

Proactive Release

This document is proactively released by Te Manatū Waka the Ministry of Transport.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

Listed below are the relevant sections of the OIA. Where information has been withheld, a numbered reference to the applicable section of the Act has been made. For example, a [23] appearing where information has been withheld in a release document refers to section 9(2)(a).

Notes

- Ministers originally agreed to take a paper to Cabinet (recommendation i) however Ministers subsequently determined that a Cabinet paper was not necessary.
- The wording in paragraph 7 b i, and 7 b iii of this paper is incorrect. Feedback from Ministers on the paper of 2 March 2022 was that these characteristics of a successful KiwiRail should read "runs a commercially sustainable above-rail business with profitability and efficiency as core objectives", and "delivers the public benefits of a national rail network for all New Zealanders including lower transport emissions, reduced congestion, safer roads and regional development and connectivity" respectively. This updated wording was incorporated into officials' subsequent analysis, however, due to an oversight, the original wording was included in the 28 July 2022 paper to Ministers.

<u>Key</u>	<u>Section and description of ground</u>
[23]	9(2)(a) - to protect the privacy of natural persons
[25]	9(2)(b)(ii) - to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
[33]	9(2)(f)(iv) - to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
[34]	9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
[35]	9(2)(g)(ii) - to maintain the effective conduct of public affairs through the protection of Ministers, members of government organisations, officers and employees from improper pressure or harassment
[39]	9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

Joint report: KiwiRail and New Zealand Railways Corporation – Entity Form review

Executive summary

In May 2020, as part of the Future of Rail review, Cabinet noted that there would be no changes to KiwiRail's organisational form or structure at that time, and that a further review of KiwiRail's state-owned enterprise (SOE) status would be initiated [DEV-20-MIN-0082 refers].

In September 2021, Ministers approved the Terms of Reference for this review into the entity forms of both KiwiRail Holdings Limited (KiwiRail) and the New Zealand Railways Corporation (NZRC). The review's objectives were to:

- review the extent to which the current entity forms of KiwiRail and NZRC as two SOEs support Government objectives;
- determine if any changes to the status quo would better enable KiwiRail and NZRC to achieve outcomes sought by Government, including making changes from the SOE form; and
- advise Ministers on the above two matters and determine next steps following Ministerial consideration.

KiwiRail is operating in a new environment as a result of Future of Rail decisions

In preparing our advice, officials have considered recent changes to the environment KiwiRail operates in. Decisions made as part of the Future of Rail review resulted in system level changes to the planning and funding framework in which the rail system operates, and created new Ministerial levers to assist in the delivery of the Government's objectives for KiwiRail, both commercial and for public benefit.

The key changes are:

- the creation of the New Zealand Rail Plan (Rail Plan) to outline the Government's objectives and outcomes for rail and the strategic investment priorities to support a resilient and reliable rail network, through:
 - investing in the national rail network to restore rail freight, and provide a platform for future investments for growth; and
 - investing in the metropolitan rail networks to support growth and productivity in our largest cities.
- changes to the Land Transport Management Act 2003 that, in addition to annual budget investment decisions, enable Ministers to lead investment decision making through the Government Policy Statement on land transport and through approval of the Rail Network Investment Programme;
- integration of the rail network into the national land transport programme to support investment decisions in the network on a public benefit basis and better integrated land transport investment decisions;

