

## Ministry of Transport

# Four Year Regulatory Plan 2015-2018

30 July 2015

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## Section 1 – introduction

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### **Purpose of this Plan**

1. The Four Year Regulatory Plan (the Plan) brings together the Ministry of Transport's (the Ministry) regulatory planning processes and supports the Ministry's Four Year Plan. The purpose of our regulatory planning is to establish the Ministry's regulatory reform priorities that will help the Ministry achieve its goals.

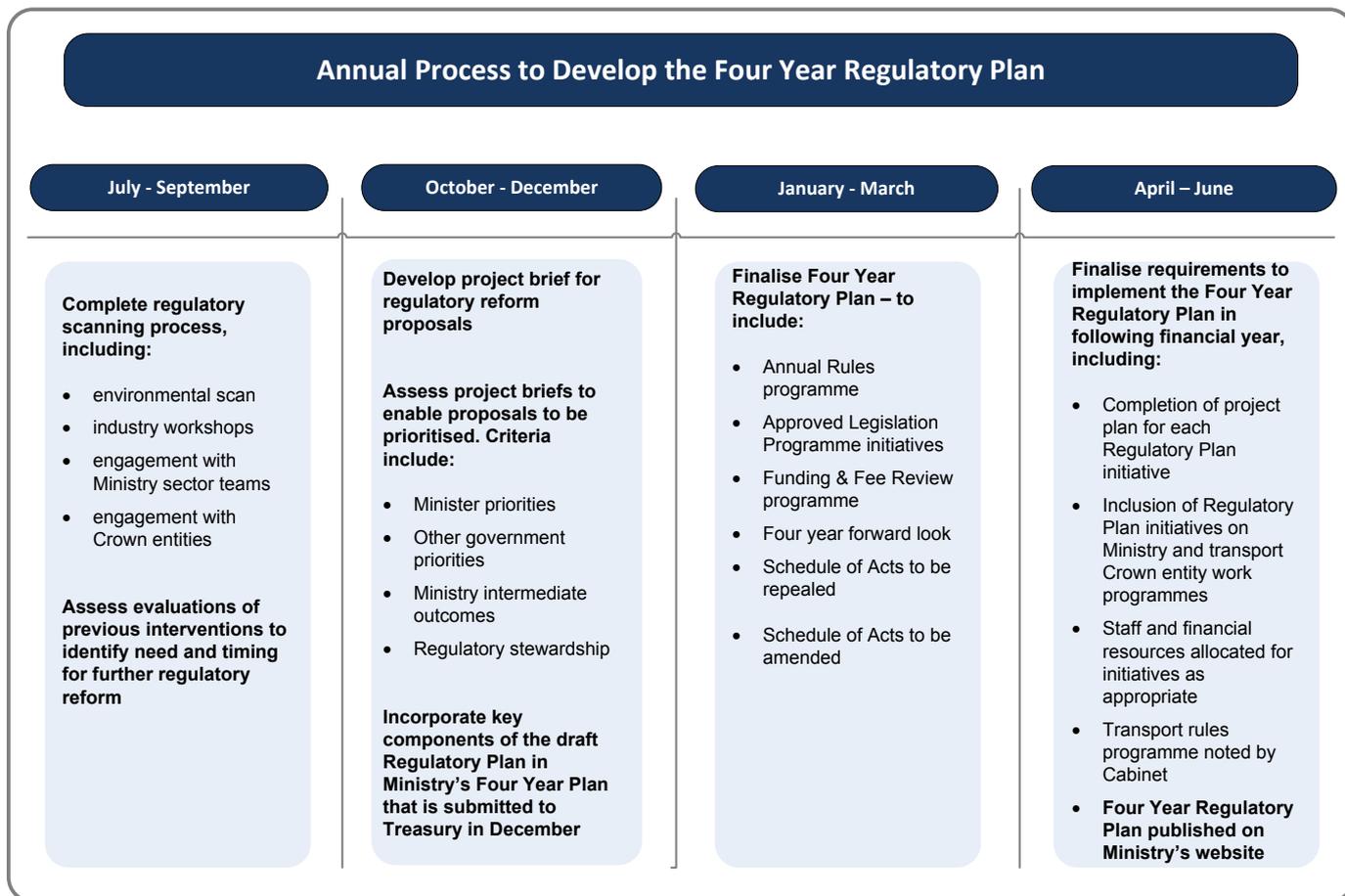
### **How this Plan is utilised by the Ministry and wider sector**

2. Regulatory reform and maintenance are a significant part of the Ministry's work programme. The Ministry uses the Plan to demonstrate how it identifies and approaches regulatory change and how regulatory change forms part of the Ministry's wider work programme. The Plan demonstrates:
  - the strategic context for transport regulatory reform
  - the Ministry's approach to regulatory reform
  - the Ministry's assessment of the current state of transport regulatory frameworks
  - the Ministry's key regulatory reform initiatives for 2015-18 and their indicative timing.
3. The Plan provides staff at the Ministry and transport Crown entities with an overview of the work going forward four years. It will inform legislative bids and serve as an input to the work programme for these entities.

### **Overview of the annual regulatory planning process**

The Plan will be developed each year from a range of inputs. The inputs are discussed in the Plan and Figure 1 provides an overview of the process and indicative timeline.

Figure 1: Annual Process (indicative) to develop the Four Year Regulatory Plan



### How the transport system is currently regulated

4. The use of the words 'regulation' and 'regulatory reform' in the Plan refer to legislative instruments, such as primary legislation (statutes) and delegated legislation (Rules and regulation<sup>1</sup>).
5. The Ministry is the government's principal adviser on transport policy and its role includes:
  - providing advice to the Minister of Transport on regulatory proposals including non-legislative interventions
  - designing primary transport legislation, and associated regulations and rules
  - ensuring there is appropriate regulatory guidance for Crown entities
  - monitoring Crown entity performance as regulators
  - ensuring that the Ministry and transport sector meets regulatory stewardship expectations in maintaining legislation that is up to date and fit for purpose.

<sup>1</sup> 'Regulation' can refer to a specific type of delegated legislation, separate from Rules. Regulation in this sense is also called secondary legislation. Non-legislative instruments include advice, administrative processes, education, incentives, rewards, grants, and voluntary codes of practice and other such instruments.

6. The Civil Aviation Authority, Maritime New Zealand and NZ Transport Agency have a significant role to play in developing transport Acts, Rules, and regulations. In relation to rule development, the transport Crown entities:
  - lead many policy investigations – issue identification, problem definition and analysis
  - conduct consultation (both internal and external as required)
  - provide draft policy papers and Preliminary Impact and Risk Assessments (PIRAs) for proposed rule making
  - draft Rules and provide the Ministry with invitations to comment
7. The above three transport Crown entities are also the key regulators within the transport system (across the aviation, maritime, rail and road transport modes).

### **The regulatory instruments that govern the transport system**

8. The transport sector is regulated by 21 Acts and 250 rules and regulations. The 271 legislative instruments regulate transport safety, environmental protection, funding of land transport infrastructure (road and rail) and economic regulation of the aviation sector.

#### *Transport acts*

9. Transport acts establish and empower the institutions that create, maintain and/or give effect to the regulations within the regime.

#### *Transport rules*

10. Transport rules set standards for users, educators, transport staff and service personnel, vehicles/aircraft/vessels, associated ground equipment and facilities, and operations and associated operational procedures.

#### *Transport regulations*

11. Transport regulations establish the fees, levies, charges, liabilities, fines and penalties associated with managing and enforcing activity within the regime.

## Section 2 – strategic context for the development and implementation of the Plan

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### Strategic context

12. Transport is a critical component of daily life for all of New Zealand's businesses and citizens. The transport system is New Zealand's primary mechanism for international connectivity, linking our businesses to their export markets and supporting New Zealand's \$23 billion-a-year tourism industry.
13. The transport system is also vital for domestic connectivity. In addition to its economic role, transport contributes to and enables wellbeing, social connectivity and the leisure pursuits of New Zealanders.

### International drivers for transport regulation

14. Treaties, in the shape of multilateral conventions, are the most prominent feature of international law in the transport sector. They establish common international rules which offer a level of certainty, consistency and efficiency that non-aligned national approaches to transport law could not achieve.
15. These multilateral instruments are developed under the umbrella of specialist United Nations (UN) bodies. New Zealand is a member of the International Civil Aviation Organization and the International Maritime Organization (the United Nations agencies responsible for setting international aviation and maritime standards, respectively).
16. There would be consequences of not being responsive in meeting New Zealand's international obligations, such as loss of reputation which can lead to decreased international trade.

### The Government's wider objectives for a thriving New Zealand

17. The Government has two overarching priorities:
  - economic growth – the Business Growth Agenda<sup>2</sup> sets out specific goals
  - Better Public Services – the Government wants to drive greater value from its investment in government agencies – the Better Public Services<sup>3</sup> programme sets out specific goals
18. Alongside the above objectives, Connecting New Zealand<sup>4</sup> sets out the Government's transport specific objectives. These include supporting economic growth and productivity, value for money, safety and security.

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<sup>2</sup> <http://www.mbie.govt.nz/what-we-do/business-growth-agenda>

<sup>3</sup> <http://www.ssc.govt.nz/better-public-services>

<sup>4</sup> <http://www.transport.govt.nz/assets/Import/Documents/Connecting20NZ-online-version-9-September.pdf>

## The Government's objectives for good regulation

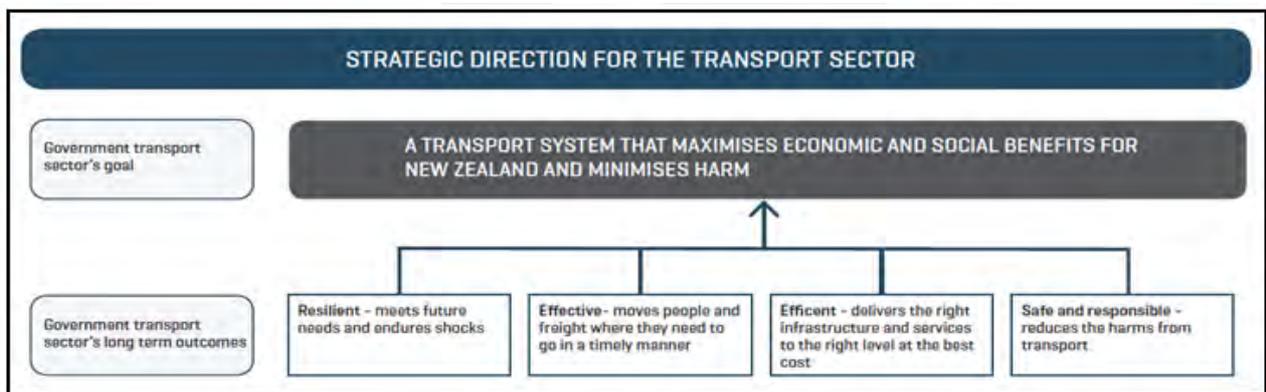
19. The government also has a strong focus on good quality regulation and has committed to<sup>5</sup>:

- introducing new regulation only when it is satisfied that it is required, reasonable, and robust
- reviewing existing regulation to identify and remove requirements that are unnecessary, ineffective or excessively costly.

## The Transport sector's long term outcomes and the Ministry's intermediate result areas

20. The Ministry and the transport Crown entities work collectively to provide a transport system that maximises economic and social benefits for New Zealand, while minimising harm from that system. The sector has identified four long term outcomes to provide that system. We recognise that each Government will decide the relative emphasis of the four long term outcomes, depending on its own priorities.

Figure 2: Strategic direction for the transport sector



21. To deliver on the four long term outcomes above, the Ministry has identified four intermediate result areas on which it will focus on over the next 10 years:

- improved management of the transport asset base
- higher returns from new transport investments
- more open and efficient markets
- fewer incidents and other harms.

22. For a more detailed look at these long-term issues and the strategic context more broadly, please refer to the Ministry's Four Year Plan<sup>6</sup>.

<sup>5</sup> <http://www.treasury.govt.nz/economy/regulation/statement>

<sup>6</sup> <http://www.transport.govt.nz/assets/Uploads/About/Documents/Four-Year-Plan-2015-for-proactive-release-2015.pdf>

## Current state of the transport regulatory regimes and wider regulatory issues in New Zealand

### The key regulatory challenge

22. The key regulatory priority for the transport sector is to ensure the stock of legislation remains fit for purpose and able to respond to a changing environment. The Ministry needs to address policy issues in a dynamic, responsive system.
23. However, unless there are strong policy drivers it can be difficult to secure a priority on the annual legislative programme for 'maintenance' of legislation. Wherever possible, we will seek to improve the design and currency of legislation when progressing policy changes.
24. Furthermore, decision-making on the future development and operation of the transport system needs to be taken within the context of the following matters.

### Strengths, challenges, and opportunities in transport regulatory regimes

25. The Ministry believes it does not currently face any crises in its regulatory regimes. However, there are issues to be resolved to make it work better such as ensuring the sector has the ability to adopt new transport technologies and international standards quickly, while balancing this need with certainty/stability in capital investments which lead to productivity gains.
26. The Ministry has an ongoing programme of regulatory reform which focuses on a range of short, medium and longer term initiatives. The longer term initiative (Regulation 2025) will develop a desired future state for transport regulatory frameworks and establish a pathway to implement that reform over the coming years. These initiatives, outlined in the Ministry's Four Year Plan, will ensure the Ministry and transport sector will meet the government's regulatory reform objectives to ensure that legislation is reasonable and robust and that unnecessary or ineffective requirements are removed.

### Productivity Commission report on Regulatory Institutions and Practice

27. The New Zealand Productivity Commission's 2014 report Regulatory Institutions and Practices provides a number of findings and recommendations on current regulatory institutions and their practices in New Zealand. The Productivity Commission's report is based on extensive research and surveys of businesses and boards.
28. Its overall conclusion was that the current regulatory system could be improved and strengthened without completely overhauling the current model. The findings and recommendations cover a wide range of regulatory institutions and practices in New Zealand.
29. The report identified some key features that shape New Zealand's regulatory environment:
  - it is centralised and statute driven with few checks and balances
  - New Zealand's distance and small population are a source of resource constraints
  - there is a weak emphasis on regulation review and evaluation
  - there is the need to acknowledge Maori interests in the development of regulations
  - international regulatory standards are having an increasing impact

31. The Ministry has considered the findings of the report and developed a regulatory reform programme that will address the core issues raised. A particular focus will be on evaluating the effectiveness of regulatory changes and building regulatory design capability within the sector.

### **The Ministry has conducted a review of the effect of transport regulation on markets**

30. The Ministry has looked into the wider effects of regulatory interventions on markets. The purpose of this was to identify costs created where transport regulation causes 'distortions' – that is, where regulation unnecessarily prevents or reduces the effective operation of markets.
31. We wanted to understand if transport regulatory practice was contributing to market inefficiencies by preventing the effective flow of information, creating barriers to market entry, or otherwise providing certain firms with market power. This could be through inadvertently creating regional or national monopolies.
32. The New Zealand Institute of Economic Research was commissioned to develop a framework to assess the existing regulatory interventions. The framework consisted of several different approaches, including:
- screening detailed transport regulations for regulatory style i.e. prescriptive, performance based
  - assessing the economic influence of transport regulations using the production value of each transport sector and its connectedness to other parts of the economy
  - identifying potential gains from regulatory improvement using international literature on gains from regulatory reform
33. The main findings of this review are that:
- **Regulatory regimes differ widely across transport modes:** There may be good reason for differing approaches. However, there are opportunities to share good practice and develop common regulatory models when dealing with equivalent issues.
  - **Control of entry conditions is the dominant regulatory approach:** The dominant regulatory approach in transport is control of product market entry conditions through safety and security standards.
  - **Detailed rules are prominent in land and maritime modes:** Land and maritime regulations also have a particular focus on the use of detailed prescription in the rules to control sector production processes and equipment standards.
  - **International regimes have an important influence on regulation in New Zealand:** Transport is heavily influenced by international requirements that can limit choice around New Zealand-specific regulation. International requirements may in some cases contribute to inflexibility in regulatory regimes.
  - **Regulatory distortions will affect transport industries, industries that supply inputs to them, and markets using transport services:** Because of the high degree of interconnectedness between transport and the rest of the economy, the market effects of poorly performing regulation are likely to be indirect and pervasive across the economy. As a result, the gains from regulatory improvement may go well beyond those industries and individuals directly affected by the regulations.

34. The review has informed our thinking on and approach to various current regulatory projects. For example, this review has triggered a study into domestic freight efficiency and whether regulations are constraining domestic freight efficiency. More broadly the findings from this review will inform the Ministry's regulatory scanning and planning function.

### **Flexibility of statutes and rule-making powers**

35. Transport legislation needs to be flexible to respond to changes in technology, international standards and business practice. However, this needs to be balanced with sufficient certainty for individuals and businesses.

36. The Ministry, along with the transport Crown entities, has considered the range of mechanisms to enable flexibility across the land (road and rail), air and maritime sectors including:

- the level of legislation used i.e. Act, rule, regulation or standards
- the approach to legislation i.e. prescriptive, performance based or principles based
- delegated decision-making including rule-making powers

37. It can take several years to change statutes due to competition for time in Parliament and, depending on the complexity, a year or more to amend transport rules. Inflexible, prescriptive transport legislation creates a delay and can generate costs or reduced opportunity in adjusting to changes in practice or technology. In comparison, performance or principles style legislation is becoming more common and is more responsive to change. However this style requires a broader range of skills to monitor and evaluate compliance and can provide less certainty for business and individuals.

### **Review conclusions**

38. The Ministry has concluded that decisions on the design of legislation (style and level of requirement i.e. act/rule/regulation/standards) need to be made on a case-by-case basis, but there is support to move to principles or performance-based style wherever possible.

39. Delegating the making of transport rules (in particular those that are minor and technical) to transport Crown entities would create some efficiency in the development of rules. However, the Ministry does not believe there is a compelling case for transport rule-making to be delegated to transport Crown entities for a number of reasons:

- transport issues tend to be high profile and high risk
- it can be difficult to make a clear distinction between technical and significant issues
- it is unclear whether delegation would speed up the development of transport rules

40. Instead, better use could be made of mechanisms in each transport Act that provide for matters to be determined a Director, Authority, Agency or any other person. In practice, this would allow the Minister to set performance standards or criteria in transport rules, and the Director to determine what specific issues meet the standard or criteria. This would provide a greater degree of flexibility and responsiveness in the rule-making system, without the need for transport rule-making to be delegated to transport Crown entities.

41. The 2015 legislative programme includes a bill for each mode. Any recommended improvements in flexibility would be considered by the Minister of Transport and Cabinet through the development of these bills.

## Section 3 - the Ministry's approach to regulation for the transport system

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### The Ministry's overarching approach to regulation

42. The Ministry's Transport Regulatory Policy Statement<sup>7</sup> sets out our expectations for regulatory development and practice to guide regulatory activities. The Statement addresses:

- transport sector regulatory policy objectives
- principles guiding the development of regulations and best regulatory practice
- regulatory process accountabilities
- best practice regulatory operations
- on-going monitoring, evaluation and improvement of regulation
- managing international obligations.

43. Through its advice on regulation, the Ministry aims to:

- improve the overall performance of the transport system
- improve the performance of transport Crown entities
- achieve better value for money for the Government from its investment in the transport system.

### Policy objectives

44. Consistent with those aims, in developing legislative and non-legislative instruments, and in conducting their regulatory practices, the Ministry and transport Crown entities should have the following objectives:

- Intervene to address safety, security, and environmental harms, and to generate economic benefits; where there are net benefits from such interventions for New Zealanders.
- Enable innovation where appropriate, allowing regulated entities to choose how to best achieve compliance with transport regulatory interventions.
- Facilitate productivity and growth by enabling the domestic and international movements of goods, services and people.
- Implement regulatory interventions efficiently and effectively, including minimising administrative and compliance burdens.
- Provide investor certainty through stability and clarity of the law.

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<sup>7</sup> <http://www.transport.govt.nz/assets/Import/Documents/Transport-Regulatory-Policy-Statement-2012-Edition-Issued-4-May-2012.pdf>

## Ministry's regulatory stewardship responsibilities

45. While the Ministry has shared responsibility with the transport Crown entities for stewardship of the transport system, the Ministry's role is that of lead steward. As such, the Ministry's regulatory stewardship role is to:
- develop the strategic framework
  - design primary legislation
  - ensure there is appropriate regulatory guidance for Crown entities
  - monitor Crown entity performance as regulators
  - provide advice to the Minister on regulatory proposals
  - ensure that the Ministry and transport sector meets regulatory stewardship expectations in maintaining legislation that is up to date and fit for purpose.
46. Table 1 summaries how the Ministry meets its regulatory stewardship expectations. Overall the Ministry is meeting its stewardship responsibilities and has a number of improvements underway.

**Table 1: Tools and processes to meet stewardship expectations**

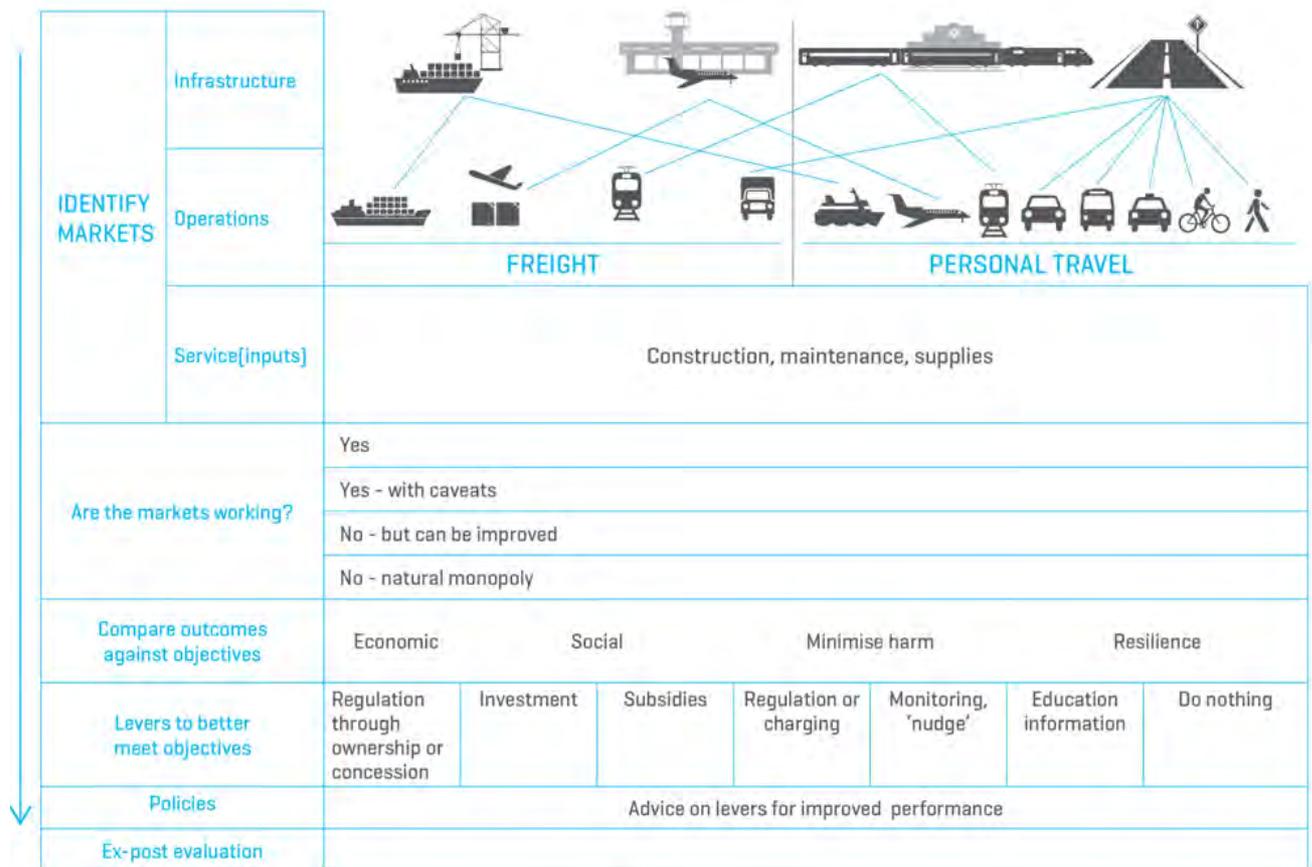
Stewardship expectations	Tools/processes to meet expectations
Develop strategic framework	The Ministry has a Strategic Direction and Performance team and an ongoing programme of strategic projects. International experts are commissioned to support the Ministry’s strategic thinking and a deliberate approach is taken to build capability within the Ministry. Transport Crown entities are involved in the strategic projects. The Ministry’s development of strategic frameworks is also evident in the Four Year Plan.
Ensure the Ministry and transport sector maintains fit for purpose legislation	Each year, the Ministry undertakes a regulatory scan and produces a regulatory plan in consultation with the transport Crown entities. From 2015 onwards, the Ministry will hold workshops with industry across the three modes to seek input into the regulatory programme.
Design primary legislation	<p>The Ministry has an ongoing regulatory reform programme that includes ensuring transport legislation is fit for purpose. Two best practice guidance documents were produced in 2012, the ‘Transport Regulatory Policy Statement’ and ‘Rules Handbook’. The Ministry uses a range of tools to ensure legislation is high quality including Preliminary Impact Risk Assessments and Regulatory Impact Assessments.</p> <p>The effectiveness of significant regulatory changes are evaluated. An evaluation programme is being developed and the two guidance documents are being updated.</p>
Provide advice to the Minister on regulatory proposals	<p>The tools and processes outlined under ‘design primary legislation’ are used to provide advice to the Minister on regulatory proposals. Advice is often prepared jointly by the Ministry and transport Crown entities to ensure policy and operational issues are reflected.</p> <p>The Ministry publishes an indicative engagement timeline on its website. This reflects engagement and consultation with industry and affected stakeholders to inform the Ministry’s advice to Ministers.</p>
Ensure appropriate regulatory guidance for Crown entities	The Transport Regulatory Policy Statement and Rules Handbook were developed jointly by the Ministry and transport Crown entities. In 2015 these documents will be online tools. Implementation of the updated guidance documents will include a joint training programme.
Monitor Crown entity performance as regulators	<p>The Ministry is drafting a Crown entity assessment framework, which will be developed with Crown entities, by the end of 2015. The framework will enable explicit and transparent monitoring of entities as regulators. The framework will facilitate:</p> <ul style="list-style-type: none"> <li>- Crown entities to identify continuous improvement processes and best practice in their sectors</li> <li>- Crown entities to demonstrate their abilities to respond to a changing environment</li> <li>- The Ministry to engage in structured performance based conversations with Crown entities</li> </ul>

## How the Ministry determines its regulatory priorities

### The Ministry's analytical framework helps to identify areas of focus

47. Regulatory reform is a subset of the Ministry's wider work programme. The Ministry approaches its work programme by prioritising the work that will have the biggest positive impacts. Regulatory reform is just a tool, or a particular solution to an identified issue.
48. Regulatory initiatives within the regulatory plan are a key component of the Ministry's overall work programme. The purpose of the regulatory plan is to set out and prioritise regulatory changes the Ministry is planning to undertake. It includes proposals to:
  - undertake significant regulatory reviews
  - introduce or implement new regulatory requirements or major reforms, or
  - undertake regulatory maintenance (e.g. to reduce compliance costs, improve enforceability or clarity).
49. The Ministry places a strong focus on prioritising and planning regulatory activity. The consequences of not having systems that enable this would be significant, including:
  - ineffective regulation
  - unnecessary costs imposed on businesses and the community
  - inefficient allocation of departmental and Parliamentary Counsel Office resource
  - time required to fix unanticipated problems
  - an increased risk of significant regulatory failure
50. The Ministry's analytical framework in Table 2 provides a link between the Ministry's high-level objective and its more detailed work.

**Table 2: Ministry analytical framework**



51. In using the framework, the first step is to identify the markets involved (such as airports and road freight). The next steps are to determine how well each market is working, and how performance relates to the high-level objectives for the transport sector. If there is a problem, the next step is to consider ways of addressing it, one of which may be regulatory. In that case, the type and degree of regulation will partly depend on how the market is working.
52. Some examples of recent and current reviews that have emerged using the market focussed analytical framework include:

**Recently completed reviews/regulatory changes triggered by market failure**

- Warrant of fitness regime – resulted in less frequent checks for new cars.
- Agricultural vehicle regime review – resulted in changes to transport laws regulating the on-road use of agricultural vehicles such as tractors and combine harvesters.

**Current reviews/regulatory changes triggered by market failure**

- Review of small passenger services review – new technology is changing the market for taxi-like services and has prompted a review of the existing regulations.
- Heavy vehicle operation review – new technology on large trucks can now provide detailed real-time information on speed, location, rest breaks and vehicle weight. The technology will enable more accurate and cost effective enforcement along with productivity savings. The Ministry is

undertaking a study of this new technology and will consult with stakeholders before making recommendations to government.

## Regulatory Scanning

53. The Ministry initially identifies potential regulatory initiatives using its analytical framework. The Ministry regularly scans its stock of legislation to ensure that it remains fit-for-purpose and there are no gaps that need to be addressed.
54. The scope of this scan includes regulatory regimes, looking at problems of implementation and enforcement, as well as an initial consideration of whether particular aspects of the regulatory framework impose unnecessary costs on users. A thorough assessment of the costs and benefits occurs through each regulatory project.
55. The scan gives the Ministry a list of legislation in need of review, amendment, and repeal.

## Prioritisation

56. Following the regulatory scanning and stock take, the Ministry prioritises the regulatory proposals to reflect stakeholder input and agency consultation. The Ministry utilises its intermediate result areas to focus thinking across the breadth of the transport system.
57. In 2014/15, each proposed regulatory change was assessed against the following criteria to determine its priority:

**Table 3: Prioritisation criteria for regulatory proposals**

Category	Criteria
Mandate for change	<p>How important is the change to the Minister and government?</p> <p>How does the proposal link with other government priorities?</p> <p>How does the proposal fit with the Ministry's Intermediate Outcomes?</p>
Value proposition	<p>What is the problem we are trying to address?</p> <p>How significant is the problem to be addressed?</p> <p>What potential benefits might accrue, including social and economic, and minimising harm?</p> <p>What is the urgency and magnitude of benefits?</p> <p>How big an input is required to make the change?</p>
Implications of maintaining the status quo	<p>What would happen if this work did not occur?</p> <p>Are there any process or timing commitments, existing obligations, constraints, or previous Cabinet decisions that are relevant?</p>

58. The assessment was peer reviewed by staff from the Ministry and Crown entities based on information available at the time of assessment (e.g. PIRA or RIS). High priority was then given to proposals that met the most criteria and made the most significant contribution.
59. Using this process, the Ministry's regulatory plan for 2015-18 (which sets out the Ministry's key prioritised regulatory proposals for that period) was agreed. This is set out in Appendix 1.

## The legislative and rules programmes

60. The Ministry's Regulatory Plan is also an input into the development of the annual legislative and rules programmes.
61. The Minister is required to advise Cabinet of proposed rules through the annual Transport Rules Programme [CAB (99) M20/2B (1) refers]. The Minister is empowered<sup>8</sup> to make ordinary rules (rules) on matters covering land transport, civil aviation, maritime safety, and marine protection.
62. Rules are the most common form of delegated legislation for transport. However, the associated offences, penalties, and fee and charge levels are specified through supporting regulations.
63. Only rules that relate to significant new policy issues or that will have a significant impact on the public or industry, require Cabinet consideration before being signed by transport Ministers. The vast majority of transport rules do not require Cabinet consideration before being signed because they are minor or will give effect to international obligations that Cabinet has already considered.
64. The legislative programme is agreed at the beginning of each calendar year by Cabinet. Amendment bills on the legislative programme are given a priority ranging from 1 - 6.

## Fees, charges, and levies

65. The transport sector has 12 principal statutes which allow for the establishment of regulations and orders to set fees, levies and charges. Overall there are approximately 65 separate regulations and orders covering 825 individual fees, levies and charges.
66. The transport sector is characterised by high levels of third party funding under a number of fees, charges and levies, which are required to be reviewed regularly. Maritime New Zealand (MNZ), the Civil Aviation Authority (CAA) and the New Zealand Transport Agency (NZTA) collect over \$225 million a year in third party funding (fees, charges and levies, not including road tax). The bulk of their funding is received this way (NZTA 48 percent (not including the National Land Transport Fund), CAA 97 percent and MNZ 66 percent).
67. Ministers have expressed concerns about the timing and flow of these reviews. In response, the Ministry has implemented a Funding and Fees Review framework (the framework) across the transport sector. The framework deals with third party fees, charges and levies.
68. The framework has been adopted by the four transport Crown entities and provides a structured approach to the review of fees and funding within the transport sector. A Programme Oversight Group consisting of representatives from the Crown entities governs this programme. The group reports to the Transport Sector Leadership Group.

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<sup>8</sup> By the Land Transport Act 1998, Railways Act 2005, Civil Aviation Act 1990 and Maritime Transport Act 1994.

69. The aim of the programme is to:
- a. Improve the timing and coordination of funding and fee reviews to Ministers
  - b. Ensure value-for-money issues are addressed in each review
  - c. Improve the quality and completeness of the reviews
  - d. Provide a consistent approach to conducting reviews
70. Guidelines for the programme were developed and promulgated in January 2014. The Ministry is now finalising the 2015/16 review programme and indications for future years. As fees are set through regulation, a decision to change the level of a fee results in an additional regulatory change that needs to be reflected in the Ministry's regulatory programme.

*What triggers a review?*

71. There are four main triggers for the review of a third party fee, charge or levy. These are:
- 1) Periodic review:
    - a. required at the intervals set out in the enabling legislation, or
    - b. every three years as recommended under the Office of Auditor-General good practice guidelines
  - 2) Change in Government priorities or transport sector policy leading to regulatory reform that causes a change in the fee, charge or levy
  - 3) Change in service delivery costs causing the fee or charge/the levy being significantly under-charged or significantly over-charged which must be remedied
  - 4) Change in service relevance, market conditions or available options caused by or leading to a change in the agency business model, service use, customer demand, technology, or financial position.
72. The most common trigger for a review is the periodic review. Reviews are coordinated, assisted and assessed through the Ministry.

## Section 4 – overview of key regulatory initiatives 2015 – 2018

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### The Ministry's Regulatory Plan 2015-2018

73. Transport policy and legislation is a constantly changing environment, with frequent legislation reviews and amendments, which can be based on changing Government priorities. Due to this, the Plan predominantly covers regulatory reviews and amendments in the next 2 years, as they have a sufficient level of certainty. Appendix 1 provides details of the current and planned regulatory initiatives.
74. The plan also indicates whether the regulatory proposals are regulatory reform, to meet new international requirements or are to do with undertaking regulatory maintenance.

### The transport Regulatory Plan's contribution to intermediate result areas

75. The Ministry's four intermediate results/areas provide a focus for our actions to improve the transport system over the next four years. The Ministry reviewed its performance framework in 2014 to ensure it is focused on the areas where it can make the greatest contribution to the government's goals.
76. The Plan's contribution to each of the Ministry's intermediate result areas has been assessed as follows:
- Fewer transport incidents & other harms (Strong contribution)
  - Open and efficient markets (Moderate contribution)
  - Improved management of the transport asset base (Moderate contribution)
  - Higher returns from new transport investments (Low contribution)

#### Fewer transport incidents & other harms (strong contribution)

77. Two priority regulatory changes over the next four years are:
- ***The Land Transport Amendment Bill*** – seeks to reduce speed-related crashes; driver licensing costs; improve heavy vehicle productivity and increase the flexibility making land transport rules
  - ***Development of an Aviation Safety Management System rule*** – seeks to improve aviation safety by introducing a mandatory operator safety management system.

#### Open and efficient markets (moderate contribution)

78. Major priority regulatory changes over the next four years are:
- ***Review of the Civil Aviation & Airport Authorities Acts*** – seeks to improve regulatory decision-making; provide effective competition and licensing for international air services; clarify expectations placed on participants in the system and improve usability of the legislation.
  - ***Reform of the Vehicle Dimensions & Mass regulatory framework*** – seeks to support productivity and innovation; remove unnecessary costs and improve administrative and enforcement efficiency and effectiveness.

### **Improved management of the transport asset base (moderate contribution)**

79. Transport assets are generally managed through operational practice and non-legislative tools. As a consequence this Four Year Regulatory Plan makes a moderate contribution to this outcome. The key change that will contribute to this outcome is:

- ***National Airspace and Air Navigation Plan*** – Development and implementation of the National Airspace and Air Navigation Plan will enable the adoption of new technologies and is estimated to provide net benefits of \$2 billion over 20 years. A number of regulatory changes are anticipated as a result of this Plan including aviation rules and the Civil Aviation Act.

### **Higher returns from new transport investments (low contribution)**

80. Although transport investment is mandated by legislation, it is managed through operational and non-legislative tools. As a consequence, this Four Year Regulatory Plan makes a low contribution to this outcome.

81. There are no priority regulatory changes currently identified over the next four years that will specifically target this outcome. However some regulatory reviews/changes will indirectly impact on investment decisions e.g. improvements to the Vehicle Dimensions and Mass regulatory framework.

### **Phasing of key regulatory initiatives for 2015-18**

82. Table 4 on the next page shows the high-level proposed phasing of the regulatory initiatives. The end of each phase signals the likely start of implementation, **subject to government decisions**.

**Table 4: Indicative phasing of key regulatory initiatives**

Project		2015	2016	2017	2018	Primary change driver
Aviation	<b>Civil Aviation Amendment Bill</b> – will improve regulatory decision-making; provide effective competition and licensing for international air services; clarify expectations place on participants and improve usability of the legislation.					Fit for purpose review
	<b>Safety Management System Rule</b> – will establish the new risk-based safety management system for the aviation sector.					International
	<b>National Airspace and Air Navigation Plan (New Southern Sky)</b> – act and rules changes will be required to transform the management of airspace and air navigation by moving to a safety system based on location using Global Navigation Satellite Systems or Global Positioning Systems. This will bring both safety and efficiency benefits and ensure we align with international developments over a ten year timeframe.					Safety and efficiency
Land	<b>Land Transport Amendment Bill</b> – will include a number of proposed amendments to implement the Safer Speeds Programme, driver licensing, sanctions for drink-driving, heavy vehicle, drug-driving and public transport. The two major reviews (vehicle dimension and mass and driver licensing) informing the bill are detailed below.					Safety and efficiency
	<b>Vehicle Dimensions and Mass Review</b> – aims to simplify the existing rule to reduce compliance costs and support optimal use of heavy vehicles on the roading network whilst maintaining safety.					Efficiency
	<b>Driver Licensing Review</b> – aims to update and refresh the legislative framework for driver licensing to make it less prescriptive and more adaptable, thereby reducing customers' compliance burden, assisting compliance with requirements, while maintaining road safety. Associated act changes will be required.					Efficiency

Project	2015	2016	2017	2018	Primary change driver
<p><b>Small Passenger Service Vehicle Review</b> – triggered by a number of new entrants utilising smartphone and other technologies. The objective is to ensure the regulatory framework is fit for purpose. If the review concludes that changes to the current framework are needed and government agrees, act and rule changes would be required.</p>					Fit for purpose
<p><b>Maritime</b></p>					International
<p><b>Maritime Transport Amendment Bill</b> – will give effect to an international convention relating to compensation for oil pollution damage. The bill will also include any agreed changes proposed to allow less prescriptive rule making and the use of other legislative tools to increase the flexibility of the system to respond to changing standards and technology.</p>					International
<p><b>Safety of Life at Sea Rule</b> – will implement requirements from an international convention.</p>					Safety
<p><b>Multimodal</b></p>					Technology
<p><b>Investigation into Drug and Alcohol Reform</b> – a multi-modal review of the alcohol and drug regimes for aviation, maritime and rail.</p>					Technology
<p><b>Scan of Transport Legislation for Barriers to ITS (Intelligent Transport Systems)</b> – one of the key actions in the ITS Action Plan. A scan of all transport legislation to identify unnecessary barriers to the continued deployment of ITS technologies in New Zealand.</p>					

## Section 5 – monitoring and evaluating this plan

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### **How the Ministry will monitor and evaluate this Plan**

83. Monitoring and evaluation of the strategic context and approach to regulation in the transport system will be undertaken every 12 months, to ensure the Plan is up to date.
84. The detailed regulatory initiatives will be monitored and evaluated separately as part of the Ministry's agreed work programme. The Ministry has completed or is undertaking formal evaluations for specific priority projects such as the Road User Charges reform, the Vehicle Licensing Reform and Public Transport Operating Model.