS would simplify the process for Councils to access railway land to undertake repair works.	The Ministry of Transport confirmed that the works are specifically to allow KiwiRail to undertake works, however if a Council needed access to railway land the Ministry can provide the appropriate contacts to facilitate that.	Answered directly during the hui.	Rebecca Beals
	Invited to both Hui held for Councils on 29 June and 3 July 2023	Enquired whether there will be OCS focussing on local roads.	The Ministry of Transport noted that, while they are cognisant of those affected by the damage to local roads, the scope of this work is restricted to affected highways.	Answered directly during the hui.	Rebecca Beals
s 9(2)(a), Hastings District Council	Received written correspondence and discussion document on 28 June 2023	Questioned why local roads have not been included in the OiCs.	The Ministry of Transport noted that, while they are cognisant of those affected by the damage to local roads, the scope of this work is restricted to affected highways.	Answered directly during the hui.	Rebecca Beals
	Invited to both Hui held for Councils on 29 June and 3 July 2023				



s 9(2)(a)	Received written correspondence and discussion document on 28 June 2023  Invited to both Hui held for Councils on 29 June and 3 July 2023	s 9(2)(ba)(i)	Unfortunately, it won't be possible to share the draft OiC, however the Ministry of Transport would be happy to have a more targeted discussion on the proposed approach to the information requirements if you wish. In general this OiC is proposed to adopt the information requirements contained in Clause 7 approach from the Kaikōura Coastal Route OiC	Question asked after the meeting was closed Recipient was emailed response.	Rebecca Beals
Feedback from hui for Māori/Iwi/Hapū held on 3 July 2023					
		Nil			
Feedback from hui for Māori/Iwi/Hapū in Tairāwhiti and Te Mātau -a-Maui held on 4 July 2023					
s 9(2)(a)	Received written correspondence and discussion document on 29 June 2023  Invited to Hui held for Māori/iwi/hapū in Tairāwhiti and Hawke's Bay on 4 July 2023 and for all Māori/iwi/hapū held on 7 July 2023	Requested clarification of acronym "PNGL" used in Hui.	Palmerston North to Gisborne Line	Answered directly during the hui.	Rebecca Beals
s 9(2)(a)	Received written correspondence and discussion document on 29 June 2023  Invited to Hui held for Māori/iwi/hapū in Tairāwhiti and Hawke's Bay on 4 July 2023 and for all Māori/iwi/hapū held on 7 July 2023	Requested detail around the process for expediting resource requests for wāhi tāpu /cultural sites.  Noted that some cultural sites are not formally identified.  Reference standard operating protocols, in particular to manage tuna (eels) in our rohe	The Ministry of Transport advised that a liaison group would be established, consisting of local Māori, Iwi, Hapū representatives, and that the agencies are required to share information with this group before applications are lodged to seek their feedback. Also, active monitoring of compliance with conditions is expected to occur as normal. There is provision for a kaitiaki adviser within the condition suite to ensure that appropriate management of cultural values is included. Also via the archaeological authority process which is not modified as part of the OiCs, there is the potential for cultural values to be addressed.  Yes, we need to be mindful of that. The process set up for the liaison group and the kaitiaki adviser gives the opportunity for the detail on location of cultural sites to be shared so that detail can be reflected in works.  Thanks, this is a really useful reminder for us to think about those regional protocols making sure we know about them and that they are reflected in the OiCs. In your feedback, please highlight that protocol so we make sure we are turning our mind to how those are reflected and dealt with.	Answered directly during the hui.	Rebecca Beals
Feedback from the kanohi ki te kanohi Hui for Toitū Tairāwhiti in Gisborne, MoT, MfE, MPI and DPMC, held on 6 July 2023					
Toitū Tairāwhiti		The relationship between Māori, the Crown and agencies is the most important aspect to be settled first. The relationship needs to be established.	Acknowledged and agreed.		Brent Johnson Nick Paterson Rebecca Beals



		Māori need to be involved in decision making, rather than have decision making done for them.	Acknowledged		Brent Johnson Nick Paterson
		A hands-on delivery role for Māori in each of the regions is important, they are local and understand local situations	Acknowledged		Brent Johnson Nick Paterson
		The importance of the rebuild of transport infrastructure taking into account climate change adaptation and that infrastructure is built in the right place rather than reinstating infrastructure in the current place.	Acknowledged		Brent Johnson Nick Paterson
		Key concern with the OiC is use of streamlined PWA powers, even if only for temporary land interests. Concern is particularly in relation to the Māori owned land arrangements that do fall under the PWA.	The Ministry of Transport confirmed is useful to understand that concern with the PWA. The Ministry confirmed that this concern will be reflected upon and a way forward would be explored to address the concern.		Nick Paterson Rebecca Beals
		The new Resource Management system is coming, these works should link to the future system to ensure that community direction is reflected in the scale of works.	Acknowledged and agreed that this is an opportunity to ensure we don't rebuild to the previous level of service if the community needs to retreat in 10 years, an option being to build to a lesser level of service now to support the relocation in the future when the community retreats. The Ministry will look at how to best reflect this opportunity in the detail		Rebecca Beals
Feedback from Māori/Iwi/Hapū hui held on 7 July 2023					
s 9(2)(a)	Received written correspondence and discussion document on 29 June 2023	The more substantive conversation we want to have with Waka Kotahi and KiwiRail and the long-term role they play in not exacerbating the environmental disaster in certain areas. Building resilience and not just building back in the same place is key (e.g rail bridge at Awatoto).	s 9(2)(a) KiwiRail confirmed that the new bridge isn't being rebuilt in exactly where it was before. The current construction works is for a temporary bridge to ensure rail access to the Napier port while the design process for a permanent replacement is worked through. KiwiRail are happy to have seek input into the design of permanent replacement.	Answered directly during hui	Rebecca Beals Michelle Grinlinton-Hancock
	Invited to Hui held for all Māori/iwi/hapū on 3, 5 and 7 July 2023	Some specific habitat improvement works have been undertaken over previous years along the river, these can be highlighted to work with the contractor to not damage what is left	The Ministry of Transport confirmed that this OiC process has started to open up the discussion about the longer-term reinstatement and rebuild.		Nick Paterson
s 9(2)(a)	in response to MoT questions: 1. Are there any protocols in the region that Iwi have established with councils or more generally which may impact on works, e.g around fisheries; and 2. Specifically the impact on Ngāti Kāhungunu of the Public Works Act and particularly noting the proposals in Awatoto and Esk Valley which could be a permanent acquisition. The idea that [it might be better to] not amend legislation through modification and OIC and instead go through existing legislation/legislative processes. Those		Raised concerns over the many different aspects of rebuild that iwi/Māori have interests in and entities which need to be involved, including relating to mahinga kai. Iwi ecologists could be onsite for some major works.  Acknowledged there will need to be relocation of infrastructure in Awatoto and Esk Valley, including marae and the homes of those in certain iwi/hapū. They noted that the use of the PWA is	The Ministry acknowledged the responses and will work through these to ensure that the comments are reflected in the OiCs.  Confirmed the rail looking at realignment is in the Esk Valley, not heading to Gisborne.	Answered directly during hui  Nick Paterson Rebecca Beals



powers exist already under the PWA legislation. The change would be to expedite that ... the question we are really interested in is [whether] expedition would ensure that the rail corridor is reinstated more quickly if there were any issues – but is that at an acceptable cost in terms of the risk to alienation as you point out?		<p>associated with anxiety for some Māori. s 9(2) mentioned that they had read that negotiation would be undertaken as best as possible.</p> <p>s 9(2) asked a further question as to which rail line was being referenced - the rail going up the Esk, or past Panpac going up the Gisborne Line.</p>			
s 9(2)(a)	<p>Received written correspondence and discussion document on 29 June 2023</p> <p>Invited to Hui held for all Māori/iwi/hapū on 3, 5 and 7 July 2023</p>	<p>We want to know the duration of the OICs and the boundaries for the works. We hope this isn't about quick fixes. We want to be there to co-construct – not co-design but co construct, to know what long-term policy changes there are. Our issue is we know climate change is here and hopefully the government is looking at something more permanent in terms of mechanisms and tools, so we don't have to depend on temporary mechanisms to solve situations like this in the future.</p>	<p>The Ministry confirmed the purpose of these OICs is focused on reinstatement prior to any decisions in terms of permanent rebuilds or moving permanent roads. The OICs are a temporary change, a permanent change to achieve this outcome would require legislation change. Going forward part of the problem may be legislative, but a large problem to also be addressed is financial.</p> <p>These OICs last five years to the end of 2028 for road and rail works for Waka Kotahi and KiwiRail.</p>	Answered directly during the hui.	Nick Paterson
Our focus must be on reparation and completing this mahi as "quickly" as possible. We understand the work is in response to 'act of god' therefore it is remedial. If this is not the case ie: extensive changes to the shape of the Ohinemuri River, the embodiment of our tupuna, we would like on site consultation and cultural monitoring of the work. The latter adds cost, it is an indication of long term change. there will be impacts to the principles of 'Te Mana o Te Wai.'		<p>We also want to know where remedial works in rivers, tributaries and springs that flow into those rivers and would like to know where these works are going to be, where it is going to be impacting. Got an issue of extreme urgency vs do we just undertake BAU but we are not in BAU anymore. Would also like to know what if any impact there is on Mana O Te Wai</p>	<p>The Ministry confirmed the OICs will include a requirement for a kaitiaki adviser, providing a contact where cultural advice can be provided, for example if there are protocols around tuna, how they can be collected and moved to other locations or protocols when the works are about to be undertaken – that can be considered where the agencies are made aware of them.</p> <p>Also, a Liaison Group is proposed to be involved in design before approvals are sought, and that will include representatives from Māori / iwi / hapū.</p>	Answered directly during hui	Rebecca Beals
This important mahi stands in its own right, hopefully putea-funding will not be diverted from other important related government departments and or local councils.		<p>The government's \$6b, where does this money come from in terms of the work that needs to be done? It would be sad if it had to be taking the cream off the top of agencies such as DOC so hopefully there is a big putea in the sky we can put towards this very important work.</p>	<p>The Ministry advised the source of the funding is a Ministerial decision, this is not something we are in a position to answer.</p>	Answered directly during hui	Nick Paterson
Further feedback received via the <a href="mailto:transportrecovery@transport.govt.nz">transportrecovery@transport.govt.nz</a> inbox					
s 9(2)(a), Auckland Transport		<p>Noted the difficulty of providing useful feedback without having read the draft OIC's.</p>	<p>The Ministry supplied the link to the Kaikōura OIC, with detail to confirm the RMA provisions will be very similar, the PWA provisions will be very similar, the conservation suite of modifications is a little different. Also the Marine Mammals Protection Act, the Marine Reserves Act, the Ōhau Sanctuary Notice, and the Heritage NZ Pouhere Taonga Act – which are all included in the Kaikōura OIC, are not proposed to be included in the Waka Kotahi OIC.</p>	Recipient was emailed response.	Rebecca Beals
s 9(2)(a)   Te Taiwhenua		<p>Requested clarity on the phrase "Awatoto land can be acquired" as mentioned in the Hui.</p>	<p>The Ministry confirmed that at Awatoto the existing rail bridge was significantly damaged. In order to reinstate the rail corridor, KiwiRail may need to move the bridge from its current location. If the bridge does need to move, the rail tracks that lead on/off the bridge will also need to move so they line up with the new bridge location. KiwiRail may need to purchase land to facilitate that realignment. The OIC</p>	Recipient was emailed response.	Rebecca Beals

			proposed will provide KiwiRail powers under the Public Works Act to support that land purchase process.		
s 9(2)(a) for the Ngāti Tara Tokanui Trust		The Ngāti Tara Tokanui Trust reiterates that compliance with Te Tiriti principles should be upheld throughout the entirety of Transport's rebuild strategy and their preference for a clear reference framework and provision for Te Tiriti to be depicted in relevant documentation. They write about the damage to State Highway 2 and the subsequent disruption to local communities, specifically referring to the social and economic effects on locals, and note Ngati Tara Tokanui's support of the proposed OiCs to enable expedited works. They further request to be consulted for any works affecting the cultural sites within the areas defined, in proximity to and including the Ohinemuri River.	Feedback noted. Engagement is included in the OiC requirements specifically via conditions on the approvals, and this will include engagement in relation to cultural sites and values.		
s 9(2)(a)		Public Works Act: Orders In council to expedite the permanent alienation of land from tangata whenua in particular Esk (Petane Marae) and Awatoto are opposed for the following reasons: - We understand communities and life lines are priorities, the immediacy is no longer as applicable, providing sufficient time for the prior or standard process to follow its due process. Tangata whenua have disproportionately been victims of Public Works Act, expedition can cause some serious backlash and unintended consequences.	Feedback noted. The Ministry has committed to reflect upon the feedback and explore a way forward to address the concern.		Nick Paterson Rebecca Beals
		RMA, Fisheries Regulations, Conservation Act et al: – any works that may involve interaction with mahinga kai, spawning grounds and waterway's in particular SH51 Tutaekuri Bridge (1km), request that Ngati Kahungunu Iwi Incorporated be notified and their Iwi Ecologist is able to have role in any works. The 'rebuild' provides an opportunity for something very positive. Ngati Kahungunu worked with Hawkes Bay RC to improve their 'Standard Operating Procedure' after drain clearances let hundreds of eels stranded.	The Ministry notes the OiCs will include a requirement for a kaitiaki adviser, providing a contact where cultural advice can be provided, for example if there are protocols around tuna, how they can be collected and moved to other locations or protocols when the works are about to be undertaken – that can be considered where the agencies are made aware of them.  Ecology is a specific area where input from iwi is also required in the scoping and development of the response to species found that could be impacted by the works.		Nick Paterson Rebecca Beals
s 9(2)(a), Gisborne District Council		Gisborne District Council expressed appreciation for being included in the engagement, and notes significant disappointment that council were not involved in the development of the OiCs	Feedback is noted. As responded above, detail on the concerns re local roads has been passed to DIA for their consideration.  Consideration of environmental effects, including in relation to freshwater and fish passage, is retained via the OiC. Timeframes are proposed to be altered to allow for		



		and related engagement materials. The main comments are the exclusion of local roads, the misalignment between MOT and MFE's approach to the rebuild, impacts of works on freshwater environments and fish passage, and resource consent timeframes and conditions.	responses for condition changes, and Council's retain the ability to impose conditions as per a schedule in the OiC or additional conditions are necessary for the works.		
s 9(2)(a), Hawke's Bay Regional Council		Hawke's Bay Regional Council noted general support of the proposals but were dissatisfied that the OiCs do not extend to local roads, cycleways, and active transport pathways. They further seek clarity on the OiCs' integration with the Hawke's Bay Regional Recovery Plan and effects on the Hawke's Bay Regional Land Transport Plan currently under development. The council further suggested that in terms of RMA consenting processes, the OiCs should not remove the requirement for works to adhere to environmental limits and good practice mitigations. Finally, the council noted that the OiCs should incorporate interests and needs of road controlling authorities and other groups or individuals who may be planning independent recovery efforts in similar locations.	<p>Feedback is noted. As responded above, detail on the concerns re local roads has been passed to DIA for their consideration.</p> <p>The Recovery Plan and the RLTP will guide implementation of the rebuild and recovery works. The OiCs provide the framework for the necessary approvals, rather than defining the specific design of works for which approvals are required. The OiC's should not therefore conflict with the intentions expressed in either of these documents.</p> <p>Acknowledge the requirement for consideration of environmental effects and the OiCs retain this. Best practice will continue to be required where appropriate.</p> <p>The opportunity for co-ordination of recovery efforts can be realised through the liaison group and the sharing of information. Relationships between the agencies and contractors, as well as other parties undertaking recovery efforts will be key.</p>		
s 9(2)(a) Heretaunga Tamatea Settlement Trust		s 9(2)(a) expressed gratitude for being invited to the engagement, listed two areas of interest and requested updates and to be included in any further engagement related to relevant areas in SH50 and SH51.	Feedback is noted. Engagement in implementing the OiC, in particular in relation to works on SH50 and SH51, can be provided via Waka Kotahi. The OiC does include the requirement for engagement and information sharing to occur to address this comment.		
s 9(2)(a), Waikato Regional Council		Waikato Regional noted they support the proposed OiCs, and that the OiCs should ensure that environmental effects are managed appropriately. The council seeks clarity on how the proposed controlled activity rules under the OiC will interact with certain emergency provisions of the RMA, and whether controlled activity rules would apply to NES regulations in relation to consent requirements. The council further notes that it would be helpful to view a draft of the OiCs.	<p>The feedback is noted. The Ministry confirm that environmental effects are required to be considered as part of the application process under the OiC, and that conditions are proposed to appropriately manage these effects.</p> <p>The OiCs will deem consentable activities as controlled activities, effectively changing the consent category identification in local authority plan documents and NES documents for the specific works required for the recovery and rebuild.</p>		
s 9(2)(a), Conservation s 9(2)(a)		s 9(2)(a) indicates support of the proposed OiCs, noting their preference for the OiCs to include local roads. They further suggest the OiCs provide for environment and lwi impact plans.	<p>The feedback is noted.</p> <p>The local road detail has been provided to DIA for their consideration.</p> <p>The Ministry can confirm that management plans are required in relation to construction effects, and applications are required to consider environmental and</p>		



			cultural impacts in their preparation. This is supported by engagement requirements with the liaison group proposed.		
Feedback from the kanohi ki te kanohi Hui with Ngāti Kahungunu in Heretaunga attended by MoT, MfE and DPMC, held on 10 August 2023					
		Important that this recovery process works for everyone – involvement from all parties in design, management of effects and construction. The integrity of the process and application is important- it can be the detail that will trip a project up.	Acknowledged. The detail will be important in delivering the process and conditions are proposed to be included in the Orders that will require engagement through the design, consenting and construction processes to ensure that information is visible and mitigation proposals are appropriate taking into account environmental and cultural values.		Nick Paterson
		Relationship of this process to settlement legislation is important.	Noted. The Orders have not proposed to amend any Settlement Legislation therefore all obligations and requirements under that legislation remains unmodified. Agencies are required to meet all legal obligations in delivery the recovery works, not just those provided in the Orders.		Nick Paterson
Feedback from Tairāwhiti hui held on 16 August 2023					
		Three key areas of importance in this process – iwi need to be involved in the working through consenting, be a part of the design process, and be involved in implementation	This is acknowledged and conditions are proposed to enable iwi to be involved across all three areas identified. These condition can be strengthened if iwi feel the intention is not delivered by current wording.	Answered in the hui	Rebecca Beals
		Property and Settlement Legislation implications are key areas of concern.	Acknowledged. Amendments have been proposed in response to earlier feedback received in the engagement process to remove the application of the Orders to 'protected Māori land' as defined in the Urban Development Act – what that means is the existing process under the Public Works Act continues to apply without modification.  Settlement legislation and any obligations set out in that are not included in the Orders and therefore remain unmodified. The agencies are required to comply with these as part of the recovery process.	Answered in the hui	Nick Paterson
		Relationship across all levels will be critical to a successful recovery. Social indicators are key to the relationships but also the cultural values of the area. This includes clarity of escalation processes.	The Ministry are working on progressing a relationship at the Ministry level. The Agencies have been made aware of this requirement and the key ability to delivery the recovery that relationships at all levels will enable.  There is no escalation process requirement in the current conditions – undertaken to revisit the Terms of Reference conditions for the Liaison Group and to ensure that such a process is included.	Discussed in the hui	Nick Paterson Tredegar Hall

**ATTACHMENT NINE: Draft Statement of Reasons**

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

## Statement of reasons

These Orders-in-Council<sup>1</sup> (**orders**) are made under the *Severe Weather Emergency Recovery Legislation Act 2023* (**Recovery Act**) and their effect is temporary. The Recovery Act enables orders to be made that grant exemptions from, modify, or extend the provisions of certain enactments listed in Schedule 2 of the Recovery Act. These orders relate to some (but not all) of the severe weather affected areas in the districts or regions of local territorial authorities listed in the Recovery Act.

The orders captured by this Statement include two orders:

- One order that enables KiwiRail Holdings Limited (**KiwiRail**), without undue delay, to provide for the rebuilding of the rail corridor where the most significant damage occurred as part of the recent severe weather events. These areas are set out in Table 1. This order will be revoked on 31 March 2028.
- One order that enables New Zealand Transport Agency (**Waka Kotahi**), without undue delay, to provide for the rebuilding of the existing legal road corridor and 50m on either side, which is to enable temporary access for rebuild and recovery activities to ensure that unsafe situations do not arise. These areas are set out in Table 2. This order will be revoked on 31 March 2028.

These Orders are only able to be relied on by KiwiRail or Waka Kotahi. The powers contained in the Orders are therefore assessed to reflect that only those agencies are able to rely on them. There are also a large number of interactions between the powers in the legislation modified in this Order and other primary legislation (for instance Acts relating to Treaty of Waitangi settlements) that are not altered as part of these Orders. Only the specific Acts identified are modified, and only the provisions identified are modified – the obligations within these Acts contained in provisions that are not modified, still continue to apply.

**Table 1 The section of railway lines to which the modifications apply**

Region	Significance and scale of issue
Manawatū – Whanganui Region	Palmerston North to Gisborne Line: multiple damage sites requiring slip remediation between Dannevirke and the Kopua Viaduct (22km), involving earthworks and associated works in watercourses, vegetation clearance, stormwater management and coastal activities.
Hawkes Bay Region	Palmerston North to Gisborne Line: mass and multiple damage sites from the south of Hastings through to Wairoa (104km) involving earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	Palmerston North to Gisborne Line: Wairoa to regional boundary (51km) has not been inspected yet, KiwiRail has responsibility to make safe, involving earthworks and associated works in watercourses, vegetation clearance, stormwater management. Works at Awatoto and Eskdale Valley to include off-corridor recovery works.

<sup>1</sup> KiwiRail Order 2023, Waka Kotahi Order 2023



Region	Significance and scale of issue
Gisborne	Palmerston North to Gisborne Line: full distance in Gisborne Region (44km) inspection pending, although not operational KiwiRail has responsibility to make safe involving earthworks and associated works in watercourses, vegetation clearance, stormwater management.
Auckland	North Auckland Line: Kanohi to regional boundary (47km) slip remediation, mudspot/overslip remediation and remediation at two bridges, involving earthworks and associated works in watercourses, vegetation clearance, stormwater management and coastal activities.
Northland Region	North Auckland Line: regional boundary to south of Whangārei (67km) slip remediation, mudspot / overslip remediation involving earthworks and associated works in watercourses, vegetation clearance, stormwater management and coastal activities.

**Table 2 The sections of road corridors to which the modifications apply**

Region	Significance and scale of issue
Hawkes Bay Region	SH2 – Waikare River Bridge to district boundary (about 107km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH2 – SH5 intersection through to Waikare Bridge (55km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH38 – Wairoa to Tuai (47km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH5 – intersection with SH2 to Pohokura Road (76km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH50 – Mangamate Stream / Tukipo Stream / Makaretu River / Glencoe Gorge / Manga-o-nuku (each about 250m) – earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH51 – Tutaekuri Bridge (1km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management.
Gisborne	SH35 – Cemetery Road to Tokomaru township (8.5km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works.
	SH35 – Te Puia to Makarika Road (14km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH35 – Poroporo Road to Whakaangi Road (13km), earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH35 – Turihaua (1.5km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works.

Region	Significance and scale of issue
	SH35 – Hikuwai Bridge (500m) - earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH2 – Waihuka Road to Te Wera Road (31km) earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works.
Waikato Region	SH25A – Taparahi (200m) – earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH25A – Troups Falls (100m) earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH25 – earthworks and associated works in watercourses, vegetation clearance, stormwater management, coastal works at various locations along the route.
	SH2 – Karangahake Gorge (100m) - earthworks and associated vegetation clearance, stormwater management, erosion protection
	SH27 – Kaihere (1km) - earthworks and associated works in watercourses, vegetation clearance, stormwater management
Auckland	SH1 – Puhoi to Dome Valley (10km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH1 – Puhoi / Pohuehue (1km) – earthworks and vegetation clearance.
	SH1 – South of Warkworth (500m) – earthworks and associated works in watercourses, vegetation clearance, stormwater management.
Northland Region	SH1 – Brynderwyns (15km) – earthworks and associated works in watercourses, vegetation clearance, stormwater management.
	SH10 – Waitangi River Bridge (100m) - earthworks and associated works in watercourses, vegetation clearance, stormwater management.

Section 7(1) of the Recovery Act provides a power for the Governor-General to make Orders in Council, on the recommendation of the relevant Minister, to exempt, modify, or extend provisions of certain legislation set out in Schedule 2 of the Recovery Act. The Recovery Act will be repealed on 31 March 2028; the orders that are still in force will be revoked on the same day, but the power to make new orders will be repealed on the close of 31 March 2026.

The orders define **recovery work** in clause 4 to mean any activity that, because of or in connection with the recent severe weather events, is necessary or desirable to undertake, without undue delay, to restore the rail route and road corridors and enable these to be used fully, effectively, and safely. This definition includes any activity necessary or desirable for the repair and rebuilding of the rail routes and road corridors or to enhance the safety and improve the resilience of the rail route and road corridors.

These orders have, in relation to recovery and rebuilding activities carried out by KiwiRail and Waka Kotahi (**the agencies**), the effect of modifying certain provisions of the following enactments:

Table 3 Overview of legislation modifications for KiwiRail's and Waka Kotahi's orders

KiwiRail	Waka Kotahi
Resource Management Act 1991	Resource Management Act 1991
Public Works Act 1981	Public Works Act 1981
Conservation Act 1987	Conservation Act 1987
Reserves Act 1977	Reserves Act 1977
Freshwater Fisheries Regulations 1983	Freshwater Fisheries Regulations 1983
Wildlife Act 1953	Wildlife Act 1953
Railways Act 2005	
New Zealand Railways Corporations Act 1981	

An order under section 7(1) of the Recovery Act may be made only on the recommendation of the "relevant Minister". Section 8(1) of the Recovery Act provides that a relevant Minister must not recommend the making of an order unless the relevant Minister is satisfied that (among other things):

- the order is necessary or desirable for one or more purposes of the Act, and
- the extent of the order is not broader than is reasonably necessary to address the matters that gave rise to the order.

The "relevant Minister" is the Minister responsible for the administration of the enactment of the provisions of which these orders modify. Where there is more than one responsible Minister, the relevant Minister is each of those responsible Ministers acting together. For these orders, the relevant Minister is the following Ministers acting together:

- the Minister of Transport (as the Minister responsible for the administration of the Land Transport Management Act 2003 and the Railways Act 2005)
- the Minister for the Environment (as the Minister responsible for the administration of the Resource Management Act 1991)
- the Minister of Conservation (as the Minister responsible for the administration of the Conservation Act 1987, the Reserves Act 1977, the Wildlife Act 1953, and the Freshwater Fisheries Regulations 1983)
- the Minister for Land Information (as the Minister responsible for the administration of the Public Works Act 1981)
- the Minister for State Owned Enterprises (as the Minister responsible for the administration of the New Zealand Railways Corporation Act 1981).

The effects of these orders are set out below, together with a statement of the reasons, in each case, why the relevant Minister is satisfied of the matters in section 8(1) of the Recovery Act and considers it appropriate to recommend the making of these orders.

Because parts of the orders relate to the Resource Management Act 1991 (the **RMA**), the relevant Minister also has to consider:

- the effects on the environment of any controls provided for in the orders, and
- whether those controls avoid, remedy, or mitigate, any adverse effects.



The Minister for the Environment, as the relevant Minister for the Resource Management Act 1991, has considered the controls and this assessment is included in the reasons below.

## Modifications to Resource Management Act 1991

These orders make the following modifications to the RMA.

Any recovery works done by or on behalf of an agency that is not a permitted activity for the purposes of the RMA is a controlled activity for the purposes of the RMA (clause 7). For the avoidance of doubt, this does not extend to prohibited activities.

Applications for a resource consent for recovery works are governed by:

- clause 8, where an agency chooses to make an application under that clause. The clause 8 process can only be used in the case of applications made on or before 31 March 2028

### *Applications for a resource consent*

For an application for a resource consent for recovery works (made under clause 8):

- the consent authority's power to impose conditions is restricted in clause 7 of these orders
- the consent authority must notify its decision on the application within 30 working days of the application being lodged (clause 9).

An agency, when applying for a resource consent for recovery work, is not required to make the application in the prescribed form and manner (within the meaning of section 88(2) of the RMA). Instead, the requirements for an application are simplified (clause 8).

The consent authority must not publicly notify or give limited notification of an application (clause 9). Instead, the consultation process in clause 10 applies.

In considering an application for resource consent for recovery work, a consent authority is not required to have regard to some of the matters to which it would normally have regard when considering an application.

The consent authority is not required to have regard to any relevant provision of a national environmental standard, regulations, a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, or a plan or proposed plan.

In relation to an activity that requires a discharge permit, the consent authority:

- is not required to have regard to the nature of the discharge and the other matters specified in section 105 of the RMA
- is deemed to be satisfied of the matters set out in section 107(2) of the RMA, which include that there are "exceptional circumstances" (clause 9).

Within five days after a resource consent application for recovery work is lodged, the consent authority must invite written comments from specified persons (including relevant iwi and hapū), who will have 10 working days to make comments. Those persons do not qualify as submitters for the purposes of the RMA and may not object or appeal under the RMA against the consent authority's decision on the application (clause 10).

Before making a decision on an application for a resource consent, the consent authority must consider, and prepare a summary of, the comments, and make the summary publicly available (clause 11).

### *Conditions on a resource consent*

Under clause 12A a consent authority may impose on the resource consent, as well as imposing additional conditions to those set out in Schedules 2 and 3, through the following process:

- the consent authority may recommend amendments to those conditions or new conditions be imposed, which the agency can accept or reject
- if the agency rejects a recommended amendment, it must identify an alternative amendment and the conditions, as then amended, apply to the consent
- the consent authority must notify its decision on the application within 5 working days.

#### *Applications for alterations to designations*

An agency may choose to make an application to alter the boundaries of a designation using the process in clause 17. This clause allows agencies to give notice to the consenting authority of the alteration if it is reasonably necessary in relation to recovery works, and comments are invited from directly affected landowners and relevant iwi and hapū.

Clause 17 applies if an agency gives a notice of requirement to alter the boundaries of a designation to a territorial authority, and the alteration is necessary for recovery work, the territorial authority must alter the boundaries of the designation accordingly and impose the conditions set out in the designation (and the provisions of Part 8 of the RMA concerning requests for further information, notification, submissions, and hearings in relation to the notice of requirement are substituted with a more limited consultation process).

Under the normal RMA process for an alteration to a designation, the territorial authority will consider and make recommendations on a designation (including recommended conditions) (section 171 of the RMA), after which the requiring authority makes a decision on whether to accept or reject the recommendation, in whole or in part (section 172 of the RMA).

#### *Conditions on alterations to designations*

The territorial authority must make any necessary changes to the district plan to alter the designation to impose the conditions set out in Schedule 3 on that part of the designation that has been altered.

#### *Other modifications to RMA*

Clause 13 applies to recovery works that are done as emergency works under section 330 or 330B of the RMA and it requires certain environmental effects to be taken into account, unless the work is undertaken within the period of 10 working days from the date on which these orders commence.

For land that is reclaimed as a consequence of recovery work, the relevant regional council and territorial authority have the powers, functions, and duties that each would have if the reclaimed land were part of the territorial authority's district (from the time the land is reclaimed) and the commencement of any resource consent in respect of the reclaimed land is not delayed until a certificate is issued under section 245(5) of the RMA (clause 14).

Clause 15 provides that the operation of the following in the relevant districts is a permitted activity:

- a temporary depot or storage facility that is reasonably incidental to recovery works or to any other activity necessary or desirable to rebuild any road or rail line under the control of an agency
- a parking area for heavy motor vehicles that is necessary or desirable as a consequence of disruption to the land transport system caused by the recent severe weather events.

An agency intending to undertake recovery works on designation land is not required to submit an outline plan of work to the territorial authority (clause 16).

## Relevant Minister's reasons

The relevant Minister considers that these modifications to the RMA are necessary or desirable for the purposes of the Recovery Act, and the extent of this aspect of the orders is no broader than is reasonably necessary, to facilitate the reopening of the rail route and road corridors as soon as practicable.

In relation to clauses 6-19 of these orders:

- it will not be possible for the agencies to secure all necessary resource consents in the required time frames if the status of recovery works remains as that set under the applicable plans and national environmental standards. To require agencies to secure resource consents for recovery works using the normal RMA processes would significantly delay their ability to start the work, and would involve an unacceptable risk that some consent applications may be declined or otherwise appealed (with resulting delays)
- the range of activities described in clause 4 of these orders that are deemed to be controlled activities needs to be broad, given the varied array of works that are necessary to restore the rail route and road corridors and the complex consenting framework for such works if the normal RMA processes were to apply
- it is necessary to deem all activities for which resource consents will be required to be controlled activities to require the local authorities to grant consent
- it is necessary to specify matters for consideration in decision-making in the order (clause 9) because any matters of control in the relevant RMA planning documents will not be applicable to the deemed controlled activities. The matters for decision making have been developed to include all key potential cultural and environmental effects of the recovery work.

In relation to clause 8, it is necessary to exempt agencies from meeting the application requirements in section 88(2) and Schedule 4 of the RMA because it will not be possible for the agencies to prepare an application that complies with section 88(2) and ensure that recovery works can start without undue delay due to the scale of the recovery works required.

In relation to clause 9:

- it is necessary to modify the public and limited notification processes because it will not be possible for the agencies to secure all necessary resource consents in the required time frames if the usual notification process under the RMA applies. In particular, the time frames associated with the submission process (including decisions on notification, and the time frame for public submissions and hearings) would prevent consents from being obtained in the required time frame.
- given that the orders alter the activity status of most activities needing consent to controlled, there are likely to be a number of areas where the consents sought would be provided for through a myriad of rules across the frameworks, with a variety of consent rules being triggered, information required to support applications and assessments being required for decision-making. Therefore, it is necessary to exempt consent authorities from the requirement to have regard to the various RMA planning documents referred to in section 104(1)(b) of the RMA. Removing the requirement for consent authorities to have regard to those planning documents would avoid any potential conflict between those planning documents and the requirement to grant consent subject only to conditions relating to the matters specified in clause 7



- it is necessary to deem compliance with section 107(2) of the RMA, because although recovery works should qualify as “exceptional circumstances” in terms of section 107(2)(a) of the RMA, section 107 otherwise imposes a jurisdictional barrier to the grant of consent.

To address the limits on public participation following on from the suspension of public and limited notification, clauses 10 and 11 introduce an alternate consultation process in relation to applying the Order, drawing from the process in section 9 of the Recovery Act for the development of Orders. This includes mandating the requirement for engagement with iwi. The time frames in clauses 10 and 11 are necessarily short, in order to ensure that there is no undue delay to the commencement of recovery work.

In relation to clause 9:

- given the pressing need to commence recovery works to ensure that social and economic recovery starts to occur as soon as possible, the agencies require a method of obtaining consents as soon as is feasibly practicable
- because of the heavy resource pressure that the consent authorities will face to consider and grant consents under the expedited processes in Part 1 of these orders, especially in Tairāwhiti and Hawke’s Bay, it will be difficult for consent authorities to develop comprehensive RMA conditions to apply to the recovery works while at the same time ensuring that the conditions are capable of being complied with and will not unduly hinder the necessary recovery work
- to address that difficulty while also ensuring that environmental effects are appropriately avoided, remedied or mitigated, a set of comprehensive conditions has been developed. These conditions are set out in Schedule 2. The conditions have been developed so that they are suitable to be imposed without further consideration by the consent authorities. The conditions appropriately address all key potential environmental effects of the recovery work, in a way that will not unduly or inappropriately hinder the work while still ensuring best practice for environmental management also occurs
- it is necessary for the agencies to retain approval rights over any changes to the conditions in Schedule 2 given that the agencies will have the most up-to-date knowledge of the practical conditions and logistical and resource constraints associated with restoring the rail route and road corridors
- it is necessary to give the agencies the ability to specify alternative amendments to the conditions in Schedule 2, to ensure that the agencies can make consequential changes. The requirement that any alternative amendments cannot be less onerous than the conditions in Schedule 2 provides an environmental safeguard.

In relation to clause 13:

- the obligations in clause 13 will apply only in the period before the agencies obtain consents for rail route and road corridors recovery work, because after obtaining appropriate consents it is not necessary to rely on section 330 of the RMA. The additional obligations on the agencies in clause 8 are intended to ensure that emergency works for the purpose of rail route and road corridor rebuild are conducted in a way that is sensitive to the receiving environment in the period before conditions of consent apply.

The amendments in clause 14 are necessary to allow the agencies to apply for consents to carry out works on land that will be reclaimed as part of the recovery work, prior to preparing a legal survey of that land and submitting it under section 245 of the RMA. The preparation and submission of a survey could cause delay. It would seriously hold recovery works up if the

agencies could not obtain resource consents on, or alter designations to cover, new land that is to be reclaimed from the coastal marine area.

In relation to clause 15:

- the deemed permitted activity statuses are necessary because of the scale of the resources required for the recovery works in the affected areas
- it is necessary to extend permitted activity status for temporary depots and storage facilities incidental to works by the agencies beyond the recovery of the rail route and road corridors because:
  - in practice, it will be very difficult (and inefficient) for the agencies to restrict the use of temporary depots and storage facilities solely to repair works related to the rail route and road corridors. The agencies will also need to use these temporary facilities to enable other road and rail repair works in the districts, and
  - during the period until the rail route and road corridors are reopened, it is vital that alternative transport routes affected by the recent severe weather events are appropriately repaired and operating
- it is necessary to provide permitted activity status for parking areas to allow the temporary parking of any heavy vehicles (including those not directly under the control of the agencies, such as milk tankers) where those vehicles are held up as a result of disruption to the land transport system because of the recent severe weather events.

In relation to clause 16, it is necessary to waive the requirement in 176A of the RMA for the requiring authority to submit an outline plan of a public work or project to a territorial authority for any recovery work. Again, this is necessary to ensure that the recovery works can commence without undue delay.

In relation to clause 17:

- the normal process for altering designations for the rail route and road corridors is modified to avoid unacceptable delays to the recovery work
- the conditions that apply to alterations set out in Schedule 3 have been developed to ensure that all key potential environmental effects are addressed, and this serves to ensure the modifications to the normal designation process are no broader than is reasonably necessary
- the alternative consultation process in clause 17 will allow for input by affected stakeholders.

### **Consideration of effects on environment**

Section 8(1)(e) of the Recovery Act requires the relevant Minister, if the order relates to the RMA, to consider the effects on the environment of any controls provided for in the order, and whether those controls avoid, remedy, or mitigate any adverse effects. In this regard, the works to be undertaken under the order will have an impact on the environment, however:

- the orders set up processes for resource consents and alterations to designations. Each process has in-built environmental checks and balances, including:
  - any resource consent application must include a high-level consideration of the potential effects

- the obligation for the agencies to engage with certain parties to gain and understanding of the impacts of the proposed works on those parties and to appropriately respond through design, construction, and/or condition changes
- the orders include resource consent conditions that will avoid, remedy, or mitigate any adverse effects
- in relation to applications under clause 8, the consent conditions listed in Schedule 2 are intended to avoid, remedy, or mitigate adverse effects of the recovery work. All consents under this process will have conditions requiring a Construction Environmental Management Plan, the involvement of a recovery liaison group (with representation from the consent authority, relevant local authorities, Heritage New Zealand Pouhere Taonga, the Department of Conservation, and relevant iwi and hapū) to help inform the design, management, and monitoring of all construction work, and the involvement of a Kaitiaki Adviser to advise on cultural values and effects, as well as effects on the physical environment. These consent conditions reflect consent conditions for similar infrastructure works
- in relation to conditions under clauses 10A and 12A, the process will enable councils to put additional resource consent conditions on consents, in accordance with the matters specified in clause 7. This list includes all of the key environmental considerations appropriate to infrastructure activities in this environment. Environmental effects will be mitigated through these conditions. This process will enable specified parties to make comments and therefore will enable more informed consideration of the range of environmental effects in decisions. The process allows the agency to determine whether changes to conditions by the local authority are accepted or rejected. In the event of rejection, alternative wording is required however there is a requirement that conditions still appropriately mitigate environmental effects
- in relation to emergency works, given the large extent of emergency works that will be undertaken, this clause adds additional controls to consider, avoid, remedy, or mitigate, and monitor the environmental effects as far as practicable. These controls add an additional layer of environmental protection, over and above what is currently provided in the emergency works provisions (sections 330 and 330B) of the RMA
- in relation to deeming temporary depots and storage facilities to be permitted activities, the order enables the relevant territorial authority to put requirements on noise control, and to avoid, remedy, and mitigate other environmental effects
- in relation to alterations to designations, the conditions for the designations include that before starting construction works a stakeholder and communications plan is required, and a recovery works liaison group (with representation from the requiring authority, relevant local authorities, Heritage New Zealand Pouhere Taonga, the Department of Conservation, and relevant iwi and hapū) is to be established to help inform the design, management, and monitoring of all construction works. They also require that an ecological scoping survey be undertaken and the development of measures to minimise adverse effects. The specified conditions reflect similar infrastructure construction designation conditions.

## Modifications to Conservation Act 1987

Clause 28 provides that if an agency applies under section 17R(1) of the Conservation Act 1987 for a concession to carry out recovery works in a conservation area (or under section 59A of the Reserves Act 1977 for a concession to carry out recovery works in a reserve vested in the Crown and managed by the Department of Conservation) the Minister of Conservation must issue a



decision on the application within 20 working days after the date on which it was received, and, if granting it, must impose the conditions set out in Schedule 4. The grounds on which the Minister may decline the application are set out in clause 28.

Clause 29 provides that if an agency applies under section 26ZM of the Conservation Act 1987 for an approval to transfer or release live aquatic life for the purpose of carrying out recovery works the Minister of Conservation must issue a decision on the application within 20 working days after the date on which it was received, and, if granting it, must impose the conditions set out in Schedule 4. The grounds on which the Minister may decline the application are set out in clause 29.

### **Relevant Minister's reasons**

The relevant Minister considers this aspect of the orders is necessary or desirable for the purpose of the Recovery Act, and is no broader than is reasonably necessary, because:

- it may be impracticable for recovery works to completely avoid works within conservation areas because of the nature of the surrounding environment
- applying through the usual Conservation Act 1987 processes and timeframes could unduly delay recovery works
- the conditions in Schedule 4 have been developed to appropriately manage adverse effects on conservation areas and are, as far as practicable, consistent with the resource consent and designation conditions set out in Schedules 2 and 3
- an application under the Order may be declined if conditions in Schedule 4 would not be sufficient to avoid more than minimal adverse effects on a naturally uncommon ecosystem, or a Threatened Nationally Critical, Nationally Endangered, Nationally Vulnerable, At-Risk Declining or taonga species
- the conditions in Schedule 5 have been developed to manage the risks of transferring freshwater fish and aquatic life and are as far as practicable consistent with the resource consent and designation conditions set out in Schedules 2 and 3

### **Modifications to Freshwater Fisheries Regulations 1983**

Clauses 36 and 37 modify the provisions of the Freshwater Fisheries Regulations 1983 by providing that:

- regulation 21, which prohibits interfering with or damaging, or taking any sports fish in or from any water that is within 100 metres of, any net, trap, or other contrivance erected or placed for the purposes referred to in that regulation, does not apply to any recovery works carried out by an agency
- regulations 42, 43, and 44 are modified by providing that if an agency applies for a dispensation for the purpose of carrying out recovery works, the Minister of Conservation must issue a decision on the application within 20 working days after the date on which it was received, and, if granting it, impose the conditions set out in Schedule 5. The ground on which the Minister may decline the application are set out in clause 37
- regulation 45 does not apply to the recovery works as it may not be possible to maintain a sufficient flow of water through or past a fish facility to allow the facility to function as specified at all times
- regulation 48 does not apply to the recovery works because it may be necessary to make a structural alteration in a fish facility in the course of carrying out recovery works.

### **Relevant Minister's reasons**

The relevant Minister considers this aspect of the orders is necessary or desirable for the purpose of the Recovery Act, and is no broader than is reasonably necessary, because:

- it may not be practicable for recovery works to completely avoid effects on freshwater fisheries because of the nature of the surrounding environment
- applying through the usual Freshwater Fisheries Regulations 1983 process and time frames could unduly delay recovery work
- an application for a dispensation from providing fish passage may be declined if more than minimal adverse effects on a naturally uncommon ecosystem, or a Threatened Nationally Critical, Nationally Endangered, Nationally Vulnerable, At-Risk Declining or taonga species could not be avoided.

### **Modifications to Wildlife Act 1953**

Clause 39 provides that if an agency applies under section 14AA(1) of the Wildlife Act 1953 for a concession to carry out recovery works in a wildlife sanctuary, wildlife refuge, or wildlife management reserve vested in the Crown and managed by the Department of Conservation, the Minister of Conservation must issue a decision on the concession within 20 working days after the date the application was received and, if granting it, impose the conditions set out in Schedule 4. The grounds on which the Minister may decline the application are set out in clause 39.

Clause 42 modifies the Wildlife Act 1953 by providing that if an agency applies for authority under section 53 or consent under section 71 of that Act to take or kill any wildlife, or do anything in respect of protected wildlife, in the course of recovery work, the Department of Conservation must issue a decision on the application within 20 working days after the date the application was received, and if granted, impose the conditions set out in Schedule 4. The grounds on which the Minister may decline the application are set out in clause 42.

### **Relevant Minister's reasons**

The relevant Minister considers this aspect of the order is necessary or desirable for the purpose of the Recovery Act, and is no broader than is reasonably necessary, because:

- it may not be practicable for the recovery works to completely avoid impacts on wildlife protected under the Wildlife Act 1953 because of the nature of the surrounding environment
- applying through the usual Wildlife Act 1953 processes and time frames could unduly delay recovery works
- the conditions attached in Schedule 4 have been developed to appropriately manage any adverse effects on protected wildlife and are as far as practicable consistent with the resource consent and designation conditions set out in Schedules 2 and 3
- an application under the order may be declined if conditions in Schedule 4 would not be sufficient to avoid more than minimal adverse effects on a naturally uncommon ecosystem, or a Threatened Nationally Critical, Nationally Endangered, Nationally Vulnerable, At-Risk Declining or taonga species.

## Modifications to Reserves Act 1977

The order allows local authorities to authorise the agencies to temporarily occupy and use council reserves for recovery purposes which do not comply with the requirements of the Reserves Act 1977 for that reserve, subject to such conditions as the local authority considers appropriate.

A council reserve for the purposes of the orders is defined in clause 31 and means any land (or part of any land) within the district of any of the local authorities specified in Schedule 1

- that is a reserve or a public reserve (as those terms are defined in section 2(1) of the Reserves Act 1977) that is owned, administered, managed, or controlled by the local authority, or
- that is any other land owned, administered, managed, controlled, or held by a local authority under any enactment (other than the Reserves Act 1977) as a reserve or park or for community purposes.

Clause 32 sets out the actions that an agency may take in relation to a reserve. The actions are:

- undertaking recovery works anywhere in a reserve
- operating a parking area for heavy motor vehicles anywhere in a reserve
- prohibiting persons from entering or remaining on a reserve.

Clause 34 empowers an agency to act under clause 32 in relation to a reserve despite the management plan for the reserve, the Reserves Act 1977, or any other enactment under which the reserve is held or that applies to the reserve. However, an agency, in doing so:

- must take all reasonable steps in the circumstances to protect the integrity of the reserve, and
- where undertaking recovery work or, if the reserve is adversely affected by the council's actions, must reinstate the reserve as closely as practicable to its prior condition.

However, these restrictions do not apply to the extent that it is necessary for the agency to occupy any part of the reserve in order to undertake any recovery works that are necessary for permanent infrastructure associated with the rail route and/or road corridors.

The Minister of Conservation retains the discretion to modify or revoke these authorisations in relation to Crown reserves managed by local authorities.

### Relevant Minister's reasons

The relevant Minister considers this aspect of the order is necessary or desirable for the purpose of the Recovery Act, and is no broader than is reasonably necessary, because:

- it may not be practicable for the recovery works to completely avoid works in reserves because of the nature of the surrounding environment
- such use cannot otherwise be authorised under the Reserves Act 1977
- the requirements to take all reasonable steps to protect the integrity of the reserve, and to reinstate the reserve as closely as practicable to its prior condition, will appropriately manage adverse effects on the reserve.



## Modifications to Public Works Act 1981 – KiwiRail Order

Clause 20 modifies the definition of “land” in section 2 of the Public Works Act (**PWA**) as meaning, any estate or interest in land (including a freehold estate) in the Esk Valley and Awatoto areas, but in relation to other affected areas, an estate or interest in land that is less than freehold.

Clauses 22 to 23 modify the operation of section 18 and sections 23 to 26 of the PWA, where the Minister for Land Information considers it reasonably necessary to take land for the purpose of recovery work. The PWA refers to the Minister of Lands, however that Ministerial portfolio no longer exists and it is the Minister for Land Information who administers the PWA.

Clauses 24 to 26 exclude the rights of objection to the Environment Court under PWA and instead apply an alternative process for the acquisition of land (with no requirement for negotiation prior to compulsory acquisition). Clause 27 provides that any acquired land must be treated as having been acquired for Government work for the purposes of PWA.

Clause 20 provides that the relevant Ministers’ powers of acquisition under the Order do not apply to the acquisition of interests in Protected Māori land.

The provisions of PWA relating to compensation remain unchanged.

## Modifications to Public Works Act 1981 – Waka Kotahi Order

Clause 20 modifies the definition of “land” in section 2 of the PWA as meaning any estate or interest in land that is less than a freehold estate.

Clauses 22 to 23 modify the operation of section 18 and sections 23 to 26 of the PWA, where the Minister for Land Information considers it reasonably necessary to take land for the purpose of recovery work. The PWA refers to the Minister of Lands, however that Ministerial portfolio no longer exists and it is the Minister for Land Information who administers the PWA.

Clauses 24 to 26 exclude the rights of objection to the Environment Court under PWA and instead apply an alternative process for the acquisition of land (with no requirement for negotiation prior to compulsory acquisition). Clause 27 provides that any acquired land must be treated as having been acquired for Government work for the purposes of PWA.

Clause 20 provides that the relevant Ministers’ powers of acquisition under the OiC do not apply to the acquisition of interests in Protected Māori land.

The provisions of PWA relating to compensation remain unchanged.

## Relevant Minister’s reasons for both Orders

The relevant Minister considers this aspect of the orders is necessary or desirable for the purpose of the Recovery Act, and is no broader than is reasonably necessary, because:

- the time required to negotiate and to resolve objections to notices to take land under the PWA would unreasonably delay the recovery work
- the powers granted can be used only if the Minister considers it reasonably necessary to take land for an agency to undertake recovery work.

## Modifications to the Railways Act 2005

Clause 43 modifies the operation of section 77(3) of the Railways Act 2005, where the Minister of Transport considers it reasonably necessary to remove the requirement to inform the person

concerned of the right to apply to the District Court to enable the agencies to carry out recovery works.

Clause 43 also modifies the operation of section 78(2) of the Railways Act 2005, where the Minister of Transport considers it reasonably necessary to remove the right of the person to apply to the District Court for an order setting the notice aside (and consequential references to the District Court powers and processes contained in sections 78(3), 78(4), 78(6) of the Railways Act 2005.

Clause 43 provides that the period of time for a property owner to comply in section 77(6) of the Railways Act 2005 is to be reduced to 10 working days (as opposed to 20 working days) from the date of the notice. In lieu of the District Court objection process, the owner will have a 48-hour right to provide information that will be considered in respect of any decision to enter onto the land or seek recovery of costs.

### **Relevant Minister's reasons**

The relevant Minister considers this aspect of the orders is necessary or desirable for the purpose of the Recovery Act, and is no broader than is reasonably necessary, because:

- the time required to negotiate and resolve objections to notices to trim or remove trees and hedges, lower fences or walls, or take measures to prevent damage to land on which railway infrastructure or premises are situated would unreasonably delay the recovery works
- KiwiRail will be able to have the right of entry for existing railway infrastructure for recovery purposes under the Recovery Act, including: to repair, upgrade and rebuild rather than just inspect and operate the rail network.

### **Modifications to the New Zealand Railways Corporation Act 1981**

Clause 44 modifies the operation of section 14(5) of the New Zealand Railways Corporation Act 1981 (**NZRC**) and sets out that Ministerial approval is not required due to any temporary cessation, withdrawal, or reduction of rail services on, or closure of, a railway line because of the severe weather events or as part of the recovery

Clause 45 modifies the operation of section 31(3) of the NZRC, where the Minister of State Owned Enterprises considers it reasonably necessary to remove the requirement to inform the person concerned of the right to apply to the District Court to enable the agencies to carry out recovery works.

Clause 45 provides that the period of time for a property owner to comply in section 31(5) of the NZRC is to be reduced to 10 working days (as opposed to one month) from the date of the notice. In lieu of the District Court objection process, the owner will have a 48-hour right to provide information that will be considered in respect of any decision to enter onto the land or seek recovery of costs.

Clause 46 modifies the operation of section 48(e) of NZRC and enables KiwiRail to give a 48-hour notice (as opposed to 3 months) to the owner or manager of a branch or siding to close or remove the connection with the railway.

### **Relevant Minister's reasons**

The relevant Minister considers this aspect of the orders is necessary or desirable for one or more purpose(s) of the Recovery Act, and is no broader than is reasonably necessary, because:

- the time required to negotiate and resolve objections to notices to trim or remove trees and hedges, lower fences or walls, or take measures to close railway routes for repairs would unreasonably delay the recovery works.

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Document 10

8 September 2023

OC230799

Hon David Parker

Action required by:

Minister of Transport

Friday, 22 September 2023

## DRAFT LETTERS TO KIWIRAIL, WAKA KOTAHI, AND COUNCILS ON THE RAPID REVIEW

### Purpose

To seek your approval of, and signature for, draft letters from the sponsoring Ministers of the Rapid Review into KiwiRail to KiwiRail, Waka Kotahi, Auckland Transport, and Greater Wellington Regional Council. The letters communicate the Ministers' expectations for the implementation of the Rapid Review recommendations, as well as to the reviewers to thank them for their work.

### Key points

- 1 As a sponsoring Minister of the Rapid Review into KiwiRail, you recently met with the reviewers to discuss their findings and recommendations.
- 2 You instructed officials to draft letters to KiwiRail, Waka Kotahi, Auckland Transport, and Greater Wellington Regional Council, to set out Ministers' expectations with respect to the next steps of the Rapid Review.
- 3 David McLean, Chair of KiwiRail, sent a letter to Ministers on 30 August 2023 in response to the Rapid Review (Annex 1). In the letter, KiwiRail accepted responsibility for the EM80 track evaluation car failure and for taking steps to ensure this does not happen again.
- 4 While the Rapid Review was initiated following an operational failure by KiwiRail, it highlighted the issues in the wider system that contributed to such failure.
- 5 The draft letters highlights you and other shareholding Ministers' view on the need for a step change in these organisations' approaches to metro rail, especially KiwiRail's, to ensure efficient and reliable metro rail services. The draft letters also acknowledge the broader system issues, including funding issues, and the process set up to address them.
- 6 The letter to KiwiRail indicates that in the short-term, before the current funding settings can be reviewed, it is critical for KiwiRail to undertake the necessary maintenance and renewals on the metro networks to ensure there are no further significant service disruptions, and that you appreciate this may come at the need to postpone or reprioritise other work.

- 7 This is to respond to KiwiRail comments in their letter, that although they acknowledge "the fact that under-maintenance will result in ever-increasing risk of service disruption and unreliability", the solution they have identified is the Crown allocating further funding to metro rail. s 9(2)(g)(i)
- 8 Although there are valid issues to resolve around who should pay for what, until these can be resolved, all parties need to be doing their best to ensure that there are no further service disruptions. For the same reason, in the letter to councils, we note the importance for us all to play our part to ensure that operation and maintenance of our metro rail services.
- 9 We recommend that you set an expectation that KiwiRail reports monthly on the implementation of the rapid review recommendations to the Metro Rail System Standing Group. The Ministry of Transport will then update Ministers on the overall implementation progress quarterly.
- 10 Draft letters to these organisations are attached in Annexes 2-4 for your consideration. In particular, the letter to KiwiRail should be referred to the shareholding ministers for their consideration before you send it to KiwiRail.
- 11 Officials also drafted a letter to the reviewers to thank them for their work to complete the Review under challenging timeframes. A draft letter for the reviewers is attached in Annex 5 for your consideration.
- 12 The Treasury has been consulted on these letters and is comfortable with their content.

## Recommendations

We recommend you:

- 2 **refer** this briefing and the letters to Hon Grant Robertson, Minister of Finance, and Hon Duncan Webb, Minister for State Owned Enterprises to consult with them on the content of the letters. Yes / No
- 3 **sign** the attached letters to KiwiRail, Waka Kotahi, Auckland Transport, Greater Wellington Regional Council, and the Reviewers. Yes / No



Jacob Ennis  
Acting Manager, Supply Chain  
08 / 09 / 2023

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

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

Comments

**Contacts**

Name	Telephone	First contact
Seona Ku, Principal Advisor, Supply Chain	s 9(2)(a)	✓
Jacob Ennis, Acting Manager, Supply Chain		



**Annex 1. Letter from David McLean, Chair, KiwiRail to Ministers on the Rapid Review**

Annex 1 is refused under Section 18(d) as its available here: <https://www.kiwirail.co.nz/assets/Uploads/Who-we-are/Publications-v2/Information-released-by-KiwiRail/Rapid-Review/13-KiwiRail-Letter-to-Ministers-in-response-to-the-Rapid-Review.pdf>

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## **Annex 2. Draft response letter to David McLean, Chair, KiwiRail**

Dear David,

Thank you for your letter of 30 August 2023 regarding the Rapid Review.

We, as the sponsoring Ministers of the Rapid Review, acknowledge KiwiRail's acceptance of responsibility for the EM80 track evaluation car failure and for taking steps to ensure this does not happen again.

We understand that the reviewers undertook in-depth interviews with key people from your organisation, and that they appreciated the responsiveness and openness shown to them.

### **Rapid Review**

Metropolitan (metro) rail is growing in scale and complexity. It is an increasingly important part of the transport system to reduce emissions and achieve urban development objectives. Improving passenger experience should be front of the mind for all parties involved in running the metro rail system. In considering the Rapid Review, we developed an overall impression that a step change is needed in KiwiRail's approach to metro rail, including doing more internally at KiwiRail to prioritise metro rail.

We understand that KiwiRail has created a new role of the Chief Infrastructure Officer, whose function is to improve the network delivery for the users – Aucklanders and Wellingtonians, the rail freight customers, and other network users. The reviewers have advised that the role they recommended should have a strong focus on delivering a quality passenger experience. A role with a focus on passenger experience outcomes is connected with but may be distinct from a role with a focus on growing and maintaining metro assets. This reflects the increasing importance of the quality of passenger experience as metro investment increases, and the need for this perspective to part of KiwiRail's decision making.

We appreciate you will still be working through the implementation of the recommendations, but we have a keen interest in seeing how KiwiRail changes and improves its network delivery for the metro users, and if the other system participants notice a real change.

It is clear that the reviewers saw the EM80 incident as a result of broader issues that need be addressed to allow metro services to be operating more efficiently and reliably.

We understand that the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council are using the Metro Rail System Standing Group (MRSSG) as the forum to co-ordinate and monitor the implementation of the review recommendations.

We support the use of this forum to discuss and monitor the implementation of the Rapid Review recommendations and expect KiwiRail to continue working constructively with other parties to implement the recommendations. In particular, we expect KiwiRail to provide this forum with a monthly update on its progress implementing the recommendations KiwiRail is responsible for. The Ministry of Transport will then report quarterly to sponsoring Ministers on the full set of recommendations, including views from the other participants.

The Rapid Review identified broader issues within the system, especially in the areas of governance, funding settings, and system-level objectives for rail. We have directed the Ministry of Transport to lead a review of the Metropolitan Rail Operating Model, considering those system level issues.

### **Metro rail funding**

In the short-term, we acknowledge the cost pressures across both metro networks for the existing network upgrade programmes (i.e. Auckland's Rail Network Rebuild programme and the Wellington Metro Upgrade Programme) and routine maintenance and renewals. Officials are preparing advice on this issue, which we are expecting to receive shortly.

The funding available to allocate in the next few Budget cycles is likely to be extremely limited, so I expect officials' advice to also consider options that include reprioritisation within the existing investment programmes including the Rail Network Investment Programme (RNIP) and other rail investments.

The New Zealand Rail Plan sets out two investment priorities for a resilient and reliable rail network, to enable future growth in rail freight, and to support growth and productivity in our largest cities through investment in the metropolitan rail network. This Government expects KiwiRail to balance investment so that it supports both freight and metro rail activities.

s 9(2)(f)(iv)

We consider that in the short term, before the funding settings can be reviewed and any new funding arrangements agreed, it is critical for KiwiRail to undertake the necessary maintenance and renewals on the metro networks to ensure there are no further significant service disruptions. We appreciate this may mean that other work is postponed or reprioritised, and we are ready to discuss and support any decisions around this, where required.

We want to reiterate the importance of providing New Zealanders with efficient and reliable metro services. We expect KiwiRail, as a metro network provider, to continue to cooperate in the work arising from the Rapid Review.

Yours sincerely

[Signature Block]



### **Annex 3. Draft letter to Waka Kotahi**

Dear Paul,

#### **Rapid Review into KiwiRail**

You will be aware that the Government launched a Rapid Review into KiwiRail in May 2023, following the major disruptions on the Wellington metropolitan (metro) rail network because of KiwiRail's EM80 track evaluation car being unavailable to inspect railway tracks.

We, the sponsoring Ministers of the Rapid Review, have considered the findings and recommendations of the Rapid Review, and it is now published on the Ministry of Transport's website (<https://www.transport.govt.nz/assets/Uploads/Report-into-Rapid-Review-of-KiwiRail-Passenger-Services.pdf>).

While the Rapid Review identified the operational causes that led to the EM80 failure, it also identified broader system issues that contributed to the incident.

The New Zealand Rail Plan sets out two investment priorities for a resilient and reliable rail network, which are to enable future growth in rail freight and to support growth and productivity in our largest cities through investment in the metro rail network. We need to ensure that investments are balanced to support both freight and metro rail activities.

Metro rail is growing in scale and complexity. It is an increasingly important part of the transport system to reduce emissions and achieve urban development objectives. Improving passenger experience should front of the mind for all parties involved in running the metro rail system.

We understand that the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council are using the Metro Rail System Standing Group (MRSSG) as the forum to co-ordinate and monitor the implementation of the review recommendations.

We support the use of this forum to discuss and monitor the implementation of the recommendations and expect Waka Kotahi to continue working constructively with other parties in implementing the Rapid Review recommendations.

We commend the proactive involvement of Waka Kotahi including chairing the MRSSG forum, and its collaborative approach to date in working with the Ministry of Transport, KiwiRail, and the Councils on the metro rail system.

#### **The role of Waka Kotahi**

Waka Kotahi is an important participant in the rail system as a system funder and safety regulator, and its role is becoming even more important as the rail services and capacity is going to grow through the City Rail Link in Auckland and the Lower North Island Rail Integrated Mobility initiative in Wellington

The Rapid Review highlighted the need for the safety regulator to keep up with the needs for our growing metro networks. It recommended that the Director of Land Transport at Waka Kotahi more rigorously addresses safety performance risks that are increasingly arising from the growth of metro services.

s 9(2)(f)(iv)

The Rapid Review also recommended that Waka Kotahi strengthens its independent verifier role in relation to funding of all KiwiRail's below rail metro services functions, with reference to benchmarking outcomes as required. We see merit in this recommendation as it would provide assurance in relation to investments. This function will be critical as KiwiRail builds a better understanding of their asset conditions and associated costs for maintenance and upgrades.

We expect Waka Kotahi to consider these recommendations, as well as other recommendations relevant to Waka Kotahi, and regularly report back on the progress.

Lastly, we want to reiterate the importance of providing New Zealanders with efficient and reliable metro services. We expect Waka Kotahi, as a rail funder and safety regulator, to continue cooperating in the work arising from the Review.

Your sincerely

[Signature Block]

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#### Annex 4. Draft letter to the Councils

Dear Wayne / Daran,

#### Rapid Review into KiwiRail

You will be aware that the Government launched a Rapid Review into KiwiRail in May 2023, following the major disruptions on the Wellington metro rail networks because of KiwiRail's EM80 track evaluation car being unavailable to inspect railway tracks.

We understand that the reviewers undertook in-depth interviews with key people from your organisation, and from those of your contracted passenger rail operator, and that they appreciated the responsiveness and openness shown.

We, the sponsoring Ministers of the Rapid Review, have considered the findings and recommendations of the Rapid Review, that is now published on the Ministry of Transport's website (<https://www.transport.govt.nz/assets/Uploads/Report-into-Rapid-Review-of-KiwiRail-Passenger-Services.pdf>).

While the Rapid Review identified the operational causes that led to the EM80 failure, it more importantly identified broader system issues, that contributed to the incident, especially in the areas of governance, funding settings, and system-level objectives for rail. We have directed the Ministry of Transport to lead a review of the Metropolitan Rail Operating Model, considering those system level issues.

Metro rail is growing in scale and complexity. It is an increasingly important part of the transport system to reduce emissions and achieve urban development objectives. Improving passenger experience should be front of mind of all parties involved in running the metro rail system.

We understand that the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council are using the Metro Rail System Standing Group (MRSSG) as the forum to co-ordinate and monitor the implementation of the review recommendations. We appreciate the contribution that your staff make in this forum.

We support the use of this forum to discuss and monitor the implementation of the recommendations and expect Auckland Transport/ Greater Wellington Regional Council and your contracted rail operators to continue working constructively with other parties in implementing the Rapid Review recommendations. We have asked our officials to provide us with a quarterly update on progress. We would welcome any direct feedback from you at any stage.

We want to reiterate the importance of providing New Zealanders with efficient and reliable metro services – we know this is an objective shared by you. We acknowledge that councils face a challenging fiscal environment. Similarly, at the central government level, we know that funding available to allocate in the next few Budget cycles is likely to be extremely limited. As such, it will be important for us all to play our part to ensure that operation and maintenance of our metro rail services can continue to the high standard New Zealanders expect and deserve. We appreciate your ongoing cooperation and commitment to achieving that goal.

Yours sincerely

[Signature Block]



**Annex 5. Draft letter to the Rapid Review reviewers**

Dear Greg and Rick,

On behalf of the sponsoring Ministers, I would like to thank both of you for preparing the Rapid Review into KiwiRail's handling of the recent disruptions to passenger rail services.

Your identification of the KiwiRail's operational and broader system issues that led to the EM80 situation will put us on better footing for both metro systems in Auckland and Wellington. This is important as both cities prepare for the increased levels of service from the City Rail Link, and the Wellington Metro Upgrade Programme and the Lower North Island Rail Integrated Mobility initiative, respectively.

I expect to see action from KiwiRail to ensure that the EM80 situation, or one like it, does not happen again. I understand that the key rail participants, the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council, are working closely to co-ordinate and monitor the implementation of the recommendations from the Review. I expect them to continue working together to improve the system. I have communicated these expectations with these participants in writing.

In addition, I have directed the Ministry of Transport to lead a review of the Metropolitan Rail Operating Model to ensure that system level issues including funding issues are being appropriately addressed.

Thank you again for preparing this detailed report at pace. It is an important piece of work to support the system to provide reliable, safe, and efficient metropolitan rail services connecting people and places in our two largest cities.

Yours sincerely,

[Signature Block]

**EVENT BRIEFING**

Document 11

12 September 2023

OC230772

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

**BUS AND COACH ASSOCIATION CONFERENCE****Snapshot**

You are attending the Bus and Coach Association annual conference in Christchurch on 27 September 2023. You have agreed to provide a 25-minute keynote address discussing your priorities as the Minister of Transport and the key issues facing the bus and coach sector. Following your speech there will be a 15-minute question and answer session.

<b>Time and date</b>	<b>8.40am, 27 September 2023</b>
<b>Venue</b>	Wolfbrook Arena, Christchurch
<b>Attendees</b>	Around 250 delegates from bus companies, senior local government officials and key industry suppliers
<b>Officials attending</b>	Anita Waring, Policy Advisor, Mobility and Safety
<b>Run sheet</b>	Conference programme is attached in Appendix 2
<b>Speaking notes</b>	Speaking notes and additional Q&As are attached in Appendix 1

**Contacts**

Name	Telephone	First contact
Matt Skinner, Manager Mobility and Safety	s 9(2)(a)	✓
Anita Waring, Advisor Mobility and Safety		

## BUS AND COACH ASSOCIATION CONFERENCE

### The Bus and Coach Association conference

- 1 The Bus and Coach Association (BCA) conference is the largest conference in New Zealand focusing on the bus and coach industry and will cover a range of issues facing bus operators, manufacturers and stakeholders.

### Fair Pay Agreements may be top of mind for attendees

- 2 The Fair Pay Agreement (FPA) process is underway for bus drivers. Bargaining sides have been formed and bargaining is expected to commence in due course. BCA is the employer bargaining party.
- 3 BCA has indicated bus companies are concerned they will not be able to fund any increases to wages associated with an FPA. Advice from the Ministry of Business, Innovation and Employment is that operators should assume they will need to meet costs of an FPA within existing contracts and should negotiate on that basis.
- 4 If employee and employer bargaining sides reach an agreement that increases costs, this will need to be funded by employers. There is currently no Crown funding available to fund increases associated with FPAs.

### We are continuing our work to improve bus driver terms and conditions

- 5 Following chronic and worsening bus driver shortages, the Government made \$61 million available through Budget 22 to increase recruitment and retention of bus drivers. The funding was subject to the following conditions:
  - all parties had to sign a written agreement;
  - Public Transport Authorities (PTAs) were required to demonstrate that operators have contributed to increased wages consistent with the labour component of indexation, and have committed to pass on future indexation payments to increase drivers' wages; and
  - PTAs were required to provide local share to match Crown funding at the normal funding assistance rate.
- 6 Budget 22 funding supported wages increases to at least \$28 an hour in most regions. Through Budget 23, an additional \$49.3 million was made available to implement further improvements to driver terms and conditions.
- 7 The initiatives to be funded through Budget 23 indicatively include:
  - further increases to wages (target rate being \$30 an hour);
  - a \$30 split shift allowance;
  - night-time penal rate of 1.2 times; and
  - improvements to working conditions such as rest and meal facilities, improved training, and safety screens for drivers.

7

s 9(2)(f)(iv)

- 8 Waka Kotahi has established the National Public Transport Workforce Steering Group, a cross-sectoral group which includes representatives from the BCA, unions and PTAs.
- 9 The first Steering Group meeting is set for 19 September 2023 and is expected to include discussions around the use of Budget 23 funding. We will update your office of any significant outcomes from this meeting ahead of the BCA conference.

## Biography



### Delaney Myers

Delaney Myers is the Chief Executive of Bus and Coach Association. She took up this role in July 2023 after being the Manager Public Transport at Waka Kotahi for almost 3 years. She has extensive experience in the transport sector having held various other roles within Waka Kotahi and the Ministry of Education's school transport function.

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## **Annex 1: Speaking Notes**

### **BUS AND COACH ASSOCIATION CONFERENCE**

#### **Introduction**

- Tēnā koutou and good morning.
- Thank you for that warm welcome.
- Thank you to the Bus and Coach Association and the organisers for putting on this important event and for inviting me here to speak.
- A strong industry voice helps provide better outcomes for the bus and coach sector, and by extension, better services for New Zealanders.
- A great transport system connects us with whānau and friends, helps us get between home and work, connects businesses with markets and New Zealand with global economies.
- This Government has made a commitment to create a safer, more sustainable and resilient land transport system.
- Many of you in this room are fundamental in helping achieve this commitment as well as delivering on the aspirations of your communities.
- It's by strengthening our partnership and working closer together at events such as these that we achieve the best results for all of Aotearoa New Zealand.
- Since your last conference, there have been encouraging signs as we recover from the effects of COVID-19 and other global events impacting our shores.
- With the world now more or less free of restrictions, and people resuming their movement both locally and internationally, I think we

have reason to be optimistic for the future of the bus and coach sector.

- We know there is more to do. We are committed to building a safe and resilient land transport system and an efficient and reliable public transport system that benefits all New Zealanders and our economy. Today I would like to talk to you about some of the ways we intend to do this.

### **Release of the draft Government Policy Statement (GPS) 2024**

- Some of you may have seen the draft Government Policy Statement on land transport 2024 that was released for public consultation last month.
- The GPS sets out at a high-level what we want to achieve in land transport for New Zealand, and how we expect to see funding allocated.
- It's a national land transport planning tool that directs funding into the National Land Transport Programme (NLTP) produced by Waka Kotahi.
- In the draft GPS 2024, we're proposing to increase transport funding to a record \$20.8 billion over 2024-27.
- While the increased investment is partly due to severe weather events and the need to catch-up our maintenance spend after years of underinvestment, our underlying focus is on building a transport system that will improve the lives of all New Zealanders.

## **14 strategic projects to help achieve our nation's potential.**

- The draft GPS 2024 includes 14 projects that are strategically important for the development of New Zealand's transport system in the coming decades.
- These routes include a mix of public transport services and roads across the country.
- As a nation we must prioritise these routes to reduce congestion, manage emissions, improve safety, grow the economy and open up areas for housing.
- They complement our existing investments in roads and public transport and the major programme of repairs and resilience upgrades that we have already funded across cyclone-affected areas like Tairāwhiti and Hawkes Bay.
- Some of the key connections where we want to see work accelerated include:
  - a series of upgrades to State Highway 1, from Auckland to Northland
  - in the Central North Island, upgrades to the Waikato Expressway, State Highway 29 near Tauranga, and widening State Highway 2 between Napier and Hastings to four-lanes.
  - in the South Island, improvements to State Highway 1 north of Christchurch and improved links across the Ashburton River.
  - in Wellington, we're committed to kick-starting work on long-delayed transport solutions including a second Mt Victoria tunnel, upgrades to the Basin Reserve and Arras Tunnel, and mass rapid public transport.

- we're also taking steps to future-proof the public transport system in Auckland with a rapid public transport corridor from the city centre to Bringham Creek in the northwest, and making funding available to expand commuter rail services in South Auckland.
- A project we would like to see funded is the Northern Busway enhancements.
- A business case has been put together that outlines ways to increase the reach and attractiveness of the Northern Busway. The service is growing at a rate that current service levels cannot meet.
- The project includes improved bus priority on State Highway 1 and local roads in the city centre, as well bus station upgrades.
- These are ambitious transport projects that will deliver many decades of benefits for New Zealanders.
- Alongside building new roads and public transport solutions, we need to maintain our existing infrastructure.
- We're increasing the investment range available to maintain our state highways and local roads by 41%.
- We will also continue to invest in rail, walking and cycling, and safety.
- This investment is essential – but it has to be paid for.

**The National Land Transport Fund has been under significant pressure**

- The National Land Transport Fund (NLTF) is facing significant pressures due to competing demands, rising costs and changing travel behaviours.



- The NLTF is primarily funded by fuel taxes and road user charges. These don't automatically increase to keep up with inflation and have not been increased since September 2020.
- We're proposing to return to the previous practice of regular, small increases in petrol taxes and the equivalent road user charges.
- In addition, we're also proposing a range of other funding sources including a Crown grant, a Crown loan, a portion of the Climate Emergency Response Fund which will be dedicated to walking and cycling activities, and safety camera and fine revenue which will be dedicated to safety initiatives.

**Continuing our work together to achieve zero deaths and serious injuries.**

- Safety remains a key priority and GPS 2024 proposes an investment of \$1.5 billion on safety programmes.
- Road to Zero sets a target of a 40% reduction in deaths and serious injuries by 2030. This remains our goal. We still have a lot of ground to cover but we believe that the reward is worth the effort and we remain committed.
- Our investment through Road to Zero has already resulted in ongoing safety improvements across the road network, including:
  - 88 roundabouts delivered with primary safe system treatment;
  - 118km of side barriers completed to date;
  - Over 200km of retrofitted and new median barriers installed
- We have also completed 1780km of speed management changes.
- GPS 2024 proposes continued investment in areas such as road policing, automated enforcement, and road safety promotion.

## **Emissions Reduction Plan (ERP)**

- Reducing emissions also remains a key priority for the Government.
- Reducing transport emissions is critical for reaching New Zealand's net zero emissions target by 2050. In 2019, transport was responsible for 39% of carbon emissions and 17% of New Zealand's total gross emissions, with most of these emissions coming from light vehicles with internal combustion engines.
- Under the ERP we need to reduce transport emissions by 41% from 2019 levels by 2035, and reach net zero emissions by 2050.
- Public transport has a significant role in helping us reach our targets. To do this, public transport needs to be a credible, reliable and sustainable alternative to using cars, so more people can more easily make the shift.

## **Sustainable Public Transport Framework**

- The Land Transport Management (Regulation of Public Transport) Amendment Act 2023 is now in place and provides a new framework for the planning, procurement and delivery of public transport services called the Sustainable Public Transport Framework.
- The passage of this legislation brings us a step closer to our goal of a well functioning public transport system that helps to make more liveable cities, reduces congestion and delivers on our decarbonisation goals.
- The new framework provides more flexibility for public transport authorities in a range of areas – enabling a wide range of service delivery models and enabling new approaches to procuring services.
- The previous Public Transport Operating Model (PTOM) was intended to increase the commerciality of public transport services and reduce

subsidies by ensuring competition for the provision of services.

However, this came at the cost of bus driver wages and conditions as well as service reliability.

- The Sustainable Public Transport Framework refocuses public transport planning, procurement and operation beyond commerciality and competition, to strengthening employee welfare, supporting mode shift and accessibility, and improving environmental and health outcomes.
- Under the new framework, public transport authorities will have the option to own assets and operate services if that is the best option for their community.
- It will also support collaboration between public transport authorities to plan inter-regional services, and encourage collaboration between regional councils and territorial authorities, to take a joined-up view of public transport infrastructure and services.
- The draft GPS 2024 proposes a new activity class for inter-regional public transport to provide investment in existing and new inter-regional services.
- Public transport is a critical tool to help people get to work, to school, to recreation and to their friends and family. These changes will create a reliable and more usable system long into the future.

### **Recruiting and retaining bus drivers**

- One of the biggest issues facing the sector in recent times has been the severe shortage of drivers.
- To achieve our goals for uplifting and improving public transport, we need enough drivers to run the services.

- I would like to acknowledge operators' commitment to improving pay and conditions for drivers. Your collaboration across the sector has resulted in some positive changes already being implemented.
- Alongside contributions from operators and PTAs, the funding received through Budget 22 has supported wage increases to at least \$28 an hour in most regions.
- Recent numbers provided by Waka Kotahi show the shortages have significantly reduced and several regions are now operating with a full complement of drivers. More drivers are in the process of being recruited and trained.
- Further improvements to wages and conditions are needed to ensure we retain these drivers and to address remaining shortages.
- That's why we provided further funding through Budget 23 to support additional initiatives to improve wages and the working environment.
- Officials are working with stakeholders, including the BCA, to finalise the allocation of this funding and will then work to implement changes quickly.
- These initiatives were intended to relieve some of the pressure caused by the shortages. I am confident they will help attract more people to the sector and contribute towards building a sustainable workforce into the future.
- I am also aware of the Fair Pay Agreement process underway. I am advised bargaining is expected to commence shortly.
- I commend the BCA for stepping up to represent employers at the bargaining table and I trust both parties will bargain in good faith. I will keep a watching brief on this and look forward to a positive outcome to this process.



## Community Connect

- To encourage more people to use public transport, as part of Budget 2023, we extended the funding for Community Connect so more people could benefit from discounted public transport.
- Community Connect now provides half price fares for people aged 24 and under, and free fares for children aged 12 and under.
- Community Connect has a range of important society, equity and environmental benefits. This includes:
  - Improving transport equity – people on a low income spend a greater proportion of their household budgets on transport than higher income earners. This creates equity and access issues. Reducing the price of public transport for lower income users allows us to target price decreases in a fairer and more equitable way.
  - Reducing congestion – by encouraging people to use public transport instead of private vehicles.
  - Free fares for under 13s is expected to reduce congestion around schools, with more children opting to take the bus than travelling by private car.
  - Reducing greenhouse gas emissions from transport – by supporting mode shift way from private vehicles to public transport.
  - Improving health outcomes – greater use of public transport, and reduced emissions from having fewer cars on the road, will reduce the health impacts caused by emissions.

- It also results in health benefits for the user as most people walk, cycle or scooter to and from the bus stop (known as the first/last mile).
- Extending Community Connect to include half price fares for under 25s and free fares for children is intended to get more young people on public transport and build future generations of public transport users.

### **Reshaping Streets**

- To boost the speed, reliability and capacity of our public transport networks, we need to accelerate the roll-out of bus lanes and bus priority measures on urban roads and streets.
- We also need to make streets safer and more attractive for people to choose to get around by bike, scooter, and foot.
- To support this, in July, I announced the delivery of the Reshaping Streets regulatory package that was consulted on last year.
- A new Street Layout Rule commenced in August. Councils can use this rule to pilot or trial different street layouts and features – such as bus lanes, pedestrian improvements and bike lanes – so that communities can provide feedback on their direct experiences. Councils will also be able to use the rule to manage traffic more effectively.
- Councils will still be responsible for managing local roads. It is up to councils to decide if they want to make use of these new tools.
- The Government is also supporting councils to make street changes through investments, such as through its 'Transport Choices' programme to make streets safer and better for people to get around by foot, bike, and public transport.

## Conclusion

- Thank you again for inviting me here today. Enjoy the rest of the conference.
- I'm now happy to take your questions.

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## Questions and answers

### Fair Pay Agreements

#### **When will the FPA come into force?**

Once bargaining parties have come to an agreement, it must go through the process of checks and ratification before it can be signed off and put into place. This process could take several months.

#### **We can't afford any increases to long-term contract prices to meet increased costs associated with an FPA – will the government cover the cost?**

I cannot comment on details of the bargaining process or potential outcome. However, bus and coach operators should assume they will need to meet the costs of an FPA within existing contracts, without additional government funding, and should negotiate on this basis.

#### **How will potential changes to terms and conditions via the FPA process affect current initiatives underway to improve bus driver terms and conditions?**

The FPA process will progress independently of other initiatives – including the allocation of Budget 23 funding for initiatives that increase recruitment and retention of bus drivers. However, the outcome of other initiatives will provide relevant context for the FPA process.

#### **Why do we need an FPA when we have a full workforce now?**

The FPA is about setting minimum industry standards to ensure fair terms and conditions for all workers.

The Budget funding and recent changes to immigration settings are short-term measures to alleviate the immediate pressure caused by severe shortages. The sector agreement that allows migrant drivers to be hired on Accredited Employer Work Visas for less than the median wage is scheduled to be reviewed after 12 months of operation.

We need to ensure fair terms and conditions are in place to build a sustainable workforce in the long-term so that we do not end up with a similar situation in the future.

### Budget 23 CERF funding

#### **What is happening with the additional funding to support more improvements to terms and conditions?**

Cabinet approved an additional \$49.3 million over three years for further improvements that indicatively included:

- further increases to wage rates;
- a penal rate for night-time work of 1.2 time;
- a \$30 split shift allowance;
- improved rest and meal break facilities; and
- introducing safety measures

Officials are engaging with key stakeholders, including the BCA, to inform advice to me on the use of the Budget 23 funding. I expect to receive advice on this in due course.



**Do we have to match the next round of funding as well?**

When Cabinet agreed to additional funding, it also agreed that funding for tranche 2 improvements would be subject to the same conditions as tranche 1. The intention is that further improvements will be co-funded by central and local government, and operators agree to continue to pass on the labour component of indexation to drivers.

**What are you doing about improving safety of drivers?**

I'm advised the trial of protective screens in Auckland has received positive feedback. Safety measures such as these are within scope of potential improvements to be funded through the Budget 23 funding.

**Sustainable Public Transport Framework****The SPTF replaces PTOM – does this mean that the Government believes PTOM failed?**

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

**Why is it necessary when these changes can be made through contract variations?**

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

**Why is it necessary when bus driver wages have been improved and driver shortages have been addressed under the existing legislation?**

The Government is funding improvements to bus driver wages as a short-term measure to address severe and chronic bus driver shortages. The immigration settings are also a temporary measure to allow the recruitment of more bus drivers from overseas. The sector agreement that allows migrant drivers to be hired on Accredited Employer Work Visas for less than the median wage is scheduled to be reviewed after 12 months of operation.

It is critical the public transport workforce remains sustainable in the long-term. This means the planning, procurement, and operating arrangements all need to factor in how to improve outcomes for the workforce.

**How do you see the SPTF providing a sustainable labour market?**

The new legislation embeds fair and equitable treatment of the public transport workforce in the planning and provision of public transport services. To support this, Waka Kotahi is developing operational policy to ensure:

- bus drivers have the opportunity to maintain employment if there is a change of operator;
- the substantive terms and conditions of bus drivers are not negatively impacted by a change of operator; and

- the terms and conditions of the bus driver workforce are improved to increase recruitment and retention.

Together these outcomes will support a sustainable labour market.

### **Why are you allowing in-house provision of public transport?**

Through the SPTF, the Government aims to provide public transport authorities with the flexibility to ensure services are provided in a way that works best for their communities. In some places, this may involve in-house provision; in others it may involve continuing the contracting model.

### **Public provision is inefficient and has failed in the past. If councils bring services in-house, how will we know whether they are providing value for money?**

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

### **Community Connect**

#### **Trials of free fares for kids showed an increase in antisocial behaviour – what are you doing to combat this?**

Unfortunately, some regional trials of free fares did observe anti-social behaviour by free passengers, especially teenagers. We chose the age of 12 and under to mitigate some of these risks.

PTAs have policies and procedures in place to protect their employees and will take this into account when designing their implementation plans.

#### **Is the Government making funding available for additional bus services to address overcrowding?**

Any additional services required to meet increased demand will need to be co-funded by public transport authorities and Waka Kotahi from the National Land Transport Fund at the normal funding assistance rate.

#### **How many people can benefit from half price transport from Community Connect?**

The Community Connect Scheme is already set to offer half price public transport fares to around one million Community Service Card holders.

The Budget 2023 funding extends the discount to people aged 24 and under, making a further 780,000 people eligible to use the scheme.

#### **How many people can benefit from free fares?**

We estimate around 530,000 of the Aotearoa population is under 13, making them eligible to use the scheme.

#### **Does the Government intend to extend free fares for Super Gold holders to all day rather than just off-peak?**

There are no intentions to change funding for the Super Gold scheme.

## **Annex 2: Conference programme**

Annex 2 is refused under Section 18(d) as it is available here:

<https://busandcoach.co.nz/assets/Uploads/EVENTS/BCA-Conference-Programme-v26.pdf>

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15 September 2023

OC230820

Hon David Parker

Action required by:

Minister of Transport

Monday, 25 September 2023

## MINISTRY OF TRANSPORT DRAFT ANNUAL REPORT 2022/23

### Purpose

Provides you with the Ministry of Transport's draft Annual Report 2022/23 (the Report) and seeks your agreement to an Addendum to the Report, as required under the Public Finance Act (the PFA).

### Key points

- The attached Report describes the non-financial and financial performance of the Ministry in 2022/23 and we consider it to be low risk.
- The Ministry is responsible for the content of the Report (see pages 1 to 140). As Minister of Transport, you are responsible for an Addendum to the Report on 'Additional non-departmental appropriations' (see pages 144 to 165<sup>1</sup>). The Addendum covers 22 appropriations and is required by section 19B of the PFA.
- Audit NZ are in the process of completing their audit and they may require that some minor amendments be made to the Report). However, the Ministry considers that the Report is a fair reflection of the Ministry's performance and that substantive changes are unlikely to be required. We also need to provide Audit NZ with confirmation of your approval of the Addendum. We will advise your office if any amendments are needed to the Addendum.
- The Report will be signed off with Audit New Zealand on 29 September 2023 and the PFA requires that the Report be tabled in the House at the next available opportunity in the new Parliament.
- Audit NZ are yet to complete their final audit.

### Recommendations

We recommend you:

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- 1 **Note** that you are required by section 19B of the PFA to report on 22 Vote Transport non-departmental appropriations for 2022/23.
- 2 **Agree** the Addendum included in the Report is used to meet the requirement in recommendation 1 above Yes / No
- 3 **Authorise** the Ministry to attach your electronic signature to the Addendum to the Report on page 145. Yes / No




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James Macleod  
**Acting Deputy Chief Executive,  
 Corporate Services**  
 15 / 09 / 2023

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Hon David Parker  
**Minister of Transport**

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

**Minister's office to complete:**

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

**Comments**

#### Contacts

Name	Telephone	First contact
James Macleod. Acting Deputy Chief Executive, Ministerial Services	s 9(2)(a)	✓
Prashila Dayal, Senior Adviser, Corporate Accountability		

## MINISTRY OF TRANSPORT DRAFT ANNUAL REPORT 2022/23

1. The Ministry of Transport's draft Annual Report 2022/23 (the Report) is attached.
2. The Ministry is responsible for the content of the Report (see pages 1 to 140). As Minister of Transport, you are responsible for an Addendum to the Report on 'Additional non-departmental appropriations' (see pages 144 to 165). The Addendum covers 22 appropriations and is required by section 19B of the PFA.
3. The content and design of the Ministry's Report is similar to last year. It covers both the Ministry's financial and non-financial performance.
4. We have reported our work and achievements in support of the Government's priorities using the structure set out in our Strategic Intentions 2021-25 document.
5. We consider the Report to be low risk.

### Non-departmental appropriations that you need to report against

6. Section 19B of the PFA contains requirements for an appropriation Minister to provide end-of-year performance information for certain appropriations.
7. The supporting information for the 2022/23 Estimates and Supplementary Estimates, identified that you would provide performance information for 22 Vote Transport appropriations for 2022/23.
8. The Ministry has prepared the additional appropriations report and it is included as an Addendum to the Report, after the audit opinion for your review (pages 144 to 165). This Report is not subject to audit.
9. If you approve this Addendum, your electronic signature will be added where indicated.

### Process and next steps

10. Audit NZ are currently onsite for their annual audit. This work will be largely completed by 20 September 2023 to allow the Report to be signed by the Ministry Chief Executive on 29 September 2022. Audit NZ have not raised any significant concerns to date, but there may still be some minor changes to the presentation or content of the Report.
11. Please consider the Report by Monday 25 September 2023 and agree the Addendum be included in the Report and that your electronic signature be attached to it. This will allow us to confirm to Audit NZ on 29 September that you have approved the Addendum.
12. The Report must be tabled in the House at the next available opportunity in the new Parliament, and published on the Ministry's website within three weeks of sign-off.

19 September 2023

OC230176

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

**Action required:**  
20 September 2023

## **MINISTERIAL DIRECTION TO WAKA KOTAHI TO COLLECT TYRE PRODUCT STEWARDSHIP FEES**

### **Purpose**

This briefing seeks your agreement to direct Waka Kotahi, under section 112 of the Crown Entities Act 2004, to collect a product stewardship fee (the fee) as part of implementing the accredited product stewardship scheme for tyres (the tyre scheme).

### **Key points**

- On 12 December 2022, Cabinet agreed to ban the sale of tyres for use on motor vehicles except in accordance with an accredited product stewardship scheme [CAB-22-MIN-0564 refers]. Cabinet agreed that Waka Kotahi would collect the fee at point of first registration for tyres attached to vehicles registered for on-road use.
- To implement this, Waka Kotahi requires a Ministerial direction. To issue a direction, you need to be satisfied that the collection of this fee is consistent with Waka Kotahi statutory objectives of “contributing to an effective, efficient, and safe land transport system in the public interest” and relates to land transport.
- We have consulted with Waka Kotahi as required by the Crown Entities Act 2004. Waka Kotahi is willing to collect the fee in accordance with the terms of the agreed Memorandum of Understanding with the Ministry for the Environment.
- We recommend that you give a section 112 direction to Waka Kotahi, allowing the collection of the fee pursuant to the tyre scheme and providing a clear mandate to collect these fees.
- We have provided you with a proposed Direction (Annex 1 refers) and a letter to the Waka Kotahi Chair, Dr Paul Reynolds, informing him of the issuance of this Ministerial Direction (Annex 2 refers).
- The tyre scheme will be implemented from March 2024. Digital changes to enable collecting of the fee have an ‘at minimum’ implementation period of three months.
- We recommend you issue this direction soon after the Waste Minimisation (Tyres) Regulations 2023 are made (which we understand were considered by the Cabinet Legislation Committee on 18 September 2023). This will give Waka Kotahi sufficient time to allow it to prepare for fee collection and meet the March implementation deadline.

## Recommendations

We recommend you:

- 1 **agree** to direct Waka Kotahi under section 112 of the Crown Entities Act 2004 to administer the collection of product stewardship fees pursuant to accredited product stewardship schemes, including the tyre scheme Yes / No
- 2 **sign** the enclosed Direction after the Executive Council has made regulations for the tyre scheme Yes / No
- 3 **sign** the enclosed letter to Dr Paul Reynolds, the Chair of Waka Kotahi, confirming you have directed Waka Kotahi to give effect to government policy in the administration of collecting product stewardship fees pursuant to accredited product stewardship schemes Yes / No
- 4 **authorise** the Ministry of Transport to publish a copy of the Direction in the *Gazette* and arrange presentation of a copy of the same Direction to the House of Representatives on your behalf Yes / No



Matt Skinner  
**Manager, Mobility and Safety**  
 19 / 09 / 2023

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

Minister's office to complete:

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

Comments

## Contacts

Name	Telephone	First contact
Morgan Watkins, Senior Adviser, Mobility and Safety	s 9(2)(a)	
Matt Skinner, Manager, Mobility and Safety		✓
Aimee Bell, Senior Solicitor, Legal and Procurement		



## MINISTERIAL DIRECTION TO WAKA KOTAHI TO COLLECT PRODUCT STEWARDSHIP FEES

### A tyre product stewardship scheme is to be established

- 1 Regulated product stewardship is a key tool to reduce waste and transition to a low-carbon circular economy.
- 2 In July 2020, Cabinet declared six “priority products” under the Waste Minimisation Act 2008 (WMA) including tyres, electrical and electronic products (i.e., large batteries), and refrigerants [CAB-20-MIN-0312 refers]. This enables the reduction of product waste using regulated product stewardship tools under the WMA, including the ability to prohibit the sale of a product, except in accordance with an accredited scheme. This means that producers (importers and retailers) must participate in an accredited scheme and comply with its requirements.

*The product stewardship scheme for tyres (tyre scheme) is being developed*

- 3 The accredited tyre stewardship scheme, also known as Tyrewise, was originally designed in 2013 and updated in 2020 via a collaborative process with industry, supported by the Government through the Waste Minimisation Fund. The accreditation is held by Auto Stewardship New Zealand (ASNZ).
- 4 The tyre scheme’s operations will be funded by a product stewardship fee when tyres enter the New Zealand market and will apply to both imported and domestically manufactured tyres. The cost of the tyre scheme will be passed on to consumers.
- 5 Subject to Cabinet agreement, implementation and operation of the tyre scheme is anticipated by February 2024.
- 6 In December 2022, Cabinet (among other things) agreed:
  - 6.1 to develop regulations under the WMA to establish an effective, easily monitored and enforced regulations to support accredited tyre stewardship schemes;
  - 6.2 to prohibit the sale of pneumatic and solid tyres for use on motorised vehicles, except in accordance with an accredited product stewardship scheme;
  - 6.3 that the Minister for the Environment would finalise the details of the tyre stewardship fee collection and associated management of the fee revenue and report back to Cabinet by August 2023 with tyre scheme regulations for decision.

### Waka Kotahi needs your direction to implement Cabinet’s decision

*It is intended for Waka Kotahi to collect the fees associated with the tyre scheme, but Waka Kotahi requires your direction to agree to this*

- 7 Cabinet has agreed that any person who registers a tyre attached to a vehicle registered for on-road use must pay the fee to Waka Kotahi at the point of first vehicle registration. There are other arrangements applying to tyres manufactured in New Zealand or imported loose.

8 [Legally privileged]

s 9(2)(h)

s 9(2)(h)

- 9 However, Waka Kotahi has advised it cannot agree to collect a fee unless its functions permit this, as doing so may be inconsistent with its statutory objective. Waka Kotahi is requesting a direction from you.

*Waka Kotahi's objective and functions are legislatively defined*

- 10 Under section 94 of the Land Transport Management Act 2003 (LTMA), the objective of Waka Kotahi is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest.
- 11 These functions (in section 95) do not include a general function of contributing to environmental sustainability, waste reduction, or transitioning to a low-carbon circular economy, or anything to that effect.
- 12 The functions of Waka Kotahi, however, include carrying out any other function relating to land transport that you direct in accordance with section 112 of the Crown Entities Act 2004.
- 13 Collecting a fee, even one authorised under another regulation, is not likely to fall within the general function of advising, assisting, or co-operating with any government agency at your request. Collecting a fee requires a clear authorisation.
- 14 For you to give such a direction, you must be satisfied that it relates to land transport and is consistent with the objectives of Waka Kotahi. Consultation with Waka Kotahi is also required.

*We consider collecting a tyre stewardship fee is consistent with the objectives of Waka Kotahi*

- 15 Collecting a tyre disposal fee relates to land transport because it implements regulatory requirements which apply to vehicle parts, which are in turn goods that facilitate transport on land by any means.
- 16 While the overall objective of Waka Kotahi does not directly consider environmental sustainability:
- 16.1 It is efficient for Waka Kotahi to collect the stewardship fee for tyres that are attached to motor vehicles at point of first registration, and not more efficient for any other entity to do so. The tyre disposal fees can be added to the existing registration fee process.

- 16.2 Waka Kotahi must exhibit a sense of social and environmental responsibility (section 96(1)(a)) in meeting its objectives and functions, which indicates a wider interpretation of its statutory objective is preferable.
- 16.3 The Director of Land Transport's functions and powers include monitoring the land transport system's adherence to regulatory requirements in other legislation relating to environmental sustainability (s 104B(2)(iv)). This shows the LTMA directly contemplates the possibility other legislation may confer a requirement on Waka Kotahi (as the draft Regulations do).
- 17 We consider it can reasonably be concluded that collecting a tyre stewardship fee is consistent with the overall objective of Waka Kotahi (but for the current absence of an explicit function). You must be satisfied of this before issuing a direction that this is a part of the functions Waka Kotahi is to perform.

*We have consulted Waka Kotahi on your behalf, and it is willing to collect the fee*

- 18 Waka Kotahi has indicated their support for acting as the collector of the tyre stewardship fee.
- 19 A Memorandum of Understanding is being finalised between the Ministry for the Environment and Waka Kotahi outlining the fee collection process. The Memorandum includes terms relating to cost recovery and is the basis for the calculation of an applicable stewardship fee. We are advised that Waka Kotahi supports the Memorandum in principle and that substantive matters are agreed. Note that the Memorandum has no legal effect.

*The proposed direction is durable but not necessarily intended to be permanent*

- 20 This direction is necessary to enable the implementation of the tyre stewardship scheme. However, as drafted, the direction will not apply to other product stewardship schemes relating to vehicle parts that may be established in the future. To enable such schemes, this direction may need to be amended, or further directions made.
- 21 It may be appropriate to consider (e.g., as a part of a review of the vehicle standards regulatory framework) if there are more enduring or general functions that would be appropriate for Waka Kotahi to hold in relation to vehicles and their parts. Regardless of any changes that may arise, should the direction become part of the legislation, we would advise you on revocation of the direction.

### **Legislative authority**

- 22 Section 112 of the Crown Entities Act 2004 (CEA) permits a Minister to add to a Crown entity's functions and direct the entity to perform such functions, if doing so is authorised by the entity's Act and is consistent with the entity's objectives. Section 95(1)(t) of the LTMA authorises this by requiring Waka Kotahi to carry out any other functions relating to land transport that the Minister directs in accordance with this power.
- 23 Section 113 of the CEA states that you may not direct a Crown entity in relation to a statutorily independent function or require the performance or non-performance of a particular act in respect of a particular person or persons. The proposed direction does not conflict with this section.

- 24 Waka Kotahi has been consulted on, and supports, this direction, which fulfils the requirement for you to consult the relevant entity under section 115(1) of the CEA.
- 25 Section 115 of the CEA also requires you, as soon as practicable after giving this direction, publish it in the Gazette and present a copy of it to the House of Representatives.

### Next steps

- 26 We ask that you consider signing the enclosed Ministerial Direction once the Executive Council has made the Regulations, as the Direction relies on the Regulations being in place.
- 27 This Direction gives Waka Kotahi sufficient certainty to begin preparation for the collection of the tyre stewardship fees, which will begin in February 2024. Before signing the direction, you must be satisfied the direction relates to land transport and is consistent with the objective of Waka Kotahi.
- 28 We are advised digital changes to enable collecting of the fee have an 'at minimum' implementation period of three months. Allowing some contingency for unknown requirements or additional development effort, Waka Kotahi needs to commence work as soon as possible to meet the March implementation deadline. Therefore, your Direction needs to be communicated as soon as possible.
- 29 The enclosed letter to Dr Paul Reynolds, Chair of Waka Kotahi, informing him of the issuance of this Ministerial Direction also needs your signature.
- 30 If you authorise us to do so, we will arrange for the publication of the Direction in the Gazette, its presentation to the House of Representatives and any support your Office needs to forward a copy of this briefing and any associated direction to the Ministry for the Environment and Waka Kotahi.

### *Other product stewardship schemes for vehicle parts are being developed*

- 31 Design work on the large battery stewardship scheme is continuing and we expect that vehicle batteries will be in scope. Officials from the Ministry for the Environment and the Energy Efficiency and Conservation Authority (EECA) are working with large battery stakeholders to progress the necessary scheme and stewardship fee details. We understand that when the Minister for the Environment returns to Cabinet in August/ September 2023, this will include proposed policy decisions and the regulatory impact statement (RIS) for large batteries.
- 32 There is also work underway to prohibit the import and sale of equipment pre-charged with F-gas refrigerants, which is used in vehicle air conditioning units.
- 33 It is likely that the same issues that in respect of Waka Kotahi collecting the tyre stewardship fees will apply to collection of product stewardship fees for large batteries. However, we are advised that treatment of refrigerant gases is likely to be different as that involves a prohibition policy. Regardless, we will be able to give advice on any future directions that may be needed as those schemes progress.

Paragraphs 31–33 are based on information received from the Ministry of the Environment and Waka Kotahi, which was no longer current by the time advice was provided. As of 24 October 2023, neither the Minister for the Environment nor Cabinet have received any advice on large battery product stewardship.



**ANNEX 1: PROPOSED MINISTERIAL DIRECTION**

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## **New Zealand Transport Agency (Tyre Product Stewardship Fee) Direction 2023**

Pursuant to section 95(1)(t) of the Land Transport Management Act 2003, and section 112 of the Crown Entities Act 2004, the Minister of Transport gives the following Direction:

### **Direction**

- 1. Title** – This Direction is the New Zealand Transport Agency (Tyre Product Stewardship Fee) Direction 2023
- 2. Commencement** – This Direction comes into force on 01 March 2024.
- 3. Application** – This Direction applies to the New Zealand Transport Agency (which is a Crown Entity pursuant to section 93 of the Land Transport Management Act 2003) (the Agency).
- 4. Background** – Section 112 of the Crown Entities Act 2004 allows the responsible Minister of a Crown entity to direct the entity to perform any additional function that is so added and that is consistent with the entity's objectives. The Minister of Transport is the responsible Minister for the Agency.  
The Waste Minimisation (Tyres) Regulations 2023, passed under the Waste Minimisation Act 2008, support accredited product stewardship schemes for tyres. These schemes are part of the Government's wider waste minimisation programme to reduce waste and transition to a low-carbon circular economy.  
The Agency has a number of functions outlined in section 95 of the Land Transport Management Act 2003, including the function under section 95(1)(t) to carry out any other functions relating to land transport that the Minister directs in accordance with section 112 of the Crown Entities Act 2004. This Direction directs the Agency to carry out its functions as set out in the Waste Minimisation Tyres Regulations 2023.  
The Agency was consulted during the development of this Direction.
- 5. Additional Function** – Pursuant to section 112 of the Crown Entities Act 2004, the Agency is directed to carry out the following additional function:  
To administer the collection of product stewardship fees in relation to any accredited product stewardship scheme for tyres in accordance with the Waste Minimisation (Tyres) Regulations 2023.

Dated at Wellington this 19th day of September 2023.

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

**ANNEX 2: DRAFT LETTER TO WAKA KOTAHI CHAIR**

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

[Ministerial letterhead]

Dr Paul Reynolds  
Chair  
Waka Kotahi New Zealand Transport Agency  
Private Bag 6995  
Marion Square  
**WELLINGTON**

Dear Brian,

**New Zealand Transport Agency (Tyre Product Stewardship Fee) Direction 2023**

I have signed a Direction to allow Waka Kotahi to administer the collection of product stewardship fees in relation to any accredited product stewardship scheme for tyres in accordance with the Waste Minimisation (Tyres) Regulations 2023.

Please find a copy of the Direction attached. This Direction is in place until revoked.

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

Yours sincerely,

Hon David Parker  
**Minister of Transport**



19 September 2023

OC230762

**Hon David Parker**

**Minister of Transport**

cc Hon Damien O'Connor

Associate Minister of Transport

## MANAGING ACCESS TO THE MILFORD ROAD

### Purpose

This briefing responds to your request for information about options to support the Milford Opportunities Project Masterplan recommendation to manage access to the Milford Road and identifies key challenges and considerations for assessing these options in the future.

### Key points

- The Milford Opportunities Project (**MOP**) Masterplan includes a recommendation to manage vehicle access to the Milford Road, in response to increasing visitor pressure at and on the way to Milford Sound Piopiotahi (**Piopiotahi**).
- New legislation would be required to manage access as envisioned by the Masterplan. Under current settings, Waka Kotahi is only empowered to manage access to State Highways under strictly limited circumstances focused on safety (rather than the broader goals of the Masterplan). The road's nature and scale, as well as its ongoing maintenance costs, mean it is not well suited to being redesignated as a private road.
- A new type of road could be legislated to enable a managed access model, but there are complex issues that would need to be worked through. In particular, potential legislative changes may be inconsistent with the public's right to use a publicly funded road. The Masterplan's proposal to differentiate this access based on nationality may also constitute discrimination based on nationality. The magnitude of any inconsistency would depend heavily on the future access model's design and implementation, as well as the extent to which alternative interventions could achieve the Masterplan's intent.
- In light of these issues, in June 2023 Cabinet directed the MOP Unit and officials to assess alternatives alongside the Masterplan's proposal. Exploring a range of alternative options now will help ensure that the access model that Ministers eventually choose (whether that is the Masterplan option or an alternative) is the most effective way of meeting the Masterplan's objectives.
- The MOP Ministerial Group will receive advice regarding the merits of different options in December 2023.



Nick Potter  
**Acting Manager, Placemaking and  
 Urban Development**  
 19 / 09 / 2023

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

**Minister's office to complete:**

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

**Comments**

**Contacts**

Name	Telephone	First contact
Daniel Cruden, Principal Adviser, Placemaking and Urban Development	s 9(2)(a)	✓
Sophie MacDonald, Adviser, Placemaking and Urban Development		

## MANAGING ACCESS TO THE MILFORD ROAD

### The Milford Road

- 1 The Milford Road runs for 120 kilometres from Te Anau to Milford Sound Piopiotahi (**Piopiotahi**) and serves as an essential route for tourists and recreationalists during the summer months. Rapidly increasing visitor numbers, particularly prior to the COVID-19 pandemic, exacerbated congestion along the Milford Road and placed pressure on ageing infrastructure. As international travel resumes, visitor numbers are expected to reach pre-pandemic levels this summer and increase further in future years.
- 2 Visitors to Piopiotahi tend to travel there by private car or by bus. About 90 percent of vehicles that arrive at Piopiotahi are private vehicles, which carry about 50 percent of visitors. The remaining half of visitors get there by bus, which account for just nine percent of vehicles using the road.
- 3 Traffic is seasonal and congestion can be a problem during the late morning and mid-afternoon of peak tourism seasons. Visitors often need to queue to pass through the one-way Homer Tunnel. Parking at Piopiotahi during this period is overcrowded.
- 4 The road is challenging for international and inexperienced local drivers and is subject to serious natural hazards. New Zealand Road Assessment Programme Highway Safety Ratings included the road as one with persistently high personal risk from 2002 to 2016.<sup>1</sup>
- 5 The combination of the risk profile of the road and visiting patterns gives the road a crowded and rushed feel at peak times which detracts from the visitor experience, and compromises safety.
- 6 The National Land Transport Fund (**NLTF**) funds the operational cost of the road, which is approximately \$10 million a year. This figure does not include emergency works in response to storm events or major capital improvements, like the \$25 million Homer Tunnel improvements funded by the Covid Response and Recovery Fund.

### Managing access

*The Masterplan recommends managing access to the Milford Road*

- 7 The MOP Masterplan includes recommendations to create a managed access transport model to change the way visitors access the Milford Road and Piopiotahi.
- 8 The recommendations regarding road access aim to improve visitor experience, improve safety, and recognise the significance of the place by addressing congestion issues and offering new transport solutions. Specific recommendations include reducing parking availability, limiting vehicle access to the road to those with a parking permit, reducing the availability of parking permits to New Zealanders, and providing a park-and-ride facility in Te Anau to facilitate a hop on/hop off bus service. A full list of the managed access recommendations is provided in **Annex 1**.

<sup>1</sup> KiwiRAP. Highway Safety Ratings. 2018. Table 4, page 12.

- 9 Taken together, these recommendations would constitute an effective ban on private vehicles accessing the road without a permit (and a ban on any access at all by overseas visitors in private vehicles).<sup>2</sup> The Masterplan aims to achieve this while allowing greater overall numbers and preserving character of the place.
- 10 The Masterplan recommendations are intended to distribute both visitors and vehicles over the day to reduce congestion and road traffic crowding. International visitors, who made up 83 percent of visitors to Piopiotahi in 2019, would not be able to self-drive. The focus on international drivers was also intended to enable an access fee to be collected from international visitors. The design of this access fee is being developed through a separate workstream.
- 11 Officials and the Milford Opportunities Project Unit (**the Unit**) have been working with the objective of ensuring that maintenance of the road continues to be funded from the NLTF and that the Milford Road Alliance would continue, although the Masterplan did not explicitly state this intention.<sup>3</sup>

*New legislation would be required to implement the Masterplan's access option*

- 12 Managing access as the Masterplan envisions would require the creation of a new type of road. The road would need to allow for the management of access for the purposes outlined in the Masterplan, while providing for NLTF funding and safety and maintenance operations.
- 13 Legislating for a new type of road would overcome two key constraints under the current system:
  - **Waka Kotahi may only manage access to state highways in limited cases.** While road access may be temporarily managed by vehicle type, the purpose of the Land Transport Act 1998 limits the circumstances in which Waka Kotahi can do this to reasons predominantly related to safety. While the rationale for the outcomes sought in the Masterplan include safety, they are broader than this as they encompass improving visitor experience and protection of place too. Additionally, managing access as the Masterplan envisions would be on a permanent, rather than temporary, basis.
  - **Milford Road is not considered suitable to being a private road.** To make the Milford Road a private road it would be subject to Waka Kotahi's state highway revocation process, where the physical characteristics of the road, its function in the transport network, and funding and operational requirements would need to be considered suitably accounted for in future arrangements. An entity such as the Department of Conservation (**DOC**) or a governance entity created for the purpose of the MOP would need to take ownership of the road and responsibility for its funding and management. Given the importance of ensuring that the Milford Road is safely and sustainably managed with secure funding to enable ongoing maintenance, and due to its scale and significance in the transport network, we would not recommend making Milford Road a private road.

<sup>2</sup> Some exceptions regarding overseas visitors might apply. For example, if overseas visitors are camping or have bookings at the Milford Lodge which provides parking for its guests, they would be able to use the road.

<sup>3</sup> The Milford Road Alliance (a partnership between Waka Kotahi and Downer NZ) manages the road. Its role includes avalanche and rockfall control, incident response, managing the Homer Tunnel and general maintenance of the route.




*Legislation to enable restricted vehicle access on Milford Road would need to account for the conflicts with the current rights framework*

14 s 9(2)(h)

15

16

17



**Feasibility testing continues**

*Alternative options are being assessed following Cabinet direction*

- 18 Recognising the above issues, in June 2023 Cabinet directed officials to assess alternative options that may deliver similar outcomes as the Masterplan recommendation. Officials and the Unit are considering these options alongside the Masterplan recommendation. Combining elements of different options may also be possible.
- 19 The alternative options being explored in addition to the Masterplan recommendation are listed below.

s 9(2)(f)(iv)



s 9(2)(f)(iv)

- 20 The Masterplan recommendation for managing access and alternative options will need to be assessed against a set of criteria to determine an effective solution for managing vehicle access to Piopiotahi. s 9(2)(f)(iv)

Our view is that the following criteria should be considered for assessing options:

- the road can be maintained in a safe and effective way, including work currently undertaken by the Milford Road Alliance
- a secure ongoing funding stream exists for the operation and maintenance of the road
- visitors are able to travel safely on and around the road
- essential visitors to Piopiotahi should retain unmanaged access, such as emergency services, mana whenua and locals, and
- congestion on the Milford Road and in Piopiotahi is reduced through a combination of mode shift and spreading visitors throughout the day

- 21 Exploring a range of alternative options now will help ensure that the access model that Ministers eventually choose (whether that is the Masterplan option or an alternative) is the most cost-effective way of meeting the Masterplan's objectives.

### Next steps

- 22 As noted above, officials and the Unit are assessing alternative options in addition to the Masterplan recommendation as part of a wider package of options Ministers will be provided in December 2023. This will include the relative merits of each option for the Ministerial Group's consideration.
- 23 Closely connected to work relating to managing access is the charging workstream. The Masterplan proposed that the model for managing access would be used to collect an access charge on overseas visitors. Officials are working on options to ensure an access charge can be developed that does not rely on a particular option for managing access being implemented.
- 24 A draft discussion paper will be presented to Ministers in February 2024, with a view to releasing it in March 2024.

## ANNEX 1

The complete list of recommendations for the Masterplan's recommended managed access model is below.

- Establishing a proactive management of visitor flows (hourly cap on arrivals).
- Reducing parking availability by 60 percent and introducing a requirement for a permit system for booking parking in advance. There are currently 330 parking spaces available at Milford Sound.
- Limiting vehicles allowed into Piopiotahi to parking availability through a barrier arm at the entrance at Eglington Reveal.
- Restricting the acquisition of parking permits to New Zealanders (preventing international visitors from driving to Piopiotahi).
- Providing special permits which are free for pre-qualified commercial users, operators, service staff, and New Zealanders who use Milford Sound for fishing, hunting, climbing or tramping.<sup>4</sup>
- Establishing an express hop on/hop off park and ride service from Te Anau using zero emission buses and smart technology.
- Establishing a visitor experience centre that includes a park and ride ticketing facility in Te Anau and more parking facilities.
- Requiring international visitors to use a park and ride bus service.
- Collecting an international visitor fee as part of the booking process for accommodation and/or transport into the national park. Smart technology will be used to manage this process.
- Establishing 'nodes' as a key feature of the destination management approach to create a journey experience that brings together Piopiotahi, Te Anau, Te Rua-o-Te-Moko Fiordland National Park and the surrounding area.
- Pre permit camping and campervans at Cascade Creek and not beyond (visitors must thereafter travel to Milford Sound Piopiotahi by bus), with exceptions for those prebooked at Milford Lodge.
- Short sections of some of the more topographically constrained or highly ecologically sensitive areas to be narrowed to a single track or bypassed using grade separated and barrier protected pathways within the road corridor.

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<sup>4</sup> It is also expected that special permits would be available for mana whenua.

20 September 2023

Hon Carmel Sepuloni

**Minister for Auckland**

CC: Hon David Parker

**Minister of Transport**

## **AIDE MEMOIRE: CITY RAIL LINK TARGETED HARDSHIP FUND**

**To:** Hon Carmel Sepuloni, Minister for Auckland

**From:** Richard Cross, Director, System Performance and Governance

**Date:** 20 September 2023

**OC Number:** OC230819

### **Purpose**

- 1 Provides background on the Targeted Hardship Fund (the Fund or THF) for City Rail Link (CRL) to inform your decision on whether to meet with Viv Beck, Chief Executive of Heart of the City.

### **The Fund was established in late 2021 following requests from businesses and Heart of the City**

- 2 In August 2021 Cabinet approved the creation of the Fund to provide financial assistance to businesses facing hardship associated with major and sustained disruption relating to works around Maungawhau, Karanga a hape, and Te Wai Horotiu stations (known as Contract 3 or C3 works) [CAB-21-MIN-0338 refers]. This followed requests from businesses and advocacy group, Heart of the City (HoTC). The Fund was the first of its kind in New Zealand.
- 3 The Fund was established with an initial \$12 million for two years (2021-2023), with Auckland Council and the Crown each providing 50 percent of the funding, with the option to extend the Fund for another two years (2023-2025). The funding initially allocated for the first two years is now estimated to be sufficient to see the Fund through to the end of disruption.
- 4 The Fund is managed by City Rail Link Limited (CRLL), based on high level guidelines given by project Sponsors (Auckland Council and the Crown). Cabinet delegated responsibility for these Guidelines to the Minister of Finance and the Minister of Transport. CRLL have formulated eligibility criteria based on these Guidelines.



- 5 When it was established in August 2021, support from the Fund was backdated to February 2021.

*The Fund has supported 64 individual businesses, alongside other support from CRLL*

- 6 As at 31 July 2023, \$5.93 million has been spent from the Fund and sixty-four individual businesses have been supported by the Fund.
- 7 CRLL process applications every quarter and have received 393 applications in total. Of these, 341 have been accepted, with four pending further information and the remainder declined because the applications did not meet the funding criteria.
- 8 CRLL have discretion in their management of the Fund and have consistently used this discretion to ensure that the objectives of the Fund are achieved.
- 9 Aside from the THF, CRLL have a small business support programme that helps businesses that are disrupted by construction by providing independent advice, including assistance with digital marketing and signage. CRLL also organises vibrant community events near stations to increase retail foot traffic.

**HoTC contributed feedback to a review of the Fund led by the Ministry of Transport**

- 10 When the Fund was established, Sponsors agreed that a review of the Fund would take place in late 2022. The review was informed by spend from the Fund, feedback from stakeholders, and the project schedule.
- 11 The review found that the Fund is operating as intended in providing financial support to businesses affected by disruption. As a result of the review, Sponsors made two amendments to the guidelines governing the THF, which lowered the threshold for availability of support to owner occupiers and businesses outside of the C3 Affected Area.
- 12 This change was supported by Auckland Council as co-Sponsors. Sponsorship arrangements for the project emphasise the importance of Sponsors speaking with one voice.
- 13 Following the loosening of border restrictions put in place during the COVID-19 pandemic, there is evidence of the financial position of applicants improving, which may lead to some businesses becoming ineligible, as they are no longer considered to be in financial hardship.

*The Fund will continue to support businesses while they experience disruption*

- 14 The Fund will continue to support businesses while they experience major and sustained disruption from construction works. In practice, this will mean that support from the Fund will generally end when or soon after construction hoardings are brought down. This will be a staged process across the different sites.
- 15 CRLL will be able to take applications on an exceptions basis for any businesses that are still experiencing the impact of construction.

**Meeting with Heart of the City about the Targeted Hardship Fund would be appropriate in your responsibilities as Minister for Auckland**

*Heart of the City have consistently requested changes that would broaden the availability of the Fund*

- 16 HoTC have consistently requested that the Fund be backdated to the beginning of C3 works in October 2019. They have also requested other changes to the Sponsors' Guidelines, including removing the Guideline that prevents a business from receiving support from the Fund at the same time as the COVID-19 wage subsidy, and the blanket restriction on applications from landlords and owner occupiers.
- 17 The Ministry of Transport expects that HoTC chief executive, Viv Beck, would likely repeat these requests in any meeting with you.

*Auckland Council officials are in regular contact with Heart of the City*

- 18 Viv Beck notes that Ministers have not met with businesses impacted by CRL construction.
- 19 The representative of CRLL Sponsors' officials at Auckland Council has had regular engagement with Ms Beck and HoTC regarding the THF. Auckland Council also engage with some of the more severely affected businesses and work with CRLL on what other non-financial support could be provided.
- 20 As the Minister for Auckland, engaging with HoTC on issues that impact businesses in the city centre would be appropriate and beneficial.
- 21 As noted above, the review of the Fund that made some changes to the Sponsors' Guidelines was completed recently. Any changes to the Fund would need to be jointly agreed by Ministers and Auckland Council. As well as requiring additional funding, backdating to the start of work would be very complex to administer, as it would require disaggregating the effects of COVID-19 lockdowns and border restrictions from the impact of CRL works (and noting that businesses that received the COVID-19 wage subsidy are not eligible).

**Contacts**

Name	Telephone	First contact
Richard Cross, Director, System Performance and Governance, Ministry of Transport	s 9(2)(a)	✓
Sarah Mackenzie, Adviser, Governance, Ministry of Transport		

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

20 September 2023

OC230824

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

## **ROAD USER CHARGES SYSTEM: CHALLENGES, CHANGES AND COMPARISONS**

### **Purpose**

Provides you information on the New Zealand Road User Charges System including its current challenges, opportunities for change and overseas examples.

### **Key points**

- Currently, fuel excise duty plays a crucial role in funding land transport, but it is expected to gradually diminish in the future due to the increasing adoption of more fuel-efficient petrol vehicles, including petrol/electric hybrids.
- New Zealand has a well-established Road User Charges system (RUC) for diesel and heavy vehicles. The primary purpose of this system is cost recovery, primarily to recover costs associated with the wear and tear caused by heavy vehicles on road pavements. RUC is designed to levy charges based on distance travelled and vehicle weight, unlike excise duty that relies on the amount of fuel consumed.
- Starting from 1 April 2024, the RUC system will also encompass electric vehicles. Given the increasing breadth of vehicles that RUC covers, RUC now generates a significant proportion of revenue for the National Land Transport Fund, and it offers a more sustainable revenue source than fuel excise. However, there are some challenges, including road users that would be advantaged and disadvantaged by the change (relative to the status quo), increased collection costs, and user acceptance as the road user charges system is more complex than purchasing fuel.
- Vehicle owners have the option to use electronic in-vehicle devices to simplify the purchase of RUC (eRUC), with this method primarily adopted by larger fleet operators. The potential use of these devices was explored for implementing congestion charges in Auckland. However, due to likely high costs, the challenge of charging vehicles from outside the region, and potential privacy issues with tracking time and location, automated camera technology was preferred. In-vehicle devices also posed enforcement challenges, necessitating the use of camera technology in any case.
- Annex 1 provides an overview of international developments in road user charging. Several jurisdictions are considering a shift to distance-based charging to ensure the long-term sustainability of their revenue sources. As New Zealand already has an RUC system in place, we are better positioned than other countries to transition to distance-based charging.



*CC Durrant*

Carolina Durrant  
**Acting Manager Demand Management  
 & Revenue**  
 20 / 09 / 2023  
 ..... / ..... / .....

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

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

Name	Telephone	First contact
Andrew de Montalk, Senior Advisor Demand Management & Revenue		
Carolina Durrant, Acting Manager Demand Management & Revenue	s 9(2)(a)	✓
Siobhan Routledge, Director System Management & Investment		

## ROAD USER CHARGES SYSTEM: CHALLENGES, CHANGES AND COMPARISONS

1. Excise duty on petrol currently makes up around half of revenue into the National Land Transport Fund. The long-term sustainability of excise is challenged by:
  - 1.1. **erosion of the revenue base** – excise revenue may decline, primarily due to improved fuel efficiency of conventional petrol vehicles, and as people choose other forms of travel. New Zealand has a relatively slow turnover of our vehicle fleet, with modest improvements in fuel efficiency (around 0.5 to 1 percent per year). To date, increases in the rate of excise have offset any potential decline. Currently, improvements in fuel efficiency (or electric vehicles) do not pose an immediate threat to the National Land Transport Fund.
  - 1.2. **horizontal equity concerns** – due to variations in fuel efficiency among vehicles, different amounts of road tax are paid by road users despite traveling similar distances.
  - 1.3. **vertical equity concerns** – excise is generally considered regressive, potentially affecting lower-income individuals disproportionately. The shift towards more fuel-efficient vehicles could exacerbate this inequity, as not everyone can afford the upfront cost of replacing their vehicle.
2. In contrast to most other countries, New Zealand already has a well-established distance and weight-based charging system in place. This means that we are already a step along in the transition.
3. **Annex 1** provides an overview of international developments in road user charging. Many jurisdictions are considering a transition to distance-based charges, primarily as a replacement for fuel excises or taxes. Currently, no jurisdiction is actively planning a nationwide implementation of distance, time, and location-based charging for all vehicles using electronic in-vehicle device technology as a replacement for excises. Singapore is in the process of rolling out in-vehicle devices to replace aging roadside gantries for congestion charging.

### New Zealand has distance and weight-based charges for road use

4. **Around 23 percent of the fleet is subject to RUC.** This includes more than 900,000 light diesel vehicles (just under 19 percent of the total vehicle fleet) and around 180,000 heavy vehicles (less than 4 percent of the total vehicle fleet).
5. Electric vehicles will soon transition to RUC when the light electric vehicle exemption expires. By 1 April 2024 (Easter Monday), the following vehicle types will also be subject to RUC:
  - 5.1. **light battery electric** – currently around 60,000 vehicles, comprising around 1.3 percent of the total vehicle fleet.
  - 5.2. **light plug-in hybrid electric vehicles** – currently around 25,000 vehicles, comprising around 0.5 percent of the total vehicle fleet.
6. **Annex 2** provides detail of the operational tasks necessary for the transition of electric vehicles to RUC.

7. Additionally, Cabinet has agreed to the transition of LPG and CNG vehicles to RUC (comprising around 0.02 percent of the total fleet). A specific date for the transition of these vehicles has yet to be confirmed, as it requires a change to primary legislation.
8. The remaining vehicles, not yet scheduled to transition to road user charges, but will continue to contribute to the upkeep of the land transport system through excise duty, are:
  - 8.1. **conventional light petrol vehicles** – around 3.36 million vehicles, comprising around 70 percent of the total vehicle fleet
  - 8.2. **light petrol hybrid vehicles** (that do not plug-in) – around 210,000 vehicles, comprising over 4 percent of the total vehicle fleet.

*How the RUC system works*

9. New Zealand's distance and weight-based charging system, known as the New Zealand Road User Charges (RUC) system, has operated since 1978. The system applies to diesel and heavy vehicles.
10. The RUC system requires owners of such vehicles to:
  - 10.1. purchase and display a **distance license**
  - 10.2. equip their vehicles with a **distance recorder** to record the vehicle's distance accurately. Light vehicles typically use odometers, while heavy vehicles use hubodometers.
11. To comply with the RUC system, vehicle owners must ensure that the distance specified on the license exceeds the distance recorded on their vehicle's distance recorder. The cost of obtaining a distance licence depends on the type of the vehicle (namely, its weight and axle arrangement).
12. Unlike fuel excise duty, a proxy for road use, road user charges are directly based on the distance travelled. As vehicles become more fuel-efficient or switch to electric power, the revenue generated from road user charges is not expected to decrease over time. Therefore, when compared to excise, road user charges provide a more sustainable long term funding method for land transport.

*The focus is cost recovery for a range of costs by differentiated rates*

13. The RUC system's focus is cost recovery and was originally designed to account for heavy vehicles' disproportionate impact on the road pavement. The system recovers a range of financial (not economic) costs.
14. As a cost recovery system, all expenses related to the improvement, upkeep, and operation of the national land transport system (excluding local authority cost and Crown contributions) are categorised and allocated among different vehicle types using a cost allocation model.
15. The cost allocation model assigns weight-related road wear expenses primarily to heavy vehicles. Expenses related to "space" and "common costs" that encompass activities benefiting all road users, including public transport, are allocated equally to all vehicles. In short, the rates are designed to ensure that all vehicle types pay in proportion to use and impact on the land transport network.

16. In contrast to the one-rate of excise duty for petrol, the RUC system has a tiered rate structure of 81 vehicle types comprising close to 100 individual rates (excluding additional and specialist vehicles, and sometimes different weight bands). These rates, represented as the cost of a distance license, vary based on the weight and axle configuration of the vehicle. Specifically:
  - 16.1. for light vehicles (gross vehicle mass of 3.5 tonnes or less), a single rate of \$76 per 1,000 km applies
  - 16.2. heavy vehicles are subject to a range of rates, which vary depending on the vehicle characteristics. For heavy vehicles, rates can range from \$82 to over \$1,000 per 1,000 km.
17. While rates vary between vehicle types, the differentiation primarily results from calculations assessing each vehicle's impact on the pavement and the associated costs incurred for road maintenance due to that impact. We occasionally receive inquiries about why there are no different rates for light vehicles, considering the variations in their size and weight. The current rate for light vehicles is determined by an average calculation of their impact on road pavement
18. Despite differences in size and weight among light vehicles, their impact in terms of wear and tear on road pavement is minor, unlike the disparity seen between medium-sized and very large trucks. An SUV or a ute does not cause significantly more damage than other light vehicles, such as a Corolla. Furthermore, most of the financial costs for road strengthening are allocated to heavy vehicles, as they are the primary contributors to pavement wear and tear.
19. Fundamentally, the RUC serves as a mechanism for cost recovery. RUC plays a pivotal role in influencing vehicle purchasing and design decisions within the heavy vehicle fleet. Heavy vehicle operators often opt for configurations with multiple axles to qualify for a lower-cost RUC rate, reflecting the reduced impact of the vehicles on the road pavement. While there are opportunities to refine the RUC system and reduce averaging, this could introduce more complexity into the system.
20. Work is underway to explore other factors in addition to size and weight that could be included as part of a RUC rate calculation. For example, in early 2022, we consulted on the potential setting RUC rates based on a range of other factors, including considering externalities when determining RUC rates. In our report back following public consultation, we recommended that considering other factors in setting rates, such as recovering the cost of different externalities, should be considered further through the Future of Revenue System project. Including other factors would constitute a fundamental change to the RUC system.

#### *Electronic systems simplify compliance*

21. Road users can use electronic road user charges (known as eRUC), as an alternative to the traditional method of vehicle owners manually purchasing a distance license and displaying the paper license on their vehicle. eRUC systems record the vehicle's distance and licenses are purchased automatically when the required distance is exceeded. A new license is displayed on an electronic screen fixed to the windscreen. This automation has reduced the compliance burden on operators, eliminating the need for manual checks, purchases, and physical display of paper licenses.
22. eRUC systems primarily cater to large fleets of vehicles. The systems are typically marketed as part of a fleet management package, offering additional features such as fleet tracking, maintenance support, logbook management, and other health and safety requirements. Around a quarter of heavy vehicles in New Zealand use



electronic road user charges. Few of the electronic offerings are tailored for private individuals and households (although they could in principle be used for this purpose), and most private vehicles do not use electronic road user charges because it is not cost-effective to do so.

#### *RUC and congestion charging*

23. The Congestion Question (a project exploring congestion charging in Auckland) investigated the use of in-vehicle devices (like those used for eRUC) to gather time and location data, which is essential for congestion charging. The project favoured the use of cameras with automatic number plate recognition (ANPR) technology. ANPR involves the installation of cameras that read the number plates of vehicles in a congestion charging area, which are then transmitted to a back office that automates the charging of drivers (typically through accounts).
24. Implementing congestion charging through in-vehicle device technology, such as eRUC, was considered prohibitively expensive and posed compliance and enforcement risks. The use of in-vehicle devices would have presented challenges when dealing with out-of-region vehicles entering the congestion charging zone that may not necessarily have the device installed, unless a national rollout of these devices were pursued, incurring significant costs. ANPR technology avoids the complexities associated with out-of-region vehicles, as all vehicles already have number plates, eliminating the need to devise a system for charging out-of-region vehicles that may lack electronic devices.
25. Furthermore, it was observed that even if electronic devices were employed, ANPR technology would still be necessary for compliance and enforcement purposes, as there was the possibility of tampering with in-vehicle devices to avoid the congestion charge. **Annex 1** provides information on ongoing efforts in Singapore to implement in-vehicle devices and a satellite system for congestion charging.

#### **The New Zealand RUC system is proven and highly effective, but there are some challenges**

26. Overall, the RUC system has broad support from stakeholders within the freight sector and is often cited as an example for other countries exploring distance-based charges. However, there are some ongoing challenges with the RUC system.
27. From a taxation and revenue perspective, the rationale for road user charges (RUC) and gradually transitioning all vehicles to the system appears strong (see para 1). Revenue erosion may occur from around 2029 due to the increasing uptake of petrol-powered hybrids, more efficient petrol vehicles and mode shift, therefore work needs to be underway on planning a transition away from excise duty.
28. Reform is likely to encounter several challenges:
  - 28.1. **winners and losers:** transitioning from a fuel consumption approach that is focused on litres consumed to a distance travelled (in kilometres) approach might benefit drivers of fuel-inefficient or “gas-guzzling” vehicles while disadvantaging drivers with highly fuel-efficient petrol vehicles. A move to road user charges could reduce the fuel-efficiency incentive for petrol vehicles. This could be seen as sending mixed signals concerning emissions reduction goals.
  - 28.2. **collection costs:** collection of excise duty is extremely cost-efficient (less than 0.05 percent of revenue for administration), involving just five oil

companies, whereas the collection of road user charges is more complex and costly (estimated to be above 1.3 percent of revenue).

- 28.3. **balancing user inconvenience and impacts:** unlike excise duty that requires no action from petrol vehicle owners, road user charges require road users to monitor their vehicle's distance and purchase licenses regularly. This can be perceived as an inconvenience by users. Nevertheless, it is essential to note that a significant portion of the vehicle fleet is already subject to RUC, along with other regulatory requirements, and can manage this inconvenience. In addition, excise is incremental, whilst RUC is a pre-pay system, requiring the purchase of licenses in advance of travel. Pre-payment may place a heavier burden on low-income or cash-flow-constrained households relative to higher-income households.
29. Any reform must begin with clearly defined objectives. Evaluating costs, benefits, and challenges will be important. Prioritising sustainability and improving the sustainability of existing revenue streams for funding the system should be a key focus. It is not guaranteed that transitioning to RUC will result in increased revenue in the short term. While examining the functionality of other systems can offer insights, it is important to clarify our objectives for the land transport revenue system.
30. In part, due to the growth of the diesel fleet over the past two decades, the transition of the light vehicle fleet to Road User Charges (RUC) has already commenced. The long-term shift toward battery electric vehicles and plug-in hybrids, replacing conventionally powered petrol vehicles, will extend the reach of RUC to more of the light vehicle fleet. The transition to RUC may occur anyway because of changes in the vehicle fleet composition.
31. The remaining petrol vehicles and petrol hybrid vehicles will continue to contribute revenue for the maintenance of the land transport system through excise duty. Potential future increases in the cost of New Zealand Emissions Trading Scheme Units that flow through to the price of petrol at the pump, could also hasten the transition to RUC. This is because rising petrol prices would incentivise the adoption of battery electric vehicles.
32. Officials are actively exploring transition options and how best to facilitate a smooth transition for the rest of the petrol-powered fleet. If a more rapid transition to RUC is favoured, the experience gained from transitioning electric vehicles, as well as LPG/CNG vehicles, to RUC could serve as valuable input for planning a broader transition.

### Work underway to improve the RUC system

33. The Ministry of Transport consulted on changes to the road user charges system.

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## Annex 1: international comparisons

1. This annex provides an overview of land transport funding developments in other countries and regions. It mainly focuses on the shift away from fuel taxes towards distance-based charges, the charging of electric vehicles, and technological advancements. We are unaware of any country implementing an electronic nationwide distance, location or time-based charging system for all vehicles.
2. **Australia**
  - 2.1. **The Commonwealth:** The Commonwealth of Australia is exploring distance and axle-based charges for heavy vehicles through ongoing pilot programs. These initiatives aim to recover the wear and tear costs caused by heavy vehicles on Australian roads.
  - 2.2. **Victoria (State):** Victoria has introduced a per-kilometre charge for electric and plug-in hybrid vehicles. Road users manually report their travelled distances via a website and receive bills accordingly. The legality of this scheme is being contested in Australia's highest court due to taxation powers being reserved for the Commonwealth government.
3. **United States**
  - 3.1. **Hawaii:** Hawaii's legislature has passed legislation to implement a mandatory per-kilometre charge for electric vehicles starting in 2028. Vehicle odometers will be recorded annually during safety checks, and road users will receive a bill based on their distance travelled/reported. This system will become mandatory for all vehicles from 2033.
  - 3.2. **Oregon, Utah and Virginia:** Several states operate voluntary per-mile charging systems alongside traditional gas taxes. In Oregon, participants can report their mileage through in-vehicle devices or calculations based on average kilometres travelled (linked to fuel purchases). To avoid double taxation, participants receive fuel tax credits. Electric vehicle owners can pay an annual charge if they opt out of the distance charging system. However, in Oregon, only 1,600 users have signed up for the scheme, with fewer than 600 being active in late 2019.
  - 3.3. **Federal:** At the federal level in the United States, multiple trials are ongoing to explore distance (or per-mile) charges as potential replacements for gas taxes. These trials primarily focus on heavy and electric vehicles.
4. **England and Wales:** an electronic congestion charging system operates in London. There is renewed interest in electronic distance-based charging in the country, with a select committee inquiry investigating this topic. The interest seems largely driven by Treasury concerns about declining excise revenue (the rate of excise has not been increased for some time). The final report of the select committee recommended that an arms-length body to investigate options for replacing excise.
5. **Singapore:** has a well-established congestion charging system that uses in-vehicle transponder units and gantries using radio frequency technology. To our knowledge, there have been no efforts by Singapore to implement distance-based charging. The current focus is on replacing fixed gantries (which have been in operation since 1998) with satellite technology. The gantries were intended to be replaced in 2021 by "next generation" satellite technology but was delayed due to a global microchip shortage. Based on the last available public information, work was underway for the installation



of in-vehicle devices commencing in second half of 2023. No further public updates are available.

6. **Continental Europe:** several vignette schemes operate across continental Europe, including Slovenia, Slovakia, Austria, and Hungary. These schemes require out-of-state or foreign vehicles to display a vignette to travel on the state's roads, ensuring that these vehicles contribute to the nation's road maintenance costs. Vignettes are typically displayed on the vehicle's windshield, but some countries offer electronic vignettes that do not require physical stickers, instead being registered electronically.

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**Annex 2: Transitioning electric vehicles into RUC on 1 April 2024**

1. This annex summarises the activities that Waka Kotahi, as RUC collector, has underway to transition light electric vehicles into RUC after 31 March 2024 when the electric vehicle RUC exemption expires.

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21 September 2023

OC230816

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

Friday, 22 September 2023

Cc: Hon Damien O'Connor

Associate Minister of Transport

## **PROPOSED ENACTMENT OF SEVERE WEATHER EMERGENCY RECOVERY (WAKA KOTAHI AND KIWIRAIL) ORDERS 2023**

### **Purpose**

Provide you with draft Cabinet papers to circulate for Ministerial consultation, and for submission to the Cabinet Business Committee meeting on 2 October 2023 for the Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 and the Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023.

### **Key points**

- The Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 (the Waka Kotahi Order) and Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023 (the KiwiRail Order) need to be considered by the Cabinet Business Committee on 2 October 2023. If they are not, then these Orders will not be able to be enacted prior to the General Election.
- Te Manatū Waka has considered the feedback of the Review Panel and the political party leaders on the draft Orders. The feedback has been addressed where appropriate in the Orders.
- The draft Cabinet papers (attached as Appendices 1 and 2) and accompanying Orders will be circulated in parallel for Ministerial and departmental consultation from 22 to 25 September 2023.

### **Recommendations**

We recommend you:

- 1 **note** that if the Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 and Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023 are not considered by Cabinet on 2 October 2023 they won't be able to be considered until after the 2023 General Election

- 2 **agree** to progress the attached draft Cabinet papers (Annexes 1 and 2) to Ministerial consultation and then to lodge the final papers for consideration by the Cabinet Business Committee (acting as Cabinet Legislation Committee) on 2 October 2023 Yes / No
- 3 **note** the feedback received from the Review Panel and the Green Party
- 4 **agree** to Te Manatū Waka recommendations to make minor changes to the Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 and Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023 following this feedback Yes / No



Carmen Mak  
Director, System and Regulatory Design

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

Hon David Parker  
Minister of Transport

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

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

Comments

#### Contacts

Name	Telephone	First contact
Carmen Mak, Director, System and Regulatory Design	s 9(2)(a)	✓
Annelies McClure, Principal Solicitor		

## **SEVERE WEATHER EMERGENCY RECOVERY (WAKA KOTAHI AND KIWIRAIL) ORDERS 2023**

### **The Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency and KiwiRail Holdings Limited) Orders 2023 are ready for Cabinet consideration**

*Cabinet previously agreed to Te Manatū Waka consulting on two Orders in Council relating to land use*

- 1 On 26 June 2023, Cabinet agreed that three transport Orders in Council be prepared to modify the application of specified legislation under the Severe Weather Emergency Recovery Legislation Act 2023 (SWERL Act) [CAB-23-MIN-0256 refers]. The Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 (the Waka Kotahi Order) and the Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023 (the KiwiRail Order) are the remaining two Orders in Council that Cabinet agree be prepared.
- 2 The Waka Kotahi Order will enable Waka Kotahi to restore, without undue delay, the sections of the state highway that are specified in the Order that have sustained damage from the severe weather events.
- 3 The KiwiRail Order will enable KiwiRail to restore, without undue delay, the sections of railway that are specified in the Order that have sustained damage from the severe weather events.
- 4 As noted in the previous briefing we provided you (OC230642 refers), the draft Waka Kotahi and KiwiRail Orders, and supporting material, were submitted to the Review Panel and to leaders of political parties. We have received feedback from the Review Panel and the Green Party.

### **Minor changes have been made to the Orders following feedback from the Review Panel and the Green Party**

- 5 Under the SWERL Act, you must have regard to the feedback provided by the Review Panel and the political party leaders.
- 6 There is no legal requirement for you to formally respond to the feedback provided.

#### *Feedback from the Review Panel*

- 7 Based on the information before the Review Panel, it considered that the Minister of Transport might reasonably consider both Orders to be necessary or desirable.
- 8 The Review Panel recommends that the Orders may benefit from some clarifications:
  - 8.1 Clarifying the nature and policy intent behind clauses 9 to 11 and clause 12 of the Orders, perhaps through additions to Statements of Reasons and explanatory notes.

- 8.2 Making clear the definition of Protected Māori land that is being relied upon through a cross reference to the Public Works Act 1981 and the Infrastructure Funding and Financing Act 2020.

9 We have addressed the recommendations above by making the changes proposed.

*The Green Party's feedback was the same on both Orders and is summarised below*

- 10 The specific feedback from the Green Party and our advice on the feedback are included in Appendix 3.
- 11 Part of the feedback from the Green Party highlighted an error in the Orders where they inadvertently allowed an approach that had been specifically excluded in Cabinet decisions. This has been corrected.
- 12 All other feedback has been considered, including in light of Cabinet decisions at the beginning of the process on what the Orders were to achieve, and officials are satisfied that the concerns are either adequately addressed by the Orders (e.g. consideration of indigenous biodiversity) or that the Orders are consistent with the intent of Cabinet decisions.

**The Cabinet papers have been sent out for an initial round of departmental consultation with administering agencies**

- 13 We consulted on the draft papers with the Ministry for the Environment, the Department of Conservation, Land Information New Zealand and the Treasury as the administering agencies and Waka Kotahi and KiwiRail as the delivery agencies.
- 14 There is one matter that Te Manatū Waka is continuing to work with the Department of Conservation on in relation to how Taonga Species is defined in the Orders. The issue that is being discussed relates specifically to whether whānau holding mana whenua should be included in the definition. We will keep your office updated as to the resolution of this matter.
- 15 The Cabinet papers (attached as Appendices 1 and 2) will be sent out for formal departmental consultation from 22 September to 25 September.

**We recommend you send the Cabinet papers out for consultation and lodge them for Cabinet consideration on 2 October**

- 16 The Cabinet Business Committee meeting on 2 October 2023 is the last chance for these Orders to be approved by Cabinet and then Executive Council prior to the General Election.

*Next steps*

- 17 Departmental consultation and Ministerial consultation will need to occur in parallel due to the timeframes we are working to. These are scheduled to run from Friday 22 September 2023 to Monday 25 September 2023.



- 18 Following this, feedback will be incorporated into the final Cabinet papers and we will provide these to your Office for lodging by Thursday 28 September.

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**APPENDIX ONE: CABINET PAPER – Enactment of Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023**

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Office of the Minister of Transport

Cabinet Business Committee

## **Enactment of Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023**

### **Proposal**

- 1 I seek Cabinet agreement to submit the Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 (the Order) to the Executive Council and Governor-General for enactment.

### **Executive Summary**

- 2 Cabinet agreed on 26 June 2023 that Orders in Council (Orders) be prepared to modify the application of specified legislation under the Severe Weather Emergency Recovery Legislation Act 2023 (SWERL Act) [EWR-23-MIN-0046, confirmed by CAB-23-MIN-0256 refers]. The Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 is one of three transport Orders that Cabinet agreed be prepared.
- 3 The second transport Order, the Severe Weather Emergency Recovery (Land Transport Funding) Order 2023, came into force on 1 September 2023. The third transport Order is also being considered by the Cabinet Business Committee at this meeting.
- 4 This Order, which forms part of Tranche 6 Orders, will enable Waka Kotahi to restore, without undue delay, the sections of state highway specified in the Order that have sustained damage from the severe weather events.
- 5 As required by the SWERL Act, Te Manatū Waka Ministry of Transport (Ministry of Transport) carried out public engagement from 27 June 2023 to 16 August 2023 on the Order. As part of this engagement, the Ministry of Transport held targeted hui with councils, iwi, hapū and mana whenua.
- 6 While the House was in session, a key element to maintaining the constitutionality of the Orders process was the submission of the draft Order to the Regulations Review Committee, as they provided a balance to the lack of a select committee stage. With the House and the Regulations Review Committee now dissolved, the SWERL Act provides that a copy of draft Orders must be provided instead to the leaders of all parties in the House prior to the dissolution. The Cyclone Recovery Unit has facilitated this process, and one response was received (from the Green Party).
- 7 In addition, as required by the SWERL Act, the Order has also been considered by the Severe Weather Events Recovery Review Panel (the Review Panel).
- 8 I have considered the feedback of the Green Party and the Review Panel in the development of the final Order that I am presenting to Cabinet.
- 9 I am now seeking agreement from the Cabinet Business Committee, acting as the Cabinet Legislation Committee, to submit the attached Order to the Executive Council and Governor-General to enact the policy decisions agreed by Cabinet.

**Order in Council gives effect to Cabinet decisions**

- 10 The attached Order (see **Annex 1**) gives effect to the decisions made by Cabinet on 26 June 2023 that an Order be prepared under section 7 of the SWERL Act [CAB-23-MIN-0256 refers].
- 11 The recent severe weather events have caused substantial damage to the land transport network in the North Island. Significant works will be required over the coming months and years to reinstate and rebuild state highways across the affected regions to an appropriate level of service. Some slips extend outside the legal road corridor, and in some instance temporary access and occupation of adjoining land is required for recovery and repair works. Currently some roads are not passable or have restricted access, impacting economic recovery of the affected areas as well as private property owners who are unable to access, or unable to easily access, their properties.
- 12 Under current legislation, multiple regulatory processes (resource consent, permissions and authorities under conservation legislation), each with separate and often differing processes, are required to be complied with, which can result in a lengthy and uncoordinated approach to the recovery. Such processes are also often duplicated where temporary solutions are built prior to a permanent solution.
- 13 In a standard process, approvals are typically secured over a two plus year timeframe following extensive design and investigation processes, before works can commence. Each approval is obtained independent of other approvals required for the same project.
- 14 Some Acts include emergency work provisions already; however these existing provisions are inconsistent between the Acts. Current frameworks are also not established to facilitate recovery from a sudden event which has caused widespread damage that will take an extended time to repair, and requires an immediate response and certainty for Waka Kotahi and the affected communities.
- 15 It is therefore necessary and desirable to undertake recovery works, without undue delay, in order to restore the function of the affected road routes and enable them to be used fully, effectively, and safely. If the transport network is unable to recover in an expedited manner, there will be ongoing social and economic impacts for affected communities, regions, and New Zealand more broadly. This is because of the critical role transport plays in moving people, goods and services, and in enabling other sectors (e.g., agriculture, horticulture, and forestry) to flourish.
- 16 The policy intent of the Order is therefore to streamline certain requirements under the Resource Management Act 1991 (RMA), the Public Works Act 1981 (PWA), the Conservation Act 1977 (Conservation Act), the Reserves Act 1977 (Reserves Act), the Freshwater Fisheries Regulations 1983, and the Wildlife Act 1953 (Wildlife Act), that apply to recovery activities in respect of the damaged sections of state highways specified in the Order. This is intended to facilitate recovery works in a timely and efficient manner and reduce the diversion of resources away from the effort to efficiently respond to the damage caused by the severe weather events.
- 17 Cabinet agreed that the Order will be revoked on the close of 31 March 2028.
- 18 The modifications proposed are set out in **Annex 2**.



## Engagement on the Order

- 19 Sections 8 and 9 of the SWERL Act require that I must undertake engagement on the proposed Order before I can recommend that it is made.
- 20 The Ministry of Transport consulted on the proposed policy changes in the Order on my behalf for 36 working days from 27 June 2023 to 16 August 2023 (the minimum period required under the SWERL Act being 3 working days).
- 21 The Schedule to the Order specifies the location of the sections of state highways affected by severe weather events. Engagement was targeted to local authorities, iwi, hapū and mana whenua in those affected areas. In addition, the Ministry of Transport engaged with local authorities not directly affected by the proposals, via email and invitations to online hui. Information about the proposed changes was also posted on the Ministry of Transport's website.
- 22 Relevant local authorities received written correspondence and an engagement document on 28 June 2023. Invitations were issued to local authorities to hui which were held on 29 June and 3 July, and meeting materials were sent on 5 July 2023.
- 23 Relevant iwi, hapū, and mana whenua, received written correspondence and an engagement document on 29 June 2023. Invitations were issued to relevant iwi, hapū, and mana whenua and hui (online for all groups and kanohi ki te kanohi in Tairāwhiti) were held on 3, 4, 5, 6 and 7 July 2023, with meeting materials sent on 5 July 2023. The engagement document invited written feedback on the proposed Order by 10 July 2023.
- 24 After the initial round of engagement, an additional kanohi ki te kanohi meeting was held with Ngāti Kahungunu in Heretaunga on 10 August 2023 and an additional online hui with Toitu Tairāwhiti in Tairāwhiti on 16 August 2023.
- 25 Feedback on the proposals was invited during the online and kanohi ki te kanohi hui.
- 26 An exposure draft of the Order was also sent to relevant local authorities, Ngāti Kahungunu and Toitu Tairāwhiti.
- 27 No feedback was received during any of the engagement sessions that was fundamentally opposed to the Order being proposed, with most parties recognising the inherent value in the Order to help reconnect communities in a timely fashion. The key discussions revolved around how the balance was struck between truncating a process, and preserving rights for parties to be involved, as well as managing effects on the environment (both natural and physical) arising from the works.
- 28 The discussions covered much of the controls proposed to be put in place through the Order, and the areas of specific interest to the parties in the hui. For local authorities, this was often around the ability to influence conditions and the retention of enforcement powers. For iwi this was often around the relationship and the need for a strong relationship foundation, as well as partnership with local iwi to ensure that the right protocols were followed and that the outcomes delivered matched the intention from the beginning.
- 29 The feedback received from all engagements resulted in changes being made to the Order to include a restriction on the ability to use the PWA truncated powers in relation to 'protected Māori land' as defined in the PWA, and strengthened conditions

imposed via the schedules to the Order, in particular in relation to the Kaitiaki Advisor role.

### Compliance

- 30 The Order complies with each of the following:
- 30.1 the principles of the Treaty of Waitangi;
  - 30.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 30.3 the principles and guidelines set out in the Privacy Act 2020;
  - 30.4 relevant international standards and obligations; and
  - 30.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### *Compliance with the SWERL Act*

- 31 Under section 8 of the SWERL Act, the Minister of Transport as the Minister responsible for the administration of this Order, and the Ministers responsible for the legislation the Order modifies (the Minister of Transport, the Minister for Land Information, the Minister of Conservation, and the Minister for the Environment, acting jointly) are required to be satisfied of certain matters before recommending the making of an Order: We are satisfied that:
- 31.1 This Order is necessary or desirable for meeting the purpose of the SWERL Act set out in sections 3(1) and (2) of that Act, in particular, section 3(2)(b)(i) - supporting the operation of other legislation and enabling it to operate more flexibly to take account of the severe weather events.
  - 31.2 The extent of the Order (including geographical extent) is not broader than is reasonably necessary to address the matters that gave rise to the Order. The Order will be in place for a limited period, and its application is also limited geographically.
  - 31.3 The Order does not breach the restrictions set out in section 11 of the SWERL Act.
  - 31.4 The Order does not limit the rights and freedoms in the New Zealand Bill of Rights Act 1990.
  - 31.5 The engagement process described in section 9 of the SWERL Act has been complied with. The details of the engagement are provided in paragraphs 11 to 15.
  - 31.6 The effects on the environment of any controls provided for in the Order, and whether those controls avoid, remedy, or mitigate any adverse effects, have been considered as required by section 8(1)(e) of the SWERL Act, as detailed in paragraphs 32 to 34.

### Effects on the Environment

- 32 Section 8(1)(e) of the SWERL Act requires the relevant Minister, if the order relates to the RMA, to consider the effects on the environment of any controls provided for in the order, and whether those controls avoid, remedy, or mitigate any adverse effects. The works to be undertaken under the Order will have an impact on the environment. The Order establishes processes for resource consents and alterations to designations. The consent conditions listed in Schedules 2 and 3 are intended to avoid, remedy, or mitigate adverse effects of the recovery work, and reflect similar infrastructure construction resource consent or designation conditions.
- 33 Each process has in-built environmental checks and balances, including:
- 33.1 any resource consent application must include a high-level consideration of the potential effects;
  - 33.2 imposing an obligation for Waka Kotahi to engage with certain parties to gain an understanding of the impacts of the proposed works on those parties and to appropriately respond through design, construction, and/or condition changes; and
  - 33.3 additional layers of environmental protection, over and above what is currently provided in the emergency works provisions (sections 330 to 330C of the RMA).
- 34 With regard to temporary depots and storage facilities, the Order provides that the relevant territorial authority may put requirements on noise control and to avoid, remedy, and mitigate other environmental effects.

**Provision of the Order to each leader of a political party**

- 35 The draft Order was provided to each leader of a political party constituting the 53rd Parliament on 12 September 2023. Only the leaders of the Green Party responded, on 15 September 2023. As a result of consideration of that feedback, an amendment has been made to clause 6(1) of the Order by deleting a reference to clause 87A(6) of the RMA being modified, which references prohibited activities. Section 87A(6) should not be captured by the modifications as this was specifically not agreed to by EWR.

**Severe Weather Events Recovery Review Panel (the Review Panel)**

- 36 The Review Panel considered the draft Order on 14 September 2023.
- 37 The Review Panel considered that based on the information before the Panel, the Minister of Transport might reasonably consider the Order to be necessary or desirable.
- 38 The Review Panel recommended that the Order may benefit from some clarifications:
- 38.1 Clarifying the nature and policy intent behind clauses 9 to 11 and clause 12 of the Order, perhaps through additions to Statements of Reasons and explanatory notes.

- 38.2 Making clear the definition of Protected Māori land that is being relied upon through a cross reference to the PWA and the Infrastructure Funding and Financing Act 2020.
- 39 The Review Panel's recommendations have been reflected in the Order.
- 40 While changes to the draft Order have been made as a result of the comments made by the Green Party and the Review Panel, these changes are minor in nature and I did not consider that it was necessary to repeat the party leader and Review Panel process with regard to subsequent drafts of the Order.

#### **Certification by Parliamentary Counsel**

- 41 Parliamentary Counsel has certified that the Order is in order for submission to Cabinet, subject to waiver of the 28-day rule and to the Order being made and then notified in the Gazette on 5 October 2023, with the Order coming into force on 6 October 2023.

#### **Regulatory Impact Statement**

- 42 A Regulatory Impact Statement was prepared in accordance with the necessary requirements and was submitted at the time the Cabinet approval was sought for the policy relating to the Order [CAB-23-MIN-0256 refers].

#### **Consultation**

- 43 The Ministry for the Environment, the Department of Conservation, Crown Law, Te Arawhiti, Land Information New Zealand, the Department of Internal Affairs, the Ministry for Housing and Urban Development, the Ministry for Primary Industries, Te Puni Kokiri, Waka Kotahi, and the Department of Prime Minister and Cabinet have been consulted on this paper.

#### **Treaty Impact Analysis**

- 44 Officials undertook a multi-phased approach to engagement with Māori on the Order outlined in this paper, to provide opportunities for Māori participation in the process in accordance with the statutory requirements under the SWERL Act and their rights under Te Tiriti o Waitangi.
- 45 The engagement period extended significantly beyond the minimum statutory requirement as the Ministry sought to develop the proposals in the most Treaty compliant way possible within the circumstances. No modifications to Te Ture Whenua Māori Act 1993 are proposed as part of this Order.
- 46 The engagement approach for the transport Order led by the Ministry of Transport included statutory engagement and continued post-engagement hui and contact. Iwi, hapū and Post-Settlement Governance Entities (PSGEs), were invited to participate. This process was run to better understand the depth and breadth of Māori needs, interests, and aspirations regarding the recovery and ensure we had a shared understanding of the problems this Order was intended to address, Māori views of the proposed solutions and any alternate solutions identified by Māori, including not only the nature of the modifications, but also their geographic extent and the condition arrangement at implementation to ensure these solutions continued to be implemented as intended.



- 47 The Ministry of Transport supplied copies of the draft Order to iwi who had expressed an interest in the detail and have continued to engage in relation to conditions as these have developed. It is important to note that this proposal overrides the application of the National Policy Statement for Freshwater Management (NPS-FM) in specific resource consent decision-making processes. The NPS-FM is a key part of government response to the Waitangi Tribunal's findings on Māori rights and interests in freshwater, therefore, there is a risk that overriding it may undermine the Crown's role as a Treaty partner. It may also potentially diminish the intent of statutory acknowledgements for PSGEs (and iwi and hapū covered by settlements).
- 48 However, I consider that the proposed Order uphold Treaty settlement commitments and broader Māori rights and interests through mechanisms such as specific rights of participation throughout decision-making and implementation processes, and the specific protections for culturally significant land, which includes statutory acknowledgement areas, statutory overlay areas, wāhi tapu and whenua Māori.
- 49 The Ministry of Transport considers that the proposed Order provides some opportunities for the recognition of Māori rights and interests in the environment in the severely weather effects regions. However, it will be important at implementation that Māori rights and interests continue to be recognised and provided for.

### Communications

- 50 The enacted Order will be available on the Ministry of Transport's website. The Ministry of Transport will communicate the enactment to relevant stakeholders.

### 28-day rule

- 51 I propose that the 28-day rule be waived and the Order take effect on 6 October 2023. This is intended to bring these emergency provisions into effect as quickly as possible and enable recovery works to commence without delay in order to provide relief and certainty to affected people and communities.

### Proactive release

- 52 I intend to release this paper when all three of the transport Orders in Council are in force as there was one policy Cabinet paper for these Orders. This release will be subject to appropriate redactions under the Official Information Act 1982.

### Recommendations

I recommend that Cabinet:

- 1 **note** that on 26 June 2023, Cabinet agreed that an Order in Council be prepared under section 7 of the Severe Weather Emergency Recovery Legislation Act 2023 (SWERL Act) modifying the application of Resource Management Act 1991, the Public Works Act 1981, the Conservation Act 1977, the Reserves Act 1977, the Freshwater Fisheries Regulations 1983, and the Wildlife Act 1953 [CAB-23-MIN-0256 refers];
- 2 **note** the Minister of Transport as the Minister responsible for the administration of this Order, and the Ministers responsible for the legislation the Order modifies (the Minister of Transport, the Minister for Land Information, the Minister of Conservation, and the Minister for the Environment, acting jointly) are satisfied that:

IN C O N F I D E N C E

- 2.1 the Order is necessary or desirable for 1 or more purposes of the SWERL Act, namely sections 3(1)(a) and (b) and 3(2)(b);
  - 2.2 the extent of the Order is not broader (including geographically broader in application) than is reasonably necessary to address the matters that gave rise to the Order;
  - 2.3 the Order does not breach the restrictions set out in section 11 of the SWERL Act;
  - 2.4 the Order does not limit the rights and freedoms in the New Zealand Bill of Rights Act 1990; and
  - 2.5 the engagement process described in section 9 of the SWERL Act has been complied with;
- 3 **note** the draft Order was reviewed by the Severe Weather Events Recovery Review Panel who considered that the Minister of Transport might reasonably consider the Order to be necessary or desirable. I have had regard to the recommendations and comments provided by the Review Panel, and as a result minor changes to the Order have been made;
  - 4 **note** that as Parliament has been dissolved, the draft Order was provided to each leader of a political party represented in the most recent Parliament, as required by the SWERL Act. I have had regard to the recommendations and comments provided by the Green Party, and as a result one change to the Order has been made;
  - 5 **note** the changes made are minor in nature and I did not consider that it was necessary to repeat the party leader and Review Panel process with regards to subsequent drafts of the Order;
  - 6 **agree** to waive the 28-day rule in order to bring these emergency provisions into effect as quickly as possible, to allow the funding of road recovery works in the relevant severe weather affected areas as soon as possible; and
  - 7 **agree** that the Minister of Transport may recommend the Order in Council Severe Weather Emergency Recovery (Waka Kotahi New Zealand Transport Agency) Order 2023 to the Executive Council and Governor-General for approval.

Hon David Parker  
Minister of Transport

Annex 2 – Proposed Modifications

	What is proposed	Why?
Resource Management Act 1994 (RMA)		
Sections 9, 12, 13, 14 and 15	Modifications to provisions in the RMA requiring a resource consent under sections 9, 12, 13, 14 and 15, that have a status other than that of a permitted activity. Further, that in instances where a consent is required, that these consents are processed as a controlled activity. The detail of the modification mirrors clause 5(2) of the Hurunui/Kaikōura Earthquake Recovery Order 2016 (Kaikōura OiC)	Will ensure currently permitted recovery works under existing Plan documents remain permitted, and any that currently require a consent have a consent sought. Processing consents as controlled activities is intended to provide certainty for all consent applications. This will ensure that all environmental effects managed via consents by the local authority remain able to be managed.
Sections 87A and 104A	Modifications to shorten consent processing timeframes and remove the ability for extensions as provided for in the RMA. All approvals will still be processed by the local authority. The modifications would also ensure that consents sought under these provisions are classified as a “controlled activity” and would provide a suite of conditions that the local authority could impose on the consent. The detail of the modification mirrors clause 6 of the Kaikōura OiC.	To ensure a consistent consent classification, surety of approvals, consistent conditions of granted consents, and consistency with the purpose and intent of the SWERL Act. This modification will also take pressure off councils and stakeholders who are otherwise impacted by the resource consent processes. Conditions have been strengthened based on engagement feedback, particularly with iwi to ensure these achieve the intended management of environmental effects.
Section 88	Modifications to allow desktop assessments of effects of proposals, rather than in-depth investigation. This includes allowing for broader identification of the location and activities being undertaken as part of the recovery works. The detail of the modification mirrors clause 7 of the Kaikōura OiC.	Much of the information currently required by section 88(2) cannot be determined before the recovery works are undertaken (e.g., all activities that will be undertaken cannot be listed without knowing the extent of damage). This modification is intended to ensure works can be undertaken without undue delay.
Sections 95 to 99A, 104, 104A, 105, 107, 108, 115	These modifications: ➤ provide an alternative consent application pathway for works undertaken during a state of emergency, including a reduced timeframe for notices of decision. ➤ retention of the existing limit on notification of controlled activities while adopting a specified consultation process.	The proposed alternative consent pathway ensures works can be undertaken without delay. A specified consultation process balances the need to engage with potentially affected persons with the time pressures imposed by the recovery efforts. The additional modification facilitates streamlined consultation (similar to the fast-track consenting process) as



	An additional modification outlines who must be advised and invited to comment on an application lodged with the consent authority. These modifications mirror detail in clauses 8, 9, 10 and 11 of the Kaikōura OiC.	opposed to the time and resource intensive submission process under the RMA.
Sections 330 to 330C	This modification specifies that where an application for retrospective consent is required for recovery purposes, the same regulatory process for applications made under the Order-in-Council (OiC) can be used. The detail of the modification mirrors clause 12 of the Kaikōura OiC.	This modification ensures consents can be obtained quickly using the OiC process as opposed to the standard RMA process which can require detailed investigation as part of an application.
Sections 87B, 89, 116 and 245	Modifications to streamline processes associated with the reclamation of land and its subsequent use, allowing reclamation consents and subsequent use consents for reclaimed land to be considered simultaneously. The detail of the modification mirrors clause 13 of the Kaikōura OiC.	Currently, reclamation consents are required to be approved and works completed before reclaimed areas can be deemed land, and approvals for land use be obtained. Allowing both consents to be considered simultaneously ensures the process can be completed without delay.
Section 87A	The modification specifies that activities generally required as part of significant recovery works, such as temporary depots, storage facilities, and parking, are permitted activities. The detail of the modification mirrors clause 14 of the Kaikōura OiC.	This ensures ancillary activities associated with the use of land for recovery efforts are included in with the scope of the works, without specific applications or information required.
Section 176A	Modification to remove the requirement to prepare an Outline Plan of Works, allowing the agencies to be more responsive when undertaking recovery works within an existing designation. The detail of the modification mirrors clause 16 of the Kaikōura OiC.	The first modification responds to uncertainty about which activities may be required as part of recovery works within an affected area, as it is unlikely to be practicable to prepare an outline plan prior to works commencing.
Section 180	An additional provision allows a requiring authority to temporarily transfer the rights and responsibilities for a designation to another, to allow relocation of infrastructure within the designation boundaries. This modification is based on a provision in the Natural	The additional provision provides optionality for the agency with the designation to better work with other requiring authorities.



	and Built Environment Act 2023 and was not included in the Kaikōura OiC.	
Section 181	Modification to allow alterations to designations to be applied for and approved after works have been completed, assuming all works are either permitted or have the necessary resource consents, to ensure lawfulness even without the designation in place. There is no obligation in the existing RMA for a designation to be sought before works occur, and the modification ensures that this presumption is expressly retained. The detail of the modification mirrors clause 17 of the Kaikōura OiC.	Where severe weather events have impacted areas within an existing designation, it may be necessary to alter designation boundaries to ensure the agency can undertake all recovery works, including realignment where required. RMA alteration processes can be time and resource intensive; streamlining this is intended to avoid delaying works.
Section 357A	This modification means resource consents issued for the purposes of the recovery works are able to be rationalised, by amalgamating consents for recovery works in the same geographic area. Local authorities would be required to grant amalgamated consents without notification. This is a new modification not provided for in the Kaikōura OiC.	Allowing consents to be amalgamated will ensure that the approvals better reflect operation, reconstruction, and maintenance activities in a post-recovery (rather than recovery) environment.
Conservation Act 1987		
Sections 17N, 17R, 17S, 17SA, 17SB, 17SC, 17SD, 17SE, 17T, 17U, 17W, 17X, 17Y 26ZI, 26ZJ, 26ZJA, 26ZM	<p>Proposed modifications affect the application process for concessions to occupy and use conservation land, and for the transfer of fish and other aquatic life outside the works footprint. Within 50m from the boundary of the state highway corridor the modification provides a suite of standards and conditions to allow agency contractors to quickly understand and comply with what is required of them, on a recovery area wide basis.</p> <p>The modification also includes a specified time frame to allow recovery works requiring direct Ministerial approval to be undertaken with expediency. The modification also removes the effect of general policies, conservation</p>	These modifications, while approval is still required, ensure greater flexibility (in light of the uncertainty associated with most of the necessary activities and location) and certainty for when applications are required, the process to be followed, and the conditions imposed. The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events

	<p>management strategies and management plans from decision-making. The detail of the modification does not mirror clause 19 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed.</p> <p>While timeframes will be included as in 19(5), these are 20 working days not 5 and the obligation to grant is not included. There will continue to be a schedule of conditions to be imposed as per clause 19(6).</p>	
Reserves Act 1977		
Section 59A	<p>Proposed modifications would align the concession process for Crown reserves managed by the Department of Conservation with the amended concession process under the Conservation Act (above), and allow local authorities to permit agencies to temporarily occupy and use reserves they manage. The detail of the modification does not mirror clause 19 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed.</p> <p>While timeframes for decision-making on concessions and approvals will be included as in clause 19(5) of the Kaikōura OiC, these are 20 working days not 5, and the obligation to grant is not included. There will continue to be a schedule of conditions to be imposed as per clause 19(6).</p>	<p>This modification is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.</p>



<p>General modifications to the Reserves Act 1977</p>	<p>The proposed modifications permit the temporary occupation and use by Waka Kotahi of reserves managed by local authorities notwithstanding the status of the reserves. Before granting Waka Kotahi an authorisation, the local authority must be satisfied that the proposed temporary occupation and use is reasonably necessary for recovery work and that conditions imposed reflect certain requirements, for example, to preserve as far as practicable the special features and values of the reserve. If the reserve is vested in the Crown, the Minister of Conservation may give directions to the local authority to not grant, or revoke, an authorisation, or alternatively direct that Waka Kotahi cease to make particular use of the reserve, and the local authority or Waka Kotahi must comply with that direction. The Minister's power to make directions is however subject to specified limitations specified in clause 36(2) of the Order</p>	<p>This will assist Waka Kotahi to temporarily store materials and machinery essential for implementing the recovery works.</p>
<p>Wildlife Act 1953</p>		
<p>Sections 9, 10, 14, 14A, 14AA, 14B, 53, 71</p>	<p>Modifications are proposed to affect both interactions with wildlife and land managed under the Act. For works in corridor where no significant wildlife values are identified, the Order will streamline the approval process for taking, killing and otherwise interacting with wildlife by removing the requirement for an authorisation or approval and instead requiring a suite of conditions to be complied with. Works where significant wildlife values have been identified or are within 50m of the existing corridor still require approval but modifications are proposed to ensure greater certainty for the agencies.</p> <p>For land managed by the Department of Conservation under the Wildlife Act, the modification for the Wildlife Act will mirror the approach for the Conservation Act</p>	<p>The modifications proposed are intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events</p>

	<p>concessions. The detail of the modification does not mirror clauses 25 and 26 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed. While timeframes will be included as in 25(6) and 26(6), these are 20 working days instead of 5, and the obligation to grant is not proposed to be included. There will continue to be a schedule of conditions to be imposed as per clause 25(7) and 26(7).</p>	
Public Works Act 1981		
Section 18, 23, 24, 25, 26	<p>This modification makes land acquisition processes more suited for recovery works where compulsory acquisition is required</p> <p>This modification only applies to land that is outside, but within 50 metres, of a section of state highway affected by a severe weather event and specified in Schedule 1 of the Order, and does not apply to protected Māori land, as defined in the Order.</p> <p>The Minister for Land Information must be of the opinion that it is reasonably necessary for the Crown to acquire compulsorily or take in order for Waka Kotahi to undertake recovery work. Before proceeding with taking any land, the Minister must serve a notice of desire to acquire the interest in land, and make every endeavour to negotiate in good faith with the owner to attempt to reach an agreement for the acquisition of the interest in land.</p> <p>If after a period of 3 months, the owner fails to respond, refuses to negotiate, or no agreement is concluded, the Minister may within one year, notify the owner to</p>	<p>Modification of these obligations will streamline the compulsory acquisition process, enabling the agency to acquire land and undertake recovery works with the speed necessary to respond to the impacts of severe weather events.</p>



	<p>proceed to take the interest in land. The modification changes the requirements to serve notice of an intention to take an interest in land on those who own or have a registered interest in the land. However, the notice must be gazetted and publicly notified.</p> <p>The modifications also remove the ability for these persons to object to the Environment Court to the taking of their land. However, those persons must be given 10 working days from receipt of the notice of intention to make written submissions on the proposed taking, and the Minister for Land Information may only make a recommendation that a proclamation be issued taking the interest in land if the Minister has had regard to those written submissions.</p> <p>A notice of intention to take an interest in land ceases to have effect on the revocation of the Order, unless, before that revocation, a proclamation taking the interest in the land has been published in the <i>Gazette</i>.</p> <p>The modification also removes or alters the requirement for a survey and plan to be prepared and lodged which may not be possible given damage in areas that may affect its ability to be surveyed.</p>	
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THE OFFICIAL INFORMATION ACT 1982

**APPENDIX TWO: CABINET PAPER – Enactment of Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023**

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

Office of the Minister of Transport

Cabinet Business Committee

## **Enactment of Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023**

### **Proposal**

- 1 I seek Cabinet agreement to submit the Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023 (the Order) to the Executive Council and Governor-General for enactment.

### **Executive Summary**

- 2 Cabinet agreed on 26 June 2023 that Orders in Council (Orders) be prepared to modify the application of specified legislation under the Severe Weather Emergency Recovery Legislation Act 2023 (SWERL Act) [EWR-23-MIN-0046, confirmed by CAB-23-MIN-0256 refers]. The Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023 is one of three transport Orders that Cabinet agreed be prepared.
- 3 The second transport Order, the Severe Weather Emergency Recovery (Land Transport Funding) Order 2023, came into force on 1 September 2023. The third transport Order is also being considered by the Cabinet Business Committee at this meeting.
- 4 This Order, which forms part of Tranche 6 Orders, will enable KiwiRail Holdings Limited (KiwiRail) to restore, without undue delay, the sections of railway that are specified in the Order that have sustained damage from the severe weather events.
- 5 As required by the SWERL Act, Te Manatū Waka Ministry of Transport (Ministry of Transport) carried out public engagement from 27 June 2023 to 16 August 2023 on the Order. As part of this engagement, the Ministry of Transport held targeted hui with councils, iwi, hapū and mana whenua.
- 6 While the House was in session, a key element to maintaining the constitutionality of the Orders process was the submission of the draft Order to the Regulations Review Committee, as they provided a balance to the lack of a select committee stage. With the House and the Regulations Review Committee now dissolved, the SWERL Act provides that a copy of draft Orders must be provided instead to the leaders of all parties in the House prior to the dissolution. The Cyclone Recovery Unit has facilitated this process, and one response was received (from the Green Party).
- 7 In addition, as required by the SWERL Act, the Order has also been considered by the Severe Weather Events Recovery Review Panel (the Review Panel).
- 8 I have considered the feedback of the Green Party and the Review Panel in the development of the final Order that I am presenting to Cabinet.
- 9 I am now seeking agreement from the Cabinet Business Committee, acting as the Cabinet Legislation Committee, to submit the attached Order to the Executive Council and Governor-General to enact the policy decisions agreed by Cabinet.

**Order in Council gives effect to Cabinet decisions**

- 10 The attached Order (see **Annex 1**) gives effect to the decisions made by Cabinet on 26 June 2023 that an Order be prepared under section 7 of the SWERL Act [CAB-23-MIN-0256 refers].
- 11 The recent severe weather events have caused substantial damage to the land transport network in the North Island. Significant works will be required over the coming months and years to reinstate rail lines across the affected regions to an appropriate level of service.
- 12 The previously operational rail network from Dannevirke through to Wairoa was no longer able to be used for the movement of trains as a result of the severe weather events. There are also landowners who access their properties via level crossings over the rail network, who are unable to safely do so while the track is so extensively damaged. The economic consequences of the closure of the track for the regions has meant that the movement of freight has transferred to the road network, which in itself is extensively damaged, and therefore the timeliness and efficiency of freight movement is reduced.
- 13 Under current legislation, multiple regulatory processes (resource consent, permissions and authorities under conservation legislation), each with separate and often differing processes, are required to be complied with, which can result in a lengthy and uncoordinated approach to the recovery. Such processes are also often duplicated where temporary solutions are built prior to a permanent solution.
- 14 In a standard process, approvals are typically secured over a two plus year timeframe following extensive design and investigation processes, before works can commence. Some Acts include emergency work provisions already; however these existing provisions are inconsistent between the Acts. Current frameworks are also not established to facilitate recovery from a sudden event which has caused widespread damage that will take an extended time to repair and requires an immediate response and certainty for KiwiRail and the affected community.
- 15 The scale of the damage at two sites, Awatoto and Eskdale Valley, has meant realignment is required, as the current route is no longer viable. This will require land acquisition to be undertaken by the Crown for rail purposes at the request of the New Zealand Railways Corporation and/or KiwiRail. Irrespective of whether the corridor is used for the movement of goods and people, KiwiRail has a responsibility to make the rail corridor safe, which could result in works occurring through to Tairāwhiti.
- 16 If the transport network is unable to recover in an expedited manner, there will be ongoing social and economic impacts for affected communities, regions, and New Zealand more broadly. This is because of the critical role transport plays in moving people, goods and services, and in enabling other sectors (e.g., agriculture, horticulture, and forestry) to flourish.
- 17 The policy intent of the Order is therefore to streamline certain requirements under the Resource Management Act 1991 (RMA), the Public Works Act 1981 (PWA), the Conservation Act 1977 (Conservation Act), the Reserves Act 1977 (Reserves Act), the Freshwater Fisheries Regulations 1983, the Wildlife Act 1953 (Wildlife Act), the Railways Act 2005 and the New Zealand Railways Corporation Act 1981, that apply to recovery activities in respect of the damaged sections of railway specified in the Order. This is intended to facilitate recovery works in a timely and efficient manner



and reduce the diversion of resources away from the effort to efficiently respond to the damage caused by the severe weather events.

18 Cabinet agreed that the Order will be revoked on the close of 31 March 2028.

19 The modifications proposed are set out in **Annex 2**.

### Engagement on the Order

20 Sections 8 and 9 of the SWERL Act require that I must undertake engagement on the proposed Order before I can recommend that it is made.

21 The Ministry of Transport consulted on the proposed policy changes in the Order on my behalf for 36 working days from 27 June 2023 to 16 August 2023 (the minimum period required under the SWERL Act being 3 working days).

22 The Schedule to the Order specifies the location of the sections of railway land affected by severe weather events. Engagement was targeted to local authorities, iwi, hapū and mana whenua in those affected areas. In addition, the Ministry of Transport engaged with local authorities not directly affected by the proposals, via email and invitations to online hui. Information about the proposed changes was also posted on the Ministry of Transport's website.

23 Relevant local authorities received written correspondence and an engagement document on 28 June 2023. Invitations were issued to local authorities to hui which were held on 29 June and 3 July, and meeting materials were sent on 5 July 2023.

24 Relevant iwi, hapū, and mana whenua received written correspondence and an engagement document on 29 June 2023. Invitations were issued to relevant iwi, hapū, and mana whenua for hui (online for all groups and kanohi ki te kanohi in Tairāwhiti) were held on 3, 4, 5, 6 and 7 July 2023, with meeting materials sent on 5 July 2023. The engagement document invited written feedback on the proposed Order by 10 July 2023.

25 After the initial round of engagement, an additional kanohi ki te kanohi meeting was held with Ngāti Kahungunu in Heretaunga on 10 August 2023 and an additional online hui with Toitu Tairāwhiti on 16 August 2023.

26 Feedback on the proposals was invited during the online and kanohi ki te kanohi hui.

27 An exposure draft of the Order was also sent to relevant local authorities, Ngāti Kahungunu and Toitu Tairāwhiti.

28 No feedback was received during any of the engagement sessions that was fundamentally opposed to the Order being proposed, with most parties recognising the inherent value in the Order to help reconnect communities in a timely fashion. The key discussions revolved around how the balance was struck between truncating a process, and preserving rights for parties to be involved, as well as managing effects on the environment (both natural and physical) arising from the works.

29 The discussions covered much of the controls proposed to be put in place through the Order, and the areas of specific interest to the parties in the hui. For local authorities, this was often around the ability to influence conditions and the retention of enforcement powers. For iwi this was often around the relationship and the need for a strong relationship foundation, as well as partnership with local iwi to ensure

that the right protocols were followed and that the outcomes delivered matched the intention from the beginning.

- 30 The feedback received from all engagements resulted in changes being made to the Order to include a restriction on the ability to use the PWA truncated powers in relation to 'protected Māori land' as defined in the PWA, and strengthened conditions imposed via the schedules to the Order, in particular in relation to the Kaitiaki Advisor role.

### Compliance

- 31 The Order complies with each of the following:
- 31.1 the principles of the Treaty of Waitangi;
  - 31.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 31.3 the principles and guidelines set out in the Privacy Act 2020;
  - 31.4 relevant international standards and obligations; and
  - 31.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### *Compliance with the SWERL Act*

- 32 Under section 8 of the SWERL Act, the Minister of Transport as the Minister responsible for the administration of the Order, and the Ministers responsible for the legislation the Order modifies (the Minister of Transport, the Minister of Finance, the Minister for Land Information, the Minister of Conservation, and the Minister for the Environment, acting jointly) are required to be satisfied of certain matters before recommending the making of an Order: We are satisfied that:
- 32.1 This Order is necessary or desirable for meeting the purpose of the SWERL Act set out in sections 3(1) and (2) of that Act, in particular, section 3(2)(b)(i) - supporting the operation of other legislation and enabling it to operate more flexibly to take account of the severe weather events.
  - 32.2 The extent of the Order (including geographical extent) is not broader than is reasonably necessary to address the matters that gave rise to the Order. The Order will be in place for a limited period, and its application is also limited geographically.
  - 32.3 The Order does not breach the restrictions set out in section 11 of the SWERL Act.
  - 32.4 The Order does not limit the rights and freedoms in the New Zealand Bill of Rights Act 1990.
  - 32.5 The engagement process described in section 9 of the SWERL Act has been complied with. The details of the engagement are provided in paragraphs to 15.

- 32.6 The effects on the environment of any controls provided for in the Order, and whether those controls avoid, remedy, or mitigate any adverse effects, have been considered as required by section 8(1)(e) of the SWERL Act, as detailed in paragraphs 33 to 35.

### Effects on the Environment

- 33 Section 8(1)(e) of the SWERL Act requires the relevant Minister, if the order relates to the RMA, to consider the effects on the environment of any controls provided for in the order, and whether those controls avoid, remedy, or mitigate any adverse effects. The works to be undertaken under the Order will have an impact on the environment as the Order establishes processes for resource consents and alterations to designations. The consent conditions listed in Schedules 2 and 3 are intended to avoid, remedy, or mitigate adverse effects of the recovery work, and reflect similar infrastructure construction resource consent or designation conditions.
- 34 Each process has in-built environmental checks and balances, including:
- 34.1 any resource consent application must include a high-level consideration of the potential effects;
  - 34.2 imposing an obligation for KiwiRail to engage with certain parties to gain an understanding of the impacts of the proposed works on those parties and to appropriately respond through design, construction, and/or condition changes; and
  - 34.3 additional layers of environmental protection, over and above what is currently provided in the emergency works provisions (sections 330 to 330C of the RMA).
- 35 With regard to temporary depots and storage facilities, the Order provides that the relevant territorial authority may put requirements on noise control and to avoid, remedy, and mitigate other environmental effects.

### Provision of the Order to each leader of a political party

- 36 The draft Order was provided to each leader of a political party constituting the 53<sup>rd</sup> Parliament on 12 September 2023. Only the leaders of the Green Party responded, on 15 September 2023. As a result of consideration of that feedback, an amendment has been made to clause 6(1) of the Order by deleting a reference to clause 87A(6) of the RMA being modified, which references prohibited activities. Section 87A(6) should not be captured by the modifications as this was specifically not agreed to by EWR.

### Severe Weather Events Recovery Review Panel (the Review Panel)

- 37 The Review Panel considered the draft Order on 15 September 2023.
- 38 The Review Panel considered that based on the information before the Panel, the Minister of Transport might reasonably consider the Order to be necessary or desirable.
- 39 The Review Panel recommended that the Order may benefit from some clarifications:

39.1 Clarifying the nature and policy intent behind clauses 9 to 11 and clause 12 of the Order, perhaps through additions to Statements of Reasons and explanatory notes.

39.2 Making clear the definition of Protected Māori land that is being relied upon through a cross reference to the PWA and the Infrastructure Funding and Financing Act 2020.

40 The Review Panel's recommendations have been reflected in the Order.

41 While changes to the draft Order have been made as a result of the comments made by the Green Party and the Review Panel, these changes are minor in nature and I did not consider that it was necessary to repeat the party leader and Review Panel process with regards to subsequent drafts of the Order.

#### **Certification by Parliamentary Counsel**

42 Parliamentary Counsel has certified that the Order is in order for submission to Cabinet, subject to waiver of the 28-day rule and to the Order being made and then notified in the Gazette on 5 October 2023, with the Order coming into force on 6 October 2023.

#### **Regulatory Impact Statement**

43 A Regulatory Impact Statement was prepared in accordance with the necessary requirements and was submitted at the time the Cabinet approval was sought for the policy relating to the Order [CAB-23-MIN-0256 refers].

#### **Consultation**

44 The Ministry for the Environment, the Department of Conservation, Crown Law, Te Arawhiti, Land Information New Zealand, the Department of Internal Affairs, the Ministry for Housing and Urban Development, the Ministry for Primary Industries, Te Puni Kokiri, Treasury, KiwiRail, and the Department of Prime Minister and Cabinet have been consulted on this paper.

#### **Treaty Impact Analysis**

45 Officials undertook a multi-phased approach to engagement with Māori on the Order outlined in this paper, to provide opportunities for Māori participation in the process in accordance with the statutory requirements under the SWERL Act and their rights under Te Tiriti o Waitangi.

46 The engagement period extended significantly beyond the minimum statutory requirement as the Ministry sought to develop the proposals in the most Treaty compliant way possible within the circumstances. No modifications to Te Ture Whenua Māori Act 1993 are proposed as part of this Order.

47 The engagement approach for the transport Orders led by the Ministry of Transport included statutory engagement and continued post-engagement hui and contact. Iwi, hapū and Post-Settlement Governance Entities (PSGEs), were invited to participate. This process was run to better understand the depth and breadth of Māori needs, interests, and aspirations regarding the recovery and ensure we had a shared understanding of the problems this Order was intended to address, Māori views of the proposed solutions and any alternate solutions identified by Māori, including not



only the nature of the modifications, but also their geographic extent and the condition arrangement at implementation to ensure these solutions continued to be implemented as intended.

- 48 The Ministry of Transport supplied copies of the draft Order to iwi who had expressed an interest in the detail and have continued to engage in relation to conditions as these have developed. It is important to note that this proposal overrides the application of the National Policy Statement for Freshwater Management (NPS-FM) in specific resource consent decision-making processes. The NPS-FM is a key part of government response to the Waitangi Tribunal's findings on Māori rights and interests in freshwater, therefore, there is a risk that overriding it may undermine the Crown's role as a Treaty partner. It may also potentially diminish the intent of statutory acknowledgements for PSGEs (and iwi and hapū covered by settlements).
- 49 However, I consider that the proposed Order uphold Treaty settlement commitments and broader Māori rights and interests through mechanisms such as specific rights of participation throughout decision-making and implementation processes, and the specific protections for culturally significant land, which includes statutory acknowledgement areas, statutory overlay areas, wāhi tapu and whenua Māori.
- 50 The Ministry of Transport considers that the proposed Order provides some opportunities for the recognition of Māori rights and interests in the environment in the severely weather effects regions. However, it will be important at implementation that Māori rights and interests continue to be recognised and provided for.

### Communications

- 51 The enacted Order will be available on the Ministry of Transport's website. The Ministry of Transport will communicate the enactment to relevant stakeholders.

### 28-day rule

- 52 I propose that the 28-day rule be waived and the Order take effect on 6 October 2023. This is intended to bring these emergency provisions into effect as quickly as possible and enable recovery works to commence without delay in order to provide relief and certainty to affected people and communities.

### Proactive release

- 53 I intend to release this paper when all three of the transport Orders in Council are in force as there was one policy Cabinet paper for these Orders. This release will be subject to appropriate redactions under the Official Information Act 1982.

### Recommendations

I recommend that Cabinet:

- 1 **note** that on 26 June 2023, Cabinet agreed that an Order in Council be prepared under section 7 of the Severe Weather Emergency Recovery Legislation Act 2023 (SWERL Act) modifying the application of Resource Management Act 1991, the Public Works Act 1981, the Conservation Act 1977, the Reserves Act 1977, the Freshwater Fisheries Regulations 1983, the Wildlife Act 1953, the Railways Act 2005 and the New Zealand Railways Corporation Act 1981 [CAB-23-MIN-0256 refers];

- 2 **note** the Minister of Transport, as the Minister responsible for the administration of this Order, and the Ministers responsible for the legislation the Order modifies (the Minister of Transport, the Minister of Finance, the Minister for Land Information, the Minister of Conservation, and the Minister for the Environment, acting jointly) are satisfied that:
- 2.1 the Order is necessary or desirable for 1 or more purposes of the SWERL Act, namely sections 3(1)(a) and (b) and 3(2)(b);
  - 2.2 the extent of the Order is not broader (including geographically broader in application) than is reasonably necessary to address the matters that gave rise to the Order;
  - 2.3 the Order does not breach the restrictions set out in section 11 of the SWERL Act;
  - 2.4 the Order does not limit the rights and freedoms in the New Zealand Bill of Rights Act 1990; and
  - 2.5 the engagement process described in section 9 of the SWERL Act has been complied with;
- 3 **note** the draft Order was reviewed by the Severe Weather Events Recovery Review Panel who considered that the Minister of Transport might reasonably consider the Order to be necessary or desirable. I have had regard to the recommendations and comments provided by the Review Panel, and as a result minor changes to the Order have been made;
- 4 **note** that as Parliament has been dissolved, the draft Order was provided to each leader of a political party represented in the most recent Parliament, as required by the SWERL Act. I have had regard to the recommendations and comments provided by the Green Party, and as a result one change has been made to the Order;
- 5 **note** the changes made are minor in nature and I did not consider that it was necessary to repeat the political party and Review Panel process with regards to subsequent drafts of the Order;
- 6 **agree** to waive the 28-day rule in order to bring these emergency provisions into effect as quickly as possible, to allow KiwiRail Holdings Limited to undertake rail recovery works in the relevant severe weather affected areas as soon as possible; and
- 7 **agree** that the Minister of Transport may recommend the Order in Council Severe Weather Emergency Recovery (KiwiRail Holdings Limited) Order 2023 to the Executive Council and Governor-General for approval.

Hon David Parker

Minister of Transport

## Annex 2 – Proposed Modifications

	What is proposed	Why?
Resource Management Act 1994 (RMA)		
Sections 9, 12, 13, 14 and 15	Modifications to provisions in the RMA requiring a resource consent under sections 9, 12, 13, 14 and 15, that have a status other than that of a permitted activity. Further, that in instances where a consent is required, that these consents are processed as a controlled activity. The detail of the modification mirrors clause 5(2) of the Hurunui/Kaikōura Earthquake Recovery Order 2016 (Kaikōura OIC).	Will ensure currently permitted recovery works under existing Plan documents remain permitted, and any that currently require a consent have a consent sought. Processing consents as controlled activities is intended to provide certainty for all consent applications. This will ensure that all environmental effects managed via consents by the local authority remain able to be managed.
Sections 87A and 104A	Modifications to shorten consent processing timeframes and remove the ability for extensions as provided for in the RMA. All approvals will still be processed by the local authority. The modifications would also ensure that consents sought under these provisions are classified as a “controlled activity” and would provide a suite of conditions that the local authority could impose on the consent. The detail of the modification mirrors clause 6 of the Kaikōura OIC.	To ensure a consistent consent classification, surety of approvals, consistent conditions of granted consents, and consistency with the purpose and intent of the SWERL Act. This modification will also take pressure off councils and stakeholders who are otherwise impacted by the resource consent processes. Conditions have been strengthened based on engagement feedback, particularly with iwi to ensure these achieve the intended management of environmental effects.
Section 88	Modifications to allow desktop assessments of effects of proposals, rather than in-depth investigation. This includes allowing for broader identification of the location and activities being undertaken as part of the recovery works. The detail of the modification mirrors clause 7 of the Kaikōura OIC.	Much of the information currently required by section 88(2) cannot be determined before the recovery works are undertaken (e.g., all activities that will be undertaken cannot be listed without knowing the extent of damage). This modification is intended to ensure works can be undertaken without undue delay.
Sections 95 to 99A, 104, 104A, 105, 107, 108, 115	These modifications: <ul style="list-style-type: none"> <li>➤ provide an alternative consent application pathway for works undertaken during a state of emergency, including a reduced timeframe for notices of decision.</li> <li>➤ retention of the existing limit on notification of controlled activities while adopting a specified consultation process.</li> </ul>	The proposed alternative consent pathway ensures works can be undertaken without delay. A specified consultation process balances the need to engage with potentially affected persons with the time pressures imposed by the recovery efforts. The additional modification facilitates streamlined consultation (similar to the fast-track consenting process) as



	An additional modification outlines who must be advised and invited to comment on an application lodged with the consent authority. These modifications mirror detail in clauses 8, 9, 10 and 11 of the Kaikōura OiC.	opposed to the time and resource intensive submission process under the RMA.
Sections 330 to 330C	This modification specifies that where an application for retrospective consent is required for recovery purposes, the same regulatory process for applications made under the Order-in-Council (OiC) can be used. The detail of the modification mirrors clause 12 of the Kaikōura OiC.	This modification ensures consents can be obtained quickly using the OiC process as opposed to the standard RMA process which can require detailed investigation as part of an application.
Sections 87B, 89, 116 and 245	Modifications to streamline processes associated with the reclamation of land and its subsequent use, allowing reclamation consents and subsequent use consents for reclaimed land to be considered simultaneously. The detail of the modification mirrors clause 13 of the Kaikōura OiC.	Currently, reclamation consents are required to be approved and works completed before reclaimed areas can be deemed land, and approvals for land use be obtained. Allowing both consents to be considered simultaneously ensures the process can be completed without delay.
Section 87A	The modification specifies that activities generally required as part of significant recovery works, such as temporary depots, storage facilities, and parking, are permitted activities. The detail of the modification mirrors clause 14 of the Kaikōura OiC.	This ensures ancillary activities associated with the use of land for recovery efforts are included in with the scope of the works, without specific applications or information required.
Section 176A	Modification to remove the requirement to prepare an Outline Plan of Works, allowing the agencies to be more responsive when undertaking recovery works within an existing designation. The detail of the modification mirrors clause 16 of the Kaikōura OiC.	The first modification responds to uncertainty about which activities may be required as part of recovery works within an affected area, as it is unlikely to be practicable to prepare an outline plan prior to works commencing.
Section 180	An additional provision allows a requiring authority to temporarily transfer the rights and responsibilities for a designation to another, to allow relocation of infrastructure within the designation boundaries. This modification is based on a provision in the Natural	The additional provision provides optionality for the agency with the designation to better work with other requiring authorities.



	and Built Environment Act 2023 and was not included in the Kaikōura OiC.	
Section 181	Modification to allow alterations to designations to be applied for and approved after works have been completed, assuming all works are either permitted or have the necessary resource consents, to ensure lawfulness even without the designation in place. There is no obligation in the existing RMA for a designation to be sought before works occur, and the modification ensures that this presumption is expressly retained. The detail of the modification mirrors clause 17 of the Kaikōura OiC.	Where severe weather events have impacted areas within an existing designation, it may be necessary to alter designation boundaries to ensure the agency can undertake all recovery works, including realignment where required. RMA alteration processes can be time and resource intensive; streamlining this is intended to avoid delaying works.
Section 357A	This modification means resource consents issued for the purposes of the recovery works are able to be rationalised, by amalgamating consents for recovery works in the same geographic area. Local authorities would be required to grant amalgamated consents without notification. This is a new modification not provided for in the Kaikōura OiC.	Allowing consents to be amalgamated will ensure that the approvals better reflect operation, reconstruction, and maintenance activities in a post-recovery (rather than recovery) environment.
Conservation Act 1987		
Sections 17N, 17R, 17S, 17SA, 17SB, 17SC, 17SD, 17SE, 17T, 17U, 17W, 17X, 17Y 26ZI, 26ZJ, 26ZJA, 26ZM	<p>Proposed modifications affect the application process for concessions to occupy and use conservation land, and for the transfer of fish and other aquatic life outside the works footprint. Within 50m from the boundary of the rail corridor the modification provides a suite of standards and conditions to allow agency contractors to quickly understand and comply with what is required of them, on a recovery area wide basis.</p> <p>The modification also includes a specified time frame to allow recovery works requiring direct Ministerial approval to be undertaken with expediency. The modification also removes the effect of general policies, conservation</p>	These modifications, while approval is still required, ensure greater flexibility (in light of the uncertainty associated with most of the necessary activities and location) and certainty for when applications are required, the process to be followed, and the conditions imposed. The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events

	<p>management strategies and management plans from decision-making.</p> <p>The detail of the modification does not mirror clause 19 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed. While timeframes will be included as in 19(5), these are 20 working days not 5 and the obligation to grant is not included. There will continue to be a schedule of conditions to be imposed as per clause 19(6).</p>	
Reserves Act 1977		
Section 59A	<p>Proposed modifications would align the concession process for Crown reserves managed by the Department of Conservation with the amended concession process under the Conservation Act (above), and allow local authorities to permit agencies to temporarily occupy and use reserves they manage.</p> <p>The detail of the modification does not mirror clause 19 of the Kaikōura OiC in its entirety, reflecting challenges with implementation of the Kaikōura OiC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed.</p> <p>While timeframes for decision-making on concessions and approvals will be included as in clause 19(5) of the Kaikōura OiC, these are 20 working days not 5, and the obligation to grant is not included. There will continue to be a schedule of conditions to be imposed as per clause 19(6).</p>	<p>This modification is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.</p>



General modifications to the Reserves Act 1977	<p>The proposed modifications permit the occupation and use by KiwiRail of reserves managed by local authorities notwithstanding the status of the reserves. Before granting KiwiRail an authorisation, the local authority must be satisfied that the proposed temporary occupation and use is reasonably necessary for recovery work and that conditions imposed reflect certain requirements, for example, to preserve as far as practicable the special features and values of the reserve.</p> <p>If the reserve is vested in the Crown, the Minister of Conservation may give directions to the local authority to not grant, or revoke, an authorisation, or alternatively direct that KiwiRail cease to make particular use of the reserve, and the local authority or KiwiRail must comply with that direction. The Minister's power to make directions is however subject to specified limitations specified in clause 36(2) of the Order.</p>	This will assist KiwiRail to temporarily store materials and machinery essential for implementing the recovery works.
Wildlife Act 1953		
Sections 9, 10, 14, 14A, 14AA, 14B, 53, 71	<p>Modifications are proposed to affect both interactions with wildlife and land managed under the Act. For works in corridor where no significant wildlife values are identified, the Order will streamline the approval process for taking, killing and otherwise interacting with wildlife by removing the requirement for an authorisation or approval and instead requiring a suite of conditions to be complied with. Works where significant wildlife values have been identified or are within 50m of the existing corridor still require approval but modifications are proposed to ensure greater certainty for the agencies.</p> <p>For land managed by the Department of Conservation under the Wildlife Act, the modification for the Wildlife Act will mirror the</p>	The modifications proposed are intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events

	<p>approach for the Conservation Act concessions.</p> <p>The detail of the modification does not mirror clauses 25 and 26 of the Kaikōura OIC in its entirety, reflecting challenges with implementation of the Kaikōura OIC provisions, the different scale and diversity of social and physical environments in which recovery works are needed, and agreement reached with the Department of Conservation as to the approach proposed. While timeframes will be included as in 25(6) and 26(6), these are 20 working days instead of 5, and the obligation to grant is not proposed to be included. There will continue to be a schedule of conditions to be imposed as per clause 25(7) and 26(7).</p>	
Public Works Act 1981		
Section 18, 23, 24, 25, 26	<p>This modification makes land acquisition processes more suited for recovery works where compulsory acquisition is required. This modification is to only apply at two sites of the listed works, where KiwiRail have confirmed land acquisition of freehold and lesser interests in land is required. These areas are the area surrounding Awatoto Bridge and the Eskdale Valley. The modified provisions do not apply to protected Māori land, as defined in the Order.</p> <p>The Minister for State Owned Enterprises must be of the opinion that it is reasonably necessary for the Crown to acquire compulsorily or take in order for KiwiRail to undertake recovery work. Before proceeding with taking any land, the Minister must serve a notice of desire to acquire the interest in land, and make every endeavour to negotiate in good faith with the owner to attempt to reach an agreement for the acquisition of the interest in land. If after a period of 3 months, the owner fails to respond, refuses to negotiate, or no</p>	<p>Modification of these obligations will streamline the compulsory acquisition process, enabling the agency to acquire land and undertake recovery works with the speed necessary to respond to the impacts of severe weather events.</p>



	<p>agreement is concluded, the Minister may, within one year, notify the owner that the Minister is proceeding to take the interest in land.</p> <p>The modification also changes the requirements to serve notice of an intention to take an interest in land on those who own or have a registered interest in the land and removes the ability for these persons to object to the taking of their land. However, the notice must be gazetted and publicly notified. The modifications also remove the ability of these persons to object to the Environment Court to the taking of their land. However, those persons must be given 10 working days from receipt of the notice of intention to make written submissions on the proposed taking, and the Minister for State Owned Enterprises may only make a recommendation that a proclamation be issued taking the interest in land if the Minister has had regard to those written submissions.</p> <p>A notice of intention to take an interest in land ceases to have effect on the revocation of the Order, unless, before that revocation, a proclamation taking the interest in the land has been published in the <i>Gazette</i>.</p> <p>The modification also removes or alters the requirement for a survey and plan to be prepared and lodged which may not be possible given damage in areas that may affect its ability to be surveyed.</p>	
Railways Act 2005		
Sections 77 and 78	<p>This modification ensures that trees / hedges can be trimmed or removed for the safety of the railway as soon as possible. The ability to object to the notice is removed and the time for the owner to comply to be reduced to 10 working days from</p>	<p>The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.</p>

	20. This modification was not provided for in the Kaikōura OiC.	
Section 86	This modification seeks to include provisions that apply to all railway infrastructure and need to apply to repair, upgrade and rebuild rather than just inspecting, operating or operation, to ensure that the repair and recovery from the severe weather events is enabled. This modification was not provided for in the Kaikōura OiC.	The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.
New Zealand Railways Corporation Act 1981		
Section 14	The modification seeks to enable, to the extent there needs to be any temporary closure of a railway line to traffic, that this is approved in the OiC. This modification was not provided for in the Kaikōura OiC.	The provision is intended to allow recovery works to be undertaken without needing to follow the typical process for temporary line closure, so works can proceed with the necessary expediency to respond to the impacts of severe weather event.
Section 31	This modification ensures that trees / hedges can be trimmed or removed for the safety of the railway as soon as possible. The ability to object to the notice is removed and the time for the owner to comply to be reduced to 10 working days from one month. This modification was not provided for in the Kaikōura OiC.	The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.
Section 48	The modification proposed ensures that the Corporation can temporarily close a branch / siding immediately upon notice to the owner or manager. This modification was not provided for in the Kaikōura OiC.	The provision is intended to allow recovery works to be undertaken with the necessary expediency to respond to the impacts of severe weather events.

**APPENDIX THREE: Green Party feedback and officials' response**

<b>Feedback outlined in Green Party Leaders letter</b>	<b>Te Manatu Waka response / sction</b>
Part 1: Modifications to the RMA:	
The Green Party questioned why a truncated RMA process which overrides key elements of the RMA needs to apply for 4 ½ years until March 2028	TREC (Alliance for Tairāwhiti and East Coast recovery for both road and rail) are anticipating 5-7 years of works for recovery.  EWR agreed to duration of Orders (Recommendation 17).
The Green Party also believes that controlled activity status should only apply to discretionary activities; and not non-complying or prohibited activities. Activities with this status require a detailed assessment of adverse effects and the ability for the consent authority to apply conditions without this being rejected by KiwiRail.	Controlled activity status is not expected to apply to prohibited activities, although it is to non-complying to allow for all necessary works to be able to be undertaken at the same time.  Clause 6(1) amends s87A(6) which is the restriction on applications for prohibited activities. Section 87A(6) should not be captured by the modifications as this was not agreed to by EWR, and we have sought amendment to this.  EWR agreed to applications being for controlled activities, and that it did not extend to prohibited activities (Recommendation 11(a)).
The Green Party considers the sections of railway to which the Order applies are broadly scoped to include "land associated with any railway land" and that means that earthworks and water management may affect extensive areas with limited assessment of adverse effects and limitations on the ability to avoid, remedy or mitigate adverse effects through consent conditions.	Any applications under the orders require environmental effects to be assessed (clause 7(2)(c)) and for proposals to avoid, remedy or mitigate those effects (clause 7(2)(d)). This applies to all effects from the works, not just those effects within the land subject to the application (e.g. downstream flooding effects are captured). Conditions imposed apply to the works and are specifically to ensure effects are appropriately managed.  EWR agreed that conditions would avoid, remedy or mitigated adverse environmental effects (Recommendation 11(c)).
With regard to clauses 6(3), 10(4)(b) and clause 13, the Green Party does not support conditions being only able to be	Greater risk of compliance and environmental effect mitigation is achieved for large scale, emergency event response



recommended by the consent authority and must be agreed by KiwiRail, as this gives too much power to KiwiRail. The independence of the consent authority is fundamental to RMA decision making and an important check on applicants in the consenting regime. The Green Party seeks changes to the Order for that the consent authority retains a final decision making power over consent conditions after the process in clauses 10 and 13 has been followed.	works that span multiple local government authorities where there is consistency between them. This enables machinery and work crews to do the same tasks anywhere in the event area without new protocols or documents being developed.  EWR agreed to this decision-making approach (Recommendation 11(c)).
With regard to clause 6(4), the Green Party does not support the limitations on the consent authority's ability to "recommend" conditions and the omission of any ability to set conditions related to section 7(f) matters – "the maintenance and enhancement of the quality of the environment" especially as this related to indigenous biodiversity.	Management of effects on indigenous vegetation and indigenous fauna habitats are matters that the consent authority can recommend conditions in relation to (clause 6)(4)(a)(ii)).
The Green Party consider that clause 7 means that the normal environmental assessment process under section 88 does not apply and a truncated process is used instead. It is unclear from the definition of "recovery work" in clause 4 whether this encompasses all of the work proposed on the sections of railway line in Schedule 1 and exactly what work would require a normal effects assessment under section 88.	The intention is all of the necessary approvals associated with the recovery of the sections of rail line / road in Schedule 1 of the orders is able to be sought under the orders.  Where normal processes are adopted is where the location extended beyond 50m (in the case of Waka Kotahi) or extends beyond the areas identified in Schedule 1.
The Green Party supports the requirement in clause 11(2) that a summary of the comments on the application to be published on the consent authority's website before or at the same time as the consent is issued. However the Party seeks a further provision to require the application and supporting documents and the decision (including conditions) to also be published in the interests of public accountability and transparency.	This information is publicly accessible information under the LGOIMA, and many Councils practice is to make this publicly available.
The Green Party considers that the Order substantially weakens the application of the RMA, Conservation and Reserves Act, and the checks on environmental impacts. The Green Party recommend the Order should	The NBA was not an Act at the time the SWERLA was enacted and is therefore unable to be modified by the Order(to allow it to apply now. Offsetting and compensation do not fall within the scope of the RMA for



apply the principles in Schedule 3 of the Natural and Built Environment Bill [Act] for biodiversity offsetting and biodiversity compensation, or the principles for biodiversity offsetting and compensation in Appendices 3 and 4 of the National Policy Statement on Indigenous Biodiversity.	environmental effect management. No Cabinet approval has been sought to extend the approach from avoid, remedy or mitigate to include offsetting and compensation. Such an approach is one that could be agreed between the consent authority and the agency on a case by case basis as the order does not preclude that.
<b>Part 2: Modifications to Public Works Act</b>	
The Green Party do not support removing the ability for landowners to challenge compulsory acquisition in the Environment Court for recovery works, as private land being taken by the State is a significant act	For Waka Kotahi the rights are for temporary interests only. For KiwiRail the powers are at the two specific locations where works cannot occur in the existing corridor.  EWR agreed that modifications to the objection process could occur (Recommendation 14).
<b>Part 3: Modifications to Conservation Act and Reserves Act</b>	
The Green Party seeks to delete clause 30(6) which prevents the application of any conservation policy, management strategy or management plan that would otherwise apply to a conservation area or Crown reserve, as conservation land is public land and these documents are developed through a public consultation process. Analysis of these documents and the application of the policies should not unduly delay decision-making.	Disapplying the specified planning documents is necessary as some aspects of recovery uses may be contrary to these documents.
<b>Part 6: Modification to the Wildlife Act</b>	
The Green Party is uneasy about the waiver of requirements for authority to take or kill wildlife or do anything in respect of protected wildlife and the potential carte blanche this gives to KiwiRail. If the clauses proceed, additional provisions are needed to require KiwiRail and the Department of Conservation to publish on a website the details of every waiver or similar authorisation.	The waiver for wildlife only applies in relation to works physically located within existing legal corridors, where it has been accepted that the likelihood of wildlife is reduced (these being already disturbed environments either by the presence of the asset or the severe weather events). The waiver process is not applicable outside of legal road or rail boundaries or where significant wildlife values have been previously identified.  The waiver process is also not automatic and the Department of Conservation is required to be satisfied that the conditions can be complied with and no significant

	<p>values exist in that location – even if located within existing legal boundaries.</p> <p>Current DOC practice is that while information on authorities is publicly available, it is not actively published on their website.</p> <p>This two-step process was agreed to by EWR (Recommendation 12).</p>
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THE OFFICIAL INFORMATION ACT 1982



21 September 2023

Hon David Parker

**Minister of Transport**

Cc Hon Grant Robertson

**Minister of Finance**

Cc Hon Duncan Webb

**Minister for State Owned Enterprises**

## **AIDE MEMOIRE: UPDATED LETTERS TO KIWI RAIL, WAKA KOTAHI AND COUNCILS ON THE RAPID REVIEW**

**To:** HON DAVID PARKER, MINISTER OF TRANSPORT

**From:** JACOB ENNIS, ACTING MANAGER, SUPPLY CHAIN

**Date:** 21 SEPTEMBER 2023

**OC Number:** OC230836

### **Key points**

- 1 You recently considered draft letters to KiwiRail. Waka Kotahi and councils on the Rapid Review [OC230799]. <sup>s 9(2)(f)(iv)</sup>

- 2 This aide memoire provides you with an updated letter to convey this expectation to KiwiRail. This will give the Ministry a mandate to pursue the matter with KiwiRail and gain further information to support later advice. We have also incorporated your feedback on the previous draft letter to KiwiRail.

*Reprioritisation opportunities are needed to fund the Rail Network Rebuild shortfall*

- 3 In preparation for the opening of the City Rail Link (CRL), KiwiRail has been undertaking a major upgrade of the Auckland rail network under the RNR programme. Similarly, multiple rail network improvement projects are underway in Wellington as part of the Wellington Metro Upgrade Programme (WMUP).
- 4 In August 2023, Waka Kotahi considered cost scope adjustments, requiring an additional \$234 million for the RNR and \$130 million for the WMUP. Waka Kotahi approved the funding of \$75 million for the RNR programme and \$10 million for the

WMUP. This has left a gap of \$159 million for the RNR programme and \$120 million for the WMUP still to be sourced from elsewhere.

5

s 9(2)(g)(i)

6

7

We recommend you make clear to KiwiRail that they are to work with the Ministry and Waka Kotahi to look at reprioritisation opportunities to fund the RNR shortfall.

8

s 9(2)(g)(i)

*Letters have also been updated for Waka Kotahi, councils and the Rapid Review reviewers*

9

We have also updated the letters to councils and the Rapid Review reviewers, incorporating your feedback. We have also made a minor change to the letter to Waka Kotahi, which mentioned a briefing on funding pressures facing the rail regulatory programme that has since been pulled back. Hence, we have updated the letter accordingly.

#### Attachments

1. Updated letter to KiwiRail
2. Updated letter to Waka Kotahi
3. Updated letter to councils
4. Updated letter to the Rapid Review reviewers

#### Contacts

Name	Telephone	First contact
Seona Ku, Principal Advisor, Supply Chain	s 9(2)(a)	✓
Jacob Ennis, Acting Manager, Supply Chain		





Wayne Donnelly  
Chair, Auckland Transport  
wayne.donnelly@at.govt.nz

Dear Wayne

### **Rapid Review into KiwiRail**

You will be aware that the Government launched a Rapid Review into KiwiRail in May 2023, following the major disruptions on the Wellington metro rail networks because of KiwiRail's EM80 track evaluation car being unavailable to inspect railway tracks.

We understand that the reviewers undertook in-depth interviews with key people from your organisation, and from those of your contracted passenger rail operator, and that they appreciated the responsiveness and openness shown.

We, the sponsoring Ministers of the Rapid Review, have considered the findings and recommendations of the Rapid Review, that is now published on the Ministry of Transport's website (<https://www.transport.govt.nz/assets/Uploads/Report-into-Rapid-Review-of-KiwiRail-Passenger-Services.pdf>).

While the Rapid Review identified the operational causes that led to the EM80 failure, it more importantly identified broader system issues, that contributed to the incident, especially in the areas of governance, funding settings, and system-level objectives for rail. We have directed the Ministry of Transport to lead a review of the Metropolitan Rail Operating Model, considering those system level issues.

Metro rail is growing in scale and complexity. It is an increasingly important part of the transport system to reduce emissions and achieve urban development objectives. Improving passenger experience should be front of mind of all parties involved in running the metro rail system.

We understand that the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council are using the Metro Rail System Standing Group (MRSSG) as the forum to co-ordinate and monitor the implementation of the review recommendations. We appreciate the contribution that your staff make in this forum.

We support the use of this forum to discuss and monitor the implementation of the recommendations and expect Auckland Transport and your contracted rail operators to continue working constructively with other parties in implementing the Rapid Review recommendations. We have asked our officials to provide us with a quarterly update on progress. We would welcome any direct feedback from you at any stage.

Yours sincerely

Hon David Parker  
**Minister of Transport**

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THE OFFICIAL INFORMATION ACT 1982



David McLean  
Chair, KiwiRail  
david@davidmclean.co.nz

Dear David

Thank you for your letter of 30 August 2023 regarding the Rapid Review

We, as the sponsoring Ministers of the Rapid Review, acknowledge KiwiRail's acceptance of responsibility for the EM80 track evaluation car failure and for taking steps to ensure this does not happen again.

We understand that the reviewers undertook in-depth interviews with key people from your organisation, and that they appreciated the responsiveness and openness shown to them.

### **Rapid Review**

Metropolitan (metro) rail is growing in scale and complexity. It is an increasingly important part of the transport system to reduce congestion and emissions, and achieve urban development objectives. The Rapid Review, advised KiwiRail's approach to metro rail needs improvement.

We understand that KiwiRail has created a new role of the Chief Infrastructure Officer, whose function is to improve the network delivery for metro users in Auckland and Wellington, rail freight customers, and other network users. The reviewers have advised that the role they recommended should have a strong focus on delivering a quality passenger experience. A role with a focus on passenger experience outcomes is connected with but may be distinct from a role with a focus on growing and maintaining metro assets. This reflects the increasing metro investment.

It is clear that the reviewers saw the EM80 incident as a result of broader issues that need be addressed to allow metro services to be operating more efficiently and reliably.

We understand that the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council are using the Metro Rail System Standing Group (MRSSG) as the forum to co-ordinate and monitor the implementation of the review recommendations.

We support the use of this forum to discuss and monitor the implementation of the Rapid Review recommendations and expect KiwiRail to continue working constructively with other parties to implement the recommendations. In particular, we expect KiwiRail to provide this forum with a monthly update on its progress implementing the recommendations KiwiRail is

responsible for. The Ministry of Transport will then report quarterly to sponsoring Ministers on the full set of recommendations, including views from the other participants.

The Rapid Review identified broader issues within the system, especially in the areas of governance, funding settings, and system-level objectives for rail. We have directed the Ministry of Transport to lead a review of the Metropolitan Rail Operating Model, considering those system level issues.

### **Metro rail funding**

In the short-term, we acknowledge the cost pressures across both metro networks for the existing network upgrade programmes (i.e. Auckland's Rail Network Rebuild programme and the Wellington Metro Upgrade Programme) and routine maintenance and renewals.

s 9(2)(f)(iv)

The New Zealand Rail Plan sets out two investment priorities for a resilient and reliable rail network, to enable future growth in rail freight, and to support growth and productivity in our largest cities through investment in the metropolitan rail network. This Government expects KiwiRail to balance investment so that it supports both freight and metro rail activities.

Although we support the Ministry of Transport reviewing the metro funding systems, we want to be clear that it is not just a case of the Crown providing more funding.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to:      Hon Grant Robertson, Minister of Finance  
                    Hon Dr Duncan Webb, Minister for State Owned Enterprises  
                    Peter Reidy, Chief Executive, KiwiRail, peter.reidy@kiwirail.co.nz





Daran Ponter  
Chair, Greater Wellington Regional Council  
daran.ponter@gw.govt.nz

Dear Daran

### **Rapid Review into KiwiRail**

You will be aware that the Government launched a Rapid Review into KiwiRail in May 2023, following the major disruptions on the Wellington metro rail networks because of KiwiRail's EM80 track evaluation car being unavailable to inspect railway tracks.

We understand that the reviewers undertook in-depth interviews with key people from your organisation, and from those of your contracted passenger rail operator, and that they appreciated the responsiveness and openness shown.

We, the sponsoring Ministers of the Rapid Review, have considered the findings and recommendations of the Rapid Review, that is now published on the Ministry of Transport's website (<https://www.transport.govt.nz/assets/Uploads/Report-into-Rapid-Review-of-KiwiRail-Passenger-Services.pdf>).

While the Rapid Review identified the operational causes that led to the EM80 failure, it more importantly identified broader system issues, that contributed to the incident, especially in the areas of governance, funding settings, and system-level objectives for rail. We have directed the Ministry of Transport to lead a review of the Metropolitan Rail Operating Model, considering those system level issues.

Metro rail is growing in scale and complexity. It is an increasingly important part of the transport system to reduce emissions and achieve urban development objectives. Improving passenger experience should be front of mind of all parties involved in running the metro rail system.

We understand that the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council are using the Metro Rail System Standing Group (MRSSG) as the forum to co-ordinate and monitor the implementation of the review recommendations. We appreciate the contribution that your staff make in this forum.

We support the use of this forum to discuss and monitor the implementation of the recommendations and expect Greater Wellington Regional Council and your contracted rail operators to continue working constructively with other parties in implementing the Rapid Review recommendations. We have asked our officials to provide us with a quarterly update on progress. We would welcome any direct feedback from you at any stage.

Yours sincerely

Hon David Parker  
**Minister of Transport**

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982



Paul Reynolds  
Chair, Waka Kotahi

s 9(2)(a)

Dear Paul

### **Rapid Review into KiwiRail**

You will be aware that the Government launched a Rapid Review into KiwiRail in May 2023, following the major disruptions on the Wellington metropolitan (metro) rail network because of KiwiRail's EM80 track evaluation car being unavailable to inspect railway tracks.

We, the sponsoring Ministers of the Rapid Review, have considered the findings and recommendations of the Rapid Review, and it is now published on the Ministry of Transport's website (<https://www.transport.govt.nz/assets/Uploads/Report-into-Rapid-Review-of-KiwiRail-Passenger-Services.pdf>).

While the Rapid Review identified the operational causes that led to the EM80 failure, it also identified broader system issues that contributed to the incident.

The New Zealand Rail Plan sets out two investment priorities for a resilient and reliable rail network, which are to enable future growth in rail freight and to support growth and productivity in our largest cities through investment in the metro rail network. We need to ensure that investments are balanced to support both freight and metro rail activities.

Metro rail is growing in scale and complexity. It is an increasingly important part of the transport system to reduce emissions and achieve urban development objectives. Improving passenger experience should front of the mind for all parties involved in running the metro rail system.

We understand that the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council are using the Metro Rail System Standing Group (MRSSG) as the forum to co-ordinate and monitor the implementation of the review recommendations.

We support the use of this forum to discuss and monitor the implementation of the recommendations and expect Waka Kotahi to continue working constructively with other parties in implementing the Rapid Review recommendations.

We commend the proactive involvement of Waka Kotahi including chairing the MRSSG forum, and its collaborative approach to date in working with the Ministry of Transport, KiwiRail, and the Councils on the metro rail system.

## **The role of Waka Kotahi**

Waka Kotahi is an important participant in the rail system as a system funder and safety regulator, and its role is becoming even more important as the rail services and capacity is going to grow through the City Rail Link in Auckland and the Lower North Island Rail Integrated Mobility initiative in Wellington.

The Rapid Review highlighted the need for the safety regulator to keep up with the needs for our growing metro networks. It recommended that the Director of Land Transport at Waka Kotahi more rigorously addresses safety performance risks that are increasingly arising from the growth of metro services.

The Minister of Transport understands Waka Kotahi is actively considering the funding pressures facing the rail regulatory programme at Waka Kotahi, and how this might impact on the ability to address the recommendation from the Rapid Review. The Minister of Transport looks forward to engaging with Waka Kotahi on this issue as and when appropriate.

The Rapid Review also recommended that Waka Kotahi strengthens its independent verifier role in relation to funding of all KiwiRail's below rail metro services functions, with reference to benchmarking outcomes as required. We see merit in this recommendation as it would provide assurance in relation to investments. This function will be critical as KiwiRail builds a better understanding of their asset conditions and associated costs for maintenance and upgrades.

We expect Waka Kotahi to consider these recommendations, as well as other recommendations relevant to Waka Kotahi, and regularly report back on the progress.

Lastly, we want to reiterate the importance of providing New Zealanders with efficient and reliable metro services. We expect Waka Kotahi, as a rail funder and safety regulator, to continue cooperating in the work arising from the Review.

Your sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Nicole Rosie, Chief Executive, Waka Kotahi, [nicole.rosie@nzta.govt.nz](mailto:nicole.rosie@nzta.govt.nz)



**Hon David Parker** BCom, LLB

Attorney-General

Minister for the Environment

Minister of Transport

Associate Minister of Finance



Greg Pollock

s 9(2)(a)

Rick van Barneveld

s 9(2)(a)

Dear Greg and Rick

On behalf of the sponsoring Ministers, I would like to thank both of you for preparing the Rapid Review into KiwiRail's handling of the recent disruptions to passenger rail services.

Your identification of the KiwiRail's operational and broader system issues that led to the EM80 situation will put us on better footing for both metro systems in Auckland and Wellington. This is important as both cities prepare for the increased levels of service from the City Rail Link, and the Wellington Metro Upgrade Programme and the Lower North Island Rail Integrated Mobility initiative, respectively.

The key rail participants, the Ministry of Transport, Waka Kotahi, KiwiRail, Auckland Transport, and Greater Wellington Regional Council, are working closely to co-ordinate and monitor the implementation of the recommendations from the Review. I expect them to continue working together to improve the system. I have communicated these expectations with these participants in writing.

In addition, I have directed the Ministry of Transport to lead a review of the Metropolitan Rail Operating Model to ensure that system level issues including funding issues are being appropriately addressed.

Thank you again for preparing this detailed report at pace. It is an important piece of work to support the system to provide reliable, safe, and efficient metropolitan rail services connecting people and places in our two largest cities.

Yours sincerely

Hon David Parker

**Minister of Transport**



Document 19

Click to enter date

OC230638

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

Monday, 25 September 2023

## **AIR NAVIGATION SYSTEM REVIEW- INITIAL ACTIONS**

### **Purpose**

Seek your agreement to the Ministry convening an Interim Aviation Council as a first response to the Air Navigation System Review report.


### **Key points**

- The air navigation system is a critical part of New Zealand's core infrastructure, enabling the safe operation of aircraft through all phases of flight. Public trust and confidence in aviation largely rest on this system's performance.
- In February 2021 the then Minister of Transport agreed to a high level, first principles review of the air navigation system.
- The independent panel undertaking the review released its final report in May 2023 (a copy is attached as Annex 1). The panel found that the system is safe. It is not in crisis, but change is needed to deal with emerging technologies and new threats, and to ensure the system is fit for the future.
- The panel made nine recommendations covering system leadership, identifying critical system components, funding, understanding the value of the aviation sector, workforce (including regulatory capability) issues, engagement with Māori and leveraging international relationships.
- We recommend establishing an Interim Aviation Council chaired by the Secretary of Transport to maintain the momentum from the review, pending action on other recommendations.

## Recommendations

We recommend you:

- 1 **agree** to the Ministry inviting stakeholders to participate in an Interim Aviation Council chaired by the Secretary of Transport which, inter alia, could advise how to prioritise the other recommendations from the review, and scope a National Aviation Policy Statement Yes / No
- 2 **indicate** whether you would like to meet with Ministry of Transport officials to discuss the Air Navigation System Review. Yes / No



Tom Forster  
**Manager Economic Regulation**  
 13 September 2023

Hon David Parker  
**Minister of Transport**

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

**Minister's office to complete:**

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

## Comments

## Contacts

Name	Telephone	First contact
Bronwyn Turley, Deputy Chief Executive System and Regulatory Design	s 9(2)(a)	✓
Tom Forster, Manager Economic Regulation		

## AIR NAVIGATION SYSTEM REVIEW: INITIAL ACTIONS

### The air navigation system is critical infrastructure

- 1 The air navigation system is a critical part of New Zealand's core infrastructure, enabling the safe operation of aircraft through all phases of flight. Public trust and confidence in aviation largely rest on this system's performance.
- 2 The system relies on central government agencies to provide a high standard of policy, regulatory, service delivery and monitoring functions.
- 3 A modern and responsive air navigation system is essential to keeping New Zealand safe, connected, growing, resilient and secure. New Zealanders derive significant value from the system – both direct and indirect.
- 4 Air transport, trade and tourism contribute significantly to our society and economy. The International Air Transport Association valued the direct contribution from air transport alone at USD\$3.7 billion in 2019. Ninety-nine percent of visitors to New Zealand arrive by air.
- 5 The system also enables access to essential public services including healthcare via air ambulance services in emergencies and routine patient transfers. It is also critical for civil defence and emergency responses across the nation and the wider South Pacific region.
- 6 The aviation system is innovative, productive and growing. Airspace and aircraft innovation is expanding the potential for future business activity, foreign direct investment and productivity growth.

### Ministers commissioned an independent review of the air navigation system

#### *Stakeholders told us about issues with the system*

- 7 Stakeholders raised issues with the current policy and regulatory, institutional, and funding settings, including:
  - We lack a high-level statement of the principles and objectives for our air navigation system. Without this, it is difficult to determine if the current settings are right, and if not, what should change and to what extent.
  - Stakeholders are concerned that the regulatory settings are not responsive enough to grasp the opportunities and to manage the risks of new technologies (such as drones and high-altitude vehicles). If this is not addressed, they see a risk that New Zealand could fall behind comparable states in aviation safety and the ability to benefit from a rapidly growing industry.
  - Several agencies have roles relating to the air navigation system, including the Ministry of Transport (the Ministry), the Ministry of Business, Innovation and Employment (MBIE), the Treasury, and the Civil Aviation Authority (CAA). Stakeholders have questioned if the roles and functions of the agencies provide comprehensive system oversight, and whether the objectives align with desired



outcomes, for example balancing objectives such as safety, security and resilience with commercial return and economic development opportunities.

- Stakeholders recognise the responsibilities of state-owned enterprises; however, some note the potential tension between commercial decisions and broader objectives. For example, changes to the service provision at a regional airport could impact the viability of the airport if traffic volumes reduced, and affect regional development and connectivity objectives.
- Airways Corporation (Airways) is a State-Owned Enterprise that provides our navigation services. Airways uses a network funded model. This means that airline and aircraft operator fees contribute to the cost of delivering air navigation system services at airports they do not necessarily use, and for navigation and surveillance infrastructure they may not need<sup>1</sup>. Air New Zealand is concerned about cross subsidisation.
- Stakeholders have questioned who should pay for air navigation system components that are provided wholly or partially as a public good. For example, if a ground-based navigation aid is provided primarily to support air ambulance services or to support civil defence response capabilities, should that aid be paid from the relevant agency allocation rather than by aviation system users? How should non-aviation driven requirements be funded in a user-pays aviation system?

*The system needs direction so it can respond to change*

- 8 In 2012 the Government published the National Airspace Policy of New Zealand providing guidance to the CAA and its Director on the policy framework for delivering New Zealand's National Airspace and Air Navigation Plan 2014 – 2023 (delivered as the New Southern Sky programme).
- 9 Since the airspace policy was released, the environment in which the air navigation system works has changed significantly. Now that the New Southern Sky programme has concluded, and given the questions about whether the current system is fit for purpose, the Government needs to give agencies and the aviation sector a clear direction on the course for the future.
- 10 The response to the COVID-19 pandemic and the impact this had on all parts of the aviation system have highlighted deeper funding and workforce issues.

*An independent panel led the review*

- 11 In February 2021 the then Minister of Transport agreed to a high level, first principles review of the air navigation system, to:
  - define the principles and objectives that describe what New Zealand needs and wants from the air navigation system now and into the future

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<sup>1</sup> In 2021 Airways consulted on a change to its service framework model, proposing that aerodromes pay directly for contestable services provided by Airways. This proposal was not progressed after stakeholder feedback.

- assess the suitability of the policy and regulatory, institutional, and funding settings for the system to deliver those outcomes.
- 12 The Minister decided an independent panel should carry out the review, so that it could act independently and objectively, even on controversial matters.<sup>2</sup>

### **The panel delivered its final report in May 2023**

- 13 The panel took a wider view of the aviation system, because the whole system is interconnected and individual components could not be looked at individually.
- 14 The panel concluded that the system is safe and is well regarded. It is not in crisis but change is needed to deal with emerging technologies and new threats, and to ensure the system is fit for the future.
- 15 The panel highlighted that global disruptive forces for change are placing increasing demands on system agencies and actors to think and behave as a more interconnected system. Changes include:
- Airspace modernisation and integration of new and emerging technologies, such as remotely piloted aircraft and advanced air mobility systems
  - Advance cyber technology and security capability requirements in response to increasing digitisation and automation
  - Decarbonisation of aviation and adapting to the impacts of climate change
  - Dynamic tensions and shifts in the geopolitical environment
  - Increasing global and regional interoperability.
- 16 The panel contended that the system's role as a critical national infrastructure is undervalued. They found that its broader role to deliver a range of economic, social, environmental and cultural benefits is not well understood.
- 17 In the panel's view, a lack of system thinking and leadership means the system is failing to keep pace with rapid technological and social change. This leads to risks to system integrity and performance, security and resilience, and our ability to benefit from emerging technologies. New Zealand is falling behind comparable jurisdictions, which will affect our ability to be a fast follower and integrate with other systems.
- 18 The panel's nine recommendations aim to strengthen the system to seize future opportunities and challenges. The recommendations include strengthening system leadership, identifying critical system components, funding, understanding the value of the aviation sector, workforce (including regulator capability) issues, engagement with Māori, and leveraging international relationships.
- 19 The full list of recommendations is set out on page 58 of the report.

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<sup>2</sup> Cabinet agreed on the panel members (Debbie Francis, Howard Fancy, Ed Sims and Danny Tuato'o [APH-22-MIN-0066 refers]) and approved its terms of reference [CAB-22-MIN00177 refers].

**We need system leadership first, before we can deliver the other recommendations**

- 20 Under the broad heading of system leadership, the panel recommended that we should drive system leadership, direction and performance through:
- A ministerially appointed interim and permanent Aviation Council with whole-of-system oversight responsibilities
  - A new and long-range National Aviation Policy Statement (NAPS)
  - A Flight Plan for New Zealand: a medium-term direction for aviation and air navigation.
- 21 These foundational actions can set the direction and parameters for considering the other recommendations.

**Stakeholders generally support the panel's findings**

- 22 The Ministry has discussed the report with key aviation stakeholders to learn their views and test their willingness to participate in responding to the recommendations. We specifically asked them about setting up an interim aviation council, as part of the system leadership recommendations.
- 23 Stakeholders welcomed the report's findings and recommendations. Almost everyone had a comment along the lines of "there is nothing in there to disagree with".
- 24 Most of the people we talked to thought it was appropriate that the review went wider than just air navigation services, although some emphasised the importance of addressing specific issues in air navigation.

*Stakeholders support establishing an aviation council*

- 25 There is wide support for the idea of an aviation council. While some stakeholders emphasised the Ministry's system stewardship role, there was widespread acknowledgement that government and industry need to work together.
- 26 Stakeholders noted however that we will need to pay careful attention to the membership and terms of reference for the council to be worthwhile and effective.
- 27 Stakeholders also supported the development of a national policy statement and/or an aviation strategy.

**We recommend establishing an Interim Aviation Council**

- 28 We recommend establishing an Interim Aviation Council, which would be chaired by the Secretary of Transport, as a first step in responding to the panel's report.

### *Membership*

- 29 The Interim Aviation Council would need to represent a range of voices, but not be so big as to be unwieldy. Representatives should be senior enough to speak authoritatively and make decisions for their organisation. We recognise however that peak body representatives would not necessarily be able to speak for all their members.
- 30 Stakeholders felt that along with the Ministry and the CAA, MBIE should be closely involved in ongoing discussions. Many of the issues facing the sector are about emerging technologies, where MBIE has a role, alongside the transport agencies.
- 31 The panel found that aviation is far behind other sectors in incorporating a te ao Māori perspective. We agree. Government and industry representatives will need to keep working on this; for Te Manatū Waka this includes implementing the Hei Arataki<sup>3</sup> and He Waka Maiangi<sup>4</sup> strategies. We also think it will be important to include a te ao Māori perspective on the Interim Aviation Council.
- 32 We propose the following people and organisations (a subset of the ANSR reference group) be invited to participate on the Interim Aviation Council alongside the Ministry of Transport:
- CAA
  - MBIE
  - Airways
  - A Defence representative (likely to be the Chief of Air Force)
  - NZ Airports
  - Auckland Airport
  - Board of Airline Representatives in New Zealand (BARNZ)
  - Aviation NZ, to represent commercial general aviation
  - New Zealand Airline Pilots Association
  - A representative of the emerging technology sector (advanced aviation technologies)
  - A representative who can bring a te ao Māori perspective to the Council.

### *The Interim Aviation Council could lead the response to the Panel's recommendations*

- 33 We propose that the Interim Aviation Council be set up for about 12-18 months – or until a permanent council is established. The Interim Aviation Council could progress

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<sup>3</sup> The Ministry's Māori strategy

<sup>4</sup> He Waka Maiangi is about creating a stronger evidence base, which will include gathering qualitative data.



recommendations which primarily rest on industry action and advise the Minister of Transport and Cabinet through the Ministry.

- 34 We propose that the role of the Interim Aviation Council should be to:
- i. Scope, and work with officials on the development of, a National Aviation Policy Statement
  - ii. Advise on prioritisation of the recommendations from the Air Navigation System Review
  - iii. Work with the Ministry to develop terms of reference for a permanent Aviation Council
  - iv. Advise on issues that need investigating further before we can develop a medium to long- term aviation strategy
  - v. Enable Government and industry to voice their opinions and provide advice and recommendations on how to address challenges facing the sector and how best to embrace opportunities.

*The Interim Aviation Council could help develop a National Aviation Policy Statement*

- 35 The panel noted that national-level policy direction for airspace management is now outdated and recommended that the Minister of Transport commission a National Aviation Policy Statement (NAPS).
- 36 The panel proposed that the NAPS should replace the 2012 *National Airspace Policy of New Zealand* but also pointed to the Australian Aviation White Paper currently under development, which has a wider aviation system scope. The panel thought the NAPS would help rectify a lack of collective focus on the bigger picture.
- 37 The panel recommended that the NAPS should set out the long-range principles, strategic objectives and outcomes that will act as an enduring direction for the system. The panel's proposed principles and strategic objectives are set out in Annex 3 of the report (page 64)
- 38 We propose tasking the Interim Aviation Council with further developing the principles and strategic objectives and agreeing on high level policies, and specific actions, to ensure the aviation system can deal with future challenges and take advantage of emerging opportunities.

*The Interim Council would complement other workstreams*

- 39 The Interim Aviation Council would not duplicate the work of other groups, but would take into consideration, and feed into, other related work. This includes the Aotearoa New Zealand Aerospace Strategy, Sustainable Aviation Aotearoa (SAA), enabling drone integration, and work on emergency management and critical infrastructure. More detail on these other work areas is set out below.

Supporting new technologies

- 40 *The Aotearoa New Zealand Aerospace Strategy 2023-2030* was released on 20 July 2023. It seeks further growth of an internationally competitive aerospace sector that is thriving, innovative and safe.

- It envisions future regulations to enable technology development for use across low-altitude, high-altitude, sub-orbital, and orbital operations.
- Realising the Aerospace Strategy's objectives will require improvements to the air navigation system.

41 The Sustainable Aviation Aotearoa (SAA) Leadership Group is a public-private partnership to provide advice and coordination to accelerate decarbonisation of the aviation sector.

- One of its objectives is to consider what barriers, including regulatory and investment barriers, need addressing to enable a smoother decarbonisation pathway.
- The group will also work to accelerate and enable the commercial operation of zero emission aviation systems. Low- and zero-emission aircraft will share the same airspace as conventional aircraft, but will have different operating characteristics and may operate on different routes.
- Aviation infrastructure, including the air navigation system, will need to adapt.

42 The Government consulted stakeholders on a package called Enabling Drone Integration in 2021.

- Increasingly innovative uses of drones offer potential economic, environmental and social benefits. The proposed package of measures will cater for growth of the drone and emerging aviation sector and ensure appropriate levels of aviation safety and security are maintained
- The Government has agreed to a tagged contingency budget of \$8.8 million for this package, subject to final decisions by Cabinet, expected in early 2024.

#### Supporting resilience

43 The panel noted that the air navigation system is critical infrastructure for national security and resilience, and argued that system settings need to reflect this more clearly.

44 The panel recommended that air navigation service agencies should work with the National Emergency Management Agency (NEMA) to ensure the air navigation infrastructure (physical and digital) and services are considered for inclusion in the definition of critical infrastructure and for designation under the new legislation as part of the NEMA Trifecta Programme.

#### *The Ministry will support the Interim Aviation Council*

45 The Ministry of Transport will provide any administrative and policy support the Interim Aviation Council requires.

46 We would expect most members to participate at their organisation's expense. Funding may be required for a te ao Māori representative. This could be sourced from within Ministry baselines.



Document 21

28 September 2023

OC230842

Hon David Parker

Action required by:

Minister of Transport

At your convenience

## LETTERS TO WAKA KOTAHI AND KIWIRAIL BOARD CHAIRS ON FUNDING DECISIONS FOR CYCLONE RECOVERY

### Purpose

To provide letters for your signature, to inform the Board Chairs of Waka Kotahi NZ Transport Agency and KiwiRail of funding approved through the National Resilience Plan.

### Key points

- The National Resilience Plan (NRP) was established in Budget 2023 to support the rebuild of resilient road and rail infrastructure in areas impacted by the severe North Island weather events.
- In August 2023, Cabinet agreed to provide \$567 million from the NRP for immediate state highway works, including \$40 million to enable minor resilience improvements, and also the drawdown of the \$160 million tagged contingency for rail reinstatement.
- On 18 September 2023, Cabinet agreed to fund a total of \$385 million for local road recovery, the purchase of additional Bailey bridge stock, minor resilience works on rail network, and 'make safe' investment on the Napier to Wairoa rail line.
- Cabinet also agreed to invite specific road and rail resilience proposals into the Treasury's Investment Management System, and to reporting requirements to help ensure transparency and oversight of Waka Kotahi and KiwiRail spend on NIWE-related recovery projects.
- The attached letters to the Chairs of the Waka Kotahi and KiwiRail Boards formally notifies the agencies of the approved funding and reporting requirements. The letters also set out, at a high level, the Government's expectations for engagement with iwi, recovery structures and local communities on the recovery and rebuild programme.

**Recommendations**

We recommend you:

1 **sign** the attached letters to the Chairs of the Waka Kotahi and KiwiRail Boards

Yes / No




---

 Nick Paterson  
**Manager, Cyclone Recovery**

28 / 09 / 2023

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 Hon David Parker  
**Minister of Transport**

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

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

Name	Telephone	First contact
Nick Paterson, Manager, Cyclone Recovery	s 9(2)(a)	✓
Jo Gould, Principal Adviser, Cyclone Recovery		





David McLean  
Chair  
KiwiRail Holdings Limited  
s 9(2)(a)

Dear David

I'm writing to formally advise you of recent Cabinet funding decisions and reporting requirements to support reinstatement of sections of the rail network impacted by the North Island Weather Events (NIWE).

***Cabinet has approved the drawdown of the tagged contingency for reinstatement costs***

As I noted in an earlier letter (dated 4 June 2023), through Budget 2023 the Government allocated \$40 million and an additional tagged operating contingency of \$160 million to support KiwiRail reinstating the railway network damaged by the NIWE.

Cabinet has recently approved the drawdown of the \$160 million tagged operating contingency. Together with the \$40 million Crown funding and \$50 million insurance proceeds KiwiRail has received to date (\$250 million in total), this will allow for:

- s 9(2)(i) to reinstate the North Auckland Line
- s 9(2)(i) to reinstate the Auckland metropolitan network
- s 9(2)(i) to reinstate the Palmerston North to Gisborne Line (PNGL) south of Napier s 9(2)(f)(iv)
- s 9(2)(i) to reinstate other affected lines.

I note that the total estimated costs of these reinstatement works is s 9(2)(i)

***Further funding has been approved through the National Resilience Plan (NRP)***

Cabinet has agreed to invest up to \$198 million to undertake minor resilience works on parts of the rail network that are undergoing post-NIWE repairs. A further \$16 million has also been allocated to continue to 'make safe' works on the line between Napier and Wairoa so that the highest priority safety works can be addressed.

This funding has been approved as an "up to" amount for each project with the expectation that any unspent funding will be made available for other investment through the NRP. If this eventuates, Treasury and Te Manatū Waka officials will work with KiwiRail to ensure any unspent funds are returned to the centre for reinvestment to other NRP-funded projects.

I note that these funding levels do not include any contingency, and that KiwiRail has indicated that there is a risk it will have to reduce the scope of the minor improvement programme in order to manage within the \$198 million funding allocation. My expectation is that KiwiRail will make efforts to meet the costs for the programme within your existing resources, leveraging KiwiRail's construction expertise and economies of scale where possible.

### ***Variation of the Rail Network Investment Programme***

I invite KiwiRail to prepare a variation to the Rail Network Investment Programme (RNIP) to reflect these funding decisions.

### ***Reporting***

Cabinet has agreed to reporting requirements to help ensure transparency and oversight of KiwiRail spend on NIWE-related recovery projects.

KiwiRail will need to report on spending from the \$160 million tagged operating contingency through the Treasury's NIWE Quarterly Investment Reporting process.

For funding approved through the NRP (i.e., up to \$198 million for minor resilience works and up to \$16 million for make safe works on the Wairoa to Napier line), Cabinet has agreed to the following reporting requirements:

1. monthly reporting to Treasury on progress, with the first monthly report expected to be provided in October 2023. Officials will be in touch with KiwiRail to confirm the date for the first monthly report.
2. an independent post-investment review of the programmes. The terms of reference for the review must be agreed by the Treasury
3. ongoing attestation that there is coordination between infrastructure providers (including telecommunications).

As the funding is also part of the RNIP, it will be captured by the standard RNIP reporting requirements.

### ***Further investments are invited into the Investment Management System***

s 9(2)(f)(iv)

y inviting these proposals/programmes into the IMS the Government has a better ability to identify priorities and make sequencing and prioritisation decisions across the Crown's broader investment programme. KiwiRail should continue to work with Treasury officials on progressing these proposals through the IMS.

### ***Progress on KiwiRail insurance claims***

I appreciate that rail reinstatement works are recoverable by insurance, subject to conditions and up to certain limits. Consistent with the approach taken following the Kaikōura earthquake, KiwiRail is required to return to the Crown any surplus insurance proceeds remaining at the end of the recovery programme, up to the level of Crown funding received.

Cabinet has invited me to report back in due course on progress with the KiwiRail insurance claims. Please ensure officials at Te Manatū Waka are kept up to date on how these claims are progressing.

***Engaging with iwi, recovery agencies and local communities***

I'd like to reiterate comments I made in earlier correspondence about the need for continued engagement with iwi, local government, recovery agencies, the freight sector and local communities on specific proposals to reinstate and rebuild the rail network.

I understand that KiwiRail has been engaging with iwi and that particular concerns about aspects of the rail reinstatement and rebuild are being worked through. I encourage you to continue to engage meaningfully with iwi to clearly define issues and opportunities, and identify possible solutions. As Treaty partners we are aiming to co-design culturally appropriate solutions and enable them to be meaningfully delivered.

Engaging directly and early with iwi about their cultural sites and impacts, in addition to clearly communicating to the public timeframes and progress for works on the affected rail network, is an important part of this engagement process.

Finally, I would like to thank you, the KiwiRail Board and executive, and all KiwiRail staff involved in the NIWE response and recovery work. I appreciate all your continued efforts to restore access on railway lines impacted by the extreme weather events.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Hon Grant Robertson  
**Minister of Finance**

Hon Dr Duncan Webb  
**Minister for State Owned Enterprises**

Peter Reidy  
Chief Executive  
**KiwiRail Holdings Limited**



Dr Paul Reynolds  
Chair  
Waka Kotahi NZ Transport Agency  
s 9(2)(a)

Dear Paul

I'm writing to formally advise you of recent Cabinet funding decisions and reporting requirements to support reinstatement of sections of the state highway network impacted by the North Island Weather Events (NIWE).

**National Resilience Plan Phase 1**

You will be aware that Cabinet agreed in July 2023 to provide \$567 million from the National Resilience Plan (NRP) to the National Land Transport Fund for immediate state highway works. This included a \$72 million equity injection to reimburse Waka Kotahi for additional NIWE response costs incurred in 2022/23. The remaining funding enables a continuation of the Waka Kotahi state highway reinstatement programme and provides \$40 million for minor resilience improvements in NIWE affected areas.

The programme of work covered by this funding was included in an appendix to the paper considered by Cabinet, and reflects a two year spending window. This was based on information provided by Waka Kotahi, so your agency will be aware of the programme of work the funding covers. Regular reporting on this programme of work will help ensure transparency and oversight of Waka Kotahi spend. More detail about the reporting requirements is set out below.

**Further funding has been approved through Phase 2 of the National Resilience Plan**

Cabinet has recently agreed to invest up to \$15 million in additional Bailey bridges, to provide an inventory of temporary bridges for use in the response to future events, and to replace bridges that are at the end of their economic life.

Cabinet has also agreed to invest up to s 9(2)(j) to partially fund local road reinstatement to pre-NIWE levels of service. This will increase the total funding available for local road reinstatement in 2023/24 to s 9(2)(j), as officials estimate that around s 9(2)(j) is available for local road reinstatement from funds appropriated in the immediate aftermath of Cyclone Gabrielle and through the Budget 2023 NIWE package. The s 9(2)(j) funding roughly corresponds to both the level of expected local road reinstatement claims which are known with a high degree of certainty, and the approximate level of delivery that is likely over the current financial year.



Funding through Phase 2 of the NRP has been approved as an “up to” amount for each project, with the expectation that any unspent funding will be made available for other investment through the NRP. If this eventuates, Treasury and Te Manatū Waka Ministry of Transport officials will work with Waka Kotahi to ensure any unspent funds are returned to the centre for reinvestment to other NRP-funded projects.

To clarify, local road funding approved through Phase 2 of the NRP is for reinstatement/recovery costs. Funding for local road response costs is to be met from existing appropriations.

Cabinet also agreed to transfer all funding that was unspent in the *Cyclone Gabrielle: National Land Transport Fund Operating Cost Pressure Funding* appropriation into the *North Island Weather Events – Road Response and Reinstatement MCA*. Moving the funding into this multi category appropriation will streamline the claims process, improve visibility of the total funding picture, and give Waka Kotahi the necessary flexibility to shift some funding between operating and capital expenditure if necessary to reflect the nature of works. Funding approved for local road recovery or reinstatement cannot be shifted into the state highway categories without prior approval of both the Ministers of Transport and Finance, and the reporting must clearly distinguish between local road and state highway expenditure.

The local road reinstatement funding approved by Cabinet through Phase 2 of the NRP is based on an assumed Funding Assistance Rate (FAR) of <sup>s 9(2)(j)</sup> [redacted]. The actual FAR to be applied to reinstatement/recovery costs will be determined by the Waka Kotahi Board. Officials from Treasury will be in contact with Waka Kotahi and Te Manatū Waka to ensure that any relevant information from cost sharing discussions is shared with Waka Kotahi to inform its determination on FAR. The reporting requirements noted below require Waka Kotahi to report back to the Ministers of Finance and Transport on the FAR. If the Board agrees to a lower FAR for some works, Waka Kotahi may be able to approve a larger programme of works.

I note that additional funding for local road reinstatement will be required in future, as local councils impacted by NIWE continue to firm up their investment plans over the coming months. Phase 3 of the NRP will include consideration of any remaining local authority NIWE local road reinstatement investment plans. Thank you in advance for the work Waka Kotahi will put into considering these detailed plans.

### **Cost-sharing agreements**

A \$495 million package of transport funding is in the process of being agreed between the Crown and the Auckland, Hawkes Bay and Tairāwhiti Councils through the Future of Severely Affected Land (FOSAL) cost sharing negotiations. While the respective funding agreements are still being finalised, the transport package forms part of a broader \$1.6 billion package to the severely flood affected regions. This funding is being provided to a list of specified projects, and with no further recourse to any Crown funding. The Cyclone Recovery Unit will be the lead agency for the implementation of this programme of work, assisted by Crown Infrastructure Partners.

## Reporting

Cabinet has agreed the following reporting requirements for the funding:

	Investment	Funding	Reporting requirements
Phase 1 NRP	State highway reinstatement costs and minor resilience works	\$495 million <sup>1</sup>	<ol style="list-style-type: none"> <li>1. Monthly reporting to the Treasury on the progress of the immediate state highway works investment against the schedule of projects</li> <li>2. An independent post-investment review no later than 6 months after the conclusion of expenditure associated with this investment (to also cover all prior state highway NIWE related expenditure).</li> </ol>
Phase 2 NRP	Bailey bridges	\$15 million capital	<ol style="list-style-type: none"> <li>1. A post-investment report once the bridges have been acquired</li> </ol>
	Local road reinstatement / recovery	s 9(2)(j)	<ol style="list-style-type: none"> <li>1. A report-back to the Ministers of Finance and Transport on FAR</li> <li>2. A report back to Treasury and Te Manatū Waka Ministry of Transport on the phases of investment (i.e., when recovery ends and whether there is a common standard for reinstatement prior to long term rebuild starting)</li> <li>3. Monthly reporting to Treasury on progress</li> <li>4. An independent post-investment review of the programme.</li> </ol>
Emergency funding and Budget 2023	Local road response	No new funding	<ol style="list-style-type: none"> <li>1. Monthly reporting to Treasury on progress</li> <li>2. An independent post-investment review of the programme</li> </ol>

The terms of reference for the post-investment reviews must be agreed by the Treasury.

The first monthly reports for the NRP funding are expected to be provided in October 2023. Officials will be in touch with Waka Kotahi to confirm the date for the first monthly reports.

### Further investments are invited into the Investment Management System

Cabinet has agreed to invite the Waikare Gorge road replacement and the 10-year state highway resilience programme in the NIWE regions (including the due diligence component) into the Investment Management System (IMS). By inviting these proposals/programmes into the IMS the Government has a better ability to identify priorities and make sequencing and prioritisation

<sup>1</sup> This is the \$567 million Cabinet approved in July 2023 through Phase 1 of the NRP, less the \$72 million equity injection.

<sup>2</sup> This is the s 9(2)(j) Cabinet approved in September 2023 through Phase 2 of the NRP, plus s 9(2)(j) estimated to be available for local road recovery from previously approved funding.

decisions across the Crown's broader investment programme. Waka Kotahi should continue to work with Treasury officials on progressing these proposals through the IMS.

***Engaging with iwi, recovery agencies and local communities***

I'd like to reiterate comments I made in earlier correspondence about the need for continued engagement with iwi, local government, KiwiRail, recovery agencies, the freight sector and local communities on specific proposals to reinstate and rebuild the state highway network. Thank you for your agency's engagement to date with these groups.

I understand that Waka Kotahi has been engaging with iwi and that particular concerns have been raised about aspects of the state highway reinstatement and rebuild. I encourage you to continue to engage meaningfully with iwi to clearly define issues and opportunities, and identify possible solutions. As Treaty partners we are aiming to co-design culturally appropriate solutions and enable them to be meaningfully delivered.

Engaging directly and early with iwi about their cultural sites and impacts, in addition to clearly communicating to the public timeframes and progress for works on the affected state highways, is an important part of this engagement process.

Finally, I would like to thank you, the Waka Kotahi Board and executive, and all Waka Kotahi staff involved in the NIWE response and recovery work. I appreciate all your continued efforts to restore access on the road network impacted by the extreme weather events.

Yours sincerely

Hon David Parker  
**Minister of Transport**

Copy to: Hon Grant Robertson  
**Minister of Finance**

Nicole Rosie  
Chief Executive  
**Waka Kotahi NZ Transport Agency**



29 September 2023

OC230823

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

cc Hon Damien O'Connor

Associate Minister of Transport

## **DRAFT GOVERNMENT POLICY STATEMENT 2024 (GPS 2024) SUMMARY OF FEEDBACK FROM CONSULTATION**

### **Purpose**

To summarise feedback on the draft Government Policy Statement on land transport 2024 (Draft GPS) following public consultation.

### **Key points**

- We published the draft GPS 2024 on 17 August 2023 and closed public consultation on 15 September 2023.
- We received 351 submissions on the Draft GPS. Submitters included local government across the country, and organisations representing a range of interests including the rural and farming sectors, businesses, engineers, commercial groups, cyclists, environmental groups, community groups and the equestrian community (**Annex 1** refers). We have summarised key points from the feedback.
- It is a requirement in the Land Transport Management Act 2003 (LTMA 2003) that the Minister of Transport must consult with Waka Kotahi on the proposed GPS. We have attached the feedback provided by Waka Kotahi Board (**Annex 4** refers).
- Additionally, it is a requirement of the LTMA 2003 that the Minister of Transport must have regard of the views of Ko Tātou Local Government New Zealand (LGNZ) and representative groups of land transport users and providers. Submissions were received from LGNZ and more than 50 local government organisations. Land transport users and providers were contacted about the release of the draft GPS and many of these groups made submissions (**Annex 1** details). We have also attached the feedback from Local Government New Zealand (**Annex 5** refers).
- Following the general election, we will support the Minister of Transport to finalise the GPS, informed by the feedback received.



## Recommendations

We recommend you:

- 1 **note** the feedback received on the Draft GPS and advise officials if you would like to discuss. yes/ no
- 2 **agree** for officials to publish **Annex 3**, the summary of feedback on the Ministry of Transport website. yes / no



Tim Herbert  
**Manager, Investment**  
 29/09/2023

Hon David Parker  
**Minister of Transport**

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

**Minister's office to complete:**

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

## Comments

## Contacts

Name	Telephone	First contact
Tim Herbert, Manager Investment	s 9(2)(a)	✓
Ella Steele, Advisor Investment		

## DRAFT GOVERNMENT POLICY STATEMENT 2024 (GPS 2024) SUMMARY OF FEEDBACK FROM CONSULTATION

### Summary of public feedback received

- 1 We received 351 submissions, from a range of local government and interest groups (**Annex 1** refers). This included 271 survey responses and 80 email submissions. A summary of the submissions is provided below. A high-level summary suitable for publication is included in **Annex 3**.

### Some key themes arising from all feedback:

#### *Feedback on the strategic priorities*

- 2 Most submitters were generally supportive of the strategic priorities. A common request was to rank or weight the strategic priorities as there was concern that the number of priorities would create a lack of direction. For example, the following priorities received particular attention:
  - 2.1 Maintaining and operating the system was of particular interest to some individuals, councils, roading, and construction groups. Some suggesting this should be the over-arching priority, or default area of focus.
  - 2.2 Emissions reduction or climate change was also frequently requested to be the overarching priority, by some individuals, councils, climate, and other advocacy groups.
  - 2.3 The safety priority was an area of interest, with several submitters noting that the GPS appears to dilute the ambition of Road to Zero, impacting the target of death and serious injury prevention.
- 3 Many submitters, including individuals and local councils, noted that the ambition of the strategic priorities does not appear to align with the available funding in the activity class funding ranges.

#### *Feedback on the Strategic Investment Programme (SIP)*

- 4 Submitters tended to support projects within their region, and the programme as a whole received support from national road interest advocacy groups. A range of respondents indicated disappointment that projects in their region were not included within the SIP and indicated a desire for such projects to be included.
- 5 Several submitters questioned the impact these projects would have on emissions and requested impact analysis be completed.
- 6 Councils and Regional Transport Committees were concerned about the lack of funding certainty for the SIP projects past the 2024-27 period.

#### *Feedback on proposed funding levels and allocation across activity classes*

- 7 Across the board, submitters frequently agreed with the increase in funding, but often noted that more funding is needed. There was concern about the long-term sustainability of the National Land Transport Fund (NLTF), and the impact of debt repayments in out-years.
- 8 While submitters often agreed with the funding allocation, more frequently, submissions requested that specific activity classes be allocated more or less funding. Generally, groups representing motorists, commercial, and construction groups prioritised investment in maintenance and new roading infrastructure. Some even expressing interest in seeing other revenue sources utilised (ie road tolls or congestion charging). In contrast, other submitters such as environmental, safety and other advocacy groups, identified alternatives to car use as a high priority for improving the transport system, and thought investment in public transport and active modes of transport should increase.
- 9 Over 50 submissions expressed concern about the removal of the Road to Zero Activity Class. The concern related primarily to the reallocation of previously ring-fenced funding for safety improvements into Local Road and State Highway Improvements. Submitters suggested that this would risk losing momentum on meeting performance targets for reductions of transport-related deaths and serious injuries (40% reduction by 2030). Concern was primarily from local councils and safety advocacy groups.

#### *Feedback on the Ministerial Expectations*

- 10 There was general support for the Ministerial Expectations section. In particular submitters, largely local councils, signalled support for Build Back Better (BBB), and Value for Money (VfM) principles.
- 11 There were some climate-based concerns in this section, including a small number of requests to bring back the high-threshold for emissions that was signalled in the indicative priorities released earlier this year. There were also several submitters who noted that VfM and BBB should incorporate the full range of additional benefits (such as health) over and above emission reduction. These comments were mostly from individuals and climate change advocacy groups.
- 12 There was some scepticism that Waka Kotahi would realistically be able to deliver the expectations, given the costs involved and the direction and funding provided in the draft GPS (i.e. the BBB could lead to considerable cost increases which might be difficult to meet, or the SIP seeming to be at odds with emissions reduction priority for example). Several individuals requested that this section should include additional requirements for reporting, including more detailed reporting and more measurable outputs and outcomes (such as emissions levels).

#### *Additional general feedback*

- 13 There was a significant volume of submissions that advocated for specific regions, projects, policies or interventions in the transport system. This included advocacy for rural areas and particular roads or bridges, and details of why these projects are important.
- 14 Dozens of submitters suggested the GPS include expectations that additional interventions are implemented to meet transport outcomes. These included

congestion charging, car-free city centres, and biofuels. Some submitters emphasised the need to invest in public transport and active modes of transport instead of roads, while others remarked that the funding from Fuel Excise Duty (FED) and Road User Charges (RUC) should only be re-invested in the roading network.

- 15 Several councils requested earlier release of the draft GPS (ie, this should be finalised 12 months before the election) to allow for the National Land Transport Plan (NLTP) to be settled eight months ahead of its planned start date (1 July 2024) and allow more time for consideration during consultation. Delays make it difficult for councils to fully implement the GPS in their work. Some suggested that the GPS should have a longer-term outlook or be a cross-party document to allow for efficient long-term planning from councils.

### Engagement with Government agencies

- 16 Departmental consultation on the Draft GPS and Cabinet paper was not undertaken prior to seeking Cabinet agreement to release the Draft GPS due to time constraints. The Ministry did however work closely with the Treasury and Waka Kotahi to develop the proposed funding package, comprised of FED and RUC increases, Crown funding and financing.
- 17 Alongside the public consultation process, we have provided Government agencies with the opportunity to provide feedback on the Draft GPS, including meeting with the Urban Development and Infrastructure agencies. We received written feedback on the Draft GPS from Housing and Urban Development (HUD), Kāinga Ora and KiwiRail.
  - 17.1 HUD and Kāinga Ora proposed specific wording changes to the 'Sustainable urban and regional development strategic priority' to reinforce the role that transport investment plays in shaping urban form and increasing housing supply, choice and affordability, including by referring to the need to coordinate transport planning with proposed resource management reforms (eg Regional Spatial Strategies). HUD and Kāinga Ora also proposed reporting measures to monitor progress against these objectives.
  - 17.2 KiwiRail were supportive of the strategic priorities and the rail projects included in the Strategic Investment Programme. KiwiRail are keen to work further on the detail of these projects, particularly understanding the opportunities around level crossings in Auckland and Wellington. Similar to Waka Kotahi, KiwiRail raised questions about how the Inter-regional public transport activity class would operate, highlighting a need to clarify this in the final GPS. For example, clarifying whether it is accessible for existing, as well as new inter-regional services. KiwiRail also emphasised the cost pressures it is facing in delivering the RNIP in metropolitan areas, which has resulted in shortfalls in annual maintenance and renewals. Any additional Crown funding to address these concerns will need to be considered through the Budget 2024 process, which we will be advising on in due course.

### Waka Kotahi feedback

- 18 Waka Kotahi Board feedback is attached at **Annex 4**.



- 19 Key points from the submission include:
- 19.1 Overall support for the draft GPS 2024, noting particularly Waka Kotahi's thanks for the additional funding and inclusion of the Strategic Investment Programme directly in the NLTF.
  - 19.2 In-principle support for restructuring the existing \$2 billion loan and the new \$3.1 billion loan. However, this support is subject to four conditions that may prove difficult to meet.
  - 19.3 Observation that the NLTF funding position is not sustainable and that, as a consequence, Waka Kotahi will need to take a cautious approach to advancing the Strategic Investment Programme until there is a funding pathway available to deliver it. The submission also requests clarity about how the government will fund delivery of VKT reduction and other climate mitigation measures, climate adaptation works, and the Carbon Neutral Government Programme.
  - 19.4 Offer of Waka Kotahi resources to assist with the revenue review.
  - 19.5 A request that the GPS clarify the government's road safety objectives, particularly whether there is a Crown expectation that the NLTF should prioritise safety initiatives over others in the improvement, maintenance, and renewals activity classes.
  - 19.6 A number of editorial suggestions for the final version of the document, to provide Waka Kotahi and others with more clarity on various policy points.
- 20 Treasury and Ministry officials are commencing work with Waka Kotahi to determine if loan terms acceptable to the government can be agreed. Waka Kotahi's suggestions on urban development's focus on compact urban form. This may contrast with HUD's suggestions focusing on affordable development, including greenfield sites as well as higher-density development. Tensions between these perspectives remain to be resolved before the final GPS is published.

### **Feedback from Ko Tātou Local Government New Zealand**

- 21 Ko Tātou Local Government New Zealand (LGNZ) is the peak body representing the interests of local government. In collaboration with the Transport Special Interest Group of LGNZ, we held three online workshops for local government officials to discuss the details in the draft GPS 2024 with Ministry of Transport officials.
- 22 LGNZ submitted its support for the general direction of the draft GPS, but noted that significantly more work is needed to deliver an integrated strategy with sustainable levels of funding.
- 23 Key points from the submission include:
- Many of LGNZ's recommendations for improvement are about progressing work to secure sustainable funding for local government infrastructure, which is largely being progressed under the Future of the Revenue System project or wider Government policy work.

- An emphasis on the need to increase funding towards maintenance (including in response to cyclone damage) and resilience. We consider this will be addressed through the draft GPS funding settings and the expectation to 'build back better'. In addition, the Government has approved approximately \$1.76 billion of Crown funding (through Budget 2023 and National Resilience Plan funding rounds) for roading response and recovery works following the North Island Weather Events. The Ministry is continuing to work with Waka Kotahi and Treasury to identify and address where further Crown funding may be requested to progress cyclone recovery works.

### Feedback from the Equestrian Community

- 24 There were 174 submissions from submitters who had a primary focus on advocating for the inclusion of horses, riders and bridleways in the GPS.
- 25 These submissions were generally concerned that there was no mention of bridleways, or horses/riders (as legal road users) in the draft GPS 2024. Common requests were to include funding for horses as an active mode of transport, and for shared use of safe offroad pathways.
- 26 Horse and rider safety was also frequently addressed by the equestrian community, who cited a need for driver education and safety consideration in the draft GPS. Several submitters considered the draft GPS 2024 does not live up to the 2022-23 letter of expectations from Minister Michael Wood which mentions building a "safe system that... enables access for cycling, walking and equestrian communities."
- 27 We expect the funding and implementation of bridleways to be handled at a local government level.

### Next Steps

- 28 Officials are available to discuss feedback received.
- 29 Officials plan to upload **Annex 3** to the GPS page on our website for the public to see their feedback summarised. This is in-line with previous practice for the draft GPS 2021.
- 30 Following the general election, we will support the Minister of Transport to finalise the GPS, informed by the feedback received.

**ANNEX 1: SUBMITTERS ON THE DRAFT GPS 2024**

See below a list of submitters organised by which group they represent. Numbers of submissions for each kind of group include when submissions have been sent through by individuals in support of a group (eg there were multiple individuals who submitted on behalf of the equestrian community).

Individuals (79)	Various
Local government (52)	Ashburton District Council Auckland Council Auckland Regional Transport Bay of Plenty Regional Council - Regional Transport Committee Canterbury Regional Council Canterbury Mayoral Forum & Canterbury Regional Transport Committee Christchurch City Council Dunedin City Council Environment Canterbury Regional Council Environment Southland & Otago Regional Council Far North District Council Future Proof, Waikato Regional Council Greater Christchurch Partnership Greater Wellington Regional Council/Metlink Hamilton City Council Hawke's Bay Regional Council Hawke's Bay Regional Transport Committee Horizons Regional Council Invercargill City Council Kapiti Coast District Council Local Government New Zealand Mackenzie District Council Manawatu District Council Marlborough District Council Nelson Regional Development Agency Northland Regional Transport Committee, Northland Regional Council Otago Regional Council Palmerston North City Council Porirua City Council Queenstown Lakes District Council Selwyn District Council Taituarā - Local Government Professionals Aotearoa Taranaki Regional Council Tasman District Council & Nelson Tasman RTC Tauranga City Council Thames-Coromandel District Council Timaru District Council TSIG officers (informal submission) Upper Hutt City Council Waikato District Council Waikato Regional Transport Committee

	Waimakariri District Council Wellington City Council Wellington Regional Transport Committee Western Bay of Plenty District Council
Equestrian community groups (174)	Ashburton Pony Club Canterbury Harness Horse & Pony Society Inc Dalefield Horse Riding Park Equestrian sport New Zealand Hawkes Bay Horse Trail Advocacy Hawkes Bay Horse trails Advocacy Group Morgan Horse Association of New Zealand (MHANZ) New Zealand Equestrian Advocacy Network New Zealand Riding Clubs and Bridleways of New Zealand Inc. NZ Equestrian Advocacy Network + NZ Side Saddle Association Pony Riding School for children. Recreational Riders Bay of Plenty Taranaki Equestrian Network Taupo Dressage Group Wakatipu Riding Club
Construction, road, rail engineering and commercial sectors (9)	Automobile Association (AA) Civil Contractors New Zealand Energy Resources Aotearoa Engineering New Zealand Engineering New Zealand Transportation Group (TG) Federation of Rail Organisations of New Zealand Ia Ara Aotearoa Transporting New Zealand Inc Motor Trade Association (MTA) Trafinz (NZ Traffic Institute Inc)
Other advocacy groups (5)	Free Fares NZ Rural Women New Zealand Taxpayers' Union The New Zealand Initiative
Commercial and business interests (16)	Bus & Coach Association New Zealand Business NZ CentrePort Ltd Federated Farmers of New Zealand Fonterra Kernohan Engineering Ltd Milestone Homes Nelson Bays Ltd Mobil Oil New Zealand Ltd Nelson Tasman Chamber of Commerce Port Nelson Property Council NZ Tauranga Business Chamber Te Waka, Waikato Regional Economic Development Ltd The Canterbury Employers' Chamber of Commerce Wellington Airport Wellington Chamber of Commerce
Environment groups (3)	Lawyers for Climate Action New Zealand OraTaiao: NZ Climate and Health Council



Active transport mode groups (3)	Bike Auckland Living Streets Aotearoa Spokes Canterbury
Safety advocacy groups (3)	Australasian College of Road safety Brake, the road safety charity Global Road Safety Partnership (GRSP)
Central government (3)	Director of Land Transport at Waka Kotahi National Public Health Service Waka Kotahi
Iwi or other Māori groups (3)	Te Hapori Hoiho National Māori Horse Association Wakatu Incorporation
community groups (1)	Ashburton Citizens Association

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**ANNEX 2: SUMMARY OF SURVEY RESPONSES**

**Email submissions received total: 80**

**Online survey submissions total: 271**

There was particular engagement via the survey from 166 people requesting the inclusion of horses and bridleways in GPS 2024, who we have recorded separately in the table below.

<b>On line survey submission stances</b>	<b>Survey respondents (except for equestrian community)</b>	<b>Members of the equestrian community</b>	<b>Total all survey submissions</b>
Agree or strongly agree with the strategic priorities and direction	60	4	<b>64</b>
Disagree or strongly disagree with the strategic priorities and direction	20	147	<b>171</b>
Agree or strongly agree with the funding increases	53	113	<b>166</b>
Disagree or strongly disagree with the funding increases	21	20	<b>40</b>
Agree or strongly agree with the Ministerial expectations	37	4	<b>41</b>
Disagree or strongly disagree with Ministerial expectations	12	126	<b>138</b>
<b>Responses total</b>	<b>105</b> (39% of all survey submissions)	<b>166</b> (61% of all survey submissions)	<b>271</b>

**ANNEX 3: A3 SUMMARY**

Document attached in email.

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# Draft Government Policy Statement on land transport 2024/25-2033/34: Summary of engagement on the draft

September 2023

The draft Government Policy Statement on Land Transport (GPS) 2024 was available for feedback over August – September 2023.

This document provides a summary of the key feedback heard during engagement. The ideas and feedback will be considered when developing the final GPS. For more information on the engagement process, and to see the draft and final GPS 2024 documents, please see [transport.govt.nz/area-of-interest/strategy-and-direction/government-policy-statement-on-land-transport-2024](https://transport.govt.nz/area-of-interest/strategy-and-direction/government-policy-statement-on-land-transport-2024)

## Overall feedback

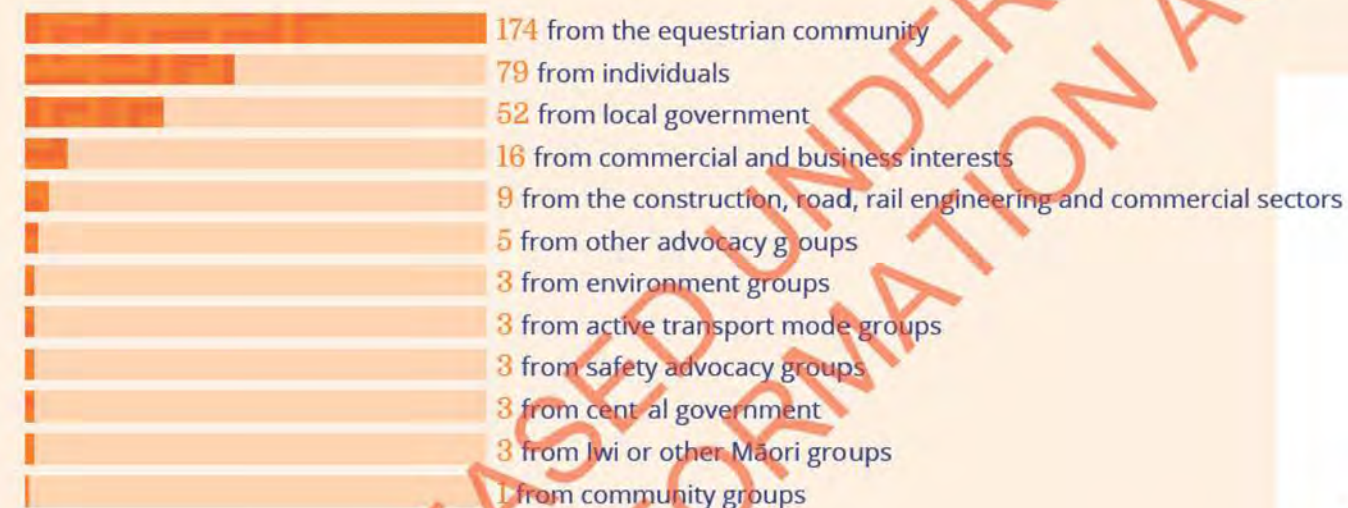
The majority of submitters were supportive of the draft GPS 2024, including the direction set by the strategic priorities, although some advocated for more focused priorities such as a focus on maintaining and operating the system, or emissions reduction.

There was general support for the proposed funding increases, but many submitters noted more funding is needed and were concerned about long-term funding certainty. Many submitters expressed concern about the removal of the Road to Zero activity class, and the re-allocation of funding to local road and state highway improvements.

Generally, groups representing motorists, commercial, and construction groups prioritised investment in maintenance and new roading infrastructure. In contrast, other submitters such as environmental, safety and other advocacy groups identified alternatives to car use as a high priority for improving the transport system, and thought investment in public transport and active modes of transport should increase.

## Who submitted?

In total, 351 submissions were received. These included:



## What's next?

GPS24 takes effect

1 July 2024

- We will finalise and realise GPS 2024 before this takes effect on **1 July 2024**.
- **Waka Kotahi** develops the National Land Transport Programme before 1 July 2024.
- **Local Government** and **Auckland Transport** develop Regional Land Transport Plans that take into account the strategic direction of the GPS.

Implementation by Waka Kotahi and local government.



Te Manatū Waka monitors the implementation of the GPS.

## Acknowledgement

Thank you to everyone who submitted on the draft GPS 2024. We value the input from stakeholders, as it builds our understanding of the realities of implementing the GPS. We also appreciate members of the public sharing their views on what they want in a transport system. We recognise that decisions about what to spend public funds on need to provide the best impact and value for users of the system.





# Summary of feedback



## Strategic priorities

- General support for strategic priorities, but requests to increase their focus and certainty. Maintaining and operating the system or emissions reduction/ climate change were frequently requested to be the over-arching priority.
- Submitters were concerned about the reframing of the safety priority away from Road to Zero, and perceived this as diluting the ambition of Road to Zero's prevention in death and serious injury targets.
- The ambition of the strategic priorities does not appear to align with the available funding in the activity class funding ranges.

➤ **There is general support for strategic priorities, but requests to increase their focus and certainty**



## Strategic Investment Programme (SIP)

- Support for projects within the region of the submitter, and the programme as a whole received some support. A range of submitters indicated disappointment that projects in their region were not included within the SIP and indicated a desire for such projects to be included.
- Questioning the impact these projects would have on emissions and requesting impact analysis be completed.
- Concern about the lack of funding certainty for the SIP projects past the 2024-27 period.

➤ **Many submissions questioned the impact these projects would have on emissions**



## Funding levels / allocation

- Frequent agreement with the increase in funding, but many submitters noted that more funding is needed.
- Concern about the long-term sustainability of the NLTF, and the impact of debt repayments in later years.
- Generally, groups representing motorists, commercial, and construction prioritised investment in maintenance and new roading infrastructure. In contrast, other submitters such as environmental, safety and other advocacy groups thought investment in public transport and active modes of transport should increase.
- Concern about the removal of the Road to Zero Activity Class. The concern related primarily to the reallocation of previously ring-fenced funding for safety improvements into local road and State Highway improvements.

➤ **There is frequent agreement with the increase in funding, but many submitters noted that more funding is needed**



## Ministerial Expectations

- General support for the Ministerial Expectations section, in particular submitters signalled support for Build Back Better (BBB), and Value for Money (VfM) principles.
- Some climate-based concerns, including suggestions that VfM and BBB should incorporate the full range of additional benefits (such as health) over and above emission reduction.
- A key area of concern was that the expectations are unrealistic given the cost of achieving them.
- Requests focused on additional requirements for reporting, including more detailed reporting and more measurable outputs.

➤ **There is general support for the Ministerial Expectations section**



## Additional General Feedback

- Advocacy for specific regions, projects, policies or interventions in the transport system. This included advocacy for rural regions, particular roads or bridges in towns or cities, and details on why these projects are important.
- Additional interventions were suggested to meet transport outcomes. These included congestion charging, car-free city centres and biofuels.
- Some feedback emphasised the need to invest in public transport and active modes of transport instead of roads, while others believe the funding should only be invested in the roading network.
- Several councils requested earlier release of the draft GPS, as delays make it difficult for councils to fully implement the GPS in their work. Some suggested the GPS should have a longer-term outlook.
- There were 174 submissions with a primary focus on advocating for the inclusion of horses, riders and brideways in the GPS.





**ANNEX 4: WAKA KOTAHI BOARD FEEDBACK**

Document attached in email.

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Waka Kotahi NZ Transport Agency  
44 Bowen Street, Thorndon  
Wellington, 6011

15/09/2023

Audrey Sonerson  
Te Manatū Waka – Ministry of Transport  
3 Queens Wharf, Wellington Central  
Wellington, 6011

Dear Audrey,

Waka Kotahi submission in response to the draft Government Policy Statement on land transport (GPS)

Thank you for the opportunity to provide feedback on the draft GPS 2024. We greatly appreciate the effort that Te Manatū Waka and Ministers have made in preparing the GPS, as well as efforts by staff to ensure that Waka Kotahi feedback has been incorporated throughout various versions of the draft GPS up until now.

I have attached a submission highlighting all feedback from Waka Kotahi on the draft GPS. This includes high-level feedback and technical feedback. Please note that in addition to this feedback, the Director of Land Transport will also be providing a submission to highlight feedback relating to the Waka Kotahi regulatory function.

Overall, we are supportive of the draft GPS 2024 and would like to highlight the following feedback for your information.

Firstly, Waka Kotahi would like to acknowledge the efforts of Te Manatū Waka, Treasury and Ministers to provide additional funding to the NLTF. Without this additional funding, Waka Kotahi would not be able to provide for essential expenditure associated with debt repayments, delivering committed activities and maintenance for the next National Land Transport Plan (NLTP) period.

Waka Kotahi also wishes to thank Te Manatū Waka and Ministers for its decision to provide funding for the Strategic Investment Programme directly into the NLTF. This puts Waka Kotahi in a better position to more efficiently plan for these corridors, using our existing processes.

Secondly, Waka Kotahi would like to express its support for the proposed restructuring of its \$2 billion loan and \$3.1 billion Crown loan. However, we would like to highlight that taking on additional debt should only be considered a short-term fix. Efforts to resolve the wider funding instability in the NLTF should be prioritised immediately so that Waka Kotahi is not required to take on additional debt from 2027/28 onwards.

For this reason, before Waka Kotahi provides in-principle agreement to the restructuring of the \$2 billion loan and taking on the \$3.1 billion loan, we are seeking written confirmation, from government, of the 4 points below:

- Address the recommendations that have been highlighted in the Land Transport Revenue Review.
- Confirm a plan to resolve NLTF funding constraints (with support from Waka Kotahi) by 2027.
- Support and accelerate implementation of policy and operational aspects to enable implementation of a new pricing and funding regime by 2027, e.g. new pricing model, congestion charging, E-RUC, telematics.
- Provide assurances that the Crown will underwrite debt liabilities of the NLTP if additional and substitute revenue sources are not secured in this period.

Waka Kotahi is happy to provide any additional resources to support the prioritisation of the Land Transport Revenue Review and will assist in any way we can to support this work progressing as soon as possible.

Thirdly, Waka Kotahi recommends that government changes the name of the “Strategic Investment Programme” to “Strategic Investment Corridors” so that it is clear that this is a set of corridors that government would like Waka Kotahi to consider in the development of the NLTP.

It is also important to note that with current forecasts of the NLTP, Waka Kotahi will not have enough revenue to cover the cost of delivering these strategic investments once planning has been completed. This creates risk both in terms of community expectations and around the potential for planning to occur well before a project can be delivered, resulting in additional cost and rework. This means that Waka Kotahi will need to take a cautious approach in determining whether to fund the planning of these projects because we will need to confirm that there is a pathway to deliver them.

Fourth, the draft GPS 2024 calls out the need to ensure that the transport system is accessible to all New Zealanders and specifically notes Māori, disabled people and rural and regional communities as key groups that may experience issues with access that require additional interventions. The draft GPS also notes that a *“focus for GPS 2024 is on ensuring Māori aspirations for the land transport system are better reflected at the strategic level.”* To ensure that Māori aspirations are reflected in the draft GPS, to the extent it hasn’t already been done, we strongly support transport sector-wide engagement with Māori and offer our support to Te Manatū Waka with any future engagement or collaboration with Māori as it occurs.

Fifth, we note that the draft GPS 2024 is not clear about how climate mitigation and climate adaptation expectations will be funded. To provide a sense of scale, Treasury has estimated that capital expenditure to reduce transport emissions could be upwards of \$20 billion over 10 years from 2025.<sup>1</sup> We note in this context that while Government is funding development of urban light VKT reduction programmes, it has not committed to funding delivery of them, and there is unlikely to be much headroom in the NLTF for the ‘additionality’ they provide.

Proposed funding settings also do not appear to account for the potential costs associated with transitioning to Carbon Neutral Government Programme (CNGP)-compliant infrastructure activities by 2025. At the same time, should the proposed strategic investment programme proceed to delivery in future, it contains projects that may increase emissions.

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<sup>1</sup> Ngā Kōrero Āhuarangi Me Te Ōhanga: [Climate Economic and Fiscal Assessment 2023](#) p. 71.



The impact of this funding (and policy) uncertainty is that delivery of significant, additional improvements for public transport, walking and cycling are unlikely to be funded from the NLTF during the 2024-2027 NLTP period. Availability of further Crown funding is also uncertain. This puts achievement of emissions reductions expected from transport from 2026 (the second emissions budget period) at risk. For this reason, we recommend that the GPS 2024 contemplate these risks and provide further clarity about how it intends to respond to these risks.

Sixth, Waka Kotahi notes that over the last year, it has been asked by government to slow down aspects of the Road to Zero programme and in particular, speed changes. This means that other aspects of the road safety programme like infrastructure investment and policing will need accelerated investment if we are to continue to target a 40% reduction in death and serious harm by 2030.

If Road to Zero activities cannot be delivered, and in some cases, significantly accelerated through this NLTP period, we will not meet the 40% reduction target. This would require additional investment as well as prioritisation of this investment, over others like resilience and adaptation. To resolve this risk, we recommend that the GPS clarify whether there is a Crown expectation that the NLTF should prioritise safety improvement initiatives over others in the improvement, maintenance, and renewals activity classes and whether there will be additional funding for this purpose where required. If neither of these apply, we suggest the government consider adjusting Road to Zero targets to reflect a slower path to delivery of these outcomes through this GPS and NLTP period.

Seventh, Waka Kotahi requests that the draft GPS be updated to include more information about the importance of digitisation (e.g. supporting technological advances to support transport options), customer enablement (providing communities with specific resources to resolve challenges) and pricing (e.g. congestion charging) to respond to some of the funding challenges Waka Kotahi and the wider transport system experiences. This may include further work on considering congestion pricing, or specifically calling out the Waka Kotahi Innovation Fund as a fund that needs to be continued.

Finally, we ask that the final version of the draft GPS goes through a final review by Waka Kotahi and Crown Law before it is finalised.

The Board welcomes any opportunity to discuss our feedback on the draft GPS 2024, either with Te Manatū Waka or Ministers.

Ngā mihi



Dr Paul H.S. Reynolds QSO

Waka Kotahi Board Chair

# Draft GPS 2024 Public Consultation

## Waka Kotahi NZ Transport Agency Submission

15 SEPTEMBER 2023

Waka Kotahi appreciates the opportunity to provide feedback on the draft GPS 2024.

We have outlined our feedback below, covering high level feedback up front and more technical feedback underneath this.

We are more than happy to discuss our submission with you if required.

### High-level feedback

#### Support for proposed top-up to the NLTF

Waka Kotahi would like to acknowledge and express their appreciation for the efforts of Te Manatū Waka and Ministers to provide additional funding to the NLTF. Without this additional funding, Waka Kotahi would not be able to provide for essential expenditure associated with debt repayments, delivering committed activities and maintenance for the next NLTP period.

Waka Kotahi also wishes to thank Te Manatū Waka and Ministers for its decision to provide additional funding for the Strategic Investment Programme as a top-up to the NLTF, rather than keeping this funding separate (like what was done with the NZ Upgrade Programme). This enables Waka Kotahi to be in a better position to plan for the Strategic Investment Programme more efficiently, as we can use our existing processes.

#### In-principle agreement to restructuring of debt, provided conditions are met in writing

Waka Kotahi would like to highlight that taking on any additional debt should only be considered a short-term fix. Efforts to resolve the wider funding instability in the NLTF should be prioritised immediately so that Waka Kotahi is not required to take on additional debt from 2027/28 onwards.

If the current system remains, the next NLTP will require Waka Kotahi to either take on more debt in the next NLTP period or see a substantial increase to revenue through existing mechanisms i.e. FED/RUC or other charging mechanisms. This way of doing things is not sustainable and changes to our revenue system are desperately needed before the 2027 – 2030 period.

For this reason, before Waka Kothi provides in-principle agreement to the restructuring of the \$2 billion loan and taking on the \$3.1 billion loan, we are seeking written confirmation, from government, of the 4 points below:

- Address the recommendations that have been highlighted in the Land Transport Revenue Review.
- Confirm a plan to resolve NLTF funding constraints (with support from Waka Kotahi) by 2027.

- Support and accelerate implementation of policy and operational aspects to enable implementation of a new pricing and funding regime by 2027, e.g. new pricing model, congestion charging, E-RUC, telematics.
- Provide assurances that the Crown will underwrite debt liabilities of the NLTP if additional and substitute revenue sources are not secured in this period.

Waka Kotahi is happy to provide any additional resources to support the prioritisation of the Land Transport Revenue Review and will assist in any way we can to support this work progressing as soon as possible.

#### Providing greater clarity about the strategic priorities

Waka Kotahi supports the strategic priorities that have been included in the draft GPS and notes that these are expected to be advanced through investment from a variety of different sources, not just through NLTF. It would be helpful if it was made clear in the Strategic Priorities section of the draft that Waka Kotahi is expected to take an integrated investment approach across funding sources to ensure the NLTF can be leveraged to deliver the greatest benefits across multiple priorities and outcomes, while also recognising that the priority for NLTF funding is to ensure the ongoing operation and maintenance of the system. These expectations feature across other parts of the draft GPS, but it would be helpful to have them made clearer in the Strategic Priorities section to avoid confusion.

#### Strategic Investment Programme

Waka Kotahi recommends that government changes the name of the “Strategic Investment Programme” to “Strategic Investment Corridors” so that it is clear that this is a set of corridors that government would like Waka Kotahi to consider in the development of the NLTP.

It is also important to note that with current forecasts of the NLTP, Waka Kotahi will not have enough revenue to cover the cost of delivering these strategic investments once planning has been completed. This creates risk both in terms of community expectations and around the potential for planning to occur well before a project can be delivered, resulting in additional cost and rework.

This means that Waka Kotahi will need to consider the wider impacts of funding these projects, such as how this impacts the ability of other committed activities to be funded, plus any surprise changes to funding arrangements that could be introduced (i.e. an expectation on the NLTP to cover NZ Upgrade Programme costs). Waka Kotahi will also need to carefully manage stakeholder expectations throughout this process.

We recommend that the draft GPS 2024 include a commitment to fund Strategic Investment Corridors that are progressed beyond 2027, provided projects aligns with government strategic priorities and are efficient and effective. In the absence of this commitment, Waka Kotahi will take a very cautious approach in approving the funding for these projects to ensure that there is a pathway to delivery.

#### Ensuring engagement with Māori

The draft GPS 2024 calls out the need to ensure that the transport system is accessible to all New Zealanders and specifically notes Māori, disabled people and rural and regional communities as key groups that may experience issues with access, that may require additional interventions.

The draft GPS 2024 also notes that a “*focus for GPS 2024 is on ensuring Māori aspirations for the land transport system are better reflected at the strategic level.*” To ensure that Māori aspirations are reflected in the draft GPS, to the extent it hasn’t already been done, we strongly support transport sector-wide engagement with Māori and offer our support to Te Manatū Waka with any future engagement or collaboration with Māori as it occurs.

#### *Expectations for climate investment need to be clarified*

The Emissions Reduction Plan (ERP), the Climate Emergency Response Fund (CERF) the Carbon Neutral Government Programme (CNGP) and the National Adaptation Plan (NAP) assign activities for Waka Kotahi to lead or co-lead. Many of these are funded or managed via existing delivery programmes.

In addition to these actions, the ERP and NAP contain expectations of increased pace and scale of funding for climate mitigation (e.g., delivery of significant infrastructure and service improvements for public transport, walking and cycling; demand management and network optimisation); and climate adaptation (planning and delivery of long-term climate resilience and adaptation as opposed to emergency response and recovery).

However, the draft GPS 2024 is not clear about how these climate mitigation and climate adaptation expectations will be funded.

To provide a sense of scale, Treasury has estimated that capital expenditure to reduce transport emissions could be upwards of \$20 billion over 10 years from 2025.<sup>1</sup> We note in this context that while Government is funding development of urban light VKT reduction programmes, it has not as yet committed to funding delivery of them, and there is unlikely to be much headroom in the NLTF for the ‘additionality’ they provide.

Proposed funding settings also do not appear to account for the potential costs associated with transitioning to CNGP-compliant infrastructure activities by 2025. At the same time, should the proposed strategic investment programme projects proceed to delivery in future, it contains projects that may increase emissions.

The impact of this funding (and policy) uncertainty is that delivery of significant, additional improvements for public transport, walking and cycling are unlikely to be funded from the NLTF during the 2024-2027 NLTP period. Availability of further Crown funding is also uncertain. This puts achievement of emissions reductions expected from transport from 2026 (the second emissions budget period) at risk. It also diminishes the potential for significant equity, health, congestion and affordability benefits through place-shaping land use and mode-shift interventions.

We recommend that the GPS 2024 contemplate these risks and provide further clarity about how it intends to respond to these risks.

#### *Expectations for Road to Zero need to be clarified*

Waka Kotahi has committed to delivering a 40% reduction in deaths and serious injuries by 2030 (from 2018 levels) as part of the Road to Zero Programme.

<sup>1</sup> Ngā Kōrero Āhuarangi Me Te Ōhanga: [Climate Economic and Fiscal Assessment 2023](#) p. 71.



Over the last year, Waka Kotahi have been asked by government to slow down aspects of the Road to Zero programme and in particular, speed changes. This means that other aspects of the road safety programme like infrastructure investment and policing will need accelerated investment if we are to continue to target a 40% reduction in death and serious harm by 2030.

If Road to Zero activities cannot be delivered, and in some cases, significantly accelerated through this NLTP period, we will not meet the 40% reduction target. This would require additional investment as well as prioritisation of this investment, over others like resilience and adaptation.

To resolve this risk, we suggest that the GPS clarify whether there is a Crown expectation that the NLTF should prioritise safety improvement initiatives over others in the improvement, maintenance and renewals activity classes and whether there will be additional funding for this purpose where required.

If neither of these apply, we suggest the government consider adjusting Road to Zero targets to reflect a slower path to delivery of these outcomes through this GPS and NLTP period.

#### Highlighting digitisation, customer enablement and pricing in the draft GPS

Waka Kotahi requests that the draft GPS be updated to include more information about the importance of digitisation (e.g. supporting technological advances to support transport options), customer enablement (providing communities with specific resources to resolve challenges) and pricing (e.g. congestion charging) to respond to some of the funding challenges Waka Kotahi and the wider transport system experiences. This may include further work on considering congestion pricing, using the NLTF to fund work to develop a proof of concept for alternative technology for road charging (e.g. universal e-RUC), or specifically calling out the Waka Kotahi Innovation Fund as a fund that needs to be continued.

We also see an expansion on the Investment Management activity class definition to include these elements (or the certification of a new activity class to support these interventions) as crucial, so that these things can (or can continue to) be funded.

#### Ensuring that there is a final Waka Kotahi and Crown Law review of the draft GPS 2024

Waka Kotahi asks that the final version of the draft GPS go through a final review by Waka Kotahi and Crown Law before it is approved by Cabinet. This will ensure there are no remaining ambiguities before it is finalised and published.

## Technical feedback

### **Roles and responsibilities**

We think it would be helpful to highlight the role of the Ministry of Housing and Urban Development and Kāinga Ora in integrated planning to ensure their land use decisions contribute to achieving outcomes signalled in the GPS (in alignment with the GPS-HUD).

We also note that it would be helpful to highlight KiwiRail's impact on placemaking, both through the transport solutions it provides and how its network (or changes to its network) impacts local communities. For example, level crossing removals (as proposed in the Strategic Investment Programme) can have significant impacts on the community if it cuts off access from one side of

the train tracks to the other. It is important that all organisations working on projects like this are required to consider community impacts.

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## Strategic Priorities

Strategic priorities should include consideration of Tū ake, Tū māia – our regulatory strategy, which sets out how Waka Kotahi and our partners regulate the land transport system to keep it safe for New Zealanders. The regulatory strategy informs maintenance, safety, and resilience work programmes so it would be helpful to include this information in relevant strategic priorities.

## Maintaining and Operating the System

We think there is room to broaden what is outlined in the ‘maintaining and operating the system’ strategic priority. We recommend including the following:

- optimising and maintaining safety through maintenance. For example, skid resistance, and signage could help prevent safety issues arising from poor quality assets.
- reference to (and funding provision for) the mandatory requirement for Waka Kotahi to transition its infrastructure activities to 'low emission' through Carbon Neutral Government Programme requirements.
- reference to providing nature-based solutions more clearly (for Waka Kotahi and local government) and make sure funding ranges reflect this.
- Highlighting the varying levels of service around the network as well as highlighting the importance of maintaining the existing asset (and the risks of not doing so).
- Further clarification about what ‘meeting future needs’ means in practice.

## Increasing Resilience

Waka Kotahi again wishes to highlight the importance of differentiating between ‘resilience’ and ‘resilience to climate change’.

This is because there are some key differences between ‘resilience’ and ‘resilience related to climate change.’ For example, ‘resilience’ can include responses to non-climate related hazards such as earthquakes and damage caused by crashes. Responding to non-climate resilience activities is also BAU for Waka Kotahi. ‘Resilience to climate change’ on the other hand only focuses on responding to climate-related events and is interchangeable with adaptation, where our responses and approaches are expected to change over time.

Measures of climate change adaptation and resilience are also distinct from each other and require different mechanisms to track them.

To resolve this confusion and inconsistency, Waka Kotahi recommends changing the title of ‘increasing resilience’ to ‘Increasing Resilience and Climate adaptation’ and making the language in the strategic priority reflect this change. This will help our partners have a clear understanding that ‘increasing resilience’ applies to both traditional/network resilience and climate resilience.

## Reducing Emissions

We suggest that this priority be updated to reflect:

- government requirements related to the ERP (reducing enabled emissions via urban form and providing better transport options),
- Waka Kotahi responsibilities under the Carbon Neutral Government Programme, to become carbon neutral by 2025, and the highly challenging nature of these responsibilities.
- Reference to the impact of embodied emissions, which is expected to increase through the delivery of projects, like those included in the Strategic Investment Programme.
- Highlight the need for longer-term climate resilience and adaptation planning.
- Reference the emissions budget period 2 (2026 – 2030).

## Safety

We suggest the following additions be made to the safety strategic priority:

- reference the safety, health and emissions benefits that arise from reduced car travel and increased uptake of public transport and safe walking and cycling networks.
- Reference the improvements to safety that can be made through placemaking, or through piloting street changes.

Waka Kotahi also found that the draft GPS says, “it is expected that the overall level of funding going towards safety projects will remain constant” in a footnote on page 72. We ask that this statement is included in the safety strategic priority description.

We also suggest the following edits in red on page 25 - “how we will deliver these outcomes:”

• **Page 25: How we will deliver these outcomes**

The Government has committed to a target of reducing deaths and serious injuries on our roads by 40 percent by 2030. This will be delivered through five focus areas:

- Safety infrastructure improvements and speed management
- Vehicle safety
- Work-related road safety
- Road user choices
- System management.

GPS 2024 will contribute to several of these focus areas by further embedding our road safety **Safe System** principles into infrastructure planning, design, operations, maintenance, and investment decision-making. Safety expenditure will include investment in **safety infrastructure (including for public transport and active modes)**, speed management, road policing, safety cameras and promoting safe behaviour, **thereby improving safety and supporting increased access to safe travel modes e.g. public transport, walking and cycling.**

## Sustainable Urban and Regional Development

We suggest making some updates to this strategic priority, including:

- Referencing the Waka Kotahi Board position on urban development: “*Waka Kotahi supports enables and encourages quality, mixed-use, compact urban development that efficiently uses land, reduces travel distances and lowers reliance on private vehicles*”. We think that including this position in the GPS will help Waka Kotahi planners to influence spatial and regional plans to get positive outcomes.
- A greater narrative about urban form – currently the strategic priority focuses heavily on the need for more housing rather than urban form. Messaging in this section of the GPS should instead highlight that we need more sustainable and compact urban areas that provide affordable housing and transport. Transport has a massive role to play in improving urban form and this should be highlighted.

- Reducing reference to 'low congestion,' and instead focusing on the reliable and efficient movement of people and freight. Overall, effective management of the system for people and freight will help manage congestion more effectively.
- Acknowledging that there are likely to be some different understandings about what sustainable development means between urban areas and the regions. For example, improvements for active modes in urban areas are generally treated as a response to people walking and cycling – either commuting or using the mode for fun. By comparison, smaller regions will often consider active modes within the context of their tourism industry (i.e. bike trials that visitors use recreationally). These types of nuances should be highlighted.
- Note that further work is needed to understand what good development looks like in the regions.

## **Integrated Freight System**

The strategic priority for integrated freight system's reference to coastal shipping (see last bullet point on page 28) is inconsistent with the activity class definition, and references investing in research which appears to be a reference to GPS2021 and is no longer applicable.

We ask that this reference to research be removed, and that reference to coastal shipping include both services and infrastructure.

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## **The Strategic Investment Programme + Corridor Studies**

We ask that the "corridor studies" be included in the GPS so that funding commitments to carrying out these studies are confirmed.

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## **Government Commitments**

### **The draft GPS should include decarbonisation of the bus fleet in its list of government commitments**

The draft GPS 2024 does not mention the government commitment to decarbonise the bus fleet, and we think it needs to be included as a government commitment.

With the Sustainable Public Transport Framework (realised through amendments to the LTMA) now approved, there is a very big expectation by public transport authorities and Waka Kotahi that the changes needed to decarbonise the bus fleet will be facilitated through the GPS and in turn, RLTP and NLTP planning processes.

A key enabler to a decarbonised bus fleet is through strategic asset ownership (e.g. depots and charging infrastructure). Currently no adequate allowance has been made in cost projections for the funding needed to do this. By not making 'decarbonising the bus fleet' a commitment in the GPS, and arranging funding/financing arrangements, the barrier will be too high for the government to achieve the complete decarbonisation of the public transport bus fleet by 2035.



## Meeting the land transport needs of different users

### Māori

Waka Kotahi strongly supports the inclusion of an expectation to “*actively protect tino rangatiratanga and enable Māori to exercise kaitiakitanga with respect to natural, physical and spiritual resources.*”

We note that the GPS will focus on ensuring Māori aspirations for the transport system are better reflected at the strategic level. We suggest you utilise some of the research that has been commissioned by Waka Kotahi to support this work. For example, Waka Kotahi Research Report 688: A pathway towards understanding Māori aspirations for land transport in Aotearoa NZ, provides a helpful overview of some the key challenges Māori experience in the transport system.

Work is also underway to develop a second work - Māori experiences and expectations of our transport system – which will likely be published around March/April 2024.

### Supporting rural and regional communities

We recommend referencing community transport and on-demand services in this section to support resilience and access in these areas.

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## The GPS Monitoring Framework

We note that more work is planned to refine the monitoring framework and measures in GPS 2024, and we look forward to working with Te Manatū Waka on this. We support the overall framework structure; however the final GPS needs to be clear and explicit on:

- defining the time horizon that it is reasonable for changes to be observed in GPS outcomes, e.g. the GPS outcomes are complex and long-term and will likely require investment over multiple GPS periods before significant change is seen. The time horizon for observable change set by the GPS should reflect local and international evidence about when change can reasonably be observed for different outcomes (for example, there is already significant evidence about the time and mix of investments it takes to reduce deaths and serious injuries, which the GPS should reflect).
- articulating the ability of the GPS direction and investment levels to impact the measures selected. For example, what proportion of the vehicle fleet is low or no carbon, what contribution do we expect GPS 2024 investment to make to this area? While the direct Crown investment in things like the clean car standard and EV charging infrastructure is noted, this is not within GPS activity classes and would not fall under the reporting obligations for Waka Kotahi in section 110 of the LTMA.
- that measures of climate change adaptation and resilience are distinct from each other (current placement in the monitoring framework appears to conflate them) and we need to clarify what we mean by ‘adaptive capacity.’
- clearly stating that the monitoring framework and measures are not the mechanism for assessing individual investment proposals.

As a broader monitoring and evaluation regime for GPS delivery (as referenced in the ministerial expectations section of the draft GPS) forms up, Waka Kotahi must be involved in its design to ensure a manageable and meaningful monitoring approach.

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## Activity Class Definitions

### Rail Network

The proposed Rail Network activity class definition needs to reference operations, as outlined in red below:

*“Investment in a reliable and resilient national rail network, including enabling KiwiRail to deliver ongoing **operation**, maintenance, renewals and improvements to the rail network.”*

We also suggest that the definition be broadened to include regulatory rail functions. Doing so would enable Waka Kotahi to be funded for its input into rail infrastructure safety during planning, design, operations, maintenance, and investment decision-making.

### Coastal Shipping

The activity class definition of coastal shipping does not include resilience as an outcome, which is one of the strongest contributions coastal shipping can make to wider government objectives. We recommend you include resilience in this definition.

### Inter-regional public transport

The intent of the Inter-Regional Public Transport activity class is not clear. A clear definition is required as there is currently some contradiction as to whether existing services are included. For example, is this activity for capital expenditure only, operational expenditure only (i.e. the operation of the services, irrespective of the service being new, improved, or existing), or a mixture of Capex and Opex?

If the intent is to include operational expenditure, it will not make sense having inter-regional services split between the Public Transport Services and Inter-Regional Public Transport activity classes. They should only be in one activity class, and if that activity class is the Inter-Regional Public Transport activity class, then the proposed funding ranges will have to cover the full 10-year period, not the three years (2024-27) currently proposed.

If the intent is to separate inter-regional public transport services from other services funded via the Public Transport Services activity class, there will be questions and a push from public transport Authorities that the reason to do this is to influence the funding assistance rate for inter-regional services, otherwise why separate them if standard FARs apply. This means further clarification is needed from MoT (in collaboration with Waka Kotahi) that covers FARs. There is finite revenue available for transport investment, any change to the FAR for inter-regional public transport will mean there is less revenue available for other NLTP activities and services.

Policy should also consider the impact on existing privatised inter-regional bus and ferry transport, which is already operational and has nationwide coverage. The definition needs to be specific about whether it includes existing services, new services (and their business cases), and infrastructure (rolling stock, stations, rail infrastructure) that relates to the inter-regional services.

It would also be helpful to understand when we can expect to see the government's response to the select committee inquiry into the future of inter-regional PT.

### State Highway Maintenance and Local Road Maintenance

State highway maintenance and local road maintenance activity classes need to be clear they can fund improvements as part of the ministerial direction to “build back better.” There could be clearer instruction that a certain amount of level of service improvements can now be funded through the state highway maintenance and local road maintenance activity classes, to support the government's value for money and build back better outcomes. This would be similar to the instruction that safety infrastructure and speed management activities will now be funded from the state highway improvements and local roads improvements activity classes.

### State Highway Improvements and Local Road Improvements

State Highway Improvements and Local Road Improvements do not include automated enforcement in their definition, we suggest this is added in.

Given that the speed and infrastructure programme is being moved to the SH and local roads improvements activity classes, we suggest the definition of these should mention them. To further support safety interventions through these activity classes, it would be helpful to include additional language in the activity class definition to support safety. For example, wording could be utilised from GPS 2018 as noted below:

<p><b>State highways and local roads are safer for everyone</b></p> <p>32. The GPS supports investment in safety improvements on state highways and local roads. It supports targeting investment at roads and roadsides that will have the greatest impact on reducing deaths and serious injuries.</p> <p>33. Investment should improve safety for all users through ensuring safe and appropriate travel speeds, and improving roads, roadsides and intersections. In particular, GPS 2018 supports investment in state highways and local roads to:</p> <ul style="list-style-type: none"> <li>• accelerate the implementation of the new Speed Management Guide, focusing on treating the top 10 percent of the network which will result in the greatest reduction in death and serious injury as quickly as possible (such as reviewing speed limits and/or making engineering improvements to make a road safe for its current speed limit)</li> </ul>	<ul style="list-style-type: none"> <li>• treat the highest-risk parts of the network, including increased investment in primary safe system treatments, that reduce the risk of: <ul style="list-style-type: none"> <li>- head-on and run-off road crashes (such as through the installation of median and side barriers)</li> <li>- urban and rural intersection crashes (such as through the installation of roundabouts or speed management devices), and</li> <li>- harm to vulnerable road users, including pedestrians, cyclists, motorcyclists, and the mobility impaired (such as through segregated facilities, markings or speed management devices, including raised platforms at roundabouts, traffic signals, and pedestrian facilities)</li> </ul> </li> <li>• increase use of lower cost safety interventions such as improved skid resistance, signs and markings (including rumble strips), safety targeted seal widening and speed management</li> <li>• ensure maintenance to ensure these safe system treatments remain fit for purpose.</li> </ul> <p>34. In regards to local roads, it includes reviewing the incentives, processes and funding arrangements for investing in safety initiatives by local government to ensure that safety on local roads is being improved.</p>
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GPS 2024 proposes that “infringement fees will be hypothecated to the NLTF where it will be directed to support safety investments through the Road to Zero programme”. One of the most important ways to address community (mis) perceptions around safety camera revenue is to ensure it is directed back into critical community safety programmes and road infrastructure safety improvements together with clear transparency and traceability. Noting the above intent to shift safety infrastructure investment into SH and LR improvements, and the associated issues, it will be critically important that clear and robust investment policies and pathways are established to ensure infrastructure improvements have clear alignment with Safe System outcomes and alignment with Road to Zero outcomes.

### Walking and Cycling Improvements

We suggest updating the definition of this activity class to include reference to improving access to these modes for disabled people, as universal design is becoming more and more significant in the work carried out by the walking and cycling improvements activities class.

In the Safety activity class, behavioural changes to improve road safety outcomes are specifically mentioned, however behavioural (non-infrastructure) activities are not specifically mentioned in the walking and cycling activity class. It is assumed these activities fall under demand management and are therefore allowed to be funded in the W&C activity class; however, stating this would make it clearer.

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## Activity Class Ranges

### Safety

Inputs provided to MoT during GPS development were based on a range of \$1530 million (lower range) to \$1850 million (upper range estimate). But the upper range in the draft GPS 2024 is \$1830 million. We ask that this upper range be increased to \$1850 million to align with forecasts.

We also ask that Safety be included in continuous programmes rather than improvements in table 6 noting that the safety class will be focused on retaining current policing levels, continuing road safety advertising and supporting safety camera, all existing and ongoing commitments.

### Inter-regional public transport

Projects that would fit under the Inter-Regional Public Transport umbrella are likely to be big projects requiring lots of resources beyond 2027. Because there is no funding allocated beyond 2027, this will make it difficult for public transport authorities to want to apply for funding from this activity class. To overcome this, we suggest including funding in the upper and lower ranges from 2027 – 2034 to give PTAs confidence that their projects can realistically be funded under this activity class. It will also be challenging for PTAs to try to develop new services (or even to continue with existing services) with only three years of funding shown. We recommend a signal in the GPS that the activity class will continue across the 10 years

We recommend the minimum range is lowered (perhaps to \$10m per annum) as it will be challenging to meet the minimum with the known activities and allowing \$10m for business cases

### Rail Network

We recommend that the Rail Network activity class ranges be widened to provide more flexibility in times of uncertainty. This will help the activity class to account for slower than planned delivery, or the addition of new activities, such as an increase in emergency works. We recommend an increase of \$200 million (each way) in total over 3 years to account for this.

### Investment Management

Internal conversations have signalled that further funding through the Investment Management activity class is required to cover additional funding for the long-term planning required to support our climate responsibilities (e.g. responsibilities under the Carbon Neutral Government Programme). While it is currently unclear how much funding is required, we would like to signal



that we would support working with you further to increase the amounts provided in this activity class.

## Local Road Maintenance

Waka Kotahi notes that councils are likely to highlight (in their submissions) that GPS ranges for Local Road and State Highway Maintenance Activity Classes do not make provision for the additional Crown-funding expected for recovery works relating to Cyclone Gabrielle and the weather events over Auckland Anniversary weekend. Early, high-level estimates suggest these events could generate an additional funding demand of between s 9(2)(f)(iv) (NLTF) for the Local Roads and State Highway Maintenance s 9(2)(f)(iv)

In addition, initial maintenance bids received from Councils in early September indicate (un-tensioned) funding demand of s 9(2)(f)(iv) excluding any provision for emergency works s 9(2)(f)(v) and nationally delivered such as Te Ringa Maimoa and Asset Management Data Standard (expected cost of s 9(2)(f)(iv))

To ensure the Board has discretion to respond to evidence and support increase investment in council maintenance programmes, consideration should be given to increasing the upper range by s 9(2)(f)(iv) - which is s 9(2)(f)(iv) less than the top of the range for State Highway Maintenance.

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## Crown Funding

We recommend referencing section 9 of the LTMA in the draft GPS. Not doing so impacts the ability of our regulatory function to access funding to support Search and Rescue, Met Service and the MoT Crown Monitoring Function. Doing this would also take a wider funding approach to the GPS as section 9 powers enable the regulation of FED/RUC (in other words, getting non-compliant users to pay their fees), which supports the overall revenue.

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## Ministerial Expectations

### Building Back Better

While we support the principles of 'building back better' in achieving multiple strategic outcomes and value for money, the term could be better defined in the draft GPS 24-27. Traditionally, 'build back better' refers to the need to rebuild infrastructure in the aftermath of natural disasters in a way that that is more resilient to future disasters.

In addition, a key challenge to defining 'build back better' is understanding and agreeing to what 'better' means in practice. More direction is needed around what is deemed to be a sufficient standard that meets the needs of current and future users, to enable the sector to move away from a 'like- for- like maintenance regime'.

There are also a number of barriers to build back better that can make processes slower and more expensive, for example:

- there is a higher level of consultation requirement for any infrastructure delivery that is more than just 'like- for- like'

- general lack of capacity and capability in the sector in identifying improvement opportunities to deliver as part of maintenance and renewals programmes.

To resolve these issues, we suggest preparing a Waka Kotahi interpretation of 'build back better' that is published at the same time as the draft GPS. We would work with Te Manatū Waka and Ministers to ensure our interpretation is aligned with GPS expectations and objectives.

To enable a multi-modal and accessible transport network, we recommend that this section includes the direction to also consider the need for walking and cycling, which are complementary to support public transport access and often easier and more affordable to deliver, compared to public transport.

### **Supporting and building capability for innovation**

One of the ways Waka Kotahi contributes to supporting and building capability for innovation is through the Hoe ki angitū – Innovation Fund, which is administered by Waka Kotahi.

A lack of reference to investment in technology, data, piloting, removing barriers to, and investment in, innovation generally, coupled with a specific reference to innovation in relation to maintenance and renewals risks any funding for innovation going only to maintenance and renewals.

We suggest that the draft GPS make specific reference to innovation and confirm the continued funding of the Innovation fund.

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### **Other Corrections**

#### **Sustainable urban and regional development – decarbonisation (page 27)**

The last bullet point on page 27 notes: "Waka Kotahi and Public Transport Authorities will adopt the Sustainable Public Transport Framework (SPTF) and commit to decarbonising public transport by 2035."

Please note that the SPTF has already been adopted via the Land Transport Management (Regulation of Public Transport) Amendment Bill, and that we have only committed to decarbonising the bus fleet not all public transport by 2035.

#### **Crown funding for land transport - Table 7: total land transport investment (page 49)**

We understand that this table is to show the total land investment, however, could the header for column 1 be changed to "Activity" rather than "Activity Class"?

As discussed, the funding shown in the Rail network row will be carried out across the Rail, PTI, SHI, and LRI Activity Classes not just the Rail AC. In particular, a lot of the \$3,335m of crown funded activities will not come through any of the Activities Classes as it goes directly to KiwiRail.

Table 7 appears to omit the Crown funding for Ngauranga to Petone (walking and cycling improvements). Can this table please be updated to reflect this?

#### **Appendix 4: Crown direct funding commitments to land transport (page 67)**

Please change the title “Crown direct funding” to “Crown funding” as some of the items on this list are funded through the NLTF.

**Glossary – Public Transport (page 69)**

Under the definition of ‘public transport’ it mentions inter-regional transport by means of a rail vehicle only. This needs to include more modes like buses and ferries, or generally public transport.

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**ANNEX 5: KO TĀTOU LOCAL GOVERNMENT NEW ZEALAND FEEDBACK**

Document attached in email.

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// **SUBMISSION**



# GPS LAND TRANSPORT 2024/25 – 2034/35

// Local Government New Zealand's submission on the Government Policy  
Statement on Land Transport 2024/25 – 2034/35

// SEPTEMBER 2023



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# Ko Tātou LGNZ.

Local Government New Zealand (LGNZ) provides the vision and voice for local democracy in Aotearoa, in pursuit of the most active and inclusive local democracy in the world. We support and advocate for our member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We also promote the good governance of councils and communities, as well as providing business support, advice, and training to our members.

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# Introduction

Councils have a significant role in delivering Aotearoa New Zealand's transport system. Regional councils are responsible for planning and delivering our public transport network while territorial authorities are Road Controlling Authorities who build and manage the majority of Aotearoa's estimated \$164bn of transport assets<sup>1</sup>. Local government is the largest owner of cycleways, footpaths and bridges in the country.

Local Government New Zealand (LGNZ) welcomes the opportunity to submit on the draft Government Position Statement on Land Transport (draft GPS). Transport is a significant priority for LGNZ. We recently released a [position statement](#) outlining the key issues for our members and the outcomes we want to see from the transport planning and funding framework. Our position statement calls for:

- 1) A strategic long-term approach to planning that joins up central and local government decision-making to address maintenance, development, and climate adaptation needs.
- 2) Sufficient, long-term transport investment that prioritises resilience building, safety and better asset management across both new developments as well as maintenance and renewals.
- 3) Integrated transport and freight networks that support placemaking by connecting our rural communities, town and cities by making them great places to live and work.
- 4) A transport network that can adapt to future climate impacts and prioritise decarbonisation.

We address some of these positions further in our submission and will be undertaking advocacy and policy work to support broader changes to the transport planning and funding system that are not in scope of this draft GPS.

Local government is best placed to deliver a large number of transport outcomes due to its heavy involvement in planning for communities. Providing a local lens on transport planning and investment decisions is critical to ensure they deliver on local needs and priorities and integrate with land use and community infrastructure.

We understand the importance of maintaining and improving transport assets to improve community wellbeing and councils are focused on how to ensure their communities have access to critical lifeline services and economic opportunities through our transport system. With changes to councils' water service delivery and resource management planning functions, the importance and focus put on local government's transport assets, investments and functions is likely to grow.

LGNZ is pleased the draft GPS has been released despite some delays, as this is a critical source of information that councils use to inform Long-Term Plan (LTP) decision-making. While we welcome

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<sup>1</sup> Office of the Auditor General, (2022) Managing Public Assets. Accessed from:  
<https://oag.parliament.nz/2013/managing-public-assets/part2.htm>



some aspects of the draft GPS (such as the proposed increase to maintenance funding) and commend the Ministry of Transport (MoT) on the work done to date, we believe significant changes are needed to ensure investment in our transport system delivers on community needs and priorities and better enables regional economic development.

## Key Points

LGNZ is supportive of the general direction of this draft GPS. However, our transport system is in desperate need of increased investment, and we need to put significant effort into decarbonising and building the resilience of the system. Significantly more work is needed to deliver an integrated strategy with sustainable levels of funding.

LGNZ supports:

- // The six strategic priorities identified in the draft GPS; and
- // The focus on building resilience and in particular the resilience of rural roads.

To improve the GPS Land Transport, LGNZ seeks the following changes:

- // That funding allocations are rationalised to ensure funding is directed to the most appropriate areas.
- // That co-benefits across activity classes are identified in the final GPS Land Transport.
- // That the government makes further increases to funding for maintenance and renewals.
- // That investment to improve the resilience of the transport system is significantly increased, alongside development of a long-term strategic approach.
- // That MoT review current emergency works policies to ensure that increasing resilience and adapting to the effects of climate change are taken into account when replacing roads.
- // Increase funding available to ensure councils can decarbonise their transport networks.
- // That MoT and Waka Kotahi work with local government to develop a national long-term strategic plan to guide investment in our national and local transport networks.
- // That MoT advances the New Zealand freight and supply chain strategy at pace and co-design the detailed actions with local government.
- // That MoT assure itself of the financial sustainability of the proposed NLTF funding ranges across all 10 years.
- // That the MoT work with DIA and local government to explore the tools that can be given to councils to raise revenue outside of rates.
- // That MoT accelerates the review into transport funding and co-designs a new transport funding framework with local government.



- 
- // That Waka Kotahi works with local government to investigate changes to the FAR to ensure councils' local share can be met by existing rating bases.
  - // That MoT work with local government, through Taituarā, and roading companies to increase capacity and capability in the system.
  - // That Waka Kotahi extends the deadline for adopting Regional Land Transport Plans and allow accommodations in LTP decisions.

We also believe that the current transport planning and funding arrangements are not fit for purpose and request that MoT and Waka Kotahi work with LGNZ and local government to develop a strategic long-term approach to planning and funding that joins up central and local government decision-making.

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# Our submission

## Setting strategic priorities that meet the needs of our communities

LGNZ agrees with the six strategic priorities set out in the draft GPS; they seem sensible and aligned with improving community wellbeing, as well as being aligned to the transport outcomes outlined in s 68(3) of the Land Transport Management Act. The focus on maintaining and operating our existing system and increasing resilience is welcomed as they are key priorities for councils. Despite this, it is not clear that the strategic priorities will translate into tangible change or outcomes. We're concerned that these important strategic priorities have not been translated into funding bands within the specified activity classes. We also think there are missed opportunities to understand the co-benefits across strategic priorities and activity classes.

### Recommendations:

- // We support the six strategic priorities identified in the draft GPS and request that funding allocations are rationalised to ensure funding is directed to the most appropriate areas.
- // Co-benefits across activity classes should be identified in the final GPS Land Transport.

## Maintaining and operating the System

We are pleased to see that maintaining and operating the existing system is a key strategic priority under this draft GPS. Historically, successive governments have underinvested in renewals and maintenance which has had a detrimental effect on the usability of our transport system. Therefore the proposed 30% increase to funding for maintenance and renewals programmes is welcomed. However, we are concerned that the proposed levels of funding will not be able to meet the historical shortfall and fail to account for the increasing cost of delivering this work. Post COVID-19 transport contracting costs have risen significantly due to a lack of skilled labour, resulting in large vacancy rates across the sector. Given that the Producer Price Index has shown an increase to roading costs at 8.9% for the quarter ending June 2023, the funding allocation for maintenance and renewals does not reflect the inflationary costs associated with transport work.<sup>2</sup>

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<sup>2</sup> Statistics NZ (2023) Business price indexes: June 2023. Accessed from:  
<https://www.stats.govt.nz/information-releases/business-price-indexes-june-2023-quarter/>



While it is understandable that a strong focus has been placed on responding to extreme weather events, particularly given the ongoing impacts of Cyclone Gabrielle to key parts of our transport network, LGNZ is concerned that the impacts of increased rainfall, land movement, and other extreme weather events generally have not been accounted for in the baseline maintenance and renewal budgets. Water degrades the surface health of our roads resulting in an increased need for ongoing work, which will make maintaining and operating the system more expensive.

While we understand the current cost pressures on the government and the need to balance several competing priorities, the state of our roads is deteriorating and the costs of maintenance once surface and pavement health falls below a certain threshold are growing exponentially. Significant investment in maintenance and renewals is needed to uplift our existing network to an appropriate standard.

#### Recommendation:

// That the government makes further increases to funding for maintenance and renewals.

## Increasing resilience

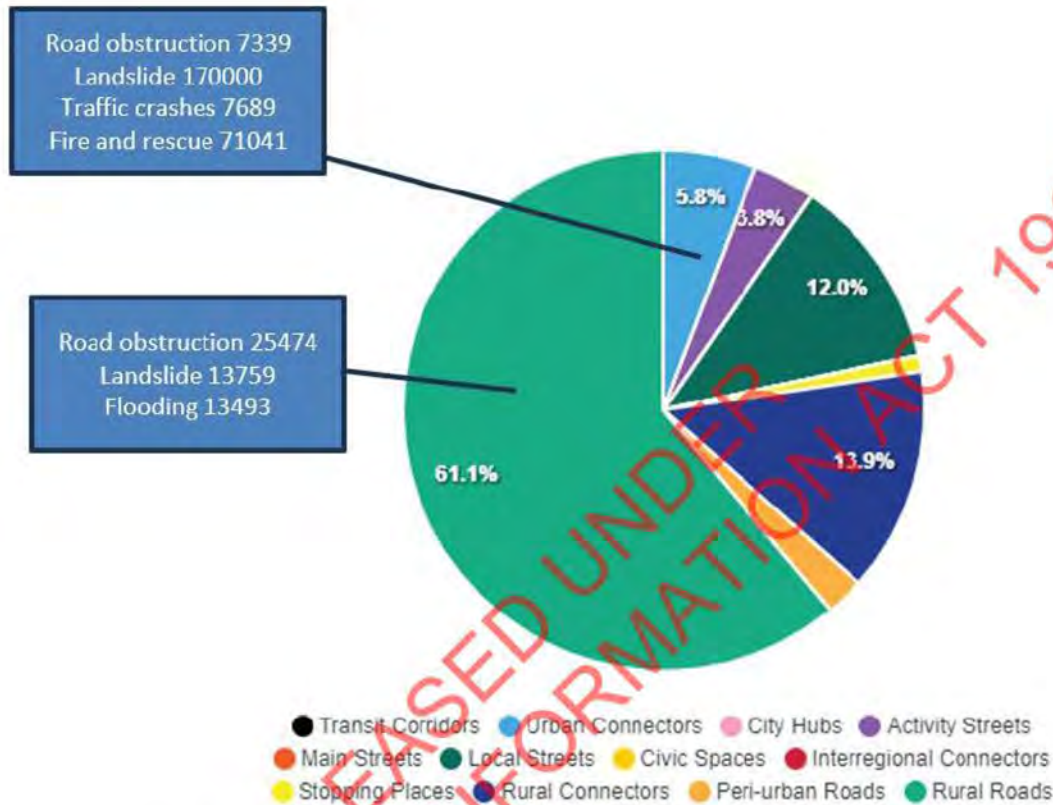
We support the strategic priority of increasing the resilience of our transport network. Recent extreme weather events have clearly demonstrated the toll the changing climate will have on the condition of our roads and the impacts for communities disconnected from the rest of Aotearoa. Significant proactive investment and a joined-up approach to long-term planning are vital to increase the resilience of the transport networks that connect our communities and support their economic prosperity.

The impacts of road closures are often particularly acute in rural areas due to a lack of alternate routes and the travel distances to access markets and services.<sup>3</sup> As can be seen in the graph below, the majority of road closures over the past year have occurred on low-traffic rural roads. We therefore support the focus this draft GPS has put on improving the condition of our rural roads.

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<sup>3</sup> Draft Government Policy Statement on Land Transport 2024 pg. 22





We are concerned that the funding ranges indicated in the draft GPS are not commensurate with the work that needs to be delivered to increase the resilience of our transport network. Given the importance of local roads in connecting communities to lifeline services, economic and education opportunities we believe that this work should be prioritised. Councils, however, are unable to bridge the gap in funding that the draft GPS proposes. We expect significant increases in Crown spending to avoid the passing of another unfunded mandate to local government.

We understand the desire to “make the most of the considerable maintenance and renewals work programme to improve, rather than just replace, the existing asset base”<sup>4</sup>. However, LGNZ sees limitations with a “build back better” mindset and the short-term thinking this can result in. Current emergency works policies show that without a plan and significant investment councils have no other option but to replace like for like which has contributed to the state our assets are currently in. We need a joined-up, long-term strategic approach to the resilience of our transport system that links with the wider context of reform and our response to climate change. For example, Tiro Rangi Waka Kotahi’s Adaptation Plan needs to integrate with the development of Regional Spatial Strategies under the Spatial Planning Act 2023 and the work underway on identifying options for a framework for community-led retreat. A consistent and dynamic framework and identifying areas

<sup>4</sup> Draft Government Policy Statement on Land Transport 2024 pg. 8



where climate change will make service delivery an unreasonable and unending task of repairing and reopening roads will support councils to make decisions that improve the resilience of the transport system.

### Recommendations:

- // LGNZ strongly supports the focus on building resilience and in particular the resilience of rural roads.
- // That MoT review current emergency works policies to ensure that increasing resilience and adapting to the effects of climate change are taken into account when replacing roads.
- // That investment to improve the resilience of the transport system is significantly increased, alongside development of a long-term strategic approach.

## Reducing emissions

Transport emissions are one of the five main sources of Aotearoa New Zealand's emissions and account for 17% of our total emissions, so decarbonising transport is one of the key levers for reaching our emissions reductions targets and mitigating the impacts of climate change.<sup>5</sup> While some of the policies under the first Emissions Reduction Plan have moved our transport emissions in the right direction, we still need a fundamental shift in the way we move people and goods to ensure we reduce the impacts of climate change on our communities.

We are concerned that the policies outlined in the draft GPS represent an inadequate response to the clear and urgent threat climate change poses. The funding allocated under activity classes to further this strategic objective is inadequate. Even without the recent cut of \$50 million to councils to create walkable neighbourhoods and cycling networks<sup>6</sup> the level of investment indicated in the draft GPS is unlikely to meaningfully contribute to the three decarbonisation goals outlined in the ERP. For example, the Auckland Transport Emissions Reduction Plan found that given the policy levers and funding available they will only meet 51% of this target.

The disconnect between the goals outlined and the levels of funding indicated in the draft GPS and Climate Emergency Response Fund means that the need to reduce transport emissions is yet another unfunded mandate passed to local government. We encourage MoT to significantly increase the funding allocated to decarbonising transport and undertake work to understand the funding

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<sup>5</sup> Mistry for the Environment, (2022), First Emissions Reduction Plan pg. 169 Accessed from: <https://environment.govt.nz/assets/Emissions-reduction-plan-chapter-10-transport.pdf>

<sup>6</sup> <https://www.newsroom.co.nz/govt-cuts-further-236-million-from-climate-policies>



levels required for councils to meet VKT reduction goals to ensure that they do not pass on any unfunded mandates in future GPS'.

**Recommendation:**

// Increase funding available to ensure councils can decarbonise their transport networks.

## Safety

We support the strategic priority to improve safety outcomes across the transport system as we need to reduce deaths and serious injuries on our roads, footpaths, and cycleways. Improving the safety of our transport system requires a holistic approach that includes infrastructure improvements and traffic management solutions, which are complemented by education and communications campaigns. Both these hard and soft interventions will need to be adequately funded to ensure the effective implementation of safety improvements.

We are concerned that despite safety being identified as a strategic priority and the Road to Zero plan outlining the steps we need to take, not enough investment has been allocated to improving the safety of our system.

**Recommendation:**

// The Government increases the funding allocated to improving the safety of our system.

## Sustainable urban and regional development

We support the strategic priority of sustainable urban and regional development and the strategic investment projects outlined in the GPS to support this. The range of mode-shift programmes outlined in the draft GPS individually seem sound, but don't paint a coherent picture of how we will enable urban and regional development. Mode shift will best provide value for money when infrastructure improvements are complemented by travel demand management interventions and communication campaigns.

While the proposed strategic investments will help to improve the transport connections of some communities, they do not give us confidence that the Government has a well thought out strategy for urban and regional development at a national level. As identified in our Transport Positions Statement, integrated transport and freight networks that support placemaking by connecting rural communities, towns and cities will be crucial to improving the economic and social wellbeing of our communities. Understanding regional and local contexts will be critical as the Government develops policy around areas like mode-shift and a long-term strategic plan to guide investment. We encourage MoT and Waka Kotahi to collaborate with local government to develop these policies and strategies to ensure local priorities and needs can be reflected.



With the introduction of the Spatial Planning Act and the need for councils and remit agencies such as Waka Kotahi to contribute to Regional Spatial Strategies, we have an opportunity to develop this long-term national plan. Utilising RSSs will not only enable better investment across a 30-year horizon but will also improve integration between spatial planning, land transport and community infrastructure. To develop this plan and deliver a consistent approach during RSS development, MoT and Waka Kotahi needs to increase funding for planning and policy development internally and work with local government to understand local needs and priorities.

The final GPS should clearly outline how the Government intends to fund the land transport decisions that may fall out of the development of RSSs. In addition to this, the final GPS should respond to work programmes that would improve sustainable urban and regional development such as the Inquiry into Inter-Regional Passenger Rail.

### Recommendation

// That MoT and Waka Kotahi work with local government to develop a national long-term strategic plan to guide investment in our national and local transport networks.

## Integrated freight system

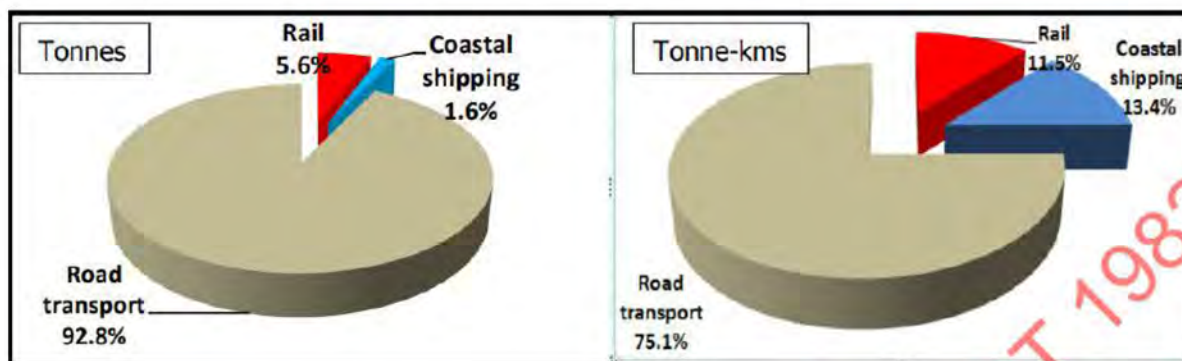
We support the inclusion of an integrated freight system as a strategic priority. We need a freight network that enables transportation of goods across road, rail, and coastal shipping to support our regional economies. Diversifying our freight network will improve the resilience of the system and reduce the cost of maintenance and renewals, as the use of heavy vehicles has a significant impact on the condition of our roads. The National Freight Demand Study has confirmed that the majority of our freight is moved via our roads (see graph below) in particular on the local road network. Of all the \$68.4Bn exports<sup>7</sup> produced, land-based exports and their first stage processed products account for over 60% of the value of New Zealand's exports<sup>8</sup>. In today's terms \$42.4 Bn of export value per annum is transported by local and regional networks.

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<sup>7</sup> [https://oec.world/en/visualize/tree\\_map/hs92/export/nzl/all/show/2021/](https://oec.world/en/visualize/tree_map/hs92/export/nzl/all/show/2021/)

<sup>8</sup> <https://www.lgnz.co.nz/assets/Uploads/252d91a4db/BERL-Transport-Futures-Economic-Evidence.pdf>





With almost 93% of all freight transported by truck, New Zealand's roading network provides a crucial service in supporting our economy at both national and local levels<sup>9</sup>.

However, despite the clear signal from the Government that we need to improve and diversify our freight network, little has been delivered to date and the problem is getting worse. According to a review of Waka Kotahi's asset management by the Ministry of Transport (MoT)<sup>10</sup>, heavy vehicle use and volumes on the State Highway network has grown by 28% over the past 10 years, with a 7% increase in kilometres travelled by heavy vehicles experienced across the State Highways during the 2018-21 funding period alone.

We would like to see MoT advance the New Zealand freight and supply chain strategy at pace and co-design the detailed actions with local government as our local roads play an important part in getting products to market.

### Recommendation

- // That MoT advances the New Zealand freight and supply chain strategy at pace and co-design the detailed actions with local government.

## Meeting the level of investment needed in our transport system

LGNZ is concerned that despite the increased levels of investment outlined in the draft GPS, our local roads and transport system will fail to meet the challenges of the 21st century, because of inadequate overall levels of investment in the system. The NLTF is constantly being asked to cover

<sup>9</sup> <https://www.transport.govt.nz/assets/Uploads/Review-of-the-Investment-in-Operating-and-Maintaining-New-Zealands-State-Highways-Part-1-Summary-Report-Final.pdf>

<sup>10</sup> [Review-of-the-Investment-in-Operating-and-Maintaining-New-Zealands-State-Highways-Part-1-Summary-Report-Final.pdf \(transport.govt.nz\)](#)



more without an adequate increase to the fund, and external factors such as climate change have exhausted budgets well before the end of the funding cycle.

We agree that funding allocated through the NLTP needs to be spent in a way in which “delivers value for money makes most efficient use of the NLTF to deliver on outcomes aligned with the strategic priorities.”<sup>11</sup> However, we are not convinced the funding allocated is sufficient, and the current funding system is underpinned by short-term thinking. This means that the NLTF is unlikely to achieve strategic priorities or meet users’ reasonable expectations. The funding drop-off after year three of the NLTP does not give councils confidence to plan long term improvements to the network either. We also have significant concerns around the debt financing proposal and the impacts this will have on future funding level and overall financial sustainability. This is especially concerning given that activity class budgets are dependent on revenue raised, and it is currently unclear whether the sources identified will achieve the hypothecated 34% increase in revenue and be able to repay Crown debt.

We believe that our transport system is not financially sustainable and the way we fund our transport network needs to fundamentally change. We strongly urge MoT to assure itself of the financial sustainability of the proposed NLTF funding ranges across all 10 years.

## Sources of revenue

We support the proposed changes to the way revenue is generated including the diversion of revenue generated through traffic infringements. We also support the extension of RUC to include EVs. While an incentive may initially have been needed to increase uptake of Electric Vehicles as a means of reducing emissions this is not a financially sustainable intervention nor does it account for the cost any type of vehicle has to the transport network.

We agree that distance-based charges like RUC and RED need to be considered, but equity considerations need to be kept front of mind. Distance-based charges are predominately paid by rural communities who currently receive only a small portion of the revenue generated. We request a larger portion of the revenue generated through RUCs is apportioned to rural road maintenance.

However, we need a wider range of revenue raising tools to meet the needs to the system. Congestion charging, the expansion of digital RUCs, and several other tools have been implemented successfully overseas and we request the MoT work with DIA and local government to explore a range of tools that can be given to councils to raise revenue outside of rates, including the ability to set their own parking infringement rates.

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<sup>11</sup> Draft Government Policy Statement on Land Transport 2024 pg. 8



We understand that MoT is currently undertaking a review into the Future Transport Revenue System. However, we believe this work needs to be accelerated to ensure investment in the transport system will meet the existing and future challenges of rural and urban communities. We would encourage MoT to work closely with LGNZ and councils during the review and co-design the new system with local government given we deliver most of the transport system. Alongside this, we need to improve our transport planning system to ensure strategic investments in the system happen in the right place at the right time.

### Recommendation

- // That the MoT work with DIA and local government to explore the tools that can be given to councils to raise revenue outside of rates.
- // That MoT accelerates the review into transport funding and co-designs a new transport funding framework with local government.

### Local share

We note that, while some increases of spending have been indicated through the NLTP, the FAR allocated to councils remains unchanged. This means that in order to meet the increased levels of funding that the GPS proposes, significant rates increases may be needed. These will be incredibly difficult for councils given their current funding pressures and the wider, current economic situation. Councils are facing significant cost pressures from implementing a raft of reforms, inflationary pressures, and the need to deliver a number of unfunded mandates from central government. Rates increases cannot keep up with the ballooning programme of works councils are expected to deliver. With councils unable to raise revenue to meet NLTP funding it is likely that some of the proposed outcomes and programmes may not be realised.

This is particularly true for councils which have a small rating base or where compounding pressures (such as recovering from Cyclone Gabrielle or deteriorating socio-economic conditions in communities) would push council budgets beyond the brink. We are concerned that rural and disadvantaged communities will have inequalities entrenched through a lack of investment in their transport networks through the NLTP. To have a well-connected New Zealand all aspects of our network need significant uplift, not just those with the population base to support significant investment. We propose that Waka Kotahi investigate the FAR available to all councils to relieve the pressure on their local rating base and investigate any further support rural and disadvantaged communities will need to maintain and operate their transport network.

### Recommendation:

- // That Waka Kotahi works with local government to investigate changes to the FAR to ensure councils' local share can be met by the existing rating base.



## Increasing capacity and capability

There currently is a significant shortfall in the skilled labour required to deliver many of the transport maintenance programmes and capital investment projects that are outlined in the draft GPS. Right now there are substantial vacancy rates in the transport construction sector and the machinery required to undertake transport upgrades is in short supply. While it is important that the levels of funding for maintenance and capital project programmes are increased to deliver a quality transport network, we urgently need to increase the capacity and capability of the system to meet the increased levels of funding and work that is needed.

One option for building capability and capacity could be to prioritise providing long term contracts to small to medium-sized contractors to support them to build capacity and capability at the local level. Providing long term certainty will give small to medium-sized businesses assurance that investment in capacity and capability will continue beyond a three-year timeframe. We encourage MoT to investigate expanding the Network Outcomes Contract framework for councils to use during procurement. We also support Taituarā's recommendation that MoT and Waka Kotahi work with them and roading companies put in place a strategy to increase capacity and capability and improve the competitiveness of the marketplace.

### Recommendation:

- // That MoT work with local government through Taituarā, and roading companies to increase capacity and capability in the system.

## Improving the way we fund our transport network

The current three-year funding cycle makes long term strategic investments difficult and the NLTP is being asked to fund a wider range of activities, meaning different needs and priorities are forced to compete with one another. Local funding isn't enough to bridge the shortfall and the ad hoc use of different funding sources through the CERF and Treasury has created a complex funding system focused on short term decisions.

The cost and impact at the local level of everchanging investment priorities following general elections has been overlooked for too long. The stark contrast in the proposals put out by political parties in the lead up to this year's general election has created uncertainty as to whether priorities, projects, and funding levels outlined in the draft GPS will change in a few months' time.

Furthermore, the NLTP does not align with council funding cycles which makes budgeting decisions difficult and can result in disruptions to work programme planning. Ideally, the GPS on Land Transport would be available at least 15 months before LTPs need to be adopted to allow councils to build the right assumptions into their budgets and meaningfully consult with their community on proposed work. We need a long-term investment strategy for our transport system that has cross party support so that regardless of the shape of the government of the day, communities and councils have confidence that the transport system will be built and maintained to a reasonable



standard. However, in the absence of wider reform it would be useful for extend the deadline for Regional Land Transport Plan adoption and allow councils to adopt their LTP with placeholder transport decisions and have final decisions properly costed and consulted upon once the final GPS has been adopted.

A strategic, long-term approach to planning that joins up central and local government decision-making and puts local people and priorities at the centre of service delivery is crucial to meeting our desired transport outcomes. Local communities are best placed to decide on shared priorities and understand their needs when it comes to our transport network; however, agreed goals and a long-term national plan for our transport network is needed to guide local investment.

We have identified developing a strategic long-term approach to planning that joins up central and local government decision-making as a key priority in our Transport Position Statement and we will be progressing policy and advocacy work in this space after the election.

**Recommendation:**

- // That Waka Kotahi extend the deadline for adopting Regional Land Transport Plans and allow accommodations in LTP decisions.
- // That MoT and Waka Kotahi work with LGNZ and local government to develop a strategic long-term approach to planning and funding that joins up central and local government decision-making.



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# CONCLUSION

While we support the general direction of the draft GPS, we have serious concerns around whether the strategic priorities will be delivered upon given the levels of funding allocated and the lack of a coherent plan for what our transport system should look like in 30 years' time. We are concerned that means that the funding allocated will not provide the best value for money as co-benefits across activity classes have not been identified and the projects and programmes funded only encourage short-term investments. We encourage MoT to work with the incoming government to both rationalise the investment decisions in the final GPS as well as finding more revenue options to accommodate both the significant need for investment in our transport network and ensure the financial sustainability of our transport system. We encourage MoT to undertake significant changes to the NLTP and work with local government to understand local priorities and meet the levels of investment required.

Additionally, we need to fundamentally change the way we plan and fund our system to ensure that there is a strategic and joined-up approach to decision making and delivery of transport services so that integrated transport and freight networks support local placemaking and enable community wellbeing. Following the finalisation of the GPS we would like to work with MoT to review current transport planning and funding arrangements to better align decision-making and develop a long-term strategy to improving and building resilience in our transport network.