

Proactive Release

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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)

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 after 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 given effect to Network Access Agreements and are negotiating replacement Agreements.

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

Metro rail networks are shared between passenger and freight users

Metro rail networks serve multiple users. These include passenger and freight operations, and below rail maintenance and renewals works. Balancing network access with competing demands and policy objectives is a key tension in the system that requires trade-offs.

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 after rail electrification in Auckland. A review of the MROM is long overdue.

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 asked Deloitte to outline whether any system level issues may have contributed to the acceleration of RCF and to recommend 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 Deloitte report recommended a review of the MROM.

In 2023 Ministers commissioned a Rapid Review into the failure of KiwiRail to schedule the EM80 track evaluation car (TEC) within its regular inspection period, which caused disruption to Wellington metro rail services. The Rapid Review 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, both the Deloitte report and the Rapid Review highlighted that RCF and the EM80 incident were symptoms of wider system issues. These include the need to improve system governance, strengthen the role of the NZTA, develop a set of system objectives, and address funding issues. The MROM settings review will consider the key system-level recommendations from these reports.

Challenges arising from the status quo

Under the current system, we have seen significant and preventable disruptions to both metro rail networks. This has occurred 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 key issues and considerations are outlined below.

The sector now better understands the costs to bring the network up to the required standard and maintain it over time. This is a result of increased funding and 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 the metro networks. In Auckland, this includes the City Rail Link, Wiri to Quay Park third main line, Drury Rail Stations, and Papakura to Pukekohe Electrification projects. In Wellington this includes the Wellington Metro Upgrade Programme and the Lower North Island Rail Integrated Mobility project.

The Deloitte report and the Rapid Review findings both highlight a need for significant improvement in how the metro rail system is managed. The Deloitte report recommended the review of the MROM should consider 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. These are exacerbated by increasing but unpredictable extreme weather events. These events damage the networks and their supporting infrastructure.

To support efficient and reliable metro rail operations, the objectives of the MROM settings review are 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 current MROM settings, the review may consider changes to these.

The review will consider the issues outlined in Table 1 below to achieve the objectives. In doing so, the review will look to benchmark against international practice for metro rail.

Table 1 MROM settings review scope

Review objective	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. • The metro rail system objectives should reflect a customer focused approach. This should then be embedded in policy and operational decisions.
Develop a sustainable and transparent long-term funding system for metro rail, based on agreed service level expectations	<ul style="list-style-type: none"> • The principles which enable partners to agree levels of service, maintenance activities and access rights. This includes the respective level of service and access for metro and freight services. • An agreed funding model, including how costs will be allocated between passenger and freight users, Government, the National Land Transport Fund and council rates. The primary focus is on how current services will be funded. The review will also consider funding arrangements for potential service improvements. This should also resolve how historic catch-up renewals will be addressed. • The definitions of different network management and operational activities and how they should be funded. The activities include maintenance, management, operations, renewals, catch-up renewals, and network improvement activities. • Indicative options that show how different service levels affect affordability and value for money for all parties. • Any other adjustments required in the MROM to ensure that long-term service levels, maintenance programmes and costs are well planned and funded.
Ensure all parties: 1) have a shared understanding of the roles, responsibilities, and accountabilities, and 2) are appropriately incentivised to deliver on improving metro rail operations	<ul style="list-style-type: none"> • Clarifying the roles, responsibilities, and accountabilities (including when these intersect between the parties involved) in the system. This will 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 the 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. This includes how metro and freight services are prioritised on the metro rail networks at different times of the day. • Ensuring the MROM is aligned with other relevant frameworks (e.g. the Land Transport Management (Regulation of Public Transport)

Review objective	Issues to consider
	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. This approach includes ensuring sound management of the system during disruptions or otherwise outside 'business as usual'.

Out of scope

This 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 relating to completing current projects and the 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 Senior Officials Group (SoG) will be established to oversee delivery of the review. The SoG will have one representative at a tier two level from each of:

- The Ministry of Transport (the Ministry)
- New Zealand Transport Agency (NZTA)
- KiwiRail
- Auckland Transport (AT)
- Greater Wellington Regional Council (GWRC)
- The Treasury.

The role and expectations of the SoG is attached in Appendix 1.

Engagement through the SoG is critical for the success of the review. The Ministry recognises that there may be different views on how best to resolve issues identified by the review. The Ministry 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.

The review will acknowledge the statutory responsibilities of local government for planning, procuring, and providing metro rail services. AT and GWRC are also co-funders of the metro rail system. The review will also acknowledge KiwiRail's roles and responsibilities. The Ministry's advice on the review will seek to reflect these roles and provide agreed recommendations. Where agreed recommendations are not possible, the advice will identify the different views of, and implications for, metro rail participants.

Implementation of any changes to the MROM

We expect any changes to the MROM will require implementation through operational and funding decisions. We will consider what levers are required to support implementation, and how the implementation of any changes will impact metro rail participants, while developing any proposed changes to the MROM. We will reflect these impacts in our advice, alongside the views of sector participants.

Engagement with Ministers

When any significant decisions are required, the Ministry 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.

Appendix 1: Role and the Expectations of the Senior Officials Group for the Metropolitan Rail Operating Model Review

Role and Expectations of the Senior Officials Group

The Senior Officials Group (SOG) has been established to:

- provide oversight for the delivery of the review
- provide constructive feedback on policy proposals developed by the Ministry of Transport (the Ministry)
- complement the role of the Metro Rail System Standing Group (MRSSG), which is being used as a working group for the review.

SOG members are expected to:

- represent their respective organisations
- take a 'best for system' approach
- communicate progress with the review on an in-confidence and need-to-know basis in their organisations.

In chairing the SOG, the Ministry will strive for consensus, but we recognise there may be different views on how to resolve any issues arising. The Ministry will ultimately be accountable for the advice and recommendations to Ministers on any changes to the MROM. Where the views of the SOG members vary from the Ministry's advice, the Ministry will reflect the views of the other parties in our advice.

For the avoidance of doubt, Ministers, and where necessary Cabinet, will make decisions on and be accountable for any changes.

Values

The role and expectations of the/work done by the SOG should be guided by the values of:

- **Fairness** – Investors and users of the MROM system are treated fairly.
- **Transparency** – openness to work together for the common objectives of the MROM system.
- **Trust** – Building Trusted partnerships to support the MROM system.

Success Factors

Collaboration

SOG members and agencies involved in the review are committed to working together. We agree to table both issues and opportunities to ensure there are no surprises. We are committed to broad and inclusive decision-making, while respecting individual accountabilities.

We will develop an engagement plan and identify opportunities to test our thinking with stakeholders. We recognise that the customer requirements for rail should be at the forefront of our analysis and reflected.

Analysis

We are committed to undertaking thorough analysis of the matters identified in the Terms of Reference (ToR) but will need to be pragmatic if timeframes for the review are challenged. We recognise and will use the extensive knowledge base in the MRSSG, the SOG, and the agencies involved in the review.

We will ensure that our analysis considers the benefits, values, and costs of rail (metro and freight), in a multimodal transport system in Auckland and Wellington as well as the wider system/nation. We recognise that the analysis needs to inform a well used customer-centric and sustainable metro system.

Throughout the review, we will be mindful of future trends of rail and New Zealand's transport system, and draw on lessons learnt from experience and insights elsewhere.

Advice

We recognise that:

- Ministers will want to be kept informed about the reviews progress, and take decisions based on well-informed advice.
- The way we propose to fund, govern, and plan for metro rail will impact the different central and local bodies involved.
- Decisions around metro funding must be transparent.
- There are several funding pathways and timelines (for example, the Government Policy Statement on land transport, the National Land Transport Programme, local government budgets/long term plans, and the Budget process) that the review will need to be cognisant of.
- Implementing any changes to the MROM will require operational level changes. These will need to be factored into advice and the expectations of Ministers.