



Ministry of Transport

Four Year Regulatory Plan 2016-2019

August 2016

Contents

Executive summary.....	4
Section 1 – introduction	6
Purpose of this plan.....	6
How the Ministry and wider sector uses the Plan	6
How the transport system is regulated – the roles of the Ministry and Crown entities.....	7
The annual regulatory planning process	7
Figure 1: Overview of regulatory planning process.....	8
Regulatory instruments	8
Figure 2: Transport regulatory instruments.....	9
Section 2 – strategic context for the regulatory plan.....	10
Role of transport	10
The Government’s transport priorities for a thriving New Zealand	10
Government’s objectives for good regulation	10
International drivers for transport regulation	10
Long-term outcomes.....	11
Figure 3: Strategic direction for the transport sector.....	11
Section 3 - the Ministry’s approach to regulating the transport system as lead steward	12
The Ministry’s approach to regulation	12
Policy objectives	12
Ministry’s regulatory stewardship responsibilities	13
Figure 4: Transport regulatory reform progress	13
Figure 5: The Ministry’s ongoing regulatory stewardship	14
Table 1: How the Ministry meets its stewardship responsibilities	15
The Ministry’s analytical framework helps to identify areas of focus	16
Figure 6: Ministry of Transport’s market focussed analytical framework	16
Recent reviews/ regulatory changes triggered by market failure.....	16
Regulatory Scanning	17
Prioritisation	17
Table 2: Prioritisation criteria for regulatory proposals	17
The legislative and rules programmes	18
Fees, charges, and levies	18
What triggers a review of fees, charges or levies?.....	19
Section 4 - current state and challenges.....	20

Current state of the regulatory framework	20
Ongoing challenges.....	20
Longer-term challenges.....	20
The current programme	20
Short-term (next 12 months).....	21
Medium term (3-5 years)	21
Long-term (10-20 years).....	21
Section 5 – key regulatory initiatives 2016–2019	22
The Ministry’s Regulatory Plan 2016-2019	22
The Transport Regulatory Plan’s contribution to the Ministry’s intermediate result areas	22
Fewer transport incidents & other harms – strong contribution	22
Open and efficient markets – moderate contribution	22
Improved management of the transport asset base – moderate contribution.....	23
Higher returns from new transport investments – small contribution.....	23
The Ministry’s regulatory priorities for 2016-2019	23
Section 6 – evaluation and evaluating this plan.....	25
The Ministry will ensure systematic evaluation	25
Appendix 1 – transport rules programme 2016-17	26
Appendix 2 – current state of the regulatory framework by mode.....	28
Appendix 3 – links to key documents.....	35

Executive summary

1. Transport is a critical component of the New Zealand economy and way of life for New Zealanders. The transport sector accounts for around five percent of gross domestic product. The Government invests over \$3.4 billion in the transport network each year across the range of transport modes – land, sea and air.
2. The Ministry of Transport's Four Year Regulatory Plan 2016-2019 sets out how the Ministry meets its regulatory responsibilities and delivers on the Government's priorities. It describes the current state of its regulatory regimes and how they are being improved. It explains how the transport system is regulated and presents a picture of how the Ministry plans its regulatory management from the short and medium term through to a longer-term perspective.
3. The Ministry's programme of regulatory reform focuses on core regulatory business, business improvement and strategic initiatives. With each of these, there is a range of short, medium and long-term projects.
4. In the short-term, the annual rules programme, prepared as a rolling two year programme of work, provides an ongoing opportunity to improve guidance and processes for Ministry and Crown entity staff.
5. In the medium term, the Four Year Regulatory Plan allows the Ministry to take a wider look at the regulatory programme and meet its stewardship obligations. Ensuring primary legislation is flexible to meet the needs of a rapidly changing environment across all the transport modes is an important component of the Ministry's ongoing stewardship.
6. In the longer term, the Ministry is looking ahead to the regulatory requirements in 2025 under the Regulation 2025 project. Transport is likely to see radical changes as new technology is applied to the transport system and the current regulatory models may not be best suited to deal with these changes.
7. 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 such as the rapid advances in technology and the requirements of international standards.
8. The Ministry believes that, overall, the transport regulatory framework is currently fit-for-purpose. It achieves its objectives and balances cost with providing certainty and flexibility. This is because the Ministry undertakes an annual process to scan, plan and prioritise its regulatory programme. The process is undertaken in collaboration with the transport Crown entities and over the last year, the Ministry has expanded its engagement with industry and invited industry groups to be involved in the scanning process.
9. There are ongoing challenges to ensuring the regimes are flexible and responsive. The land transport regime is more prescriptive than the other modes and this is being tackled where appropriate. The growing aviation sector faces additional challenges from areas such as increasing security concerns and the need to balance demand for streamlined border processes with security and personal rights. Maritime regulatory regimes are generally fit-for-purpose although there is room for improving flexibility, particularly in rule making.
10. The Ministry's four intermediate results provide a focus for our actions to improve the transport system over the next four years. The Ministry has reviewed its performance

framework against these results to ensure the Ministry focuses on the areas where it can make the greatest contribution to the Government's goals.

11. Regulatory priorities for 2016-2019 are:

- ▶ Aviation
 - ▶ Civil Aviation Bill & Airport Authorities Bill
 - ▶ New Southern Skies
- ▶ Land
 - ▶ Land Transport Amendment Bill
 - ▶ Vehicle Dimensions and Mass Reform
 - ▶ Driver Licensing Review
 - ▶ Small Passenger services review
- ▶ Maritime
 - ▶ Maritime Transport Amendment Bill
- ▶ Multi-modal
 - ▶ Clear Heads
 - ▶ Scan of transport legislation for barriers to new technology.

Section 1 – introduction

Purpose of this plan

13. This document explains how the Ministry of Transport, together with transport Crown entities, meets its responsibilities for good regulatory stewardship; how it achieves its outcomes and delivers on the Government's priorities. The document supports the Ministry's Four Year Plan, which provides a picture of the Ministry's strategic planning and how the Ministry will get there over the next four years and in the longer-term. It describes how the current regulatory regimes are performing and sets out the Ministry's priorities for improvement.

How the Ministry and wider sector uses the Plan

14. Regulatory reform and maintenance are a significant component of the Ministry's work programme. The Ministry uses the Four Year Regulatory 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 2016 - 2019 and their indicative timing.

15. The Plan provides staff at the Ministry and transport Crown entities with an overview of the work over the next four years. It informs legislative bids and serves as an input to forming the work programme for the Ministry and transport Crown entities.

What do the terms 'regulation' and 'regulatory reform' mean?

These are terms that refer to legislative instruments, such as primary legislation (statutes) and delegated legislation (rules and regulation).

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.

Regulatory reform concerns improvements to the quality of government regulation.

What is a regulatory system?

New Zealand's regulatory system includes the institutions, principles and processes through which regulations are made, implemented, enforced and reviewed. It involves all three arms of government – the Executive, Parliament and the Judiciary.

How the transport system is regulated – the roles of the Ministry and Crown entities

16. The Ministry of Transport is the Government's principal transport adviser, providing policy advice and support to Ministers, including advice on changes to legislative interventions.
17. The Ministry's 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 guidance on what quality regulation means
 - ▶ monitoring Crown entity performance as regulators
 - ▶ ensuring that the Ministry and transport sector meet regulatory stewardship expectations in maintaining legislation that is up to date and fit-for-purpose.
18. Having high performing Crown entities is critical to the operation of the transport system and the achievement of the Government's priorities. The Civil Aviation Authority, Maritime New Zealand and NZ Transport Agency have a significant role to play in developing transport Acts, rules, and regulations.
19. For example, in relation to rule development, the agencies:
 - ▶ lead many policy investigations – identify issues, define and analyse problems
 - ▶ 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, (apart from two land transport rules – the Driver Licensing Rule and the Road User Rule - which are drafted by the Parliamentary Counsel Office).

The annual regulatory planning process

20. Each year the Ministry develops its Regulatory Plan using a range of inputs on a rolling four-year basis. The Ministry identifies the key regulatory areas that need attention. Figure 1 provides an overview of the process and indicative timeline.

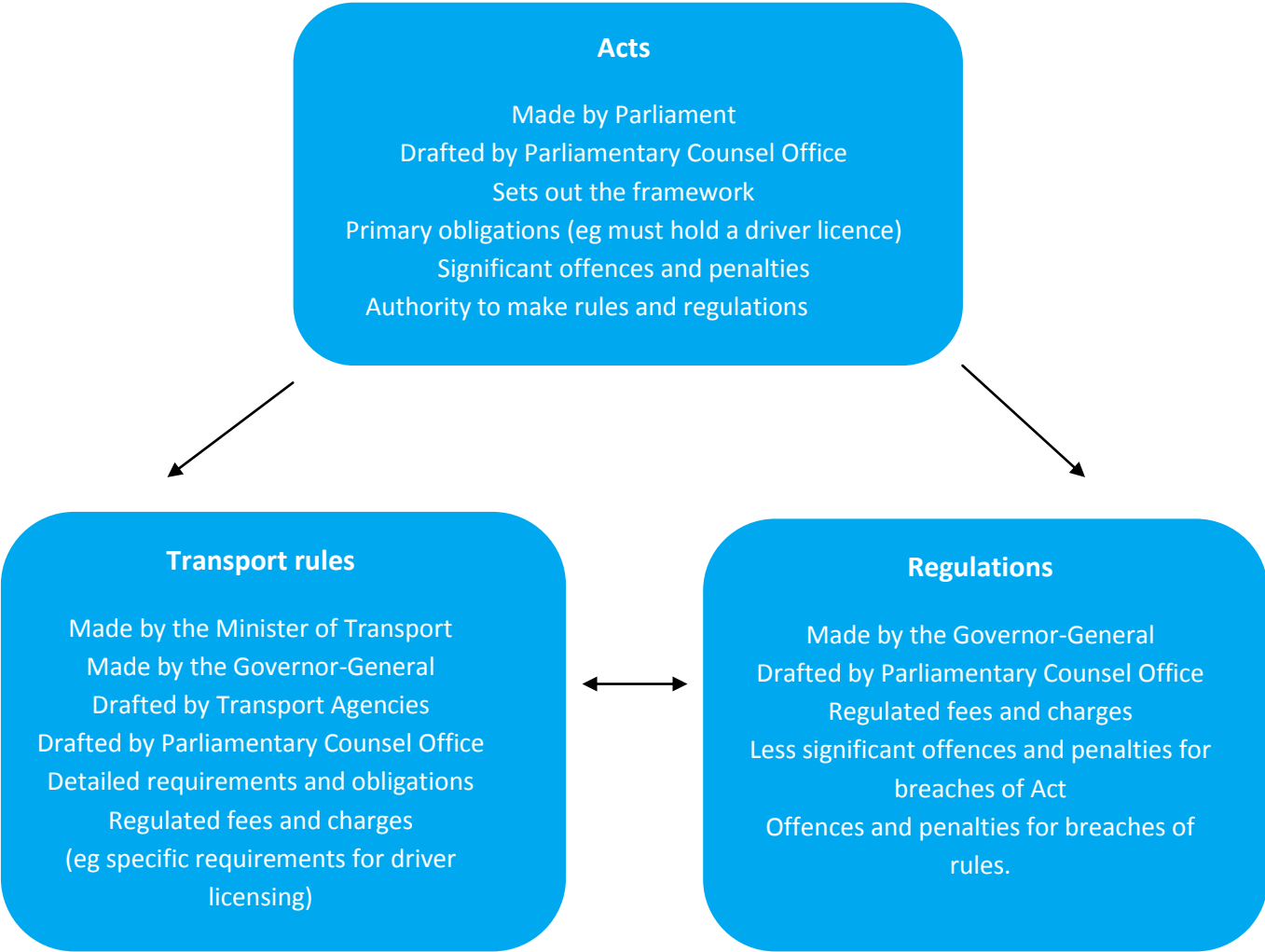
Figure 1: Overview of regulatory planning process



Regulatory instruments

21. Legislation governs how transport agencies work and assigns them the aim of achieving or contributing to an integrated, safe, responsive and sustainable transport system. Legislation also provides agencies with a wide range of statutory functions and powers, including regulatory responsibilities.
22. There are three types of regulatory instruments that govern the transport system: Acts, rules and regulations. The transport sector is regulated by 21 Acts and 250 sets of rules and regulations. These 271 instruments regulate transport safety, environmental protection, and transport infrastructure in the land (road and rail), aviation and maritime transport modes. They also provide confidence to the international aviation and maritime communities that New Zealand has a safe and secure transport system. This enables the international connectivity that is essential for our exporters to thrive.
23. Transport Acts establish and empower the institutions that create, maintain and/or give effect to the regulations within the transport regime.
24. Transport rules set standards for users, educators, transport staff & service personnel, vehicles/aircraft/vessels, associated ground equipment and facilities, and operations and associated operational procedures.
25. Transport regulations establish the fees, levies, charges, liabilities, fines and penalties associated with managing and enforcing activity within the regime. They also deal with international matters.
26. Figure 2 shows how these instruments work together.

Figure 2: Transport regulatory instruments



Section 2 – strategic context for the regulatory plan

Role of transport

27. Transport is a critical component of daily life for all New Zealand businesses and individuals. It connects businesses to markets, and individuals to employment, education, and social and leisure activities.
28. New Zealand has a vibrant transport sector which accounts for around five percent of employment and five percent of gross domestic product (GDP). The Government invests over \$3.4 billion in the transport network each year – around 1.3% of our GDP. This investment is made across the range of transport modes, (land, sea, air), to enable businesses and individuals to maximise their economic and social wellbeing.

The Government's transport priorities for a thriving New Zealand

29. The Government's priorities that relate to the transport sector are set out in a number of documents, including:
 - ▶ Connecting New Zealand (setting out specific objectives for transport)
 - ▶ The Business Growth Agenda (setting out growth targets for New Zealand's exports)
 - ▶ The Better Public Services programme (setting targets for specific sectors)
 - ▶ The Thirty Year New Zealand Infrastructure Plan (setting out future needs, management of existing assets, and ensuring the right settings for investment decisions in the future)
 - ▶ 2015 Government Policy Statement on Land Transport.
30. These documents are all available on-line. Links are provided in Appendix 3.

Government's objectives for good regulation

31. The Government has a strong focus on good quality regulation and has committed to¹:
 - introducing new regulation only when it is satisfied that it is required, reasonable, and robust
 - reviewing existing regulation in order to identify and remove requirements that are unnecessary, ineffective or excessively costly.

International drivers for transport regulation

32. 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.
33. 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 UN agencies responsible for setting international aviation and maritime standards, respectively).
34. The consequences of not being responsive in meeting New Zealand's international obligations include loss of reputation, decreased international trade and possible

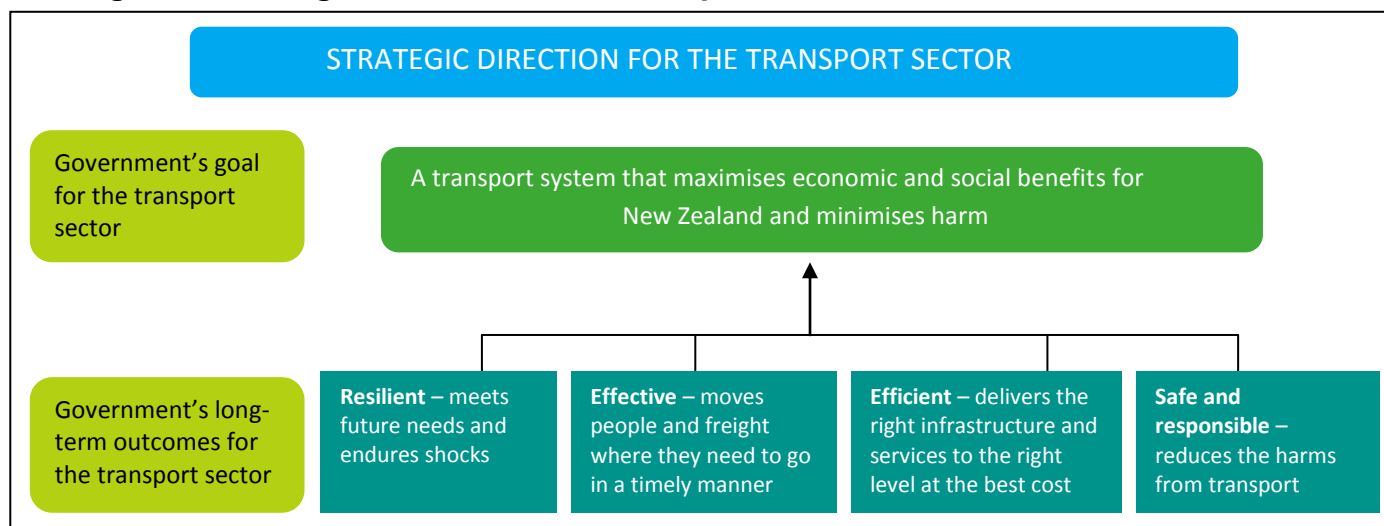
¹ <http://www.treasury.govt.nz/economy/regulation/statement>

involvement in complex and lengthy dispute resolutions procedures, and reduced security. Our export economy is dependent on international air and sea lines having confidence in the efficient and safe operation of our aviation and maritime industries. The Ministry needs to ensure that our aviation and maritime regulatory frameworks continue to comply with our international obligations and that our land transport rules support efficient, safe and effective supply chains.

Long-term outcomes

35. 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 in order to provide those benefits.
36. Figure 3 illustrates the relationship between the Government's goal for the transport sector and the four long-term outcomes identified by the transport sector.

Figure 3: Strategic direction for the transport sector



37. To deliver on the four long-term outcomes above, the Ministry has identified four intermediate result areas on which it will focus over the next 10 years. They are:
- ▶ improved management of the transport asset base
 - ▶ higher returns from new transport investments
 - ▶ more open and efficient markets
 - ▶ fewer incidents and other harms.
38. Section 5 notes how these intermediate results areas provide a focus for the Ministry's actions to improve the transport system over the next four years.
39. For a more detailed look at the long-term issues and a broader view of the strategic context, please refer to the Ministry's Four Year Plan on the Ministry's website².

² <http://www.transport.govt.nz/assets/Uploads/About/Documents/Four-Year-Plan-2015-for-proactive-release-2015.pdf>

Section 3 - the Ministry's approach to regulating the transport system as lead steward

The Ministry's approach to regulation

40. The Ministry's Transport Regulatory Policy Statement³ sets out our expectations for regulatory development and practice. The aim of the Statement is not to prescribe in detail how the transport sector develops or implements regulation; rather it provides best practice expectations 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.

41. 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

42. Consistent with those aims, in developing legislative and non-legislative instruments, and in conducting their regulatory practices, the Ministry of Transport and transport agencies 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
- ▶ encourage increasing public scrutiny of the Ministry's regulatory management and increasing engagement with the Ministry.

³ <http://www.transport.govt.nz/assets/Import/Documents/Transport-Regulatory-Policy-Statement-2012-Edition-Issued-4-May-2012.pdf>

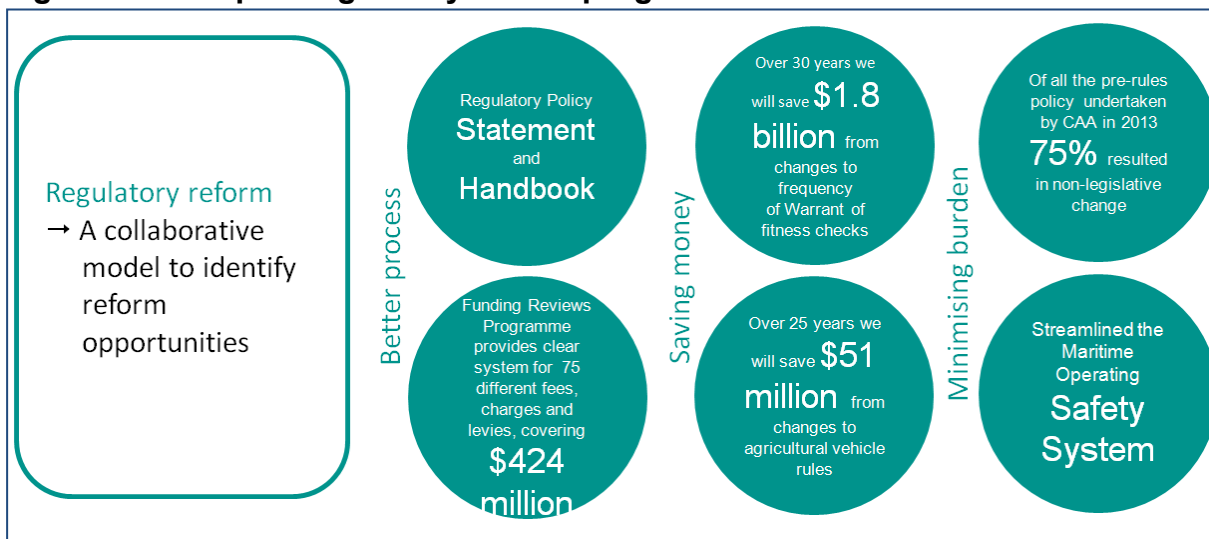
Ministry's regulatory stewardship responsibilities

43. 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.

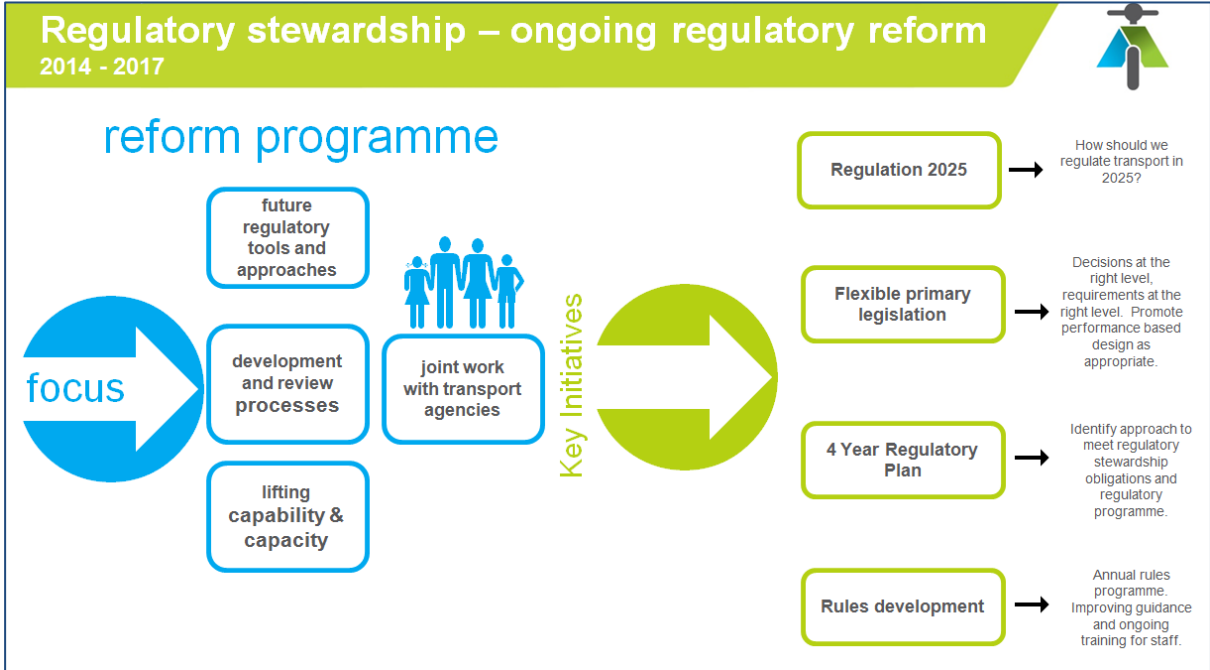
44. The Ministry has been comprehensively reviewing its regulatory system since 2014, and continues to improve its tools, processes and capability. Figure 4 presents a snapshot of the progress.

Figure 4: Transport regulatory reform progress



45. The Ministry's stewardship role will continue to form a significant part of the Ministry's work. Figure 5 illustrates the Ministry's ongoing regulatory reform work processes.

Figure 5: The Ministry’s ongoing regulatory stewardship



46. Table 1 provides more detail on how the Ministry meets its regulatory stewardship expectations. The Ministry is generally meeting its stewardship responsibilities but as indicated in Table 1 there are more improvements underway.

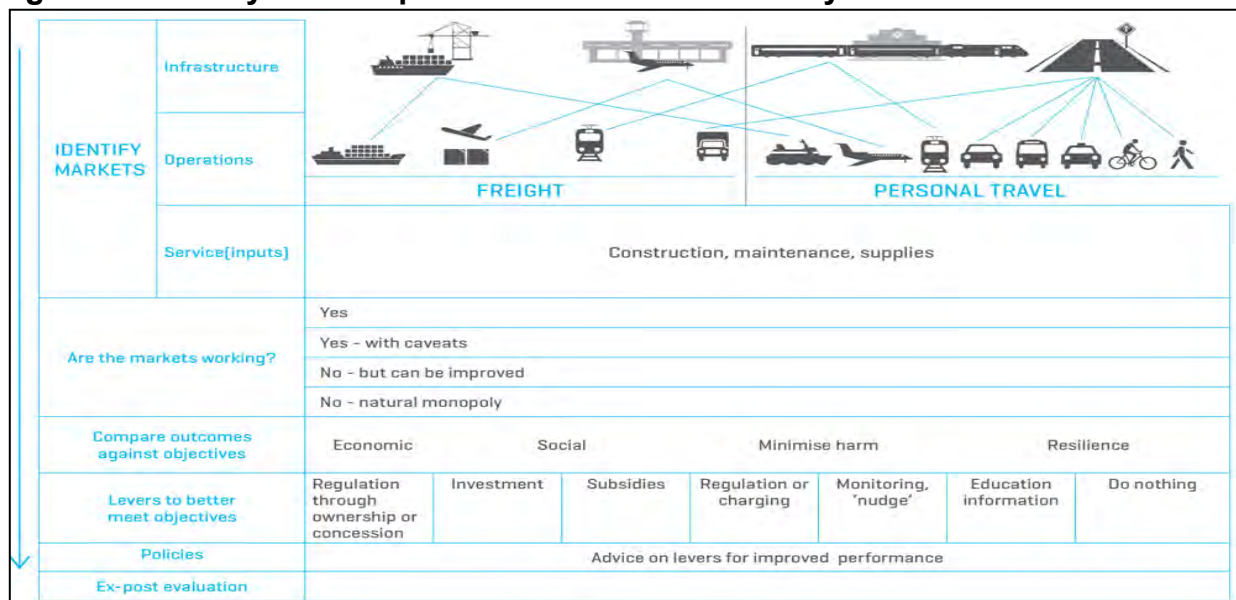
Table 1: How the Ministry meets its stewardship responsibilities

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. Leading 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 legislation that is up to date and fit-for-purpose	Each year, the Ministry undertakes a regulatory scan and produces a regulatory plan. The Ministry is also trialling a range of other approaches for connecting with the sector, such as online forums. The Ministry will consider updating a datasheet containing all legislation (primary, secondary, and tertiary) that Treasury maintained. The Ministry has strong stakeholder engagement processes and has key relationship management conversations with industry throughout the year.
Design primary legislation	The Ministry has an ongoing regulatory reform programme that includes ensuring transport legislation is fit-for-purpose. The Ministry uses a range of tools to ensure quality legislation is designed including Preliminary Impact Risk Assessments and Regulatory Impact Assessments. An evaluation programme is under development that will determine the effectiveness of significant regulatory changes. New staff are provided with training on the regulatory reform programme during their induction training. Some staff go to courses on regulatory practice run by the Government Economics Network.
Provide advice to the Minister on regulatory proposals	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 with the Ministry and transport Crown entities to ensure policy and operational issues are reflected. The Ministry publishes an indicative engagement timeline on its website. This reflects engagement and consultation with industry and affected stakeholders, which informs the Ministry's advice to Ministers.
Ensure appropriate regulatory guidance for Crown entities	The Transport Regulatory Policy Statement and Rules Handbook were developed jointly with the Ministry and transport Crown entities. From 2015, these documents are online tools for the Ministry and transport Crown entities, accessed through the Ministry's website.
Monitor Crown entity performance as regulators	The Ministry is implementing its new Crown Entity Assessment Framework for monitoring Crown entity performance. The Framework will allow the Ministry and regulatory entities to: <ul style="list-style-type: none"> • Be clear about what good regulation looks like and discuss how efficiency and effectiveness is appropriately balanced across the sector • Discuss performance improvement opportunities • Clarify priorities and expectations in relation to role and purpose • Compare, as appropriate, performance across the transport sector, other relevant sectors and other jurisdictions

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

47. The Ministry initially identifies potential regulatory initiatives using its analytical framework, which provides a link between the Ministry's high-level objectives and its more detailed work. Regulatory reform is a subset of the Ministry's wider work programme and the Ministry approaches its work programme by prioritising the work that will have the biggest positive impacts.
48. 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 in terms of economic, social, minimising harm and resilience objectives. If there is an issue, the next step is to consider ways of addressing it, one of which may be regulatory reform. In that case, the type and degree of regulatory reform will partly depend on how the market is working.
49. Figure 6 illustrates the Ministry's market approach to identifying potential regulatory initiatives.

Figure 6: Ministry of Transport's market focussed analytical framework



Recent reviews/ regulatory changes triggered by market failure

50. Recent reviews/ regulatory changes triggered by market failure include:

- ▶ Review of small passenger services
- ▶ Heavy vehicle operation
- ▶ Electric vehicles
- ▶ Auckland Transport Alignment Project
- ▶ Auckland City Rail Link
- ▶ Intelligent Transport Systems Action Plan implementation programme .

Regulatory Scanning

51. The Ministry regularly scans its stock of legislation to ensure that it remains fit-for-purpose and identifies areas that need attention. The process is undertaken in collaboration with the transport Crown entities. Over the last year, the Ministry has taken a new approach to scanning and has invited industry groups to be involved in the scanning process.
52. 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. The scan gives the Ministry a long list of legislation in need of review, amendment, and repeal.

Prioritisation

53. 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, and an increased risk of significant regulatory failure.
54. Following the regulatory scanning, 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.
55. The Ministry uses a project management methodology to support the efficient and effective delivery of quality policy outcomes. At the initial stages of a project proposal, an assessment is made on whether it aligns with Ministers' priorities and the Ministry's strategic outcomes framework, and if so when the work needs to be undertaken. Senior management then considers the proposal for its strategic fit. High priority is given to proposals that make the most significant contribution.
56. Each proposed regulatory change is assessed against a range of criteria to determine its priority as shown in Table 2.

Table 2: Prioritisation criteria for regulatory proposals

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

The legislative and rules programmes

57. The Ministry's Regulatory Plan contains the annual legislative and rules programmes.
58. The Minister of Transport is required to advise Cabinet of proposed rules through the annual Transport Rules Programme [CAB (99) M20/2B (1) refers]. The Minister of Transport is empowered⁴ to make ordinary rules on matters covering land transport, civil aviation, maritime safety, and marine protection.
59. Rules are the most common form of delegated legislation for transport; however, the associated offences, penalties, fees, charges and levies are specified through supporting regulations.
60. 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. The Ministry is one year into a three-year trial of a contestable rules funding approach designed to achieve improved transparency and flexibility.
61. Cabinet agrees the legislative programme at the beginning of each calendar year. Amendment bills on the legislative programme are given a priority ranging from 1 - 6.

Fees, charges, and levies

62. 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 sets of regulations and Orders in Council covering 825 individual fees, levies and charges.
63. The transport sector is characterised by high levels of third party funding under a number of fees, charges and levies. These are required to be reviewed regularly. Maritime New Zealand (MNZ), the Civil Aviation Authority (CAA) and the New Zealand Transport Agency (NZTA) collect over \$280 million a year in third party funding streams (not including fuel excise duty and road user charges). The bulk of their funding is received this way (around 95 percent for the CAA and around 55 percent for MNZ).
64. 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 (apart from those under the National Land Transport Fund). Out of scope are taxes, duties, Crown appropriations, penalties and fines and contractual payments.
65. The four transport Crown entities have adopted the framework. It 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.
66. The aim of the programme is to:
 - ▶ improve the timing and coordination of funding and fee reviews to Ministers
 - ▶ ensure value-for-money issues are addressed in each review

⁴ By the Land Transport Act 1998, Railways Act 2005, Civil Aviation Act 1990 and Maritime Transport Act 1994.

- ▶ improve the quality and completeness of the reviews
- ▶ provide a consistent approach to conducting reviews

67. Guidelines for the programme were developed and promulgated in January 2014. The Ministry is now finalising the 2016/17 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 of fees, charges or levies?

68. There are four main triggers for the review of third party fees, charges or levies. These are:

- i. Periodic review:
 - ▶ required at the intervals set out in the enabling legislation, or
 - ▶ every three years as recommended under the Office of Auditor-General good practice guidelines
 - ▶ through our Funding and Fees review
- ii. Change in Government priorities or transport sector policy leading to regulatory reform that causes a change in the fee or charge/the levy
- iii. Change in service delivery costs causing the fee, charge, or levy being significantly under or significantly over a level of cost recovery
- iv. 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.

69. The most common trigger for a review is the periodic review. Those reviews identified to be undertaken periodically are in the framework and are coordinated, assisted and assessed through the Ministry. Reviews triggered outside of the periodic review period will need to be added to the framework when they arise.

Section 4 - current state and challenges

Current state of the regulatory framework

70. The Ministry has brought increased rigour into the rules process to ensure that only matters that genuinely require rule change are included in the rules programme. Five years ago, there were around 40 rules on the programme. With increased rigour, there is now an average of 20 rules on the programme.
71. Overall, the Ministry believes the transport regulatory framework is fit-for-purpose. It achieves its objectives and balances cost with providing certainty and flexibility. This is based on the Ministry's annual scanning, planning and prioritising processes.
72. Details of the Ministry's assessments of the state of the regulatory regimes of each mode are attached in Appendix 1.

Ongoing challenges

73. While the regulatory regimes for each of the modes are generally fit-for-purpose, there are ongoing challenges to ensuring the regimes are flexible and responsive. The land transport regime is more prescriptive than the other modes and this is being tackled where relevant. The growing aviation sector faces additional challenges from areas such as increasing security concerns and the need to balance demand for streamlined border processes with security and personal rights. Maritime regulatory regimes are generally fit-for-purpose although there is room for improving flexibility, particularly in rule making.

Longer-term challenges

74. The transport sector faces many challenges over the longer-term with the rapidly changing environment characterised by technological developments and changing public expectations of levels of service. The Ministry has five long-term strategic policy challenges in this environment, which have significant implications for the future transport network. These are likely to have a significant impact on future work and on regulatory planning. The five challenges are:
 - ▶ A sustainable land transport revenue and investment system
 - ▶ Keeping Auckland moving
 - ▶ Supporting an export economy
 - ▶ Transport and the environment
 - ▶ A more intelligent transport system.

The current programme

75. The Ministry's programme of regulatory reform focuses on core regulatory business, business improvement and strategic initiatives. Within each of these work streams, there is a range of short, medium and long-term projects.
76. In the short-term, the annual rules programme, prepared as a rolling two-year programme of work, provides an ongoing opportunity to improve guidance and processes for Ministry and Crown entity staff. In the medium term, the Four Year Regulatory Plan allows us to take a wider look at the regulatory programme and meet our stewardship obligations. In the longer term, the Ministry is looking ahead to the regulatory requirements in 2025.

Short-term (next 12 months)

77. Improving capability and process are the two key areas of short-term focus. The Ministry has published an online guidance tool for rule development and is developing a training programme for Ministry and transport Crown entity staff to ensure the sector has the skills and experience to develop and implement high quality regulations. The tool can be viewed on the Ministry's website at <http://www.transport.govt.nz/news/multi/guide-to-making-and-amending-transport-rules/>
78. The Ministry is also placing increased emphasis on evaluation, with evaluations of up to four significant regulatory changes planned each year. An evaluation plan for 2016/17 is under development. The transport Crown entities have a critical role to play in monitoring and evaluation and will be involved in the development and implementation of the plan.

Medium term (3-5 years)

79. The current legislative programme includes amendments to four important transport acts:
- ▶ Civil Aviation Act 1990
 - ▶ Airport Authorities Act 1966
 - ▶ Land Transport Act 1998
 - ▶ Maritime Transport Act 1994
80. The amendments are a result of comprehensive reviews of the regulatory regimes, with their introduction planned in 2016. The focus for 2017-2019 will be on implementation, including the development of associated rule and regulation changes. Table 2 on page 24 sets out the regulatory priorities and indicative timing, across the three modes. The public and industry will have opportunities to provide comment on proposed changes through the Select Committee process for each bill; during consultation on each rule proposal and during general stakeholder engagement. The Ministry publishes an engagement timeline on its website.

Long-term (10-20 years)

81. To generate new thinking and stimulate debate, the Ministry is undertaking a series of strategic projects. One of the current projects is 'Regulation 2025', which considers "***how transport should be regulated in 2025, looking out to 2035***". Transport is likely to see radical changes as new technology is applied more widely to the transport system. The current regulatory models may not be best suited to deal with these changes. The project considers how changes in technology and social attitudes might influence the way regulation is made in the future. The project findings are scheduled to be released in August 2016.
82. To inform the work, the Ministry commissioned five foundation papers written by a cross-section of legal and economic experts. The papers examine the different approaches to regulation and the potential influence of new technologies. The papers are available on the Ministry of Transport's website at: <http://www.transport.govt.nz/ourwork/keystrategiesandplans/strategic-policy-programme/>

Section 5 – key regulatory initiatives 2016–2019

The Ministry's Regulatory Plan 2016-2019

83. Table 2 provides details of the key current and planned regulatory initiatives. Appendix 1 provides details of the proposed 2016/17 Rules Programme.

The Transport Regulatory Plan's contribution to the Ministry's intermediate result areas

84. The Ministry's four intermediate results provide a focus for our actions to improve the transport system over the next four years. The Ministry has reviewed its performance framework against these intermediate results to ensure the Ministry focuses on the areas where it can make the greatest contribution to the government's goals.

85. 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 (Low - Moderate contribution)
- ▶ Higher returns from new transport investments (Low contribution)

Fewer transport incidents & other harms – strong contribution

86. The priority regulatory changes over the next four years are:

- ▶ The Land Transport Amendment Bill - seeks to generate economic growth and productivity, improve safety, and deliver better regulation. These include implementing the recommendations from the small passenger services review, requiring alcohol interlocks for high and repeat offenders, and extending the disqualification period for fleeing drivers
- ▶ Oil Spill Contingency Plans and Oil Pollution Prevention Certification – getting better capability in the event of an offshore accident will assist in reducing harms to the environment
- ▶ Clear Heads - a multimodal review which seeks to implement the outcomes of the 2015-2016 multi modal policy investigation on alcohol and drugs in the transport sector.

Open and efficient markets – moderate contribution

87. Some major priority regulatory changes currently underway are:

- ▶ Review of the Civil Aviation & Airport Authority Acts which 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.
- ▶ Small passenger services review - A review of the legislative framework for the licensing of small passenger services (excluding drivers) to take account of new technologies and ensure the current system remains fit-for-purpose.
- ▶ Reform of the Vehicle Dimensions and Mass regulatory framework which seeks to support productivity and innovation; remove unnecessary costs and improve administrative and enforcement efficiency and effectiveness; remove constraints on access to a wider range of vehicle types and suppliers (also improved management of the asset base by improving asset protection tolerances).

Improved management of the transport asset base – moderate contribution

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

- ▶ New Southern Sky: Development and implementation of the New Southern Sky (previously the National Airspace and Air Navigation Plan) will enable the adoption of new technologies. It is estimated to provide net benefits attributable to the project of an estimated at \$178 million over 20 years. A number of regulatory changes are anticipated because of this initiative including aviation rules and the Civil Aviation Act 1990.

Higher returns from new transport investments – small contribution

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

90. 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 affect investment decisions e.g. improvements to the Vehicle Dimensions and Mass regulatory framework.

The Ministry's regulatory priorities for 2016-2019

91. Table 2 sets out the regulatory priorities and indicative timing across the three modes.

Table 2: Regulatory priorities 2016-2019 and indicative timing

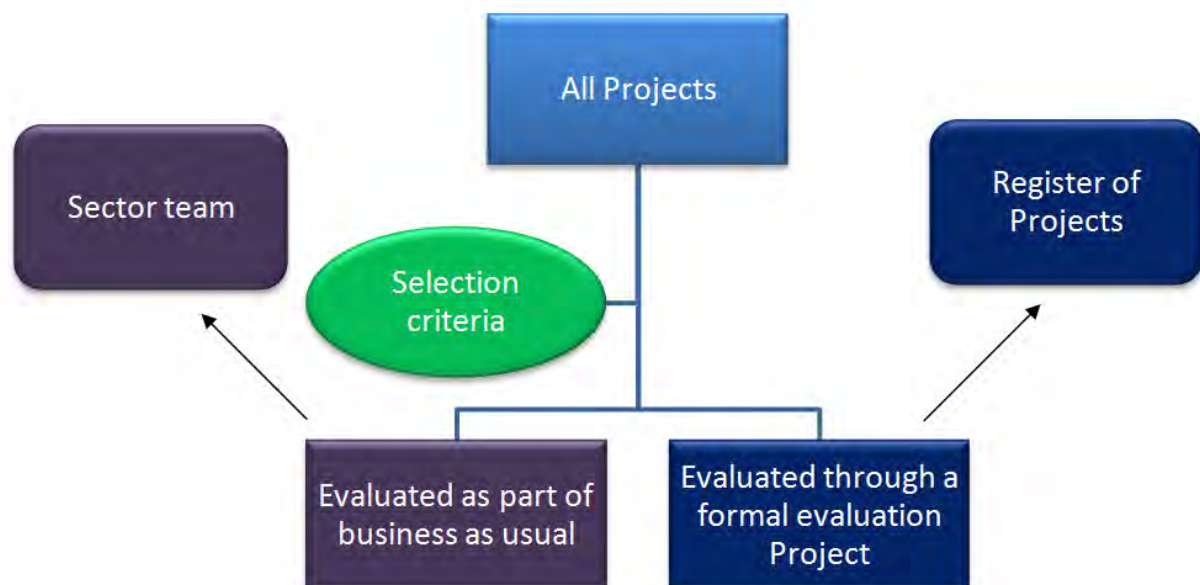
Mode	Project	Likely implementation
Aviation	Civil Aviation Bill & Airport Authorities Bill – improve regulatory decision-making; improve aviation safety, in particular by ensuring an effective reporting culture exists; provide effective competition and licensing for international air services; clarify expectations placed on participants and improve usability of legislation.	2017
	New Southern Skies – act and rule changes 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 to New Zealand and ensure New Zealand aligns with international developments. This is a ten-year programme.	2018
Land	Land Transport Amendment Bill – includes a number of proposed amendments aimed at economic growth and productivity, improving safety and better regulation. Proposals relate to vehicle dimensions and mass, alcohol interlocks for drink driving, small passenger services, fleeing drivers, fare evasion and other minor amendments.	2017
	Vehicle Dimensions and Mass Reform – aims to simplify the existing rule to reduce compliance costs and support optimal use of heavy vehicles on the roading network whilst maintaining safety.	2016
	Driver Licensing Review – aims to update and refresh the legislative framework for driver licensing. The regime will be made less prescriptive and more flexible, thereby reducing customers' compliance burden, assisting compliance with requirements, while maintaining road safety. A key proposal is to reduce the frequency of vision testing to help enable online driver licensing renewals.	2017
	Small passenger services review – the objective of this review is to ensure the regulatory framework is fit-for-purpose in light of new technologies and business models.	2017
[REDACTED]	[REDACTED]	[REDACTED]
Multi-modal	Safety of Life at Sea – this rule will implement requirements from an international convention.	2016
	Clear Heads (Investigation into drug and alcohol reform) – Legislative changes for the alcohol and drug regimes in aviation, maritime and rail will be made through the aviation and maritime bills.	2017
	Scan of transport legislation for barriers to intelligent transport systems (ITS) – one of the key actions in the ITS Action Plan. A scan of all transport legislation will identify any unnecessary barriers to the deployment of ITS technologies in New Zealand.	2016

Section 6 – evaluation and evaluating this plan

The Ministry will ensure systematic evaluation

92. The Ministry has started a planning process to ensure the systematic evaluation of priority regulatory initiatives as part of the Ministry's agreed work programme. A comprehensive annual evaluation planning process will be developed in 2016 and the Ministry will examine existing skills and resources needed to implement the work and seek to upgrade them if possible. It is not realistic for the Ministry to evaluate all its regulatory projects and a selection process will be involved. The process is two-tiered.
- i. It is proposed that every year, up to four projects be subject to formal evaluation. These will be significant projects, which the Ministry has a particular interest in evaluating comprehensively e.g. Road User Charges. It is envisaged there will be a joint approach to evaluations, involving the responsible transport Crown entity.
 - ii. The Ministry will also work with transport Crown entities to determine how they are monitoring the rules they are implementing and to ascertain progress. Monitoring and reporting will be on a risk-based approach.

93. The following diagram illustrates the proposed approach.



94. In addition, the Ministry will monitor and evaluate the strategic context and approach to regulation in the transport system every 12 months, to ensure the Plan is up-to-date.

Appendix 1 – transport rules programme 2016-17

Table 1: Main rules

	Project name	Rationale for rule change	Summary of rule change	Cabinet consideration
	AVIATION			
1	Mandate automatic dependent surveillance broadcasts (new)	Improving safety; modernisation for best practice following International Civil Aviation Organization (ICAO) recommendations.	This project proposes using a performance-based rule to mandate transceivers for automatic dependent surveillance – broadcasts (ADS-B), initially for aircraft operating in controlled airspace above 24,500 ft (FL 245) and for all controlled airspace by the end of 2021. ADS-B is scheduled to replace the current secondary surveillance radar system, which reaches the end of its life in 2021.	Yes
2	Global Navigation Satellite Systems (GNSS) under Instrument Flight Rules (IFR) (new)	Improving safety; modernisation for best practice.	The change would update the current rules for use of GNSS under IFR. 19D is out of date and does not reflect the move, under New Southern Sky, for a performance based navigation environment for all IFR operations.	Yes
3	Part 91: Post Accident: Emergency Location of Aircraft (new)	Improving safety	To review requirements for locating aircraft following an accident. To consider reported failures of existing equipment, and whether there are other technologies that may be more effective.	No
4	Part 66: Aircraft Maintenance Engineers – Licences and Ratings (new)	Improving safety	Changes to current requirements for maintenance engineer licensing which have become inadequate in light of modern aircraft technology and reliability and advances in international regulatory best practice.	No
5				
	LAND			
6	Setting of speed limits (new)	Efficiency	To enable a 110 km/h speed limit where appropriate.	Yes
7	Driver licensing review (new)	Improving efficiency and customer experience, reducing compliance costs	An ongoing review to update and refresh the driver licensing Rule to make it less prescriptive and more adaptable thereby reducing customers' compliance burden, while maintaining road safety. Includes changes to enable online renewal of driver licenses, and streamlined heavy vehicle licence process. This is likely to result in recommendations to amend the Land Transport (Driver Licensing) Rule 1999.	Yes
8	Vehicle dimensions and mass review (new)	Efficiency (on road and off road) and safety	A review has been undertaken of the regulatory framework that applies to the dimensions and mass of heavy vehicles operating on New Zealand roads. The review investigated whether the Land Transport Rule: Vehicle Dimensions and Mass 2002 was fit for purpose and has identified a number of opportunities to enhance the productivity of heavy vehicles and reduce compliance costs for industry. Consultation is now taking place on the proposed replacement draft Land Transport Rule: Vehicle Dimensions and Mass 2016.	No
9	Small passenger services review (new)	Efficiency and technology	In April 2016, the Minister and Associate Minister of Transport announced decisions following a review of the regulatory framework for small passenger services. The review was undertaken to ensure the regulatory system remains fit for purpose, and flexible enough to accommodate new technologies and business models. The Land Transport Act 1998 will need to be amended as will Land Transport Rule: Operator Licensing 2007, Land Transport Rule: Work time and Log Books 2007, Transport Services Licensing Regulations 1989 and the Land Transport (Offences and Penalties) Regulations 1999. Consequential amendments may also be required to other transport rules to give effect to the proposals.	No
10	Dangerous Goods Rule 2005 amendment (new)	Improving safety	Rule changes to link with increases to penalties that can be applied for carriage of dangerous goods in restricted or prohibited areas.	No
11	Road User Rule 2004 – electric vehicles	Environmental improvements	To implement the Government's decision to enable road controlling authorities to allow electric vehicles to access special vehicle lanes	No
	MARITIME			
12	40 Series amendments	Improving safety	Minor changes to Rules 40C, 40D and 40E. Includes changes to EPIRB requirements.	No
13	Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel	To enable New Zealand to become a party to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995.	This will involve minor changes to Maritime Rule Parts 31 and 32 (which deal with certification, crewing and watchkeeping requirements). Although minor, these changes are not suitable for inclusion in an omnibus, as they will implement new international obligations. The Rule will provide an internationally agreed system for recognising the qualifications of fishing vessel crew. This will address concerns about the competence of foreign fishing crews visiting New Zealand's ports, and allow New Zealand fishing vessel crew to more easily work overseas; should decrease compliance costs overall.	No
14	Torremolinos/Cape Town agreement	To allow New Zealand to become a party to the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.	This will make New Zealand a party to the Torremolinos International Convention for the safety of fishing vessels. Amendments would be required to Maritime Rule Parts 25 (carriage of charts), 40D, 42A, 42B (vessel design, construction and equipment) and possibly 19 (operator certification) or 46 (vessel maintenance and surveys) to give effect to the Convention in New Zealand. The changes will increase safety standards on board foreign fishing vessels, giving New Zealand jurisdiction to enforce minimum safety standards. This will decrease Crown costs associated with fishing vessel incidents, and reduce compliance costs for New Zealand vessels operating internationally, as they will only have to meet a single set of standards.	No
15	Part 102 Certificates of Insurance and Amendment (new)	To increase the insurance needed for drilling operations.	To implement outcomes of 2015-16 Ministry of Transport and MBIE policy investigation on financial assurance requirements for off shore platforms.	Yes
16	Part 131 Offshore Installations – Oil Spill Contingency Plans and Oil Pollution Prevention Certification (new)	To include well control contingency plans in the requirements under the Rule for all off shore platforms.	Will include: - Changes to consultation requirements for installation owners in their preparation of an Oil Spill Contingency Plan (OSCP). - Addressing a gap between requirements relating to the identification of operational personal training and the ability of the Director to not approve an OSCP on the basis of training that is considered to be inadequate or inappropriate. - Clarifying expectations of installation owners to respond to a Tier 3 oil spill as expressed in the Rule.	No
17	Part 32 Seafarer Certification	To manage the transition from old certificates to the SeaCert certificate system.	To ensure a smooth transition between the two systems.	No
18				

Appendix 2 – current state of the regulatory framework by mode

Aviation (includes safety, security, economic and infrastructure)
<p>Civil aviation in New Zealand operates within a system established and maintained in accordance with the Civil Aviation Act 1990, and:</p> <ul style="list-style-type: none">▶ establishes the safety and security framework for civil aviation▶ establishes the Civil Aviation Authority and the Aviation Security Service and sets out their functions duties and powers▶ empowers the Minister of Transport to make civil aviation rules for a range of matters▶ empowers the Director of Civil Aviation to regulate entry into the civil aviation system, and to monitor and enforce compliance with the Act and the rules and regulations made under it▶ ensures New Zealand’s obligations under international civil aviation agreements are implemented▶ provides for the economic regulation of licensing and international air services competition for foreign and New Zealand international airlines▶ empowers the Minister of Transport to establish, maintain and operate aerodromes▶ prescribes airline liability and compensation for loss and delay.
<p>The aviation safety and security regime encompasses: A life-cycle approach underpins New Zealand's aviation regulatory system. Participants enter the system, operate within it, and ultimately exit.</p> <p>Aviation participants operate within a closed system, bounded by the Civil Aviation Rules. The Rules set the minimum standards, specifications and qualifications that participants must meet.</p> <p>Once the Director of Civil Aviation is satisfied that the entry requirements are met, the appropriate aviation document is issued to the participant. While in the system, participants must continue to comply with these standards and the conditions of their documents. The Director of Civil Aviation is responsible for monitoring and enforcing compliance with the Rules.</p> <p>At intervals, their adherence to standards is checked, and any corrective actions are identified. This is the Civil Aviation Authority’s (CAA) monitoring function.</p> <p>Participants exit the system voluntarily, either by surrendering their documents, or as the result of action taken by the Director to suspend or revoke the document. The Director takes such exit actions in the interests of safety when other regulatory tools have failed or are inappropriate.</p> <p>In New Zealand’s civil aviation system, every participant shares a responsibility for safety and security.</p> <p>Regulation of the aviation sector is moving towards a risk-based approach with the introduction of Safety Management System requirements (in the form of Civil Aviation Rule Part 100). This is in line with International Civil Aviation Organization expectations.</p>
<p>The aviation, economic and infrastructure regime encompasses: Legislation relating to access to, the ownership and management of, and/or accountabilities for land, facilities, routes, destinations and/or other rights associated with aviation in, to and from New Zealand. For example, the Civil Aviation Act 1990 prescribes licensing and international air services competition regimes for foreign and New Zealand international airlines. The Airport Authorities Act 1966, provides the framework to recognise local authorities and airport companies as local authorities, and confers upon them a range of functions and powers relevant to establishing and operating airports.</p>
<p>Key legislation Civil Aviation Act 1990 Airport Authorities Act 1966 Aviation Crimes Act 1972 (administered by Ministry of Justice) CAA also has health and safety responsibilities under the Health and Safety at Work Act 2015 with respect to aircraft “taxiing, taking off, flying or landing” Civil Aviation Rules</p> <p>Key regulation and bylaws Aviation (Offences) Regulations 2006 Civil Aviation Charges Regulations (No 2) 1991 Civil Aviation (Safety) Levies Order 2002 Civil Aviation (ANZA Mutual Recognition Agreement) Order 2007 Civil Aviation (Cape Town Convention and Aircraft Protocol Declarations) Order 2010 Health and Safety at Work (Civil Aviation Authority of New Zealand) Agency Designation 2015.</p>

Aviation (includes safety, security, economic and infrastructure)

Some airports make bylaws under the Airports Authorities Act 1966.

The 2015 NZIER Transport Regulation Report, noted that aviation (along with rail) has the lowest proportion of command and control legal instruments of the four transport modes. Aviation regulation:

- ▶ requires operators to suggest methods for the management of risk and achievement of standards that are considered by the regulator
- ▶ checks that air transport operators and their service providers have the required capability to meet safety standards
- ▶ ensures compliance with international conventions
- ▶ has command and control elements that are linked to requiring operators to comply with international conventions.

Statement of fitness

Overall, the Ministry believes that the aviation regulatory regimes are fit for purpose but the Ministry appreciates that there will be increasing pressure on the aviation regulatory regime.

These pressures come from:

- ▶ a growing aviation sector, increasing the potential for more accidents and incidents
- ▶ whether the regulatory regime is flexible enough to support the uptake of new technology
- ▶ pressure to ensure streamlined facilitation at borders. There will be an increasing need to assess the balance between security outcomes, facilitation, personal rights and cost impacts.
- ▶ Increasing international security concerns

As part of its regulatory stewardship role, the Ministry has included in its draft 4-year work programme, a project to develop a more systematic approach to assess the performance of the aviation system, including indicators to test regulatory effectiveness.

Fitness for purpose

In 2014, the Ministry of Transport undertook a review of the Civil Aviation Act 1990 and the Airport Authorities Act 1966 (the Review).

The purpose of the Review was to ensure that New Zealand's aviation legislation could continue to support an effective, efficient, safe, secure and resilient aviation system, which supports the growth of the economy in order to deliver greater prosperity, security and opportunities for all New Zealanders.

No fundamental flaws with either Act were identified, however, a number of legislative changes are proposed that will:

- ▶ improve the safety and security of the aviation system
- ▶ improve the efficiency and effectiveness of regulatory decision-making to facilitate a growing industry
- ▶ clarify expectations placed on participants in the aviation system
- ▶ improve the usability of the legislation.

The review found that several Airports Authorities Act provisions are redundant, outdated or ambiguous. The review tested amendments to these provisions, to make sure this Act remains effective for airports and their users.

The Ministry is currently in the process of seeking Cabinet decisions to amend the Acts.

Future

Over the next four years, there will be increasing pressure on the regulatory system from industry to allow new technology uptake. The regulatory regime needs to ensure that this uptake happens in a safe manner. The new safety management system will continue to evolve over the next few years.

The volume of air traffic and increased passenger numbers will prompt calls for even more streamlined facilitation at the border, with a corresponding impact on aviation security. In addition, there will be an increasing need to assess the balance between security outcomes, facilitation, personal rights and cost impacts.

The aviation sector will continue to be influenced and shaped by international requirements in areas such as safety, security and environment.

There is concern that there will be workforce shortages in the regions, especially a shortage of pilots and aircraft engineers and this may have some regulatory implications.

Assessment evidence

A range of inputs form the basis of the regime assessment. These include:

- ▶ The review of the Civil Aviation Act and Airports Authority Act
- ▶ NZIER report 2015 - Assessed the stock of regulation in terms of a barrier to market entry. https://nzier.org.nz/.../2016-1_tool_for_assessing_the_stock_of_regulation.pdf
- ▶ regular scanning of legislation (including discussions with Crown entities and industry)

Aviation (includes safety, security, economic and infrastructure)

- ▶ The Ministry's 4 Year Regulatory Plan <http://www.transport.govt.nz/assets/Uploads/About/Documents/Ministry-of-Transport-4-Year-Regulatory-Plan-2015-18.pdf>
- ▶ regulatory change proposals (in particular rule proposals) are based on monitoring and evaluation assessments
- ▶ regular stakeholder engagement
- ▶ a review of arrangements for major transport incidents
- ▶ recent regulatory changes for Unmanned aerial vehicles that demonstrates the flexibility of the current regime to adopt rules for new technologies.

Risks and mitigation

The consequences of major events are greatest in the maritime and aviation sectors where larger and more sophisticated craft move more people than in land transport. While aviation and maritime infrastructure is privately owned, operators must comply with suites of legislation, rules, and standards to address safety and emergencies.

In emergencies where the risk of death or serious injury to any person or damage to property is envisaged or exists, legislation provides for the 'making of emergency rules'.

The Director of Civil Aviation has the power to make emergency rules.

A recent review of arrangements found that the existing legislative framework and available powers for dealing with major transport incidents appears to be 'fit for purpose' with no substantive shortcomings⁵. Officials believe they have appropriate powers to manage risk and response in relation to major transport incidents.

The Review recommended work to address planning arrangements (below the regulatory level) and more development of inter-agency capability to respond to major transport incidents.

The Civil Aviation Authority actively identifies risks in the system and targets resources to high-risk areas. https://www.caa.govt.nz/Surveillance/The_Risk_Profile_Ratings.htm]

Planned legislative/regulatory reviews

The review of the Civil Aviation Act and Airport Authorities Act is reaching a conclusion. The next step will be to make legislative changes to these Acts, progressing development of the aviation rules, including any changes required as a result of the review.

Through the ITS Action Plan the Ministry is reviewing all transport legislation to assess if there are any unnecessary legislative barriers to the uptake of new technology. This will consider all modes.

The Ministry's strategic project 'Regulation 2025' will provide insights for how transport should be regulated when looking out to 2035. The findings are expected to shape future reviews of regulatory regimes and frameworks.

⁵ ⁵ *Report on a Review of Arrangements for Major Transport Incidents*, CRM and Associates Ltd, May 2016.

Land Transport (includes safety and infrastructure)
<p>The land transport safety regime encompasses:</p> <ul style="list-style-type: none"> ▶ Acts that establish and empower the institutions that create, maintain and/or give effect to the regulations within the regime. ▶ Regulations that establish the fees, levies and charges, and liabilities, offences and penalties associated with managing and enforcing activity within the regime ▶ Land Transport Rules that set standards for owners, operators, drivers, passengers and other road users, vehicles and associated equipment, roads, licensing, and dangerous goods. <p>The land transport infrastructure regime encompasses:</p> <ul style="list-style-type: none"> ▶ Acts and Regulations relating to access to, the ownership and management of, and/or accountabilities for: land, facilities, routes, destinations and/or other rights associated with land transport in New Zealand ▶ Acts and Regulations relating to the setting, gathering, disbursement and investment of revenues associated with the creation, maintenance and management of land infrastructure.
<p>Key legislation</p> <p>Land Transport Management Act 2003 Land Transport Act 1998 Local Government Act 1974 Local Government Act 2002 Resource Management Act 1991 Railways Act 2005 Government Rooding Powers Act 1989 Land Transport (Offences and Penalties) Regulations 1999 Land Transport (Driver Licensing and Driver Testing Fees) Regulations 1999 Land Transport (Infringement and Reminder Notices) Regulations 2012 Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011 Land Transport Rules</p> <p>One of the purposes of the land transport regulatory framework is to create and maintain an open roading network, available to a wide range of users. The focus is therefore on the regulation of the users and the vehicles. The focus on vehicles covers both the characteristics of the vehicles as well as constraints on how it can be used, including what can be carried out on what roads. Road transport is dominated by the use of command and control style instruments.</p>
<p>Statement of fitness</p> <p>Overall, the Ministry believes that the land transport regulatory regime is fit for purpose however; there is still room to reduce the overly prescriptive nature of some rules in this sector, to provide greater focus on safety outcomes and to be flexible enough to accommodate new technologies and business models.</p> <p>The Ministry believes the current settings are fit for purpose for transport infrastructure investment. The Ministry is currently preparing advice for the next Government Policy Statement on Land Transport.</p> <p>Fitness for purpose</p> <p>While the current transport regulatory framework has secured a strong contribution to raising safety and environmental concerns across the transport modes, it still needs improvement to ensure it meets best practice regulatory principles. Land transport has the most prescriptive rules across the three modes. Many decisions are made at a Cabinet level and decision-making is not delegated.</p> <p>The 2015 NZIER Transport Regulation report, reported that economic regulation of land transport was removed progressively from the 1980s and sharp performance improvements resulted from those initiatives. Since the late 1990s, regulation has slowly increased, mainly in the form of prescriptive rules. This reflects increasing social expectations regarding safety and environmental protection. This has improved outcomes but at the same time has increased the regulatory burden. It should be noted that a number of regulations have been replaced by Land Transport Rules.</p>
<p>Future</p> <p>There is likely to be an increased need to include changes required for regulation to accommodate new and emerging technologies and changing social expectations in areas such as environmental impact.</p> <p>The coordination between the Resource Management Act, Local Government Act and Land Transport Management Act will continue to be an area of ongoing debate.</p>
<p>Assessment evidence</p> <p>A range of inputs form the basis of the regime assessment. These include:</p> <ul style="list-style-type: none"> ▶ NZIER report 2015 - Assessed the stock of regulation in terms of a barrier to market entry. https://nzier.org.nz/.../2016-1_tool_for_assessing_the_stock_of_regulation.pdf ▶ regular scanning of legislation (discussions with Crown entities and industry) ▶ The Ministry's 4 Year Regulatory Plan http://www.transport.govt.nz/assets/Uploads/About/Documents/Ministry-of-

Land Transport (includes safety and infrastructure)
<p>Transport-4-Year-Regulatory-Plan-2015-18.pdf</p> <ul style="list-style-type: none"> ▶ regulatory change proposals (in particular rule proposals) are based on monitoring and evaluation assessments ▶ regular stakeholder engagement
<p>Risks and mitigation</p> <p>Respondents to the Productivity Commission’s inquiry into the design and implementation of regulatory regimes noted the need for a high level of technical expertise in regulators and the small pool of individuals with the appropriate skills and capabilities in the New Zealand context.</p>
<p>Planned legislative/regulatory reviews</p> <p>In land, the primary focus is on amending the Land Transport Act 1998 with amendments aimed at economic growth and productivity, improving safety, and better regulation. Current reviews include vehicle dimension and mass and driver licensing and progressing development of land transport rules.</p> <p>Through the ITS Action Plan the Ministry is reviewing all transport legislation to assess if there are any unnecessary legislative barriers to the uptake of new technology. This will consider all modes.</p> <p>The Ministry’s strategic project ‘Regulation 2025’ will provide insights for how transport should be regulated when looking out to 2035. The findings are expected to shape future reviews of regulatory regimes and frameworks.</p>

Maritime transport (including marine protection)

The maritime transport safety regime encompasses:

- ▶ Acts that:
 - establish regulatory institutions
 - set out the functions, duties, powers and responsibilities of the various parties to the regulatory regime – including Maritime NZ, the Director of Maritime NZ, ship owners, maritime operators, seafarers, maritime facility operators and regional councils
 - establish statutory offences and penalties
 - provide for levies to fund statutory functions and fees to recover costs of regulatory services
 - provide for rules that implement regulatory standards and requirements for maritime safety and marine environment protection.
- ▶ regulations that impose levies and fees
- ▶ regulations that establish regulatory offences and penalties for breaches of rules
- ▶ maritime and marine protection rules that set out the regulatory standards and operating requirements for participants in the maritime system.

Key legislation

[Maritime Transport Act 1994](#)

[Maritime Security Act 2004](#)

[Ship Registration Act 1992](#)

[Health and Safety at Work Act 2015](#)

Port Companies Act 1988

Submarine Cables and Pipelines Protection Act 1996

Maritime Rules (42)

Marine Protection Rules (30)

Submarine Cable and Pipeline Protection Orders

Maritime and marine protection offences regulations

Maritime Security Regulations 2004

Shipping and ship registration charges regulations, oil pollution and maritime levies orders

Maritime legislation focuses fundamentally on the roles and responsibilities of actors in the maritime sector, rather than infrastructure itself. Measures relevant to infrastructure owners and operators include:

- ▶ offshore installations operators' oil spill contingency planning and pollution prevention duties under maritime protection rules
- ▶ port operators' duties in relation to maritime safety under the Maritime Transport Act
- ▶ port facility operators' security duties under the Maritime Security Act and regulations
- ▶ Submarine Cable and Pipeline Protection Orders, which prohibit fishing and the anchoring of vessels near submarine cables and pipelines
- ▶ the Port Companies Act which provides that a port company must have at least six directors, no more than two of which may be members or employees of a shareholding local authority.

Rule setting

Cabinet approves the annual maritime rules programme.

Under the Maritime Transport Act, the Minister of Transport makes rules developed by Maritime NZ to:

- ▶ implement and update international maritime and marine protection convention requirements
- ▶ establish and update domestic requirements for vessels, personnel and activities as appropriate.

Maritime and marine protection rules cover such matters as ship design, construction and equipment, operational procedures, seafarer certification, watch keeping and crewing, maritime pilotage, prevention of pollution from ships and oil spill contingency planning.

International cargo and passenger ships must comply with international convention requirements reflected in maritime and marine protection rules. This provides the basis for Maritime NZ, as the national maritime regulator, to exercise port and coastal state jurisdiction over foreign ships in New Zealand waters.

Statement of fitness

Overall, the Ministry believes that the maritime regulatory regimes are fit for purpose however there is still room to improve flexibility, particularly in relation to rule-making.

Fitness for purpose

Most maritime regulatory measures relate to commercial ships, on account of the safety, environment and economic risks associated with their activities. International ships make over 6,000 New Zealand port visits each year and some 3,000 domestic vessels are in day to day operation. International shipping is regulated by a large body of international convention requirements to which New Zealand is a contracting party.

Maritime transport (including marine protection)

Maritime regulatory reforms in the early 1990s adopted the rule-making model to provide more flexibility to keep pace with evolving international convention requirements and the changing profile and needs of the domestic maritime sector. In practice, resource constraints, competing priorities and administrative processes meant that rule development lagged behind sectoral change and international convention requirements. The backlog in rule development has been substantially reduced in part through process improvements.

In addition, changes to statutory rule-making provisions are proposed to make them less prescriptive. The Maritime Transport Amendment Bill 2016 will incorporate the relevant changes.

The Maritime Transport Amendment Act 2013 incorporated the local navigation safety regime formerly contained in the Local Government Act 1974. This unified all legislation relating to maritime safety within the one statute. The amended legislation sets out the maritime safety roles and responsibilities of regional councils. Safety controls under this regime extend to both recreational and commercial users of waterways within the territory of a local authority.

Future

Over the next four years, the Ministry and Maritime NZ will give effect to New Zealand's existing obligations under international maritime conventions; provide input as appropriate into potential new or amended requirements under those conventions, or the potential adoption of international conventions to which New Zealand is not currently a contracting State.

Requirements under the international conventions that govern maritime safety, pollution prevention, seafarer qualifications and training will continue to evolve. Rules will require regular maintenance to keep pace with such changes.

Assessment evidence

A range of inputs form the basis of the regime assessment. These include:

- ▶ NZIER report 2015 - Assessed the stock of regulation in terms of a barrier to market entry. https://nzier.org.nz/.../2016-1_tool_for_assessing_the_stock_of_regulation.pdf
- ▶ 2014 review of maritime transport framework: Improvements to rules making provisions
- ▶ regular scanning of legislation (discussions with Crown entities and industry) <http://www.transport.govt.nz/assets/Uploads/About/Documents/Ministry-of-Transport-4-Year-Regulatory-Plan-2015-18.pdf>
- ▶ regulatory change proposals (in particular rule proposals) are based on monitoring and evaluation assessments
- ▶ regular stakeholder engagement.

Risks

Ensure there continues to be a transport presence at international forums and appropriate resources to keep pace with developments.

Oil spill damage costs might exceed the amount of compensation available under international liability and compensation conventions. Convention limits are periodically reviewed. The Ministry ensures that changes to the limits are reflected in New Zealand legislation in accordance with specified implementation dates.

Planned legislative/regulatory reviews

The key area for maritime is the 2016 amendment of the Maritime Transport Act 1994 and progressing development of new rules and amendments to existing maritime and marine protection rules.

Through the ITS Action Plan the Ministry is reviewing all transport legislation to assess if there are any unnecessary legislative barriers to the uptake of new technology. This will consider all modes.

The Ministry's strategic project 'Regulation 2025' will provide insights for how transport should be regulated when looking out to 2035. The findings are expected to shape future reviews of regulatory regimes and frameworks.

Appendix 3 – links to key documents

- ▶ Connecting New Zealand
<http://www.transport.govt.nz/ourwork/keystراتيجياتandplans/connectingnewzealand/>
- ▶ The Business Growth Agenda
<http://www.mbie.govt.nz/info-services/business/business-growth-agenda>
- ▶ The Better Public Services programme
<https://www.ssc.govt.nz/better-public-services>
- ▶ The Thirty Year New Zealand Infrastructure Plan
<http://www.infrastructure.govt.nz/plan/2015/nip-aug15.pdf>
- ▶ 2015 Government Policy Statement on Land Transport
<http://www.transport.govt.nz/ourwork/keystراتيجياتandplans/gpsonlandtransportfundin g/gps2015/>