

In Confidence

Office of the Minister of Transport
Chair, Cabinet Legislation Committee

Land Transport (Clean Vehicles) Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval to introduce the Land Transport (Clean Vehicles) Amendment Bill (the Bill).

Policy

- 2 The policy objective of the Bill is to achieve a rapid reduction in carbon dioxide emissions from light vehicles imported into New Zealand, by:
 - 2.1 Increasing the supply and variety of zero and low carbon dioxide emissions vehicles available for purchase in New Zealand by applying a Clean Vehicle Standard to importers of new and used light vehicles
 - 2.2 Increasing the demand for zero and low emissions vehicles by providing for a Clean Vehicle Discount Scheme designed to incentivise, through the issue of rebates or the imposition of charges, New Zealanders to purchase light vehicles with lower or zero carbon dioxide emissions over those with higher emissions
 - 2.3 Informing New Zealanders about vehicle carbon dioxide emissions levels and rebates receivable or charges payable in relation to light vehicles offered for sale, by providing for vehicle labelling requirements.
- 3 The Clean Vehicle Standard is designed to stimulate the supply of zero and low emission light vehicles into the New Zealand market, while the Clean Vehicle Discount Scheme is designed to stimulate consumer demand for zero and low emission light vehicles. Meeting our climate change emissions reduction targets requires reductions in the overall emissions profile of the vehicle fleet. These policies are significant levers to achieve this aim.
- 4 Together, these policies are intended to be part of the response to Parliament's declaration of a Climate Change Emergency and will also give effect to the commitment in the Labour Party's Clean Energy Plan to accelerate the electrification of the transport sector. The policies will give effect to the Co-operation Agreement with the Green Party to increase the uptake of zero emissions vehicles and introduce clean car standards. These policies will also form part of the transport contribution to the Emissions Reduction Plan that will be published by the end of 2021, and to the Climate Change (Zero Carbon) Amendment Act 2019 requirements.

- 5 The estimated combined emissions reductions from the Clean Vehicle Standard and the Clean Vehicle Discount Scheme for 2022-2030 range from 1.4 to 6.1 mega tonnes and for 2022-2050 range from 3.5 to 14.7 mega tonnes¹.
- 6 The Bill will be introduced as an omnibus bill under Standing Order 267 because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. The Bill will amend the Land Transport Act 1998, the Land Transport Management Act 2003, the Energy Efficiency and Conservation Act 2000, the Income Tax Act 2007, and the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011.
- 7 The Bill is included in the 2021 Legislation Programme as the Land Transport (Vehicle CO₂) Amendment Bill. In drafting, it was determined that the title “Land Transport (Clean Vehicles) Amendment Bill” better reflects the core policies contained within the Bill, being the Clean Vehicle Standard and the Clean Vehicle Discount Scheme.
- 8 The Ministry of Transport is working on additional policy proposals to address the distributional impacts of the Clean Vehicle policies and to deliver equitable access to low emissions transport options.

Clean Vehicle Standard

- 9 On 26 January 2021, Cabinet agreed that the Clean Car Standard (Clean Vehicle Standard) will come into effect during 2022 with vehicle importers being subject to its registration and reporting requirements and with the obligations to meet annual carbon dioxide emissions targets applying from 1 January 2023. Cabinet agreed that the Standard will apply only to new and used imported light vehicles, being vehicles under 3,500 kilograms [CAB-21-MIN-0004 refers].
- 10 The Clean Vehicle Standard will regulate the supply of high emissions vehicles by requiring vehicle importers to comply with carbon dioxide emissions targets. Charges will apply where a vehicle importer exceeds the applicable target. The charges are designed to incentivise meeting targets, and a range of flexibility mechanisms are built into the scheme to assist vehicle importers to meet targets. The design of the Clean Vehicle Standard has been informed by schemes already in place in other OECD countries. New Zealand, Australia and Russia are currently the only OECD countries without a carbon dioxide vehicle standard of some description.

Clean Vehicle Discount Scheme

- 11 On 19 April 2021, following reference from the Cabinet Economic Development Committee, Cabinet agreed that the Clean Car Discount (Clean

¹ The wide range of the estimates reflects the high level of uncertainty around vehicle supply and behavioural response. These estimates were updated in June 2021 and as a result differ slightly from those cited in earlier Cabinet papers. The update includes consideration of the latest greenhouse gas inventory estimates released by the Ministry for the Environment in early 2021 and the latest data on the number of electric and hybrid vehicles imported (including data for 2020).

Vehicle Discount Scheme) provide for consumers to receive a discount on the first purchase of zero and low emission vehicles, or to pay a fee on the first purchase of high emission vehicles. Cabinet agreed that the Discount Scheme will apply only to new and used light vehicles registered for road use for the first time in New Zealand [CAB-21-MIN-0128.01 refers].

- 12 Under the Clean Vehicle Discount Scheme, consumers who purchase high emissions vehicles will be required to pay a charge in recognition of the increased environmental and economic costs they are imposing. The revenue from these charges will be used to reward consumers who purchase vehicles that will contribute to lowering carbon dioxide emissions (i.e. zero and low emissions vehicles) through a rebate issued on the first registration of the vehicle. Rebate and charges schemes such as this have been successful overseas, in France and Sweden for instance, to significantly increase the uptake of zero and low emissions vehicles.
- 13 On 1 July 2021, rebates for electric vehicles and plug-in hybrid vehicles became available to consumers. Charges on high-emitting vehicles cannot be implemented until legislation is passed.

Clean Vehicles Bill

- 14 The Bill is required to give effect to the policy decisions outlined above for the Clean Vehicle Standard and the Clean Vehicle Discount Scheme because they require changes to primary legislation.
- 15 The Bill will have considerable impact on the motor vehicle industry, which over the course of this decade will need to significantly adjust the types of vehicles it imports, advertises, sells, and services.
- 16 For some consumers, where there is not a low or zero emissions version of the type of vehicle they will need (for example, utes), they will either have to retain their existing vehicle, pay more for a high-emitting vehicle, or buy one from the existing fleet. This effect is expected to be short term, as this policy, together with like policies found throughout the OECD are contributing to a rapid increase in the global supply of low and zero emissions vehicles across a diversity of vehicle types and price-brackets.

Amendments to other enactments

- 17 The Bill will amend the Land Transport Act 1998 to provide for substantive provisions relating to the Clean Vehicle Standard, and to include new empowering provisions for regulations to support the Clean Vehicle Standard. A new empowering provision will also provide for charges regulations for the Clean Vehicle Discount Scheme.
- 18 The Bill will amend the Land Transport Management Act 2003 to provide for the funding of the Clean Vehicle Discount Scheme, including provisions relating to accounting and monitoring of the Scheme, and adds the administration of the Clean Vehicle Discount Scheme to Waka Kotahi, New Zealand Transport Agency's (Waka Kotahi) functions.

- 19 The Energy Efficiency and Conservation Act 2000 (EECA) is amended to make a consequential change to the empowering provision for regulations relating to the labelling of vehicles. This amendment will ensure regulations made under the EECA can provide for vehicle labels to support the Clean Vehicle Discount Scheme. The Bill also provides for a transitional provision to validate any action taken by the Minister before the commencement of the empowering provision (such as notifying a proposal to make regulations and consulting persons the Minister considers appropriate).
- 20 The Income Tax Act 2007 is amended to make consequential changes to the fringe benefit tax provisions in that Act to ensure that the cost price of a vehicle subject to the Clean Vehicle Discount Scheme is based on the net price of that vehicle.
- 21 The Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011 are amended to prohibit the Registrar of Motor Vehicles from registering a vehicle until applicable charges have been paid under the Clean Vehicle Discount Scheme.

Decisions requiring confirmation

- 22 Cabinet has authorised the Minister of Transport, in consultation with the Minister for Climate Change, to make decisions that are consistent with the overall policy and support achievement of emissions reductions, provided that these decisions are confirmed when the Bill is considered for introduction [CAB-21-MIN-0004 and CAB-21-MIN-01.28.01 refer].
- 23 I have made the following decisions in consultation with the Minister for Climate Change, which we consider to be consistent with the overall policy and support the achievement of emissions reductions:

- 23.1 *Converting targets and charges for the Clean Vehicle Standard to values based on the WLTP test procedure and ensuring targets reflect the latest (2019/2020) vehicle data.*

The targets and charges for the Clean Vehicle Standard approved by Cabinet in CAB-21-MIN-0004 are based on the outdated New European Drive Cycle (NEDC) test cycle. Cabinet also agreed that the values of vehicle carbon dioxide emissions for all targets and vehicles be determined by or converted to the three-phase Worldwide Harmonised Light Vehicle Test Procedure (WLTP) [CAB-21-MIN-0004 refers]. I have agreed that all figures for the targets and charges in the Bill are converted to figures based on WLTP. This will remove unnecessary complexity in the legislation. In converting these figures, the carbon dioxide reduction ambition is unchanged. The new figures are derived by using a mathematical formula agreed in January 2021 to convert between NEDC and WLTP.

- 23.2 *Prescribing penalties for offences in relation to the Clean Vehicle Standard for a body corporate, instead of a person or organisation other than an individual.*

The offences agreed by Cabinet for the Clean Vehicle Standard prescribe penalty levels for an individual and for “a person or organisation other than an individual”. I have changed this to individual or “a body corporate”. In drafting, it became clear that referring to a “body corporate” is necessary to ensure alignment with other Land Transport Act provisions, such as the empowering provisions for infringement offences and offences against rules and regulations. These provisions empower regulations to set maximum infringement fees, or penalties for any offence against rules or regulations, in respect of an individual or a body corporate.

- 23.3 *Providing for a new offence of failure or refusal to comply with a requirement of the Director of Land Transport in relation to the production of records or other information, with a penalty of up to \$15,000 for an individual and \$75,000 for a body corporate.*

Cabinet has agreed that it be an offence for an importer to fail to keep the necessary accounts or records required to provide the data needed for the Standard, or to knowingly provide information that is incorrect or incomplete. Cabinet has also agreed that Waka Kotahi have the power to investigate and access records [CAB-21-MIN-0004 refers]. I have agreed that this power be exercised by the Director of Land Transport, who is an employee of Waka Kotahi. To support this power, I have agreed that the Director may require vehicle importers to produce for inspection any records or other information in their possession or control as the Director reasonably considers necessary to establish compliance with the Standard. To ensure vehicle importers comply with such a requirement, a new offence of failure or refusal to comply with a requirement in relation to the production of records or other information, with a penalty of up to \$15,000 for an individual, and \$75,000 for a body corporate has been included. This penalty aligns with the other penalties in relation to records and data agreed by Cabinet [CAB-21-MIN-0004] and is consistent with penalties for failure to provide information under a regional fuel tax scheme.

- 23.4 *Empowering the Director of Land Transport to require any person to supply information, produce documents, or give evidence, if necessary to enable the Director to perform functions and powers related to the Clean Vehicle Standard.*

Cabinet has agreed that Waka Kotahi has the power to investigate and access records [CAB-21-MIN-0004]. I have agreed that this power be exercised by the Director of Land Transport, who is an employee of Waka Kotahi. This power applies to vehicle importers, and I have agreed to also extend this power to third parties. Where vehicle importers do not hold the required information to establish compliance with the Standard, the Director will need to rely on evidence from third parties to hold vehicle importers to account and maintain the integrity of the system. I have agreed that the Bill provides that the Director may require any person to supply information, produce documents or appear before a specified person, if necessary to support the Director

to carry out functions and powers related to the Standard. I have also agreed that it be an offence to fail, without reasonable excuse, to comply with a notice issued by the Director requiring information, documents or for the person to appear to give evidence, or to provide information that the person knows to be false or misleading, and that the penalties for this offence align with the other penalties for the Standard – a fine of up to \$15,000 for an individual and \$75,000 for a body corporate.

23.5 *Including carbon dioxide emissions targets for 2026 and 2027 in the Bill to give the vehicle industry more capacity to plan ahead.*

Agreeing targets now for the fourth and fifth years of the policy will enable vehicle manufacturers and importers to plan for and supply more lower carbon dioxide emissions vehicles later this decade than may otherwise be the case. The 2025 target is not changed or delayed. Cabinet has agreed to set carbon dioxide emissions targets on an ongoing basis such that there are always targets set for at least 12 months into the future, and to maintain one or more provisional targets that are at least five or more years into the future. Cabinet also agreed that such targets are to be ambitious, achievable, and clear [CAB-21-MIN-0004]. Setting targets for 2026 and 2027 in the Bill now will ensure targets for the first five years are transparent.

The 2026 target is 25% lower than the 2025 target. Likewise, the 2027 target is 25% lower than the 2026 target. These targets will be challenging to achieve but are consistent with the climate response needed in the transport sector and the policy ambition to achieve emissions-free light vehicle imports in the 2030s. The targets will require the automobile market to respond by designing and supplying large quantities of different, significantly lower emissions vehicles for the New Zealand market. Importers will continue to be able to offset high emitting vehicles with zero and low emitting vehicles in order to achieve their targets.

The additional carbon dioxide emissions targets are (in grams of CO₂ per kilometre measured using 3-phase WLTP):

Year	Light passenger vehicles (Cars, SUVs)	Light commercial vehicles (Utes, vans)
2026	84.5	116.3
2027	63.3	87.2

The Bill provides for future targets after 2027 to be prescribed by regulation.

Impact analysis

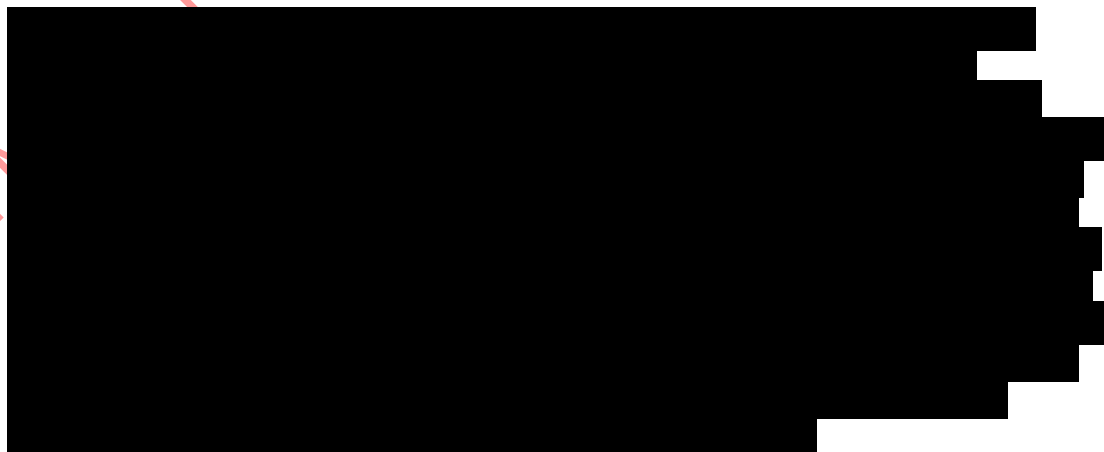
- 24 A Regulatory Impact Statement (RIS) dated 15 May 2020 was prepared for the Clean Vehicle Standard and was submitted at the time that Cabinet approved the policy [CAB-21-MIN-0004]. The RIS was assessed by an inter-agency panel as partially meeting the quality assurance criteria. The RIS provides some indication of the impact the proposal will have on businesses, however acknowledges that some impacts are unknown and will depend on business performance and COVID-19 recovery.
- 25 A RIS dated 30 November 2019 was prepared for the Clean Vehicle Discount Scheme and was submitted at the time that Cabinet approved the policy [CAB-21-MIN-0128.01]. The RIS was assessed by an inter-agency panel as partially meeting the quality assurance criteria. While the RIS reviews both demand and supply side options, the panel considered there was limited discussion of assumptions and inclusion of results from the cost-benefits analysis on the different proposed options. The cost-benefit analysis report describing the impact of the proposed policy options was also attached to the RIS.

Compliance

- 26 The Bill complies with each of the following:
- 26.1 the principles of the Treaty of Waitangi;
 - 26.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 26.3 the disclosure statement requirements;
 - 26.4 the principles and guidelines set out in the Privacy Act 2020;
 - 26.5 relevant international standards and obligations (subject to note below);
 - 26.6 the [Legislation Guidelines](#) (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

27

Legally privileged



- 28 A disclosure statement has been prepared and is attached to the paper.

Consultation

- 29 The Ministry of Transport consulted the following agencies on the development of this paper: Waka Kotahi, Ministry for the Environment, Department of Conservation, Department of Internal Affairs, Ministry of Defence, New Zealand Defence Force, Ministry of Social Development, Office for Disability Issues, Ministry of Justice, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, New Zealand Customs Service, Ministry for Primary Industries, Inland Revenue Department, Te Puni Kokiri, and the Energy Efficiency and Conservation Authority. The Department of the Prime Minister and Cabinet has been informed.
- 30 Public consultation on the clean vehicle policies took place from 9 July to 10 September 2019. Overall, 85 percent of the 967 submitters who responded to the discussion document question “Is a clean car standard appropriate for New Zealand?” supported the Clean Vehicle Standard. Opposition to the Standard came from a few individuals and the motor vehicle industry. The Motor Industry Association (representing new vehicle distributors) and the Automobile Association expressed a strong preference for a consumer demand based incentive such as the Clean Vehicle Discount instead of the Standard. Toyota New Zealand was supportive of the Standard, albeit with a more gradual phase-in, as it considered it would enable new vehicle distributors to negotiate larger volumes of low emission vehicles from overseas manufacturers. The Imported Vehicle Industry Association (VIA) representing used importers has consistently opposed the Standard.
- 31 There was strong public support for the Clean Vehicle Discount from 79 percent of the 1043 submitters who responded to the question: “Is a Clean Car Discount appropriate for New Zealand?” A National Party of New Zealand email campaign focused on the Clean Car Discount provided three emails supporting the Discount and 1641 opposing it. Distributors of new vehicles strongly supported the Discount, while the VIA opposed the Discount and would prefer alternative approaches. Over 30 written submissions expressed the need to bring implementation forward as New Zealand is seen to be lagging well behind other countries in reducing road transport emissions, and that New Zealand is seen as a ‘dumping ground’ for high emission vehicles that few other countries will take.
- 32 I have consulted on the Bill with the Government caucus and other parties represented in Parliament. I have also consulted with the Minister for Climate Change and the Associate Minister for the Environment (Biodiversity) under the Labour/Greens co-operation agreement.

Binding on the Crown

- 33 The Land Transport (Clean Vehicles) Amendment Act will be binding on the Crown.

Creating new agencies or amending law relating to existing agencies.

- 34 The Bill will not create a new agency that is legally separate from the Crown.

- 35 The Bill will not amend the existing coverage of the Ombudsmen Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of decision making powers

- 36 The Bill does not involve the allocation of decision making powers between the executive, the courts, and tribunals.

Associated regulations

- 37 Regulations will be needed to bring the Bill into operation.
- 38 Land Transport (Clean Vehicle Discount Scheme) Charges Regulations will be developed to impose charges on the first New Zealand registration of high emissions light vehicles. The revenue from charges will fund rebates provided to consumers on the first New Zealand registration of zero and low emissions light vehicles, costs to administer the scheme, and repayment of \$301.8 million allocated through Budget 2021 for initial rebates and operational costs. These regulations are being drafted alongside the Bill and are intended to be in force on 1 January 2022. I will ask Cabinet to consider a waiver of the 28-day rule if necessary, to ensure the regulations are in force on 1 January 2022.
- 39 Land Transport (Clean Vehicle Standard) Regulations will be developed to prescribe requirements necessary to support the Clean Vehicle Standard provisions in the Bill. These regulations will be drafted alongside the Bill, but will not be finalised until mid 2022, to allow for the operational systems required to implement the new scheme to be fully developed. Cabinet has agreed that the Clean Vehicle Standard will come into effect in 2022 with vehicle importers being subject to its registration and reporting requirements and with the obligations to meet annual carbon dioxide emissions targets applying from 1 January 2023 [CAB-21-MIN-0004 refers].
- 40 To support the implementation of the Clean Vehicle Discount Scheme, amendments to the Energy Efficiency (Vehicle Fuel Economy Labelling) Regulations 2007 will be required to provide for a new label to be affixed to a vehicle and provided in electronic form on any vehicle sales websites. The label will clearly display information about the carbon dioxide emissions of the vehicle, and the Clean Vehicle Discount Scheme charge or rebate that applies. This is key information that could influence consumer choice at the time of purchase. These regulations will be developed alongside the Bill and are intended to be in force as soon as possible after the Bill has passed. The Bill provides for a transitional provision to validate any action taken by the Minister before the commencement of the empowering provision (such as notifying a proposal to make regulations and consulting persons the Minister considers appropriate).

Other instruments

- 41 The Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

- 42 The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

Commencement of legislation

- 43 The Bill will come into force on the day after the date of Royal assent.

Parliamentary stages

- 44 The Bill should be introduced to the House in August 2021 and passed by mid November 2021.
- 45 The proposed timeframes are necessary if charges on high emissions light vehicles to support the Clean Vehicle Discount Scheme are to be imposed on 1 January 2022. If the Bill is passed later than mid November 2021, a waiver of the 28-day rule will be necessary for the Clean Vehicle Scheme charges regulations to ensure the regulations are in force on 1 January 2022.
- 46 I propose that the Bill be referred to the Transport and Infrastructure Select Committee for a period of 10 weeks. I will seek the House of Representative's approval for the Bill to be reported back in a period of 10 weeks, and because I am recommending a period of less than 4 months, this will require a debate in the House.
- 47 Officials have been working with the vehicle industry in the development of the clean vehicle policies which may mitigate the effects of a shortened select committee period to some extent.

Proactive Release

- 48 This paper will be proactively released on the Ministry of Transport's website following the Bill's introduction into the House of Representatives, with any redactions in line with the Official Information Act 1982.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **confirm** the following decisions taken by the Minister of Transport, in consultation with the Minister for Climate Change, on the basis that the decisions are consistent with the overall policy and support achievement of emissions reductions, as authorised in CAB-21-MIN-0004 and CAB-21-MIN-0128.01:

- 1.1 Converting targets and charges for the Clean Vehicle Standard to values based on the WLTP test procedure and ensuring targets reflect the latest (2019/2020) vehicle data
- 1.2 Prescribing penalties for offences in relation to the Clean Vehicle Standard for a body corporate, instead of a person or organisation other than an individual
- 1.3 Providing for a new offence of failure or refusal to comply with a requirement of the Director of Land Transport in relation to the production of records or other information, with a penalty of up to \$15,000 for an individual, and \$75,000 for a body corporate
- 1.4 Empowering the Director of Land Transport to require any person to supply information, produce documents, or give evidence, if necessary to enable the Director to perform functions and powers related to the Clean Vehicle Standard, and providing for a new offence of failing or refusing without reasonable excuse to comply with a requirement to provide information or give evidence, or providing information that the person knows to be false or misleading, with a penalty of a fine not exceeding \$15,000 for an individual or \$75,000 for a body corporate
- 1.5 Including carbon dioxide emissions targets for 2026 and 2027 in the Bill to give the vehicle industry more capacity to plan ahead. The targets for 2026 are for light passenger vehicles, 84.5 grams CO₂ per kilometre (3-phase WLTP) and for light commercial vehicles, 116.3 grams. The targets for 2027 are for light passenger vehicles, 63.3 grams CO₂ per kilometre (3-phase WLTP), and for light commercial vehicles, 87.2 grams.
- 2 **agree** that the matters referred to in recommendation 1 be included in the Land Transport (Clean Vehicles) Amendment Bill (the Bill);
- 3 **note** that the Bill gives effect to recommendation 2;
- 4 **note** that the Bill holds a category 2 priority (must be passed in the year) on the 2021 Legislation Programme;
- 5 **note** that the Bill seeks to achieve a rapid reduction in carbon dioxide emissions from light vehicles imported into New Zealand, through the imposition of a Clean Vehicle Standard and a Clean Vehicle Discount Scheme;
- 6 **approve** the Land Transport (Clean Vehicles) Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 7 **agree** that the Bill be introduced to the House in August 2021;
- 8 **agree** that the Government propose that the Bill be:

- 8.1 referred to the Transport and Infrastructure Select Committee for consideration;
 - 8.2 enacted by mid November 2021.
- 9 **agree** that the Minister of Transport may authorise the Parliamentary Counsel Office to make any minor changes to the Bill following consideration by Cabinet Legislation Committee.

Authorised for lodgement

Hon Michael Wood
Minister of Transport

PROACTIVELY RELEASED
BY TE MANATŪ WAKA THE MINISTRY OF TRANSPORT