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Listed below are the most commonly used grounds from the OIA.

<u>Section</u>	<u>Description of ground</u>
6(a)	as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government
6(b)	as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by <ul style="list-style-type: none"> (i) the Government of any other country or any agency of such a Government; or (ii) any international organisation
6(c)	prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
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
9(2)(ba)(ii)	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 otherwise to damage the public interest
9(2)(f)(ii)	to maintain the constitutional conventions for the time being which protect collective and individual ministerial responsibility
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
9(2)(h)	to maintain legal professional privilege
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)



16 January 2024

OC231068

Hon Simeon Brown

Minister of Transport

Friday, 20 January 2023

METROPOLITAN RAIL OPERATING MODEL SETTINGS REVIEW

Purpose

To provide you with an overview of the Metropolitan Rail Operating Model (MROM) and to seek your endorsement of a draft terms of reference for the MROM settings review.

Key points

- Metro rail is a key part of the public transport network in Auckland and Wellington. It contributes significant benefits in travel time savings and congestion relief (estimated at \$939 million to \$1.054 billion per annum).
- The MROM is the way we fund, govern, and plan for metro rail between the different central and local bodies involved. The MROM was agreed by Cabinet in 2009 [EGI Min (09) 21/8].
- Under the MROM, upkeep of metro rail networks is intended to operate on a 'user pays' principle, with costs shared between metro rail providers and freight service providers according to usage.
- A review of the MROM settings is required to address system level issues. This is in response to significant service disruptions in recent years, affordability of network upkeep, and to align the MROM with recent changes to rail planning and funding.
- A draft terms of reference is provided in Annex 1 for your consideration. We recommend you endorse it so we can proceed with the review.
- We will progress the MROM settings review over the course of 2024 and s 9(2)(f)(iv)

Recommendations

We recommend you:

- 1 **endorse** the draft Terms of Reference for the Metropolitan Rail Operating Model settings review (see Annex 1). Yes / No



Siobhan Routledge
Acting Deputy Chief Executive Policy
16/01/2024

Hon Simeon Brown
Minister of Transport
..... / /

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

Comments

Contacts

Name	Telephone	First contact
Siobhan Routledge, Acting Deputy Chief Executive Policy	s 9(2)(a)	✓
Bev Driscoll, Manager Rail		

METROPOLITAN RAIL OPERATING MODEL SETTINGS REVIEW

Metropolitan rail is a key part of the public transport system

- 1 Metro rail is a key part of the public transport system in Auckland and Wellington. In 2018/19, prior to the COVID-19 pandemic, metro rail boardings peaked at 21 million in Auckland and 14 million in Wellington.¹ While patronage has recovered in Wellington, the staged closure to rebuild lines before City Rail Link is completed in Auckland has kept patronage lower. In 2022/23 patronage remained below pre-COVID levels at 11 million in Auckland and 10 million in Wellington.²
- 2 Auckland Transport (AT) and Greater Wellington Regional Council (GWRC) have ambitious plans to increase patronage to 60 million in Auckland and 20 million in Wellington by 2050. KiwiRail supports these investments as the network provider. These plans recognise the major benefits that metro rail provide in Wellington and Auckland; for example, in travel time savings and reduced road congestion, currently estimated at \$939 million to \$1.054 billion per annum.³

The Metropolitan Rail Operating Model (MROM) was agreed in 2009

- 3 The MROM is the way we fund, govern, and plan for metro rail between the different central and local bodies involved. The MROM was agreed by Cabinet in 2009 [EGI Min (09) 21/8]. Since that time, metro rail has grown in scale and complexity.
- 4 In 2009, Cabinet agreed that improvements to the operation of metro rail services be achieved by:
 - 4.1 clearly defining the roles of the various parties involved in the provision of metro rail services
 - 4.2 introducing contestability to the delivery of metro rail services by financially and physically separating key metro rail service functions
 - 4.3 using performance-based contracts with appropriate transfer of risks to clearly identify service level expectations, monitor performance, and allocate responsibilities
 - 4.4 improving transparency so that costs, accountability, and who pays can be identified clearly.
- 5 Funding arrangements for metro rail were developed after the 2009 Cabinet policy decisions. The funding arrangements for network upkeep (maintenance and renewals) were intended to follow a 'user pays' principle. Costs are shared between metro users - AT and GWRC with co-funding from the National Land Transport Fund, and KiwiRail for freight use of metro networks. We provided a more detailed outline of metro rail funding arrangements in our advice for your recent meeting with Wellington

¹ <https://www.transport.govt.nz/statistics-and-insights/public-transport/sheet/boardings-all-modes>

² <https://www.metlink.org.nz/news-and-updates/surveys-and-reports/performance-of-our-network/#DataAndReports>; <https://at.govt.nz/about-us/reports-publications/at-metro-patronage-report>

³ <https://www.transport.govt.nz/assets/Uploads/Report/EY-Report-Externality-value-of-rail-2020.pdf>

City Council Mayor, Tory Whānau and GWRC Chair, Daran Ponter (OC231044 refers).

A review of the MROM settings is required to reduce the risk of future service disruptions

The metro rail system has grown, but system management has not kept pace

- 6 The metro rail system has changed significantly since 2009 – with increased service levels⁴ and patronage – particularly following rail electrification in Auckland. However, system management, governance, and maintenance have not kept pace with increasing service levels. This has contributed to significant unplanned service disruptions.

Independent reviews in response to service disruptions recommended a review of the MROM

- 7 Metro rail networks have experienced significant service disruptions, and the risk of further disruptions remains.
- 8 There have been two reports in response to recent service disruptions. The reports identify the need for changes in how the metro rail system works in Auckland and Wellington and recommend a review of the MROM:
- 8.1 Deloitte’s independent review into Auckland Metro Rail system issues (2022)⁵ following the identification of advanced rolling contact fatigue on the Auckland network, which required unplanned remediation which disrupted commuters.
- 8.2 The Rapid Review into KiwiRail (2023)⁶ following the disruption to the Wellington network caused by the unavailability of KiwiRail’s maintenance equipment.
- 9 In particular, the Rapid Review highlighted that improvement is needed in the approach key rail participants (the Ministry of Transport, the New Zealand Transport Agency (NZTA), KiwiRail, AT, and GWRC) take to metro rail and how they work together to deliver metro rail services.

The MROM settings review aims to reduce the risk of future service disruptions

- 10 The MROM settings review is vital to ensure that the system is fit for higher metro and freight rail demands (and provides the appropriate access windows for network maintenance). This is particularly important with the imminent introduction of the City Rail Link in Auckland.

⁴ In this briefing, ‘service levels’ or ‘level of service’ refers to the customer focused aspects of public transport services. This includes journey time, peak and off-peak frequency (e.g. a service every 15 minutes), train capacity, and the punctuality and reliability of services.

⁵ https://www.transport.govt.nz/assets/Uploads/Independent-review-of-AMR-system-issues_Final-Report.pdf

⁶ <https://www.transport.govt.nz/assets/Uploads/Report-into-Rapid-Review-of-KiwiRail-Passenger-Services.pdf>

- 11 The MROM settings review will develop shared system objectives between all parties to deliver an improved metro rail system. In addition, it will improve system governance, which will better enable system concerns to be raised and resolved before they result in service disruptions. Developing a sustainable funding model (which is outlined below) will also be critical to reduce the risk of significant service disruptions in the longer-term.
- 12 We are also working with other rail participants to implement the Rapid Review recommendations. ^{s 9(2)(f)(iv)} [REDACTED] We will provide further advice on progress with these recommendations separately. The MROM review is both a Rapid Review recommendation, and a critical enabler of other recommendations.

The MROM settings review is required to address funding pressures and level of service trade-offs

Multiple factors have contributed to cost and funding pressures

- 13 Considerable funding pressures are present in the Auckland and Wellington metro networks. ^{s 9(2)(f)(iv)} [REDACTED] This is in addition to annual maintenance programmes and operating costs. Multiple factors have contributed to increased network upkeep costs and funding pressures.
- 13.1 The sector has a greater understanding of the costs to bring the network up to the required standard and maintain it over time. These costs have not been budgeted for.
- 13.2 ^{s 9(2)(b)(ii)} [REDACTED].
- 13.3 High-cost escalation rates and inflation.
- 13.4 Affordability being the over-riding factor that has determined the funding contributions from GWRC and AT.
- 13.5 ^{s 9(2)(g)(i)} [REDACTED]
- 13.6 Large capital works that are underway in Auckland and Wellington to increase the levels of service, which will increase the cost of network upkeep.

We recently provided more detailed advice on metro rail cost pressures in Wellington

- 14 GWRC sent you a briefing in early December 2023 outlining issues with maintenance funding for Wellington's metro rail network. You also met with Tory Whānau and Daran Ponter on Wednesday 13 December 2023. Ahead of this meeting we provided you with advice on the significant investment required to maintain the level of service on Wellington's metro rail network (OC231044 refers). Similar issues exist for Auckland's metro rail network.

The MROM settings review will develop a sustainable funding model for metro rail

- 15 The MROM settings review will resolve cost and funding pressures by developing a sustainable funding model for metro rail operations. This will include:
 - 15.1 developing principles that enable partners to agree levels of service, maintenance activities and access rights
 - 15.2 clarifying how costs of the metro rail network are shared between sector partners, with a primary focus on the cost of existing services
 - 15.3 developing indicative options which show how different services levels affect affordability for all parties
 - 15.4 defining different network management and operational activities and how they should be funded.
- 16 The review will also seek to ensure all parties have a shared understanding of roles, responsibilities, and accountabilities (including for funding) – and are appropriately incentivised to deliver an improved metro rail system.
- 17 The funding model will need to prioritise funding for ongoing renewal and maintenance ahead of capacity growth (as is the current direction under the Rail Plan). If not, maintenance needs for the network will accumulate with compounding costs. This will also reduce rail service reliability and increase the risk of service disruption.

The MROM settings review is required to align it with recent changes to rail planning and funding

- 18 The Future of Rail review was completed in 2019, and as a result a new planning and funding framework for the rail network was established in 2020. The New Zealand Rail Plan was published in 2021, providing a ten-year vision to set strategic investment priorities. However, no system level updates to the MROM have been completed since 2009 with the planning and funding of metro networks deferred to after the Future of Rail Review.
- 19 The Land Transport Management (Regulation Public Transport) Amendment Act came into force in August 2023. This established a new set of guiding principles for planning, procurement, and operation of public transport services – including metro rail.
- 20 A review of the MROM settings is required to align it with these changes to rail network planning and funding and with the revised legislative framework for public transport services.

We have developed a terms of reference for the MROM settings review with sector partners

- 21 A draft Terms of Reference is attached for your consideration (Annex 1). An earlier draft was developed with NZTA, KiwiRail, AT, and GWRC. The MROM settings review will seek to:
 - 21.1 agree shared objectives for the metro rail system
 - 21.2 develop a sustainable funding model for metro rail services and identify how costs should be shared between the parties
 - 21.3 develop options which show how different services levels affect affordability for all parties
 - 21.4 strengthen metro rail system governance.
- 22 We recommend you endorse the draft terms of reference so that officials can progress this work. A steering group with representatives from the Ministry, NZTA, KiwiRail, GWRC and AT will be established to support the Review and approve the final terms of reference. We will seek your further endorsement if the steering group makes any material changes to them.

We plan to progress the MROM settings review over 2024

- 23 Subject to your endorsement of the terms of reference, we plan to progress the MROM settings review over the course of 2024. An indicative timeline for key milestones is provided below.

Table 1: Indicative timeline for the MROM settings review

Milestone	Indicative Timing
Draft Terms of Reference endorsed	January 2024
Advice on MROM system objectives and levels of service	May 2024
Advice on a funding model for metro rail	August 2024
Advice on metro rail system governance	October 2024
s 9(2)(f)(iv)	

- 24 As shown in the table above, we intend to provide advice on levels of service and a funding model for metro rail separately. However, as we work through the funding model with key stakeholders, we may need to revisit decisions on levels of service to better reflect affordability.

IN CONFIDENCE

**ANNEX 1: DRAFT TERMS OF REFERENCE – METROPOLITAN RAIL
OPERATING MODEL SETTINGS REVIEW**

IN CONFIDENCE

The Metropolitan Rail Operating Model (MROM) Settings Review

Terms of Reference

Purpose of review

This Terms of Reference will guide work to:

- address the key issues on metro rail networks
- review the MROM settings that contribute to those issues
- advise Ministers on the above two matters and determine next steps following ministerial consideration.

Context

MROM has been in place since 2009

The MROM is the policy framework informing the development of metropolitan rail service operations in Wellington and Auckland since it was agreed by Cabinet in 2009 [EGI Min (09) 21/8]. Since 2009 there have been changes to asset ownership and competitive procurement of metro rail service operations in Wellington and Auckland. KiwiRail and the regional authorities have also given effect to Network Access Agreements and are presently negotiating replacement Agreements.

There has also been significant patronage growth and investment in both networks.

The metro rail system and rail planning and funding policy have changed significantly since 2009

The Future of Rail review was completed in 2019, a new planning and funding framework for rail was established in 2020 and the New Zealand Rail Plan was published in 2021. However, no system level updates to the MROM have been completed since 2009. In that time, the metro rail system has changed significantly – with increased service levels and patronage – particularly following rail electrification in Auckland.

Independent reviews following service disruptions have recommended a review of the MROM

The identification of advanced rolling contact fatigue (RCF) on the Auckland Metro Rail Network in 2019 and 2020 caused significant disruption. The Ministry of Transport engaged Deloitte to identify and articulate whether any system level issues may have contributed to the acceleration of RCF and to make recommendations on future changes.

Since the Deloitte report, metro rail participants (Ministry of Transport, New Zealand Transport Agency – NZTA, KiwiRail, Auckland Transport, and Greater Wellington Regional Council) formed a Metro Rail System Standing Group (MRSSG) to consider the recommendations of the report. The report recommended to review the MROM.

The recent Rapid Review into the failure of KiwiRail to schedule the EM80 track evaluation car (TEC) within its regular inspection period, causing disruption to the Wellington Metro services, also reinforced the need for an MROM settings review. It made a series of operational and system-level recommendations. Many operational recommendations are being addressed by relevant entities.

More importantly, the Deloitte report and the Rapid Review highlighted that the incident was a symptom of wider system issues. These include the need to improve system governance, strengthen the role of NZTA, develop a set of system objectives, and address funding issues. The MROM settings review will consider the key system-level recommendations.

Challenges arising from the status quo

Under the current system, we saw significant and preventable disruptions to both metro rail networks, at a time of growing patronage, and with recent and planned future service increases. We also continue to experience funding pressures and affordability concerns across the system. Some of the key issues and considerations are set out below.

- The sector now has a greater understanding of the costs to bring the network up to the required standard and maintain it over time. This is a result of increased funding and through the ongoing work by KiwiRail to better understand the work required to maintain their network assets.
- Large projects are underway to improve the frequency, quality, and coverage of metropolitan networks. This includes the City Rail Link, Wiri to Quay Park third main line, Drury Rail Stations, and Papakura to Pukekohe Electrification projects in Auckland, and the Wellington Metro Upgrade Programme and Lower North Island Integrated Rail Mobility project in Wellington.
- The Deloitte RCF Report and the Rapid Review findings both highlight a need for significant improvement in how the metro rail system is managed. The Deloitte review also recommended a review of the MROM, including considering funding, governance, system objectives, and alignment of objectives and incentives between system participants.
- There are significant cost pressures on the system in the short- and long-term, especially considering increasing but unpredictable extreme weather events damaging the networks and their supporting infrastructure, and the expectation of greater resilience.

To support efficient and reliable metro rail operations, the MROM settings review aims to:

- develop a clear set of shared objectives for the metro rail system
- develop a sustainable and transparent long-term funding system for metro rail, based on agreed service level expectations and clarity on user contributions
- ensure all parties:
 - have a shared understanding of their roles, responsibilities, and accountabilities
 - Are appropriately and equitably incentivised to deliver on improving metro rail operations
- strengthen metro rail system governance and management to support current and future operations, investment and strategic planning, while responding appropriately to changing needs through time.

Scope

This review primarily focuses on resolving problems within the existing MROM system. However, where the current issues stem from or are exacerbated by the existing MROM settings, the review may consider changes to these.

The review will consider the issues outlined below to achieve the objectives.

Objectives	Issues to consider
Develop a clear set of shared objectives for the metro rail system	<ul style="list-style-type: none"> • A clear set of metro rail system objectives to guide policy and operational directions, which all parties should work towards.
Develop a sustainable and transparent long-term funding system for metro rail, based on the service level expectations	<ul style="list-style-type: none"> • The principles which enable partners to agree levels of service, maintenance activities and access rights. • An agreed funding model, including how costs will be allocated between passenger and freight users, Government, National Land Transport Fund and Council rates. The primary focus is on how current services will be funded but also consideration will be given to potential improved services. This should also resolve how historic catch-up renewals will be addressed. • The definitions of different network management and operational activities including maintenance, management, operations, renewals, and catch-up renewals, and how they should be funded. The definition of network improvement activities. • Indicative options which show how different services levels affect affordability and value for money for all parties. • Any other adjustments required within the MROM to ensure long-term service levels, maintenance programmes and costs are well planned and funded.
<p>Ensure all parties:</p> <p>1) have a shared understanding of the roles, responsibilities, and accountabilities, and</p> <p>2) are appropriately incentivised to deliver on improving metro rail operations</p>	<ul style="list-style-type: none"> • Clarifying the roles, responsibilities, and accountabilities within the system to allow the system to respond appropriately to changing needs through time, noting the levels of service should be set based on agreed maintenance plans and funding model. • Opportunities to improve alignment of relevant government levers (e.g. funding, the Rail Network Investment Programme (RNIP), the Rail Plan, Government Policy Statement on land transport, and regional land transport plans) to incentivise all parties to support the metro rail system objectives. • Ensuring the government objectives and priorities are represented and flow through to the operational settings. • Ensuring the MROM is aligned with other relevant frameworks (e.g. the Land Transport Management (Regulation of Public Transport) Amendment Act 2023 and the Sustainable Public Transport Framework), and rail safety regulations.
Strengthen metro rail system governance and management to support current and future operations, responding appropriately to changing needs through time	<ul style="list-style-type: none"> • Identify and propose ways to improve the system governance and management based on shared system objectives and understanding of each other's roles, responsibilities, and accountabilities. • Such an approach includes ensuring sound management of the system in times of disruption or otherwise outside 'business as usual'.

Out of scope

This review is not a first principles review of the MROM. The review does not aim for 'fundamental' changes to the system, unless there is clear evidence that the current issues are largely caused by the existing framework.

Resolving the immediate and urgent funding issues that relate to completing current projects and council's funding shortfalls for routine maintenance and renewals will be progressed separately, in parallel with this review.

Participation in the Review

The review will be led by the Ministry of Transport in consultation with the Treasury. Participants of the MRSSG will provide advice and subject matter expertise and function as a working group for the MROM settings review.

A steering group will be established to provide oversight for the delivery of the review. The steering group will be comprised of one representative at a tier 2 level from each of:

- The Ministry of Transport
- New Zealand Transport Agency - NZTA
- KiwiRail
- Auckland Transport
- Greater Wellington Regional Council
- The Treasury.

A steering group terms of reference will outline principles around decision rights for members, recognising the roles and responsibilities for different parties, and establish a 'best for system' approach.

Engagement through the steering group will be critical for the success of the review and the Ministry of Transport recognises there may be different views on how best to resolve any issues arising. The Ministry of Transport will ultimately be accountable for the advice and recommendations to Ministers on any changes to the MROM. For the avoidance of doubt, Ministers, and where necessary Cabinet, will make decisions on and be accountable for any changes.

Engagement with Ministers

When any significant decisions are required, the Ministry of Transport will report to the Minister of Transport, and, where necessary, to KiwiRail's shareholding Ministers in consultation with the Treasury.

Timeframe

The review will be carried out over 2023-24, subject to suitable resource availability to lead the review within the Ministry.