

## MINISTERIAL BRIEFING NOTE

<b>Subject</b>	Regulatory Financial Stewardship – Sustainable Regulatory Recovery Path
<b>Date</b>	1 November 2024
<b>Briefing number</b>	BRI-3219

Contact(s) for telephone discussion (if required)				
Name	Position	Direct line	Cell phone	1 <sup>st</sup> contact
Brent Alderton	Director of Land Transport, GGM Regulatory	Section 9(2)(a)	Section 9(2)(a)	✓
Sara Lindsay	GGM Commercial & Corporate	Section 9(2)(a)		

### Action taken by Office of the Minister

- ☐ Noted
- ☐ Seen by Minister
- ☐ Agreed
- ☐ Feedback provided
- ☐ Forwarded to
- ☐ Needs change [please specify]
- ☐ Withdrawn
- ☐ Overtaken by events

1 November 2024

**Hon Simeon Brown – Minister of Transport**

## REGULATORY FINANCIAL STEWARDSHIP – SUSTAINABLE REGULATORY FUNDING PATH

### Purpose

1. This briefing communicates the actions being taken by the NZ Transport Agency Waka Kotahi (NZTA) to support a sustainable regulatory funding model. It seeks your direction and support regarding progressing a consolidated funding review s 9(2)(f)(iv)
2. This briefing follows our prior advice to you in September 2024 on regulatory financial stewardship for 2023/24 (BRI-3171 refers).
3. This briefing is part of a three-phase approach to keeping you informed of our progress on this matter.

### Background

4. The first three months of the 2024/25 financial year (refer to Appendix One for the regulatory financial performance year to date) have been more favourable than expected. We have realised a \$6 million surplus for the 2024/25 year (after loan repayments).
5. This result has not fully accounted for the additional activity related to reducing Class 1 practical Driver Licence testing wait times where costs related to surge workforce expenditure will flow through in the coming months. In addition, the volume of regulatory service transactions has historically been higher in July and August 2024, compared to the average month. Accordingly, the surpluses accumulated up to September are not anticipated to continue during the period from December to February, when our revenue collection is typically low, while our costs remain at similar levels.

### Key updates since September 2024

#### ***The quarterly performance of NZTA's regulatory memorandum accounts has improved***

6. The performance of our memorandum accounts for 2024/25 has improved, with a \$6 million surplus for the three-month period ending 30 September 2024. However, this is a seasonal effect and not expected to be sustained in the coming months.

#### ***The overall memorandum account position is still a deficit***

7. The overall position of our regulatory memorandum accounts is a \$4.1 million deficit. The deficit at the start of the 2024/25 financial year was \$10.1 million, largely the result of the three months under the previous fees and funding regime and key financial impacts such as unlimited Driver Licence testing and unfunded work on Road User Charge (RUC) changes (EV's and Fleetwide RUC).

***Regular fees and funding reviews enable refinement of services and supports integrity of the regulatory funding model***

8. The fees and funding changes for regulatory services were approved in early 2023 (publicly consultation carried out between 21 March and 13 May 2022) and went live on 1 October 2023. It was envisaged that more regular fees and funding reviews are required, in particular to avoid the situation that contributed to the regulatory failure experienced in 2018. The more regular cadence will also reduce the cost and time required for a fee review as well as adding agility to address key regulatory and Crown priorities.

***The key regulatory fiscal issues and risks remain but our mitigations should be effective in the short-to-medium term***

9. As outlined in BRI-3171 there remain key regulatory fiscal issues and risks on the horizon. In response to this and in line with Government requirements we implemented additional budget controls ahead of the 2024/25 financial year to further alleviate cost pressures and reduce cost. We have also implemented controls to mitigate the impact of fiscal risks.
10. Our mitigations and actions are likely to be effective in the short to medium-term. However, \$23.2 million of funding<sup>1</sup> per annum from the Land Transport Revenue is expected to end on 30 June 2026. This includes: \$13.9 million for efficient and fair collection of the costs of specific activities (these are fees where the costs to collect are greater than the fees themselves), and \$9.3 million for projects to support implementing NZTA's regulatory strategy. Our cost control actions will therefore be only partially effective at offsetting known fiscal issues that crystallise in 2026/27.

***We recommend carrying out a funding review*** s 9(2)(f)(iv)

11. We recommend the most impactful mitigations and actions to return to a sustainable regulatory funding path are carrying out a consolidated funding review s 9(2)(f)(iv). We would expect that commencing work shortly would allow a more regular cadence of funding reviews, support fees being set at a sustainable level over a three-year period, enable the necessary upfront investment to implement efficiency improvements, and enable significant regulatory reform (i.e. RUC fleet transition s 9(2)(f)(iv)) to be implemented.
12. To progress these mitigations, the Director of Land Transport is intending to commission a consolidated funding review under section 104B(2)(f) of the Land Transport Management Act 2003. s 9(2)(f)(iv)

***The Minister of Transport has an important role in directing the scope and timeframe of the proposed consolidated funding review***

13. You have an important role in directing the scope, and timeframe for the review and, by implication, the levels of regulatory services that are provided in the future. The Director of Land Transport seeks your direction to ensure we can factor in your expectations through this process.

<sup>1</sup> The \$23.2 million funding that is currently due to end 30 June 2026 includes: \$13.9 million for efficient and fair collection of the costs of specific activities (these are fees where the costs to collect are greater than the fees themselves), and \$9.3 million for projects to support implementing NZTA's regulatory strategy.

14. s 9(2)(f)(iv)

15. We note that clarity as to what occurs when the current \$23.2 million funding ends by 30 June 2026, is critical to preserving regulatory service levels. We also note that without s 9(2)(f) it will be very difficult to advance some of the Governments priorities or mitigate risks for areas such as rail regulation.

### Mitigations and actions to manage regulatory fiscal and operational risks

16. We have initiated a range of short-term mitigations and actions across five focus areas to support a sustainable funding model (refer to **Appendix Two** for the summary of actions taken to mitigate regulatory fiscal and operational risks).

Focus area 1. **Tightening regulatory budget targets** – we have implemented regulatory expenditure budget targets that incorporate efficiency savings with the intention that this will generate a surplus for the 2024/25 financial year. These targets are being monitored regularly.

Focus area 2. **Modernising our regulatory services** – we are modernising our services to deliver user-facing efficiency and effectiveness improvements. s 9(2)(f)(iv)

Focus area 3. **Strengthening our financial control environment** – the Director of Land Transport's monitoring programme directly targets fiscal risks by specifically including review activities that will examine key aspects of the regulatory function management systems and control environment. This work is scheduled to be completed by the end of March 2025.

Focus area 4. **Reviewing our regulatory investment plan** – we are refreshing our long-term investment plan to ensure it has a greater focus on initiatives that directly target fiscal risk reduction, improve value for money, and return on investment.

Focus area 5. **Reviewing cost recovery settings for products within each memorandum account** – we have created a list of products which will need to be considered as part of the proposed consolidated funding review. This includes services where fees might be set too high or too low.

17. In addition to these actions and mitigations, we are expecting an improvement in the position of the driver licensing and testing memorandum account once the changes to the re-sit policy take effect.

<sup>2</sup> Note that due to the different pricing of services of itself this will not improve the memorandum account balances.

18. Our control measures are likely to reduce expenditure in the low \$millions. Therefore, the mitigations are only expected to be partially effective in the long term due to funding from land transport revenue expected to reduce from \$34.9 million per annum to \$11.7 million per annum for 2026/27 and outyears<sup>3</sup>. The \$23.2 million funding that is currently due to end 30 June 2026 includes:

- \$13.9 million for efficient and fair collection of the costs of specific activities (these are fees where the costs to collect are greater than the fees themselves.)
- \$9.3 million for projects to support implementing NZTA's regulatory strategy.

### **We have explored a range of options to achieve a sustainable funding path**

19. With our control measures only being partially effective over the long-term, we have explored a range of options to increase our cashflow. These options include:

- **Option One:** Crown appropriation
- **Option Two:** Utilising s9 to access Land Transport revenue
- **Option Three:** Additional Crown loans or a loan write-off
- **Option Four:** Cross subsidisation of services
- **Option Five:** Additional cost reduction measures and deficit mitigations
- **Option Six:** Reviewing cost recovery fee settings.

20. These options have been assessed against our funding principles based on impact across three key themes: Safety, Fairness and Financial Sustainability (see **Table one**).

*Table one: NZTA cost recovery principles<sup>4</sup>*

<b>Safety</b>	<b>Fairness</b>	<b>Financial Sustainability</b>
<i>Service levels and quality</i>	<i>Who pays</i>	<i>Financial viability</i>
<ul style="list-style-type: none"> <li>• Supports transport system objectives.</li> <li>• Users should pay for the service, but incentives are important.</li> <li>• Users and beneficiaries should contribute to the integrity of the system.</li> <li>• Be simple and consistent.</li> </ul>	<ul style="list-style-type: none"> <li>• Focused on ensuring risk exacerbators and beneficiaries pay.</li> <li>• Crown funding is limited to certain functions.</li> <li>• Be equitable.</li> </ul>	<ul style="list-style-type: none"> <li>• Is sustainable.</li> <li>• Regularly review regime efficiency.</li> </ul>

**Our preferred and recommended option is to review our fee settings and service levels as part of a consolidated funding review** s 9(2)(f)(iv)

21. Government and the public services are continuing to operate within a fiscally constrained operating environment. We are not seeking a Crown appropriation s 9(2)(f)(iv) whilst the funding review is completed.

<sup>3</sup> As part of establishing the new regulatory funding model in 2023, then Ministers of Transport and Finance approved approximately \$34.9 million per annum to be used to fund oversight of the regulatory function, costs of specific regulatory activities that would otherwise be inefficient or unfair to collect from users, and a portion of the loan repayments for the rectification costs to address NZTA's regulatory failure

<sup>4</sup> These principles were supported by NZTA Board and were based on the Treasury guidance ([Guidelines for Setting Charges in the Public Sector | The Treasury New Zealand](#) refers)

22. This would provide working capital to deliver digitally enabled user-facing efficiency and effectiveness improvements. Section 9(2)(j) [REDACTED]  
[REDACTED] s 9(2)(f)(iv) [REDACTED]
23. Alternatively, we could seek to reduce service levels for regulatory activities, and subsequently costs to effectively recover from existing fee settings. This option would be realised if s 9(2) [REDACTED] are no longer solvent, or the funding review is not carried out in a timely manner. (f)(iv)
24. Reducing service levels is difficult to achieve in a targeted manner for transactional services (for example sitting a driving test). This is due to cost being driven by service delivery channels (face to face or digital) and commissions based on volumes. We have a statutory requirement to allow people access to the land transport system if they comply with the conditions for entry. We would need to explore reducing customer service experience (for example slower delivery times and reduced channels offered to customers). We do not recommend this approach as reducing levels of service experience to the public would impact accessibility and compliance.
25. Improving efficiency offers the best pathway to achieving cost savings over the long-term for transaction services. We have identified several digital efficiency improvements that can be made. These would require upfront investment to carry out the necessary work to implement.
26. Compliance service levels are largely driven by the risk or issue-based response to ensure safety – compliance posture and response. This means that any changes to the level of services to reduce costs must be carefully calibrated to ensure public safety is maintained. We do not recommend this as we have been working to strengthen our regulatory compliance activity since the regulatory failure in 2018.
27. We view the funding review process as an opportunity to set service levels where there is a desire to change services.

**The Director of Land Transport is intending to commission a consolidated funding review and seeks your direction on scope and timing**

28. The Director of Land Transport is required by section 104B(2)(f) of the Land Transport Management Act 2003 to ensure regular reviews of the land transport regulatory system (including the funding system) to contribute to the achievement of the Agency's objective.
29. A consolidated funding review approach has been proposed that enables the widest array of solutions to be considered. It is intended that funding reviews take place in three yearly cycles, consistent with Treasury guidance, with the subsequent cycle to be implemented on 1 July 2029. These cycles are intended to align with investment decision making, the National Land Transport Programme cadence, ensuring cohesion across the two primary funding sources for NZTA.
30. Within a consolidated funding review, s 9(2)(f)(iv) [REDACTED]  
[REDACTED]
31. You have an important role in the funding review process in directing the scope and timeframe for the review and, by implication, the levels of regulatory services that are provided in the future. There are three key stages relating to a funding review as outlined the following table:

Table two: Key funding review stages and indicative timeline

Stage	Key step	Indicative timeline
<b>Stage one:</b> Confirming a funding review is required	<ol style="list-style-type: none"> <li>1. Internal NZTA recommendation to Director of Land Transport on options to address regulatory financial sustainability.</li> <li>2. Director of Land Transport assesses whether they (the Director) are meeting their responsibilities to ensure reviews are undertaken under the Land Transport Management Act.</li> <li>3. Seeking NZTA Board endorsement for next step conversations with the Minister of Transport.</li> <li>4. Seeking engagement with Minister of Transport for direction and support (<b>Minister consultation</b>).</li> </ol>	Now until December 2024

s 9(2)(f)(iv)

32.

s 9(2)(f)(iv)

33.





36. We would like to meet with you to seek your direction on the proposed scope, timeframe, and any further considerations to ensure we can address your expectations through this process.

### Next steps

37. Subject to meeting with you regarding your direction on scope and timeline options, we will continue to plan for the establishment of a consolidated funding review.

38. s 9(2)(f)(iv)

39. You can expect the phase three briefing (refer to Table Three over the page) in February 2025.

*Table three: Phased approach to seeking direction on achieving a sustainable regulatory funding path*

Phase	What you can expect to receive	Timing
<b>Phase one</b> – transparency of the regulatory fiscal position	<ul style="list-style-type: none"> <li>Update on the regulatory memorandum account position for 12-month period ending 30 June 2024.</li> <li>Detail on key regulatory fiscal risks on the horizon.</li> <li>What we can and are doing about issues and risks identified.</li> </ul>	Provided September 2024 - 2023/24 <i>Regulatory Financial Stewardship Update</i> (BRI-3171 refers)
<b>Phase two</b> – outline options and a preferred way forward to achieve a sustainable regulatory funding path	<ul style="list-style-type: none"> <li>Option analysis to address regulatory fiscal and operational risks.</li> <li>Update on regulatory efficiency and effectiveness reviews.</li> <li>Progress on steps to improve regulatory financial stewardship and cost management practice.</li> <li>Seeking your direction regarding a forward plan to achieve a sustainable regulatory funding path while meeting your expectations and policy reform.</li> </ul>	This content is within this briefing.



Phase	What you can expect to receive	Timing
Phase three – expectations from regulatory financial stewardship ecosystem	<ul style="list-style-type: none"> <li>Outline of forward plan and timeline with key decision points.</li> <li>Outline of approach to working with key monitoring agencies, including the Ministry of Transport (Crown monitor) and the Treasury.</li> </ul>	Briefing in February 2025

**It is recommended that you:**

- Note** that NZTA has implemented further budget controls to contain cost pressures and reduce cost, however, there remain key regulatory fiscal issues and risks on the horizon.
- Note** that the main mitigations to return to a sustainable regulatory funding path is carrying out a consolidated funding review s 9(2)(f)(iv)
- Note** that if NZTA does not carry out a funding review or s 9(2)(f)(iv) we will need to significantly reduce service levels.
- Agree** to meet with the Director of Land Transport and GGM Corporate & Commercial to discuss a consolidated funding review and a financial facility for regulatory activities. **Yes / No**

*Brent Alderton*

**Brent Alderton**

Director of Land Transport and Group General Manager Regulatory

**Sara Lindsay**

Group General Manager Corporate & Commercial

**Hon Simeon Brown, Minister of Transport**

Date:

2024

**Appendix One – Regulatory Memorandum Account 2024/2025 financial performance for three months ending 30 September 2024**

(\$million)	2024/25 financial year – three months ending 30 September 2024					
Memo Accounts	Opening Balance	Revenue	Costs	Operating Surplus/Deficit	Ringfenced for loan re-payments	Closing balance
Border Inspection	4.1	2.2	-0.8	1.4	0.1	5.4
Certification Reviews	-0.4	4.9	-5.1	-0.2	0.7	-1.3
Driver Licensing & Driver Testing	-6.5	20.4	-18.4	2.0	0.7	-5.2
Motor Vehicle Licensing	-4.1	21.9	-20.0	1.9	0.3	-2.5
Rail Operator Licensing <sup>5</sup>	-0.2	0.5	-0.6	-0.1	0.0	-0.3
RUC Collections	-2.3	8.2	-6.9	1.3	0.0	-1.0
Transport Licensing & Dangerous Goods	-0.7	6.6	-4.3	2.3	0.8	0.8
<b>Total</b>	<b>-10.1</b>	<b>64.7</b>	<b>-56.1</b>	<b>8.6</b>	<b>2.6</b>	<b>-4.1</b>

<sup>5</sup> The rail and road regulatory funding reviews are being progressed independently.

## Appendix Two – Actions taken to mitigate regulatory fiscal and operational risks

The table below outlines activity related to five mitigation focus areas.

Mitigation focus area	Actions taken
<b>Mitigation focus area one:</b> Tightening regulatory budget targets	<p>We have implemented regulatory expenditure budget targets with the intention that this will generate a surplus for the 2024/25 financial year. Expenditure (aside from commissions and transaction costs) have been held as the same as the 2023/24 financial year, effectively baking in an inflationary equivalent efficiency. Any significant deviations will need to result in a reduction in expenditure to ensure the overall target is met.</p> <p>The budget set for 2024/25 incorporates a 7.5% saving to corporate overhead expenditure. We are also tightly managing travel, contractor use, and any other areas where there is discretionary spend.</p> <p>It is important to note that additional investment in people and systems as planned in the funding review implemented on 1 October 2023 has been deferred or reduced in areas of border inspection and regulatory frontline services. This has been required to offset any funding shortfalls.</p>
<b>Mitigation focus area two:</b> Modernising our regulatory services	<p>We have established what will be a multi-year regulatory service modernisation programme to deliver digitally enabled user-facing efficiency and effectiveness improvements. <b>Section 9(2)(j)</b></p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p><b>Section 9(2)(j)</b></p> <p>[Redacted]</p>
<b>Mitigation focus area three:</b> Strengthening our financial control environment	<p>The Director of Land Transport's monitoring programme directly targets fiscal risks by specifically including review activities that will examine key aspects of the regulatory function management systems and control environment.</p> <p>Our fiscal review key findings were provided to you as part of the 2023/24 regulatory financial stewardship update (refers BRI-3171). In addition, we are developing a treatment plan to mitigate risks and address issues.</p>

Mitigation focus area	Actions taken
	<p>We are carrying out a review of our regulatory compliance settings. This will examine the alignment and optionality for the management of frontline regulatory services to determine if the settings are providing value for money.</p> <p>We are also reviewing financial stewardship, governance, and management decision-making. This work will examine key financial processes and practices to determine how well they are placed to ensure regulatory financial integrity. For example, how decision making on business budgets reflects current user pays settings and expectations.</p> <p>We are undertaking work to strengthen forecasting capability on a multi-year horizon and at a product and memorandum account level. This work is expected to be realised in early 2025 to inform budget setting, informing funding reviews, and improve activity to address fiscal risks and issues.</p>
<p><b>Mitigation focus area four:</b> Reviewing our regulatory investment plan</p>	<p>As part of our efficiency and effectiveness work to identify required 7.5% savings, we have identified many areas where digital channel options for existing services would derive cost efficiency and allow customer choice. These are difficult to implement without utilisation of a funding mechanism that allows up-front investment. As such we are refreshing our long-term investment intentions to ensure our change portfolio has a greater focus on initiatives that directly target fiscal risk reduction or changes to operational practices that improve value for money. This sits alongside our efforts to enhance frontline service effectiveness and focus on making progress against our regulatory strategy.</p> <p>We are expanding our long-term investment horizon from a three- to six-year horizon, accompanied by an annual review of the regulatory investment plan. This will ensure we have a better understanding of the nature of investment and funding requirements. This may result in initiatives being reprioritised or phased differently to support achievement of our long-term investment intentions.</p> <p>We have prepared a customer strategy to guide investment decision-making. The customer strategic plan has been prepared to guide how we provide access to users of land transport regulatory services, the level of service we offer, and opportunities for service delivery innovation that delivers improved value for money across all delivery channels.</p> <p>We are also aligning our long-term investment intentions with our three-yearly funding reviews. This will mature our investment management practices and financial stewardship practices.</p>
<p><b>Mitigation focus area five:</b> Reviewing cost recovery settings for products within each memorandum account</p>	<p>We are doing further work to build a complete view of financial performance at the individual regulatory product level (i.e. Driver Licensing Class 1 Learner licence application). We have been integrating our driver licensing registry and the motor vehicle registry (includes road user charge information) with our financial system. The mapping integration has been completed through the 2023/24 year, with the automatic integration expected to be live from 1 November 2024. It is expected this will improve transparency of financial performance at a regulatory product level to better inform actual performance and cost recovery settings. This will support forecasting with more accuracy,</p>

Mitigation focus area	Actions taken
	<p>determining which products are projected to over recover or under recover costs.</p> <p>We have built a registry of products which will need to be considered as part of the next funding review. This includes services where fees might be set too high or too low.</p>

Proactively released