



## BRIEFING

### The Scope of the Review of the Outer Space and High-altitude Activities Act

<b>Date:</b>	28 April 2021	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2021-3272

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister for Economic and Regional Development	<p><b>Note</b> there is a legislative requirement for you to, as soon as practicable after three years of the Act coming into force (21 December 2020): commence a review of the Act's operation and effectiveness; prepare a report on the Review of the Act; and present the report to the House of Representatives after its completion.</p> <p><b>Note</b> that we propose the Review: assess the performance of the Act against its objectives; and identify any ways in which it can be improved operationally.</p> <p><b>Note</b> we are developing a Terms of Reference for the Review, and will seek your agreement to these by the end of May.</p> <p><b>Note</b>, in parallel with the Review, we will undertake policy work; 9(2)(f)(iv)</p>	5 May 2021

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Andrew Johnson	Manager, Space Policy and Regulatory Systems	9(2)(a)	✓
Justine Roberts	Senior Policy Advisor, Space Policy	9(2)(a)	

The following departments/agencies have been consulted

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments



## BRIEFING

### The Scope of the Review of the Outer Space and High-altitude Activities Act

<b>Date:</b>	28 April 2021	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2021-3272

### Purpose

This briefing notes the intended scope of the review of the Outer Space and High-altitude Activities Act 2017 ("Review of the Act"); the principles and purposes of the Act which MBIE officials will use to develop the Review's Terms of Reference; and issues which will not be considered as part of the Review, but will be addressed as required in parallel with the Review.

### Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a. **Note** there is a legislative requirement for you to, as soon as practicable after three years of the Act coming into force (21 December 2020):
  - i. commence a review of the Act's operation and effectiveness;
  - ii. prepare a report on the Review of the Act; and
  - iii. present the report to the House of Representatives after its completion.
- b. **Note** that we propose the Review:
  - i. assess the performance of the Act against its objectives; and
  - ii. identify any ways in which it can be improved operationally.
- c. **Note** we are developing a Terms of Reference for the Review, and will seek your agreement to these by the end of May.
- d. **Note**, in parallel with the Review, we will undertake policy work;


Noted

Noted

Noted

9(2)(f)(iv)

Noted

  
Andrew Johnson  
Manager, Space, Policy and Regulatory  
Systems  
Science, Innovation and International, MBIE

28/04/21

  
Hon Stuart Nash  
Minister for Economic and Regional  
Development

Z.S.R!

## Background

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### **There is a requirement to review the Outer Space and High-altitude Activities Act**

The Outer Space and High-altitude Activities Act 2017 ("the Act") came into force on 21 December 2017. It was a novel piece of legislation developed to both regulate Rocket Lab's commercial space launches from New Zealand and enable potential new emerging space and high altitude technologies to be developed here, while managing any associated risks.

1. Under section 86 of the Act, you are required, as soon as practicable after three years of the Act coming into force (21 December 2020), to:
  - a. commence a review of the Act's operation and effectiveness;
  - b. prepare a report on the Review of the Act; and
  - c. present the report to the House of Representatives as soon as practicable after it has been completed.

### **The Review will focus on whether the Act is delivering as intended**

2. At the time of the Act's development, the regulation of space activities was a novel endeavour for the New Zealand government. It was intended that this Review would assess whether the Act (three years on) is delivering as intended, and also assess ways in which it can be improved operationally.
3. We consider that the purpose of the Act and principles for its design should provide the framework for assessing the operation and effectiveness of the Act; e.g. including to<sup>1</sup>:
  - a. Facilitate the development of the space sector in New Zealand;
  - b. Ensure safety and security of space and high-altitude activities;
  - c. Protect our national security and national interests;
  - d. Manage actual or potential liability that may arise;
  - e. Enable future regulatory systems and capability;
  - f. Maintain efficiency in the application process;
  - g. Retain regulatory flexibility over time.
4. Some provisions in the Act are implemented through Regulations e.g. Outer Space and High-altitude Activities (Definition of High-altitude Vehicle) Regulations 2017 and Outer Space and High-altitude Activities (Licences and Permits) Regulations 2017.
5. The Regulations within the regime were intended to be the minimum necessary to achieve New Zealand's policy objectives, ensuring enforcement is proportionate to the benefits and

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<sup>1</sup> The following (a - e) are noted within s 3 of the Act, while (f - g) are regulatory design principles as noted to Cabinet in December 2015, and in the Regulatory impact statement for The Outer Space and High-altitude Activities Act 2017 Regulations.







risks expected to arise, and remaining certain and predictable for entities covered by it. It is intended that the Regulations be included within the scope of the Review.

6. In addition to the above purposes and principles, potential changes to the Act will be individually assessed against risks and benefits, enduring adherence to New Zealand's international obligations and domestic law, and the need for specifically legislative change (as opposed to, say, policy change) considered.
7. Coming soon after the implementation of the regime, the Review of the Act was not intended to revisit first principles. There is no obvious platform for going beyond the intended scope as, overall, the Act has functioned well in the three years since its inception. Our regulatory regime for space activities is regarded as best practice internationally and no significant issues (including safety and security issues) have emerged since it came into effect.

### **Officials are developing a Terms of Reference for the Review**

8. The Ministry of Business, Innovation and Employment (MBIE) is the administering agency of the Act and the lead agency for the Review.
9. We are developing a detailed Terms of Reference which will include the scope of the Review, its timeframes and consultation requirements. This will be prepared for your review by the end of May and, at that time, we will also seek your agreement to commence the Review of the Act.
10. The Terms of Reference will not preclude officials continuing to address other concerns through existing policy processes (including any consultation, Ministerial, or Cabinet approval required on issues).

### **Policy processes can address issues in parallel to the Review**

11. 9(2)(f)(iv)   
  
  
  
  


9(2)(f)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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22. 9(2)(f)(iv) [Redacted]

[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]

- [Redacted]
- [Redacted]

**Next steps**

25. Officials are currently developing a Terms of Reference for the Review which will include the scope of the review, its timeframes and consultation requirements. The purposes within the Act and its regulatory design principles will be included within this.

26. A further briefing will be provided to you by the end of May, once the Terms of Reference for the Review is completed. At that time we will also seek your agreement to commence the Review of the Act.

27. 9(2)(f)(iv) [Redacted]

b. 9(2)(f)(iv), 9(2)(g)(i)

■

## Annexes

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Out of Scope

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## BRIEFING

### Commencing the Review of the Outer Space and High-altitude Activities Act

<b>Date:</b>	19 May 2021	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2021-3484

Action sought		
	Action sought	Deadline
Hon Stuart Nash Minister for Economic and Regional Development	<p>Agree to the Terms of Reference for the Review of the Outer Space and High-altitude Activities Act 2017 (the Act) in Annex One.</p> <p>Out of Scope</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	26 May 2021

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Andrew Johnson	Manager, Space Policy and Regulatory Systems	9(2)(a) [Redacted]	✓
Justine Roberts	Senior Policy Advisor, Space Policy	9(2)(a) [Redacted]	

The following departments/agencies have been consulted
[Redacted]

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments



# BRIEFING

## Commencing the Review of the Outer Space and High-altitude Activities Act

<b>Date:</b>	19 May 2021	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2021-3484

### Purpose

Further to our briefing of 28 April [2021-3272] which outlined the intended scope of the review of the Outer Space and High-altitude Activities Act 2017 ("Review of the Act"), we now seek your agreement to the Terms of Reference at **Annex One** which will commence the Review of the Act.

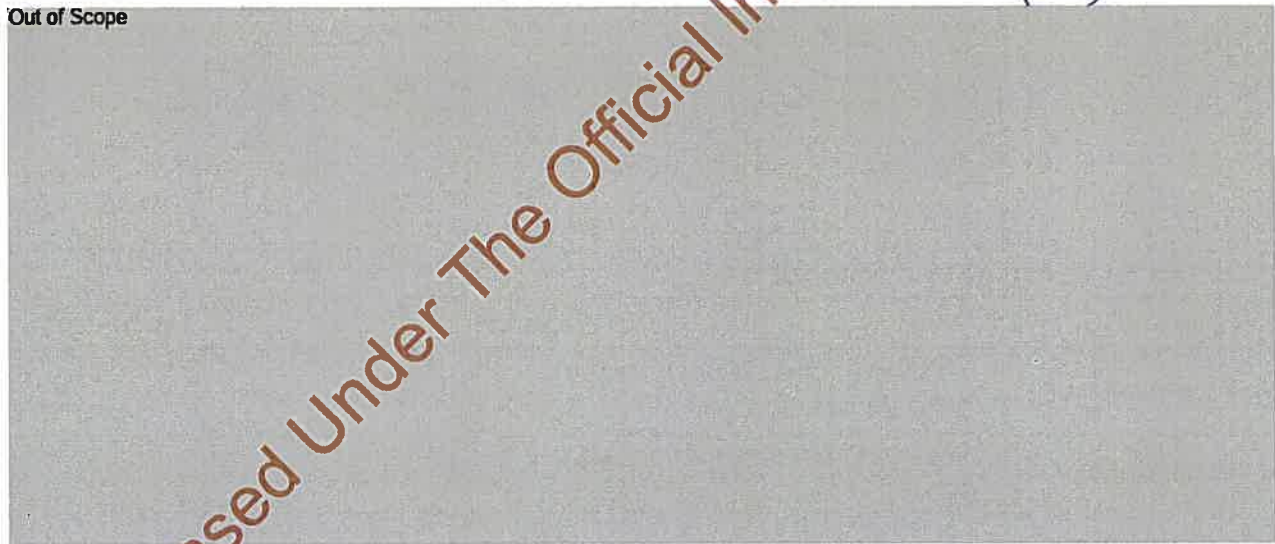
### Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a. **Agree** to the Terms of Reference for the Review of the Act in **Annex One**.

Agree  Disagree

Out of Scope



Andrew Johnson  
Manager, Space, Policy and Regulatory  
Systems  
Science, Innovation and International, MBIE

19 / 05 / 21

Hon Stuart Nash  
Minister for Economic and Regional  
Development

205 71

## Background

Our briefing of 28 April [2021-3272] outlined the scope of the review of the Outer Space and High Altitude Activities Act 2017 ('Review of the Act'), including that:

- a) The purpose of the Review is to assess the performance of the Act (three years on) against its objectives, and to assess ways in which it can be improved operationally;
- b) We consider the purpose of the Act and principles for its design should provide the framework for assessing the operation and effectiveness of the Act;
- c) In parallel, but outside of, the Review we will continue to address concerns <sup>9(2)(iv)</sup> through policy processes.

### We seek your agreement to the Terms of Reference for the Review of the Act

1. Under section 86 of the Act, you are required, as soon as practicable after three years of the Act coming into force (21 December 2020), to commence a Review of the Act's operation and effectiveness.
2. The Terms of Reference (at **Annex One**) outlines the scope of the Review, its timeframes and consultation requirements and has been prepared by the Ministry of Business, Innovation and Employment (MBIE) as lead agency for the Review.

### Next steps: process for the Review of the Act

3. Without limiting the scope of the Review, MBIE officials will review the operation and effectiveness of the Act by:
  - a. Assessing the operation of the provisions of the Act since it came into force in December 2017;
  - b. Considering whether the provisions of the Act should be retained or repealed; and
  - c. Considering whether any further amendments to the Act are necessary or desirable.
4. Although not required under s 86 of the Act, we will also consider the Outer Space and High-altitude Activities (Definition of High-altitude Vehicle) Regulations 2017 and Outer Space and High-altitude Activities (Licences and Permits) Regulations 2017, within the Review. These regulations could be amended at any time through an Order in Council, but we will reflect on them as part of the Review in order to assess the operation of the regime as a whole.

5. Out of Scope

### *Reporting and consultation timeframes on key Review areas*

6. In parallel to our own analysis of the operation and effectiveness of the Act, we will conduct a targeted consultation with relevant government agencies and industry stakeholders, to seek their views on the Act's operation and effectiveness, within the scope of the Review.

Out of Scope

8. A further briefing will be provided to you once the consultation has been completed, with an overview of key issues that we are considering within the Review. We will then proceed to the analysis phase of the Review with a view to developing proposals for any amendments to the Act or Regulations.
9. Following any further consultation processes, a final report on the Review of the Act will be provided to you no later than 15 December 2021.
10. The process timelines are indicative at this stage. In particular:
  - a. The timeframes and consultation required will become clearer once all potential amendments (including those which may be identified through consultation with agencies and industry) are considered;
  - b. A legislative bid has been submitted for 2023 in anticipation that the review may identify the need for some minor technical amendments;
  - c. Changes to the regulations may be made before or after any changes to the Act (depending on the nature of any changes identified).

9(2)(f)(iv)

[Redacted text block]

9(2)(f)(iv)

[REDACTED]

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9(2)(f)(iv)

## Annexes

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- Annex One: Terms of Reference for the Review of the Act
- 9(2)(f)(iv)

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# Annex One: Terms of Reference for the Review of the Act

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## Review of the Outer Space and High-altitude Activities Act 2017 Terms of Reference

Section 86 of the Outer Space and High-altitude Activities Act 2017 (the Act) requires the Minister for Economic and Regional Development ('the Minister'), as Minister responsible for the Act's administration, to:

- As soon as practicable after three years from the Act's commencement, commence a review of the operation and effectiveness of the Act and prepare a report on that review; and
- Present the report to the House of Representatives as soon as practicable after its completion.

The Review of the Act will consider:

- the operation and effectiveness of the Act, since the Act came into force on 21 December 2017;
- whether the provisions of the Act should be retained or repealed; and
- whether any further amendments to the Act are necessary or desirable.

In carrying out the review, the Ministry of Business, Innovation and Employment (MBIE), as the administering agency of the Act, will assess the Act's operation and effectiveness through a framework of the purposes of the Act, and principles for its design; e.g. including to:

- Facilitate the development of the space sector in New Zealand
- Ensure safety and security of space and high-altitude activities
- Protect our national security and national interests
- Enhance New Zealand's reputation as a responsible, spacefaring nation
- Manage actual or potential liability that may arise
- Enable future regulatory systems and capability
- Maintain efficiency in the application process
- Retain regulatory flexibility over time

There is no legislative requirement to review the Outer Space and High-altitude Activities (Definition of High-altitude Vehicle) Regulations 2017 and Outer Space and High-altitude Activities (Licences and Permits) Regulations 2017, but these will be considered within the Review to ensure the regime as a whole is operating effectively.

The following process will be led by MBIE officials:

- Collect views (including from government agencies, industry stakeholders and the New Zealand public) regarding the operation and effectiveness of the provisions of the Act.
- Assess the performance of the Act and regulations against the statutory purposes and principles of design; and identify how the Act and regulations can be improved operationally.
- Taking into account the consultation, prepare and present a final report to the Minister by 15 December 2021.







## BRIEFING

### Amended Terms of Reference for the Review of the Act

<b>Date:</b>	2 July 2021	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2022-0016

	Action sought	Deadline
Hon Stuart Nash Minister for Economic and Regional Development	Agree the attached amended Terms of Reference for the Review of the Outer Space and High-altitude Activities Act 2017 at Annex One, and, for reference, the original Terms of Reference for the Review of the Act at Annex Two.	9 July 2021

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Peter Mumford	Policy Director, International Environment, Science, Innovation and International	9(2)(a) [redacted]	✓

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments

Released Under the Official Information Act 1982



# BRIEFING

## Amended Terms of Reference for the Review of the Act

<b>Date:</b>	2 July 2021	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2022-0016

### Purpose

To seek agreement for the amended Terms of Reference at Annex One for the Review of the Outer Space and High-altitude Activities Act 2017, and original Terms of Reference at Annex Two. The changes between these documents are reflected at paragraph three, and are intended to reflect your decision that the statutory review is more technically focused.

### Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- Agree** the attached amended Terms of Reference for the Review of the Outer Space and High-altitude Activities Act at Annex One, and, for reference, the original Terms of Reference for the Review of the Act at Annex Two.

Agree / Disagree

Peter Mumford,  
Policy Director, International  
Environment, Science, Innovation and  
International, MBIE

2 / 7 / 21

Hon Stuart Nash  
Minister for Economic and Regional  
Development

11 / 7 / 21

Released Under The Official Information Act 1982

## Background

Following a 9 June meeting between yourself, the Minister for Research, Science and Innovation, Minister of Foreign Affairs, Minister for Disarmament and Arms Control, Minister for Trade and Export Growth, Minister of Defence and a representative for the Minister responsible for the GCSB and NZSIS, it was agreed that:

- a. The Review of the Outer Space and High-altitude Activities Act 2017 (the Act) on the operation and effectiveness of the Act will be led by MBIE, in close consultation with relevant agencies; and
  - b. A separate space policy process, led by Ministers, will engage and address public interest on significant policy issues.
1. A briefing [2021-4119 Confirming processes for the Review of the Act and National Space Policy], signed by yourself and Minister Woods, with subsequent discussion on 21 June, confirmed the intention for a technically focused review of the Act.
  2. The amended Terms of Reference at **Annex One** reflects this agreed focus for the Review, including language from the briefing, and is relative to the separate broader process <sup>B(2)(f)</sup> (iv) which is being progressed separately.
  3. The changes reflected between the Terms of Reference versions are as follows:

Original language	Amended language
<p>In carrying out the review, the Ministry of Business, Innovation and Employment (MBIE), as the administering agency of the Act, will assess the Act's operation and effectiveness through a framework of the purposes of the Act, and principles for its design, e.g. including to:</p> <ul style="list-style-type: none"> <li>• Facilitate the development of the space sector in New Zealand</li> <li>• Ensure safety and security of space and high-altitude activities</li> <li>• Protect our national security and national interests</li> <li>• Enhance New Zealand's reputation as a responsible, spacefaring nation</li> <li>• Manage actual or potential liability that may arise</li> <li>• Enable future regulatory systems and capability</li> <li>• Maintain efficiency in the application process</li> <li>• Retain regulatory flexibility over time</li> </ul>	<p>In carrying out the review, the Ministry of Business, Innovation and Employment (MBIE), as the administering agency of the Act, will assess the Act's operation and effectiveness through, inter alia, considering the following:</p> <ul style="list-style-type: none"> <li>• Alignment of provisions with intent (e.g. do the provisions in the Act allow the purposes to be met?);</li> <li>• Efficient (e.g. do they impose minimum compliance costs on the regulated entities and agencies involved in administering the Act, and do they result in the provision of timely and comprehensive information to inform decision-making?);</li> <li>• Certain and predictable (e.g. does the regime provide a sufficient level of certainty and predictability to regulated entities?);</li> <li>• Flexible (e.g. given that this is an area of rapid technology change, is the Act sufficiently technology neutral);</li> <li>• Transparent (for the regulated entities and the general public).</li> </ul>
<ul style="list-style-type: none"> <li>• Assess the performance of the Act and regulations against the statutory purposes and principles of design; and identify how the Act and regulations can be improved operationally.</li> </ul>	<ul style="list-style-type: none"> <li>• Identify how the Act and regulations can be improved operationally.</li> </ul>

4. The original Terms of Reference which you approved in an earlier briefing, [2021-3484 Commencing the Review of the Outer Space and High-altitude Activities Act], is included for your reference at Annex Two.

## **Annexes**

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Annex One: Amended Terms of Reference for the Review of the Act

Annex Two: Original Terms of Reference for the Review of the Act

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## **Annex One: Amended Terms of Reference for the Review of the Act**

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### **Review of the Outer Space and High-altitude Activities Act 2017 Terms of Reference**

Section 86 of the Outer Space and High-altitude Activities Act 2017 (the Act) requires the Minister for Economic and Regional Development ('the Minister'), as Minister responsible for the Act's administration, to:

- As soon as practicable after three years from the Act's commencement, commence a review of the operation and effectiveness of the Act and prepare a report on that review; and
- Present the report to the House of Representatives as soon as practicable after its completion.

The Review of the Act will consider:

- the operation and effectiveness of the Act, since the Act came into force on 21 December 2017;
- whether the provisions of the Act should be retained or repealed; and
- whether any further amendments to the Act are necessary or desirable.

In carrying out the review, the Ministry of Business, Innovation and Employment (MBIE), as the administering agency of the Act, will assess the Act's operation and effectiveness through, inter alia, considering the following:

- Alignment of provisions with intent (e.g. do the provisions in the Act allow the purposes to be met?);
- Efficient (e.g. do they impose minimum compliance costs on the regulated entities and agencies involved in administering the Act, and do they result in the provision of timely and comprehensive information to inform decision-making?);
- Certain and predictable (e.g. does the regime provide a sufficient level of certainty and predictability to regulated entities?);
- Flexible (e.g. given that this is an area of rapid technology change, is the Act sufficiently technology neutral);
- Transparent (for the regulated entities and the general public).

There is no legislative requirement to review the Outer Space and High-altitude Activities (Definition of High-altitude Vehicle) Regulations 2017 and Outer Space and High-altitude Activities (Licences and Permits) Regulations 2017, but these will be considered within the Review to ensure the regime as a whole is operating effectively.

The following process will be led by MBIE officials:

- Collect views (including from government agencies and industry stakeholders) regarding the operation and effectiveness of the provisions of the Act.
- Identify how the Act and regulations can be improved operationally.
- Taking into account the consultation, prepare and present a final report to the Minister by 15 December 2021.

## **Annex Two: Original Terms of Reference for the Review of the Act**

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### **Review of the Outer Space and High-altitude Activities Act 2017 Terms of Reference**

Section 86 of the Outer Space and High-altitude Activities Act 2017 (the Act) requires the Minister for Economic and Regional Development ('the Minister'), as Minister responsible for the Act's administration, to:

- As soon as practicable after three years from the Act's commencement, commence a review of the operation and effectiveness of the Act and prepare a report on that review; and
- Present the report to the House of Representatives as soon as practicable after its completion.

The Review of the Act will consider:

- the operation and effectiveness of the Act, since the Act came into force on 21 December 2017;
- whether the provisions of the Act should be retained or repealed; and
- whether any further amendments to the Act are necessary or desirable.

In carrying out the review, the Ministry of Business, Innovation and Employment (MBIE), as the administering agency of the Act, will assess the Act's operation and effectiveness through a framework of the purposes of the Act, and principles for its design; e.g. including to:

- Facilitate the development of the space sector in New Zealand
- Ensure safety and security of space and high-altitude activities
- Protect our national security and national interests
- Enhance New Zealand's reputation as a responsible, spacefaring nation
- Manage actual or potential liability that may arise
- Enable future regulatory systems and capability
- Maintain efficiency in the application process
- Retain regulatory flexibility over time

There is no legislative requirement to review the Outer Space and High-altitude Activities (Definition of High-altitude Vehicle) Regulations 2017 and Outer Space and High-altitude Activities (Licences and Permits) Regulations 2017, but these will be considered within the Review to ensure the regime as a whole is operating effectively.

The following process will be led by MBIE officials:

- Collect views (including from government agencies, industry stakeholders and the New Zealand public) regarding the operation and effectiveness of the provisions of the Act.
- Assess the performance of the Act and regulations against the statutory purposes and principles of design; and identify how the Act and regulations can be improved operationally.
- Taking into account the consultation, prepare and present a final report to the Minister by 15 December 2021.

**From:** Peter Mumford <Peter.Mumford@mbie.govt.nz>  
**Sent:** Tuesday, 22 June 2021 10:51 AM  
**To:** SARGISON, Georgina (ISED) <Georgina.Sargison@mfat.govt.nz>; Michael.Gaskin@mfat.govt.nz; Maanya.Tandon@mfat.govt.nz; <sup>9(2)(a)</sup> Simon Van Rijs <SIMON.VANRIJS@NZDF.mil.nz>; Richard Cross <R.Cross@transport.govt.nz>; <sup>6(a)</sup> Mackenzie, Stu WGCDR <STUART.MACKENZIE@NZDF.mil.nz>  
**Cc:** Peter Crabtree <Peter.Crabtree@mbie.govt.nz>; Andrew Johnson <Andrew.Johnson@mbie.govt.nz>; Mike Asplet <Mike.Asplet@mbie.govt.nz>; Justine Roberts <Justine.Roberts@mbie.govt.nz>; Val Sim <val.sim@mbie.govt.nz>; Elisabeth Numan <Elisabeth.Numan@mbie.govt.nz>  
**Subject:** SPACE REVIEWS [IN-CONFIDENCE]

Kia ora koutou

Paul Stocks and I met with Minister Woods last night. They have confirmed the following. They noted that this reflects what was agreed at the Ministerial meeting:

- a. The statutory review of the Outer Space and High-altitude Activities Act 2017, which is a review of the operation and effectiveness of the Act, will not include a consideration of social licence or other significant policy issues.
- b. There will be a separate space policy process, <sup>9(2)(f)(v)</sup> which addresses and engages with the public on significant policy issues, <sup>9(2)(f)(iv)</sup>. These generally fall within the scope of the national interest test in the Act, which can provide grounds for not issuing a licence or permit even if all other criteria are met.

The report that we provided to the Ministers as the basis of confirming our understanding of what Ministers required is out-of-date, given that:

- It anticipated that in addition to targeted consultation on the statutory review, we would invite public input. Ministers decided that we did not need to go beyond consulting with directly affected parties.
- <sup>9(2)(f)(iv)</sup>

Hence, we will not provide you with the full paper, but I have provided the content below, omitting the public input <sup>9(2)(f)(iv)</sup>

Next steps

Out of Scope

[Large redacted area]

4. Out of Scope

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]

## FROM REPORT TO MINISTERS

### Confirming processes for the technical Review of the Act and space policy

To test our understanding of the outcomes from the 9 June meeting of Ministers with an involvement in space-related matters, and in particular to confirm that:

- c. The statutory review of the Outer Space and High-altitude Activities Act 2017, which is a review of the operation and effectiveness of the Act, will not include a consideration of <sup>9(2)(f)(iv)</sup> [REDACTED] significant policy issues.
- d. There will be a separate space policy process, <sup>9(2)(f)(iv)</sup> [REDACTED] which addresses and engages with the public on significant policy issues, <sup>9(2)(f)(iv)</sup> [REDACTED]. These generally fall within the scope of the national interest test in the Act, which can provide grounds for not issuing a licence or permit even if all other criteria are met.

To provide additional information on how these two processes might be progressed.



## Background

On 9 June 2021, a meeting took place between the Minister for Economic and Regional Development, Minister for Research, Science and Innovation, Minister of Foreign Affairs, Minister for Disarmament and Arms Control, Minister for Trade and Export Growth, Minister of Defence and a representative for the Minister responsible for the GCSB and NZSIS (“Ministerial meeting”).

1. Our understanding of the outcome of the meeting is that Ministers agreed:
  - a. The Review of the Outer Space and High-altitude Activities Act 2017 (the Act) on the operation and effectiveness of the Act will be led by MBIE, in close consultation with relevant agencies; and
  - b. A separate space policy process, led by Ministers, will engage and address public interest on significant policy issues.

## Review of the Act

2. Section 86 of the Outer Space and High-altitude Activities Act 2017 (the Act) requires the Minister for Economic and Regional Development, as Minister responsible for the Act’s administration, to:
  - a. As soon as practicable after three years from the Act’s commencement, commence a review of the operation and effectiveness of the Act and prepare a report on that review; and
  - b. Present the report to the House of Representatives as soon as practicable after its completion.
3. Minister Nash has previously agreed to the Terms of Reference for the Review of the Act [briefing 2021-3484 refers]. Consistent with this, the Review of the Act will include assessing whether the licensing and permitting processes (within the Act and its regulations) are effectively and efficiently delivering on the purposes of the Act, and how they might be improved operationally.
4. The Review of the Act (just three years on from its implementation) was not intended to revisit first principles, but rather to assess whether the Act is delivering as intended and how it might be improved operationally.
5. The Act is a flexible regulatory regime for space and high-altitude activities, with licensing and permitting functions primarily being achieved through its associated regulations, policies and operational procedures (including for launch vehicles, facilities, payloads, and high-altitude vehicles).
6. Key features of the Act include:
  - a. Its purpose, e.g. outcomes include providing safety, security and compliance with certain international obligations;
  - b. A Ministerial approval process associated with the issuing of launch, facility, high- altitude vehicle licences, and payload permits;
  - c. The involvement of certain agencies, apart from the administering agency, in these processes; e.g. the GCSB and NZSIS in relation to national security and the Civil Aviation Authority in relation to high-altitude vehicles;

- d. Allowing the decision-maker to accept authorisations provided by other jurisdictions (e.g. accepting FAA licensing of Rocket Lab);
  - e. Providing for enforcement powers, and offences.
7. The following are examples of the criteria and questions which can be asked when assessing the operation and effectiveness of the Act:
- a. Alignment of provisions with intent (e.g. do the provisions in the Act allow the purposes to be met?);
  - b. Efficient (e.g. do they impose minimum compliance costs on the regulated entities and agencies involved in administering the Act, and do they result in the provision of timely and comprehensive information to inform decision-making?);
  - c. Certain and predictable (e.g. does the regime provide a sufficient level of certainty and predictability to regulated entities?);
  - d. Flexible (e.g. given that this is an area of rapid technology change, is the Act sufficiently technology neutral);
  - e. Transparent (for the regulated entities and the general public).

*Proposed engagement process and timeframe*

8. Our proposed approach involves consulting on the operation and effectiveness of the Act between July and August, analysis and report drafting in September-November, final draft report and Cabinet paper for consideration by the Minister for Economic and Regional Development in November, prior to the final report in December. This process is outlined further in **Annex One**.
9. More specifically, we propose the following key elements for the July-August engagements:
- a. Targeted consultation: In parallel with the broad consultation, we will target those who have engaged with licensing and permitting processes by proactively engaging via email with:
    - i. Agencies involved in administering licensing and permitting processes;
    - ii. Industry stakeholders who have applied, or will apply, for licences and permits; and
    - iii. Other engaged stakeholders (e.g. universities and sector providers such as LeoLabs and Great South).
10. From July – October, MBIE officials will assess submissions and engage on sub-issues that emerge from them in consultation with a cross-agency group; including, MBIE's Space Policy and Regulatory Systems team, Ministry of Foreign Affairs and Trade, Ministry of Defence, GCSB/NZSIS, Department of the Prime Minister and Cabinet, Ministry of Transport, Civil Aviation Authority, and other relevant agencies.
11. An MBIE Policy Director will lead the Review team and report directly to Deputy Secretary Paul Stocks. The Review of the Act will be managed independently from the MBIE Space Policy and Regulatory Systems Team.

12. From September - November, MBIE officials will prepare a draft report for the Minister for Economic and Regional Development, with the final report due to the Minister by 15 December 2021.

13. A Cabinet paper will be progressed alongside the drafting of the final report, and a draft final report will be provided to Cabinet to ensure that the recommendations can be approved (prior to them being submitted to Parliament).

Out of Scope

[Redacted]

**A separate space policy process**

9(2)(d)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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9(2)(f)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Out of Scope

[Redacted]

[Redacted]

[Redacted]

## Annexes

Annex One: Proposed timeframes for Review of the Act 9(2)(f)(iv)

[Redacted]

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## Annex One: Proposed timeframes for the Review of the Act

9(2)(g)(i), 9(2)(f)(iv)

Quarter	Q2 2021		Q3 2021			Q4 2021		
Month	June	July	August	September	October	November	December	
Review of the Act	Preparation	Consultation		Analysis	Drafting		Final report on Review of the Act	

9(2)(f)(iv)

### Overview of Process

Process	Review of the Act
Preparation	<ul style="list-style-type: none"> <li>Q2 2021: Preparing engagement strategy</li> </ul> <p>Out of Scope</p>
Consultation	<ul style="list-style-type: none"> <li>Q3 2021: targeted consultation with stakeholders directly affected by the licensing and permitting processes in the Act and its regulations.</li> </ul>
Analysis	<ul style="list-style-type: none"> <li>Q1-Q3 2021: Ongoing cross-agency consultation and analysis on sub-issues that emerge from the consultation</li> </ul>

Drafting	<ul style="list-style-type: none"> <li>• Q4 2021: Drafting briefing for the Minister for Economic and Regional Growth as well as a Cabinet paper to approve the recommendations in the draft report.</li> <li>• Q2 2022: Drafting Cabinet paper, <sup>9(2)(f)(iv)</sup> [redacted]</li> </ul>	<sup>9(2)(f)(iv)</sup> [redacted]
End products	<ul style="list-style-type: none"> <li>• Final report on the review of the Act due 15 Dec 2021.</li> <li>• Report tabled in Parliament within Q1 2022</li> <li>• <sup>9(2)(f)(iv)</sup> [redacted]</li> </ul>	[redacted]

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**Targeted consultation: Stakeholders**

Groups	Stakeholders
Government	MBIE (New Zealand Space Agency)
	MBIE Radio Spectrum
	Ministry of Foreign Affairs and Trade
	Ministry of Defence
	DTA
	GCSB/NZSIS (including Protective Security Requirements Team)
	Land Information New Zealand
	Ministry of Transport
	Civil Aviation Authority
	Worksafe
	NZ Police
	Fire and Emergency NZ
	Department of the Prime Minister and Cabinet
	Ministry for Primary Industries
Ministry for the Environment	
Maori Engagement	9(2)(a)
Regulatory engagements with external government agencies	Australian Space Agency
	CNES (France)
	European Space Agency
	JAXA (Japan)
	US Department of State
	US Federal Aviation Administration
Regulated companies (previous or current)	Rocket Lab LLC/NZ Ltd
	Dawn Aerospace New Zealand Limited
	University of Auckland
	University of Canterbury Aerospace Club
	Swarm Technologies
	Orbital Astronautics Limited

Tyvak Nano-Satellite Systems Inc
Spire Global Inc
BlackSky Global LLC
Planet Labs
NASA Goddard Space Flight Center
Myriota Pty Ltd
University of Canterbury
US Air Force Research Lab
National Reconnaissance Office
Capella Space Corporation
Spaceflight
Alba Orbital
Airbus
ALE Co LTD
Astro Digital
ATL KFT
Boston University (NASA)
Budapest University of Technology and Economics
Cal Poly Corporation
Canadensys Aerospace
Canon Electronics - CE-SAT-IB
Care Weather Technologies
CNES
Fleet Space Technologies Ltd
Fossa Systems
Inmarsat
In-Space Missions
Irvine Unified School District
Kleos Space
Lacuna Space Ltd
LCF Enterprises
Maverick Space
Melbourne Space Programme

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	Mexico Secretariat of National Defence
	Millenium Space Systems inc
	Mini Cubes LLC
	NASA Glenn Research Center
	NASA JPL
	NASA Langley Research Center
	New Mexico Institute of Mining and Technology
	OHB Cosmos
	STARA Technologies
	Synspective Inc
	The Aerospace Corporation
	TriSept
	Union Aerospace
	United States Naval Academy
	University of Florida
	University of Illinois
	University of New South Wales
	University of South Wales
	Unseenlabs SAS
	US Airforce
	US Airforce Academy
	York Space Systems / ICEYE Harbinger
Future regulatory engagement	9(2)(ba)(i)
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
Sector – service provider	LeoLabs
	Great South

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