

Proactive Release

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Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it. *Note - N/A (see below)

Listed below are the most commonly used grounds from the OIA.

N/A - Document released in full. No information has been withheld for this proactive release

| <u>Section</u> | <u>Description of ground</u> |
|----------------|---|
| 6(a) | as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government |
| 6(b) | as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by <ul style="list-style-type: none"> (i) the Government of any other country or any agency of such a Government; or (ii) any international organisation |
| 6(c) | prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial |
| 9(2)(a) | to protect the privacy of natural persons |
| 9(2)(b)(ii) | to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information |
| 9(2)(ba)(i) | to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public |
| 9(2)(ba)(ii) | to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest |
| 9(2)(f)(ii) | to maintain the constitutional conventions for the time being which protect collective and individual ministerial responsibility |
| 9(2)(f)(iv) | to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials |
| 9(2)(g)(i) | to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty |
| 9(2)(h) | to maintain legal professional privilege |
| 9(2)(i) | to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities |
| 9(2)(j) | to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) |



19 January 2023

OC221117

Hon Michael Wood
Minister of Transport

Action required by:
Friday, 27 January 2023

DRAFT PAPER SEEKING APPROVAL TO INTRODUCE THE LAND TRANSPORT MANAGEMENT (REGULATION OF PUBLIC TRANSPORT) AMENDMENT BILL

Purpose

This paper provides you with advice on the Land Transport Management (Regulation of Public Transport) Amendment Bill (the Bill) and provides you with a draft Cabinet paper seeking approval to introduce the Bill for Ministerial consultation.

Key points

- On 1 August 2022 Cabinet agreed that the necessary legislative amendments be made to establish the Sustainable Public Transport Framework (SPTF) [CAB-22-MIN-0293.01 refers].
- We have worked with the Parliamentary Counsel Office to prepare a draft Bill, giving effect to Cabinet policy decisions, which is attached in Annex 1.
- Policy issues have emerged during drafting, which we are seeking your decisions on:
 - to give effect to policy decisions to clarify the treatment of on-demand public transport services, we propose to establish 'regulated public transport services'. Regulated public transport services would be bundled into units, and would either be provided under contract or operated by the public transport authority (PTA)
 - we propose to establish transitional provisions that clarify the impact of the Bill on public transport planning, such that:
 - regional public transport plans (RPTPs) adopted before the Bill is passed will not be impacted, but will need to comply with the Bill the first time they are renewed or varied.
 - RPTPs in-progress when the Bill is passed will need to give effect to the Bill. This may delay the adoption of in-progress RPTPs, so we propose to waive the requirement in the Land Transport Management Act 2003 that RPTPs are kept current in these circumstances.

However, PTAs will be required to adopt these RPTPs as soon as practicable.

- We consider these proposals fall within the authorisations from Cabinet allowing you to make policy decisions while preparing the Bill.
- We are targeting introduction of the Bill in late-February or early-March 2023. On this basis we recommend undertaking Ministerial consultation on the draft Cabinet paper to enable the Cabinet Legislative Committee to consider the paper on either 16 or 23 February 2023.

Recommendations

We recommend you:

- 1 **agree** the Land Transport Management (Regulation of Public Transport) Amendment Bill (the Bill) should:

| | | | | | | | |
|--|---|----------|--|----------|---|----------|--|
| a) establish 'regulated public transport services' to give effect to policy decisions relating to on-demand public transport services | Yes / No | | | | | | |
| b) require that regulated public transport services be bundled into units and be provided under contract to, or be operated by, public transport authorities | Yes / No | | | | | | |
| c) include transitional provisions that: <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;">i) clarify that regional public transport plans (RPTPs) adopted prior to the Bill passing will be unaffected, but will need to comply with the Bill the first time they are renewed or varied.</td> <td style="text-align: right; vertical-align: top;">Yes / No</td> </tr> <tr> <td style="padding-left: 20px;">ii) require public transport authorities to give effect to the Bill in regional public transport plans (RPTPs) that are in-progress when the Bill is passed</td> <td style="text-align: right; vertical-align: top;">Yes / No</td> </tr> <tr> <td style="padding-left: 20px;">iii) waive the requirement in the Land Transport Management Act 2003 that RPTPs are kept current where RPTPs are in-progress when the Bill is passed, but require PTAs to adopt these RPTPs as soon as practicable</td> <td style="text-align: right; vertical-align: top;">Yes / No</td> </tr> </table> | i) clarify that regional public transport plans (RPTPs) adopted prior to the Bill passing will be unaffected, but will need to comply with the Bill the first time they are renewed or varied. | Yes / No | ii) require public transport authorities to give effect to the Bill in regional public transport plans (RPTPs) that are in-progress when the Bill is passed | Yes / No | iii) waive the requirement in the Land Transport Management Act 2003 that RPTPs are kept current where RPTPs are in-progress when the Bill is passed, but require PTAs to adopt these RPTPs as soon as practicable | Yes / No | |
| i) clarify that regional public transport plans (RPTPs) adopted prior to the Bill passing will be unaffected, but will need to comply with the Bill the first time they are renewed or varied. | Yes / No | | | | | | |
| ii) require public transport authorities to give effect to the Bill in regional public transport plans (RPTPs) that are in-progress when the Bill is passed | Yes / No | | | | | | |
| iii) waive the requirement in the Land Transport Management Act 2003 that RPTPs are kept current where RPTPs are in-progress when the Bill is passed, but require PTAs to adopt these RPTPs as soon as practicable | Yes / No | | | | | | |
- 2 **agree** to undertake Ministerial consultation on the draft Cabinet paper seeking approval to introduce the Bill Yes / No

- 3 **provide** feedback to officials on the draft Cabinet paper in time for a final version to be lodged for consideration by the Cabinet Legislation Committee on either 16 or 23 February 2023.



Helen White
Manager, Mobility and Safety
 18 / 01 / 2023

Hon Michael Wood
Minister of Transport
 / /

- Minister's office to complete:**
- Approved
 - Declined
 - Seen by Minister
 - Not seen by Minister
 - Overtaken by events

Comments

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Contacts

| Name | Telephone | First contact |
|---|-----------|------------------|
| Helen White, Manager, Mobility and Safety | | ✓ |
| Jacob McElwee, Principal Adviser, Mobility and Safety | s 9(2)(a) | |
| Chris Roblett, Principal Solicitor | | For legal issues |

DRAFT PAPER SEEKING APPROVAL TO INTRODUCE THE LAND TRANSPORT MANAGEMENT (REGULATION OF PUBLIC TRANSPORT) AMENDMENT BILL

Cabinet agreed to legislative amendments to establish the Sustainable Public Transport Framework

- 1 On 1 August 2022 Cabinet agreed that the necessary legislative amendments be made to establish the SPTF [CAB-22-MIN-0293.01 refers]. To support establishment of the SPTF, Cabinet agreed to amend legislation to:
 - 1.1 embed the new SPTF objectives in the regulation of public transport
 - 1.2 enable more flexibility around service delivery and asset ownership arrangements – including enabling PTAs to operate public transport services
 - 1.3 support benchmarking to inform investment decisions in relation to delivery models – including by requiring transparency around various aspects of service operation
 - 1.4 improve roles and relationships in the public transport sector – encouraging greater collaboration between regional councils and territorial authorities
 - 1.5 improve the regulation of exempt services – including clarifying the process to add or remove an exemption and ensuring the process is aligned with the SPTF objectives
 - 1.6 clarify the treatment of on-demand public transport services – ensuring greater flexibility around the type of services that PTAs can provide.

The Bill gives effect to Cabinet policy decisions

- 2 We have worked with the Parliamentary Counsel Office to prepare a draft Bill, which is provided in Annex 1. We note the Bill currently contains some remaining queries in relation to drafting, which we are working through with the Parliamentary Counsel Office. These queries will be resolved prior to Cabinet consideration.

The Bill amends principles that guide planning, procurement and delivery of public transport services

- 3 To embed the SPTF objectives in the regulation of public transport, the Bill amends principles that guide the planning, procurement and delivery of public transport services. The amended principles will ensure an increased focus on environmental and health outcomes, mode-shift, and fair and equitable treatment of the public transport workforce.

The Bill enables public transport authorities to operate services in-house

- 4 The Bill removes the requirement that local authorities hold public transport interests in a council-controlled trading organisation and enables PTAs to operate services in-

house. Where public transport services are outsourced to a third-party, PTAs will still be required to contract the services. This will provide greater flexibility around asset ownership and service delivery arrangements.

The Bill establishes a new transparency requirement around aspects of service delivery

- 5 The Bill establishes a requirement that planning, procurement, and operation of public transport services must be carried out in an open and transparent manner. This includes in relation to operating costs, service performance, the vehicles and vessels used to deliver services, and the financial performance of the operator. This will support benchmarking of service delivery and value for money from public transport investment.

We have identified some policy issues while preparing the Bill

We propose that the Bill establishes a new category of public transport service called 'regulated public transport services'

- 6 As noted above, Cabinet agreed to clarify the treatment of on-demand public transport services. Under the proposed changes PTAs will be able to provide any form of passenger transport service through any mode, other than air transport, whether delivered to a timetable or not. However, as agreed by Cabinet, a smaller subset of commercially operated services will be regulated under the SPTF – limited to those services more likely to impact public transport services provided by PTAs.
- 7 To give effect to this, we propose the Bill establishes a new category of public transport service called 'regulated public transport services'. Regulated public transport services will be services that are identified by PTAs as integral in RPTPs, but will not include exempt services. Regulated public transport services will be bundled into units, and would either be provided under contract or operated by the PTA.
- 8 As agreed by Cabinet, the Bill includes some on-demand services in the exempt services framework. These services will be registered with the relevant PTA and will be subject to an improved regulatory framework.

We propose that the Bill include transitional provisions to clarify the impact of reforms on public transport planning

- 9 We propose that the Bill clarifies that RPTPs adopted prior to the passing of the Bill will be unaffected. However, PTAs will need to comply with the Bill the first time the RPTP is renewed or varied.
- 10 We are aware PTAs might be in the process of reviewing existing RPTPs or developing new RPTPs while the Bill is progressed through Parliament. If the Bill comes into force when a RPTP is in progress, we propose that the PTA is required to give effect to the amendments in the relevant RPTP. This would ensure all RPTPs adopted after the Bill passes will comply with it. There is a risk this could delay the adoption of in-progress RPTPs and create further work for PTAs. However, by including this as a transitional provision, PTAs will be aware of the proposed approach and can act accordingly.

- 11 To provide for any delays to the adoption of RPTPs, we propose to waive the requirement that RPTPs be kept current where a RPTP is in progress when the Bill comes into force. However, PTAs will be required to adopt a RPTP as soon as reasonably practicable.

Cabinet authorised you to make policy decisions while preparing the Bill

- 12 Cabinet authorised you to determine matters of minor or consequential policy detail. Cabinet also authorised you to make decisions that are consistent with the overall policy, provided these decisions are confirmed when the Bill is considered for introduction [CAB-22-MIN-0293.01 refers]. We consider that the proposal to establish ‘regulated public transport services’ and the proposed transitional provisions relating to RPTPs fall within these Cabinet authorisations. The draft paper asks Cabinet to note these policy decisions.

We have prepared a draft paper seeking Cabinet approval to introduce the Bill

- 13 A draft paper seeking Cabinet approval to introduce the Bill is attached at Annex 2. We are currently consulting departments on the paper and draft Bill.

We are targeting Bill introduction in late-February or early-March

- 14 s 9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED] We are therefore targeting introduction of the Bill to Parliament in late-February or early-March 2023. On this basis, we recommend undertaking Ministerial consultation on the draft Cabinet paper to enable the Cabinet Legislative Committee to consider the paper on either 16 or 23 February 2023.

- 15 The table below provides an indicative timeline for the Bill.

| Milestone | Indicative Timing |
|--|--|
| Departmental consultation on the draft LEG paper | 16 January 2023 |
| Ministerial consultation on the draft LEG paper | Week ending 27 January 2023 |
| LEG committee | 16 or 23 February 2023 |
| Cabinet approval to introduce the Bill | 27 February or 6 March 2023 |
| Bill introduced to Parliament | 28 February or 7 March 2023 |
| First reading | 7 March or 14 March 2023 |
| Select Committee – Public Consultation | Possibly closing late-April (given Parliamentary recess) |
| Select Committee Departmental Report | Early-June |
| Possible Select Committee Report Back | 28 July 2023 |

ANNEX 1: Draft Land Transport Management (Regulation of Public Transport) Amendment Bill

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**ANNEX 2: Draft paper seeking Cabinet approval to introduce the
Land Transport Management (Regulation of Public Transport)
Amendment Bill**

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