

## 19. LAND TRANSPORT MANAGEMENT BILL - DRAFT CITY COUNCIL SUBMISSIONS

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### PURPOSE

The purpose of this report is to brief Councillors on the contents of the Land Transport Management Bill which was introduced into the House just before Christmas last year, and also to consider a draft City Council submission. Submissions on the Bill close with the Transport and Industrial Relations Select Committee on Friday 28 February 2003. A copy of the Bill is tabled.

Although not part of the draft submissions, comment will also be made on two key changes in the Bill regarding public transport operations and tolling schemes.

### PURPOSE OF LAND TRANSPORT MANAGEMENT BILL

The purpose of the Bill is set out in clause 3 which provides:

- “(1) The purpose of this Act is to contribute to the aim of achieving an integrated, safe, responsive, and sustainable land transport system.”*
- (2) To contribute to that purpose, this Act—*
- (a) provides an integrated approach to land transport funding and management; and*
  - (b) improves social and environmental responsibility in land transport funding, planning, and management; and*
  - (c) changes the statutory objectives of Transfund and Transit to broaden the focus of each entity; and*
  - (d) improves long-term planning and investment in land transport; and*
  - (e) ensures that land transport funding is cost-effective; and*
  - (f) improves the flexibility of land transport funding, including provisions enabling new land transport infrastructure to be built on a tolled or public private partnership basis or on a basis involving a combination of those methods; and*
  - (g) amends the Local Government Act 1974, the Transit New Zealand Act 1989, and the Land Transport Act 1998, and repeals the Auckland Transport Board Act 1928.”*

Clause 3(c) refers to a change in the statutory objectives of Transfund New Zealand (Transfund) and Transit New Zealand (Transit) to broaden the focus of each entity.

Those changes to statutory objectives are as follows:

#### Transfund

- “(1) The objective of Transfund is to allocate resources to achieve an integrated, safe, responsive, and sustainable land transport system.*
- (2) In meeting its objective, Transfund must exhibit a sense of social and environmental responsibility, which includes taking into account—*
- (a) the need to minimise adverse effects on the environment; and*
  - (b) the need for the views of affected communities to be taken into account by persons and organisations preparing land transport programmes; and*
  - (c) the need for persons and organisations preparing land transport programmes to give early and full consideration to land transport options and alternatives in a way that contributes to the objectives referred to in paragraphs (a) and (b) when preparing a land transport programmes; and*
  - (d) the need to encourage persons and organisations preparing land transport programmes to provide early and full opportunities for persons and organisations listed in section 15 to contribute to the development of those land transport programmes.*

*(3) In meeting its objective, Transfund must observe best practice.”*

## **Transit**

- “(1) The objective of Transit is to operate the State highway system in a way that contributes to an integrated, safe, responsive, and sustainable land transport system.*
- (2) In meeting its objective, Transit must exhibit a sense of social and environmental responsibility, which includes taking into account—*
- (a) the need to minimise adverse effects on the environment; and*
  - (b) the views of affected communities; and*
  - (c) to the extent practicable, the need for an early and full evaluation of land transport options and alternatives for achieving its objective in a way that contributes to the objectives referred to in paragraphs (a) and (b); and*
  - (d) the need to provide early and full opportunities for persons and organisations listed in section 15 to contribute to the development of land transport programmes prepared by Transit under section 19.*
- (3) In meeting its objective, Transit must observe best practice.”*

The Bill largely carries over existing provisions in the Transit New Zealand Act 1989 with some changes and also additions such as new provisions for tolling schemes.

The Bill updates the existing provisions in the Transit New Zealand Act 1989 which place restrictions on payments to the Council from its land transport disbursement account in relation to the use of inhouse professional services, and repeals the provisions relating to the requirement for competitive pricing procedures, including restrictions on the number of elected members who can be a director of a local authority trading enterprise or a passenger transport company.

The Bill proposes to continue the existing system whereby payments from the land transport disbursement account may only be made in respect of approved activities and approved activity classes. In place of competitive pricing procedures the Bill provides for “*procurement procedures*” which must be approved by Transfund.

Such procurement procedures must ensure that Transfund are paying the best value for money on approved activities or activity classes and enable persons to compete fairly for the right to provide an activity. In practical terms it would appear that the existing tendering systems used by Transit will probably continue in a similar form under the Bill.

The Bill provides that tenders which are exempt from the procurement procedure include those made in respect of inhouse professional services that are approved by Transfund, and undertaken by an approved organisation (such as the Council) using the organisation’s own staff and assets.

## **PUBLIC TRANSPORT OPERATIONS**

The Bill repeals the existing provisions in the Local Government Act 1974 placing restrictions on local authorities conducting passenger transport operations and containing restrictions on the number of Councillor directors on a passenger transport company. The Bill provides that any interest in the passenger transport service held by the local authority must be held in a public transport company.

There is a new provision in Clause 33 of the Bill which provides that a regional council may hold an interest in, or acquire the ownership of, a public transport service or any public transport infrastructure if the value of that interest or ownership does not exceed an amount specified in an Order in Council, or in the absence of an Order in Council \$100,000. Clause 33 goes on to provide:

*“If a regional council wished to have an ownership or interest where the amount exceeded that specified in an Order in Council (or by default \$100,000), then the regional council must apply to the Minister of Transport on 6-months notice and submit a proposal which contains the regional council’s assessment of:*

- (a) the desirability of the proposal compared to alternative forms of ownership, including territorial authority ownership, private sector ownership and the status quo;*
- (b) The impact of the proposal on safety;*

- (c) *Consistency of the proposal of existing directions and instructions binding on Transfund, and with any national land transport strategy and irrelevant land transport strategy;*
- (d) *How the regional council would manage its new role as the provider or owner of public transport given the existing roles in subsidising, regulating, or planning public transport; and*
- (e) *The outcome of consultation with the Land Transport Safety Authority, Transfund, Transit, territorial authorities in the region, user representatives on the Regional Land Transport Committee, and passenger service operators.”*

The Bill provides that regional council's need not consult with any of those persons if the regional council has consulted them about the proposal in accordance with its current annual plan, or developing its regional land transport strategy.

The Bill provides that the Governor-General may, on recommendation of the Minister:

- (a) specify an amount up to which a regional council may hold an interest or acquire ownership; or
- (b) prohibit the regional council holding an interest in, or acquiring the ownership, of any specified public transport service or public transport infrastructure; or
- (c) impose conditions on the holding of an interest in, or the ownership, of the public transport service or infrastructure.

The Bill provides that this process under Clause 33 would also apply to a territorial authority where the functions of a regional council under Clause 31 (which provide that a regional council may make payments from its land transport disbursement account to any person or organisation for the provision of public transport operation or public transport infrastructure, and enter into agreements in respect of those payments) has been transferred to a territorial authority under Section 17 of the Local Government Act 2002.

It is noted that the Bill does not propose to change in any real way the current statutory provisions regarding the preparation of the regional passenger transport plan. The Bill continues the present situation whereby a regional council may, in accordance with Section 17 of the Local Government Act 2002, and without an appropriate competitive process, transfer any of its functions, powers and duties under the Transport Services Licensing Act 1989 (which would include responsibility for the preparation of the regional passenger transport plan) to any “...*constituent authority that has no direct or indirect interest in any passenger service.*” City Council ownership of Red Bus Limited would clearly prevent such a transfer taking place as has been the position for a number of years.

## **TOLLING PROVISIONS**

The Bill contains a number of detailed provisions relating to the establishment of tolling regimes and concession agreements (also known as public private partnerships) but officers have not recommended any submissions on this part of the Bill other than a submission relating to allowing the establishment of high occupancy toll lanes given the very low likelihood of any projects meeting the bill's requirements for toll lanes in Christchurch, or even New Zealand. However, given the Council's general support for the Bill as a whole, subject to the comments made in the attached draft submission, the Council is supporting generically the establishment of such partnerships where feasible.

### **Staff**

**Recommendation:** That the Council adopt the attached draft submissions on the Bill.

### **Chairman's**

**Recommendation:** That the above recommendation be adopted.