

Report PE 06.304
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Committee Policy, Finance and Strategy
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Trolley Bus Services

1. Purpose

To seek agreement in principle from the Council to continue to fund Stagecoach to provide trolley bus services in Wellington over the medium to long-term.

2. Exclusion of the public

Grounds for exclusion of the public under section 48(1) of the Local Government Official Information and Meetings Act 1987 are:

That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which gives reason for withholding would exist, (ie because of the need to preserve commercial confidentiality and to enable Council to carry on negotiations) including commercial negotiations, without prejudice).

3. Significance of the decision

The matters for decision in this report do not trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

4. Background

The contract for the delivery of trolley bus services in Wellington expired on 31 January 2005. The contract has been rolled over pending a decision on the long-term future of the trolley bus services. Current Council policy is to retain trolley bus services on the basis that the additional costs involved are justified on the basis of the benefits of trolley buses over diesel buses.

Last year Land Transport New Zealand (LTNZ) approved a sole supply procurement procedure for trolley buses and to fund trolley buses at a standard funding assistance ratio (FAR) equivalent to that of a diesel bus. The FAR for diesel buses is 50%. Following requests from Greater Wellington, LTNZ also

agreed to fund \$1M per year for 10 years to assist with the upgrade of the current trolley bus fleet.

Greater Wellington and Stagecoach had reached substantial agreement on a new ten-year contract. Unfortunately, late in the negotiations the lines company Vector identified the need to spend a significant amount of additional money on upgrading the substations that supply power to the trolley bus network. Under the approved funding arrangement with LTNZ, the additional costs for the substation upgrade would have had to be funded solely from ratepayers. As a result Greater Wellington requested that LTNZ reconsider their position and fund 50% of the total cost of the trolley bus services. LTNZ's response was to agree to fund the services at 50%, but rescind the agreement to fund \$1M per year to assist with the upgrade of the fleet. A number of additional conditions were imposed making it difficult to see how any agreements could be reached in the short-term.

5. Agreements reached

After much lobbying and negotiation between the parties, officers from Greater Wellington and LTNZ reached an agreed position whereby LTNZ would fund 50% of the full costs of operating the trolley buses, including the upgrades of the overhead wires and substations, if Stagecoach would agree to fund the upgrade of the trolley buses from its own resources. Greater Wellington put this position to Stagecoach, who agreed to it provided Greater Wellington agreed to a fare increase. A fare increase had always been proposed as part of the new contract to trolley bus services, so is not considered an issue by officers.

6. What does the deal look like?

Current cost and funding arrangements projected over a 10 year period.

Item	GWRC \$M	Land Transport NZ \$M	Total \$M
Stagecoach base contract (subsidy)	14.1	14.1	28.2
Line charge from Vector	1.9	1.9	3.8
Indexed inflation to 2006/07	6.0	6.0	12.0
Concession fares	1.0	1.0	2.0
Overhead system	4.0	4.0	8.0
	27.0	27.0	54.0

Additional costs for electrical infrastructure over the 10 year period

Item	GWRC \$M	Land Transport NZ \$M	Total \$M
Line charge from Vector	3.35	3.35	6.7
Overhead system (GWRC or WCC)	3.5	3.5	7.0
Additional funding for electrics	6.9	6.9	13.7

Note: The figures in both tables are un-inflated over the 10 year period and funding allocation is based on a 50% FAR.

The additional costs for the electrical infrastructure are for maintaining the overhead system and substations to a standard that satisfies public safety and reliability requirements. A catch up in maintenance is also required as minimal work has been carried out whilst the decision on the retention of the trolley bus service was agreed.

It is intended that the ownership of the overhead system will transfer from Wellington Cable Car Ltd (a subsidiary of Wellington City Council) to one of Greater Wellington's Council Controlled Trading Organisations (CCTO), whereas ownership of the substations will remain with Vector.

The amount shown for Vector line charges in the above table is Vector's current best estimate. Vector has provided a line charge calculation with allowance for upgrade of the electricity supply equipment totalling \$10.5 million over the next 10 years. Subtracting the current line charge of \$0.38 million per year gives an upgrade cost of \$6.7 million over 10 years. Stagecoach considers that Vector's proposed upgrade cost is too high and negotiations are continuing between Vector and Stagecoach to reduce the cost.

As noted earlier, the current proposal does not include any funding for upgrading the trolley bus fleet. However, upgrading the fleet within a three year timeframe will be a requirement of the contract with Stagecoach.

7. Recent developments

Officers from LTNZ contacted the Commerce Commission to inform them of the deal. As a result the Commerce Commission wrote to all parties stating that in its view the contract may put GWRC and Stagecoach at risk of breaching section 27 of the Commerce Act 1986 by substantially lessening competition in the rights to provide subsidised trolley bus services and/or the rights to provide subsidised diesel bus services. The Commerce Commission opened an enquiry into the matter.

Stagecoach entered into discussions with the Commerce Commission who indicated that their principal concern was the proposed term of the contract, and stated that if the term were reduced to 5 years they would close their investigation.

As a result, Stagecoach drafted some new provisions changing the term to 5 years unless the contract was renewed or extended. New provisions are proposed that require GWRC to meet 50% of the exit costs if the contract is not renewed for a further 5 year term. The exit costs include:

- The costs of conversion of each trolley bus to a diesel bus, together with adjustments to the write down in value of each bus, being those costs that Stagecoach would face which it would not face if the contract was one for the provision of diesel buses only. The maximum liability for GWRC under this clause would be \$6 M.
- The amount claimed by Vector in respect of the write down of the value of its substation and electrical infrastructure as a result of the contract

term being for a period of 5 years only. The liability for GWRC under this clause is estimated to be \$0.7 M.

The exit costs do not include any costs for the removal of the overhead wire network, which would be solely for the account of Greater Wellington.

Officers sought legal advice on the proposed contractual amendments and indicated to Stagecoach that they were acceptable in principle. Stagecoach was to take the proposed amendments back to the Commerce Commission in the hope that the enquiry would be closed.

In the meantime, at their meeting on 22 June LTNZ considered the proposed funding arrangements. Informal advice is that LTNZ agreed to the funding arrangement subject to resolution of the Commerce Commission enquiry.

8. Funding included in the LTCCP

The funding arrangements proposed are covered by the provisions in the LTCCP. In the event that the contract ended after 5 years and the liability for exit costs incurred, there is no specific provision in the LTCCP. However, we believe that the costs will be more than covered by the savings that will be made through replacing the trolley buses with diesel buses for the remaining 5 year period.

9. Contractual arrangements

Although the basis of a new contract for trolley bus services had been substantially agreed with Stagecoach, some further work is required to refine the contract and ensure it is consistent with the agreements reached.

Pending the finalisation of the contract, it may be necessary for Greater Wellington to enter into a Heads of Agreement with Stagecoach to give them comfort to start upgrading the trolley bus fleet.

Officers will attempt to include “open book” provisions within the funding contract to ensure that Stagecoach is receiving a fair rate of return on capital that is in line with industry standards for public transport operators. At this stage there is no guarantee that such an arrangement will be acceptable to Stagecoach.

Officers would also like to see some provisions included around integrated electronic ticketing, including a Metlink branded card. Such provisions are likely to be controversial but we believe they are necessary to protect the Council’s position if it proceeds with integrated electronic ticketing in the future.

Stagecoach currently maintains the overhead wire network on contract to the owners, Wellington Cable Car limited. It is anticipated that Greater Wellington will take over ownership of the overhead wire network. We

propose to establish a separate contract for the maintenance of the network, and will only require Stagecoach to continue maintenance on a temporary basis.

Council has already agreed to the purchase of the overhead wire network. Discussions with the owners, Wellington Cable Car Limited, indicate that they desire a clause in the sale and purchase agreement that requires Greater Wellington to pay back half of any profit Greater Wellington makes if it on-sells the network. Officers believe that this is a fair requirement and recommend that Council and its CCTO agrees to it.

Stagecoach will enter into a contract with Vector for the lines charge and the upgrade costs of the substations. Potentially this contract could be directly with GWRC once it takes over ownership of the overhead wire network.

Officers will bring all final contracts back to Council for approval.

10. Communication

There has already been communication about this topic to the media. At the time of writing it is not clear if any further communication will be warranted beyond informing Stagecoach and LTNZ of the Council's decisions.

11. Recommendations

That the Committee recommends that Council:

1. **Agree** in principle to the funding arrangement for trolley bus services set out in this report, subject to:
 - a) Land Transport New Zealand agreeing to provide 50% of the funding proposed in this Report
 - b) The Commerce Commission closing their investigation without taking further action
 - c) Stagecoach/Infratil agreeing to the proposed funding arrangements
 - d) Stagecoach/Infratil reaching agreement with Vector on lines charges and that such charges are covered by the proposed funding arrangements
2. **Authorises** officers to negotiate a draft Heads of Agreement (if necessary) and a draft contract with Stagecoach/Infratil for the continued provision of trolley bus services in Wellington in accordance with the proposals set out in this Report.
3. **Notes** that the final Heads of Agreement and the final contract will be brought back to the Council for approval.
4. **Confirm** its agreement to take over the ownership of the trolley bus overhead wire network from Wellington Cable Cars Limited for \$1.00

with a claw back provision should Greater Wellington's CCTO on-sell the network.

Report prepared by:

Report approved by:

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David Benham
Chief Executive

Attachment 1:

Public excluded