



Report 03. 615
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Committee Policy, Finance and Strategy and Council
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Land Transport Management Bill

1. Purpose

To provide the Committee with an understanding of changes made to the Land Transport Management Bill by the select committee that are of interest to the Council.

2. Background

The Land Transport Management Bill was reported back to Parliament on Monday 13 October 2003. The original Bill focused almost entirely on land transport funding. It sought to change the focus of national transport agencies away from road funding to land transport funding, to lift the planning horizon from annual funding to the establishment of a 10 year programme, to allow some new roading projects to be funded through tolls and provide a limited opportunity for private companies to play a part in toll roading operation.

Under special circumstances, approved by the Minister, regional councils could have an interest in passenger transport infrastructure and operations. The term of Regional Land Transport Strategies was to be extended from 5 to 10 years and they were to include references to the objectives of the current New Zealand Transport Strategy.

The select committee heard 203 submissions on the original Bill. As a consequence of that submission process there have been some substantial changes to the Bill that have relevance for the Council.

3. Comment

(a) Planning

The new Bill makes some significant consequential changes to the Land Transport Act 1998 (the Act). These are set out in Schedule 3 of the new Bill. The words “not inconsistent with” are replaced by “take into account”. This change is reflected under the headings

174. Effect of national land transport strategy

181. Effect of regional land transport strategies

Under both headings the LTSA, Transfund, Transit, the Police and the MOT now “must ensure that they take into account” any current national or regional land transport strategy when performing their functions, duties and power (as they relate to transport strategies). This wording is stronger than being “not inconsistent with”.

The content of a Regional Land Transport Strategy has been changed from that of the current Act and the original Bill. The new requirements are that:

“(2) Every regional land transport strategy must -

- “(a) contribute to the overall aim of achieving an integrated safe, responsive, and sustainable land transport system; and
- “(b) take into account how the strategy –
 - “(i) assists economic development; and
 - “(ii) assists safety and personal security; and
 - “(iii) improves access and mobility; and
 - “(iv) protects and promotes public health; and
 - “(v) ensures environmental sustainability; and
- “(c) take into account the land transport funding likely to be available within the region during the period covered by the strategy; and
- “(d) avoid, to the extent reasonable in the circumstances, adverse effects on the environment; and
- “(e) take into account the views of affected communities; and
- “(f) take into account the need for persons and organisations preparing regional land transport strategies to give early and full consideration to land transport options and alternatives in a way that contributes to the objectives referred to in paragraphs (d) and (e) when preparing a regional land transport strategy; and
- “(g) take into account the need to encourage persons and organisations preparing regional land transport strategies to provide early and full opportunities for persons and organisations listed in section 179(1) to contribute to the development of those regional land transport strategies; and
- “(h) identify an appropriate role for each land transport mode in the region, including freight traffic, public passenger transport, cycling, and pedestrian traffic; and
- “(i) include any regional passenger transport plan (within the meaning of section 47 of the Transport Services Licensing Act 1989) that

has been prepared by the regional council that has prepared the strategy; and

- “(j) take into account any national land transport strategy and National Energy Efficiency and Conservation Strategy; and
- “(k) identify land transport outcomes sought by the region and the strategic options for achieving those outcomes; and
- “(l) identify any strategic options for which co-operation is required with other regions; and
- “(m) identify persons or organisations who should be involved in the further development of strategic options; and
- “(n) include a demand management strategy that has targets and timetables appropriate for the region; and
- “(o) provide for the strategy to be independently audited; and
- “(p) take into account any guidelines issued by the Minister for the purposes of this section”.

The development of a Regional Land Transport Strategy is becoming more onerous. Demonstrating that any strategy achieves the required aims and objectives will not be a simple task.

The currency of the RLTS remains as per the original Bill at 10 years.

The consultation requirements for the RLTS are changed with the specific inclusion of the following additional parties:

- The Historic Places Trust of New Zealand
- The district health boards in the region
- Maori of the region
- The Accident Compensation Corporation

A separate new clause requires the strategy to “take into account the views of land transport network providers”.

The membership of the Regional Land Transport Committee will need to be reviewed. The current Act was not altered by the original Bill but is with the new Bill. The Act suggested that membership of the RLTC come from a list of transport agencies and users. The list is now changed and is as follows:

- “(2) Each regional land transport committee consists of suitable persons appointed by the relevant regional council to represent –
 - “(a) the objectives of economic development, safety and personal security, public health, access and mobility, and environmental sustainability; and
 - “(b) cultural interests; and

- “(c) the council; and
- “(d) other territorial authorities in the region; and
- “(e) the Authority; and
- “(f) Transfund”.

The noticeable omissions from the list in the Act are Transit, the Police and all references to user groups such as the commercial road users, private road users, public transport users, cycle users and pedestrians. They have been replaced by persons to represent the objectives of the New Zealand Transport Strategy and cultural interests.

The new Bill will come into force the day after it receives the Royal assent. The Council will therefore need to review membership of the RLTC once it is enacted.

(b) Ownership

Nothing in the new Bill changes the ownership status of roading. Road controlling authorities (RCA) may enter into concessionary arrangements with and lease land to private companies for up to 35 years with, the new Bill, a one off ability to extend this by up to 10 more years.

The new Bill provides regional councils with the ability to “hold an interest in, or acquire the ownership of, a public transport service or any public transport infrastructure”. The only requirement, unlike in the original Bill where ministerial approval was required, is that the interest in a passenger transport service must be held in a council-controlled trading organisation. A regional council can therefore own passenger transport infrastructure as of right.

(c) Purchasing

There are a number of differences between the current Act, the original Bill and the new Bill.

The procurement procedure is

“Procurement procedures:

- (1) For the purposes of this Part, Transfund must approve 1 or more procurement procedures that are designed to obtain the best value for money spent by approved organisations and persons, having regard to the purpose of this Act.
- (2) In approving a procurement procedure, Transfund must also have regard to the desirability of -
 - (a) enabling persons to compete fairly for the right to supply outputs required for approved activities, if 2 or more persons are willing and able to provide those outputs; and
 - (b) encouraging competitive and efficient markets for the supply of outputs required for approved activities.

- (3) A procedure approved by Transfund under subsection (1) must specify how procurement is to be carried out (which may differ for different kinds of procurement).
- (4) It is a condition of every approved procurement procedure that an organisation or person must procure outputs from a provider other than the organisation or person, or their employees.
- (5) However, nothing in subsection (4) prevents an approved organisation from procuring from the organisation's own business units the provision of minor and ancillary works on terms approved by Transfund.
- (6) Nothing in this section compels an organisation or person to accept the lowest tender received by it for the provision of any outputs”.

The key words here are “best value for money”. The new Bill has none of the five matters that Transfund had to consider before approving a procedure under the Act. It is hoped that the procedures approved by Transfund will enable the council to work within a broad framework rather than a highly specified process.

(c) Funding

(i) Land Transport Programmes

Both the original and the new Bill move from the annual funding programme of the Act to a ten year programme for all transport agencies. The ten year funding programme process has already been set up through the ministerial performance agreements struck with Transfund and Transit. The benefits of this new approach have already been achieved.

The new Bill recognises that the number of consultations required by the original Bill was onerous and provides local authorities with an opportunity with an opportunity to reduce their consultation requirement on their programmes by amalgamating it with consultation on the ten year Long Term Council Community Plans.

(ii) Tolls

Tolling as a way of funding the construction of a new road is provided for in the new Bill as it was in the original. The consultation processes required are now the same as for the land transport programmes and not an additional consultation process envisaged by the original Bill. The Minister still has to approve the tolling proposal with the matters that need to be taken into account being changed to be as follows:

“(1) The Minister must not recommend the making of an Order in Council under section 52(1) unless –

- (a) he or she is satisfied that the activity contributes to the purpose of this Act; and

- (b) he or she has taken into account how the activity –
 - (i) assists economic development; and
 - (ii) assists safety and personal security; and
 - (iii) improves access and mobility; and
 - (iv) protect and promotes public health; and
 - (v) ensure environmental sustainability; and
 - (c) he or she has taken into account –
 - (i) any current national land transport strategy, relevant regional land transport strategy, and National Energy Efficiency and Conservation Strategy; and
 - (ii) the availability of alternative land transport options and the impact of the activity on those options; and
 - (iii) whether the activity is consistent with current priorities for land transport expenditure; and
 - (iv) the outcome of consultation undertaken by the public road controlling authority; and
 - (d) either –
 - (i) the activity is included in the current national land transport programme; or
 - (ii) the Minister is satisfied that there is a high degree of support from affected communities; and
 - (e) he or she is satisfied that –
 - (i) the requirement in subsection (2) (if applicable) is met; and
 - (ii) there is available to road users a feasible, un-tolled, alternative road or a feasible, un-tolled lane of the same road.
- (2) The Minister must not recommend that an existing road or part of it be tolled unless he or she is satisfied that there are exceptional circumstances. For the purpose of this subsection, the Minister may (without limitation) decide that exceptional circumstances exist if he or she is satisfied that the existing road or part is located near, and is physically or operationally integral to, the new road in respect of which the tolling revenue will be applied.
- (3) If Transfund has assessed an activity against any criterion in subsection (1) in the course of carrying out an assessment for the purposes of section 19 or section 20, the Minister is entitled to rely on that assessment and need not separately assess the activity against that criterion for the purpose of this section”.

As mentioned in section (2) above the tolling provision can be extended to existing roads under exceptional circumstances. Congestion pricing is clearly not envisaged by these provisions. That concept will have to wait future legislation.

The Minister of Transport indicated in his media release on reporting the Bill back to Parliament that these matters were being considered by the Auckland

joint offices working group. Decisions from that exercise would be announced by the end of the year and any legislative changes necessary incorporated into a new transport bill next year. Any changes would be applicable across the country.

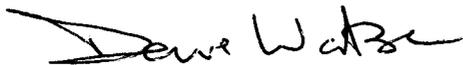
4. Communications

Media statements have already been made by the council chairperson and other councillors.

5. Recommendations

That the report be received

Report prepared by:

A handwritten signature in black ink that reads "Dave Watson". The signature is written in a cursive style with a long horizontal stroke at the end.

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