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Committee Transport and Access
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Public Transport Management Bill

1. Purpose

To advise the Committee of the contents and implications of the Public Transport Management Bill, and consider a draft submission.

2. 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.

3. Background

The Public Transport Management Bill was introduced into Parliament on 2 October 2007. It will eventually become the Public Transport Management Act, and will replace the Transport Services Licensing Act 1989. A copy of the Bill can be found on the Ministry of Transport website (www.transport.govt.nz).

The Bill updates and expands the provisions currently contained in the Transport Services Licensing Act 1989 regarding:

- the registration of commercial (i.e. non-subsidised) passenger services with regional councils, and provides regional councils with the ability to issue “controls” on those services; and
- the preparation of Regional Passenger Transport Plans.

The Bill is a response to (primarily Auckland) issues related to the lack of regional council control over commercial bus services, and uncertainty surrounding requirements for Regional Passenger Transport Plans.

4. Contents of the Bill

4.1 Commercial services and controls

The current legislation allows operators to provide commercial i.e. unsubsidised services, and requires these services to be registered with regional councils. Regional councils may decline to register services on certain specified (but very limited) grounds, but otherwise have no control over what commercial services are provided, or the quality of those services.

Under the provisions in the Bill, the requirement to register remains, but there is now provision for regional councils to set “controls” over commercial services. Possible controls as set out in the Bill include:

- Minimum/maximum notice periods regarding service start, variation, and cessation dates
- Minimum periods of operation
- Requirements to:
 - operate according to minimum frequency, capacity and times specified in a regional public transport plan (i.e. a requirement to provide a complete service rather than “cherry-picking” which then requires a council to contract for the gaps)
 - provide detailed financial, patronage and operational information to regional councils for service planning and monitoring purposes
 - comply with a common colour scheme, emblems, signs or designs
 - meet quality and performance standards
 - be part of an integrated service (i.e. to connect with other services)
 - participate in integrated ticketing and fare schemes, real time information, bus priority and fare systems.

Regional councils will be able to refuse to register new commercial services (and de-register existing services) that do not comply with the controls. Operators have appeal rights (as they do now) against a regional council decision to refuse to register, or to deregister, a service.

The controls must be made by resolution of a regional council, and included in a *Regional Public Transport Plan* (the new name for current Regional Passenger Transport Plans). The Plan specifies the date on which the controls take effect. Controls cannot be adopted until such time as a council has prepared a *Regional Public Transport Plan* i.e. a control cannot be included in an existing *Regional Passenger Transport Plan*.

Controls for commercial services cannot be greater than those imposed on contracted services.

There is provision for Government to regulate to limit the scope of controls or impose conditions on them, including exempting some services from the controls.

The council is required to consider the impact of a control on the financial viability of a commercial service, and the Regional Public Transport Plan has to identify any control likely to have a “*material adverse effect on the financial viability*” of a service. If the council considers a control is likely to have “a material adverse affect on the financial viability” of any existing commercial service, the control does not take effect until 18 months after it is adopted. And the operator of a service that will be materially affected has six months from the date the control was adopted in which to advise the council if it intends to continue the service.

Regional councils are still required to keep a public register of all commercial and contracted services operating in its region. Only registered services are able to operate in the region, and regional councils will continue to have the ability to refuse to register a service (on the same limited grounds as now, but with the addition of two new grounds - likely non-compliance with any control, and when the application to register the service is made after the service has been tendered).

As indicated above, a new provision allows regional councils to deregister a service if it no longer meets any regional council control.

4.2 Regional Public Transport Plans

The Bill also provides a clearer definition of Regional Passenger Transport Plans (renamed Regional *Public* Transport Plans), when they are required, and how they must be prepared (including the consultation requirements).

A Regional Public Transport Plan is required if the council intends to:

- make any payments for the supply of public transport services;
- impose any controls on commercial services; or
- provide financial assistance to the operators of any taxi or shuttle service (including Total Mobility payments).

The purpose of the Plan is to:

- specify how the council proposes to give effect to the public transport components of the Regional Land Transport Strategy (RLTS); and
- set standards for the public transport services in the region

The link between the RLTS and the Regional Public Transport Plan is clarified. And while the purpose of the Plan is to give effect to the strategies in the RLTS, the Bill proposed that the Plan no longer forms part of the RLTS.

The consultation requirements for the Plan are clarified (previously, because of the linkages with the RLTS, there was some doubt as to the actual consultation requirements regarding the Plan).

Minor amendments are now able to be made to the Plan, with consultation required only with affected parties. Substantial amendments require full consultation unless the changes only affect limited parties, in which case only those parties that are affected need be consulted. “Minor” and “substantial” are not defined.

The life of the Plan remains at three years. And provision is made for Land Transport NZ to issue guidelines on the preparation of Plans.

Certain transitional provisions are made. Any existing Regional Passenger Transport Plan continues until replaced by a Regional Public Transport Plan, or until three years after the Bill becomes law, whichever is earlier. But any controls cannot be adopted until a Public Transport Plan is prepared.

4.3 Other provisions

The Bill focuses on *public* services (such as scheduled bus and ferry services) rather than *passenger* services (which includes taxi, private hire and long-distance services). Taxis are excluded from the definition of public transport services.

The requirement for taxi companies to register their services with regional councils is abolished, as is the ability for regional councils to exempt taxi companies from working 24 hours a day. That latter role is taken over by Land Transport NZ, which is required to consult with the regional council in making that decision.

Controls will not be able to be applied to taxis (as they do not fall within the definition of a commercial service). Trains, long-distance services, and Ministry of Education provided school services are also excluded.

The Bill provides for substantial fines for any breaches.

And various transitional processes are provided for.

5. Implications for Greater Wellington

5.2 Implementing controls

The Bill allows Greater Wellington, if it so wishes, to exert some control over commercial bus services in the region (approximately 20% of bus services in this region are commercial).

The provisions of the Bill will allow, for example, Greater Wellington to require the provider of a commercial service to provide a full timetable on a route (most current commercial services are mixed in amongst contracted services. This requires the Council to fill in the gaps with contracted services - a process which tends to favour the provider of the commercial service). The Bill also allows Greater Wellington to require the same vehicle standards, such as wheelchair accessibility, for commercial services as it does for contracted services. And it provides for the delivery of integrated systems in the future.

All these provisions are potentially useful to this council, and will potentially allow for better and more integrated services. Whether or not Greater Wellington decides to adopt any controls is an issue to be debated in the future; however it is likely that some controls will be useful to ensure certain minimum standards are met, and to promote competition.

This Council has had some problems in the past with commercial services, and the current mixture of commercial and contracted services complicates administration of the network and can potentially create tendering biases.

The imposition of controls may have cost implications for Greater Wellington, especially if it wishes to impose higher standards on a commercial service (the operator may then decide that the service is no longer commercial, in which case the Council would have to contract the service).

5.3 Regional Public Transport Plans

The provisions of the Bill clarify issues surrounding the regional passenger transport plans, and this is welcomed, but will have little impact on this Council.

Greater Wellington has only recently adopted a new Regional Passenger Transport Plan. The provisions of the Bill do not require Greater Wellington to prepare another Plan ahead of the three year cycle, but if Greater Wellington wishes to adopt any controls, then a Regional Public Transport Plan needs to be prepared. It may be therefore that a new Plan will be prepared earlier than would otherwise have been planned.

5.4 Other provisions

The other provisions of the Bill (such as the removal of taxis from regional council jurisdiction) are minor and will have little impact on this Council.

6. Comment

6.1 Submission

The provisions of the Bill are in line with previous Greater Wellington submissions to the Ministry of Transport on this issue. It is appropriate therefore that Greater Wellington submit in support of the Bill. Some suggestions for relatively minor improvements (such as some changes to some of the timeframes) should also be included in the submission.

6.2 Land Transport Management Amendment Bill

A related Bill, the Land Transport Management Amendment Bill (LTMA Bill), is also recently been introduced into Parliament, and has been referred to the same select committee as the Public Transport Management Bill. The LTMA Bill contains a number of provisions related to public transport, and has some areas of crossover with the Public Transport Management Bill.

The LTMA Bill provides for a regional fuel tax (which is able to be used for public transport purposes), changes some of the provisions regarding regional land transport strategies (which will impact on regional passenger/public transport plans), and provides for regional land transport committees to prepare a regional land transport programme (which must contain a public transport funding programme).

The LTMA Bill, and a submission on it, will be considered by the Council Policy, Finance and Strategy Committee at its next meeting (at this stage likely to be in late November). Submissions on the LTMA Bill are due by 22 December. Because of the crossover issues with the LTMA Bill, it is appropriate to co-ordinate the submissions on both Bills.

7. Timeframe

The Public Transport Management Bill has been referred to the Transport and Industrial Relations Select Committee. Submissions have been invited, and must be made by 14 December. Submissions are likely to be heard early in 2008, and the Select Committee is required to report back to Parliament by 14 March 2008.

8. Communication

No communications are required.

9. Operational Plan

No amendment to the Operational Plan is required.

10. Recommendations

That the Committee:

- 1. Receives the report.*
- 2. Notes the content of the report.*
- 3. Agrees to prepare a submission on the Bill in co-ordination with the submission to be made on the Land Transport Management Amendment Bill, and delegates final approval of the submission to the Chair of the Committee.*

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