

**In Confidence**

Office of the Minister of Transport

Cabinet Legislation Committee

**Land Transport Management (Regulation of Public Transport) Amendment Bill:  
approval for Introduction**

**Proposal**

- 1 This paper seeks approval for the Introduction of the Land Transport Management (Regulation of Public Transport) Amendment Bill (the Bill).

**Relation to government priorities**

- 2 The Bill supports the Government's commitment to reduce emissions as part of our response to climate change. The Bill supports and implements actions in the Emissions Reduction Plan.
- 3 The Bill supports decarbonising the public transport bus fleet. This is an important part of decarbonising public transport, an area for co-operation under the Cooperation Agreement between the Labour and Green Parties.
- 4 The Bill also supports the Government's priority to provide an inclusive economy where economic growth is shared by all. The proposals include a strong focus on protecting and improving terms and conditions of those employed in the public transport sector.

**Policy**

- 5 On 1 August 2022, Cabinet noted that I intend to replace the Public Transport Operating Model (PTOM) with the Sustainable Public Transport Framework (SPTF) and agreed that the necessary legislative amendments be made to establish the SPTF [CAB-22-MIN-0293.01 refers].
- 6 The SPTF will retain some of the key structural features of PTOM that have been successful, including retaining the responsibilities of public transport authorities<sup>1</sup> (PTAs) for planning, procuring, and delivering services. However, the SPTF will have objectives that prioritise mode-shift, fair and equitable treatment of employees, and improved environmental and health outcomes.
- 7 To support establishment of the SPTF, Cabinet agreed to amend legislation to:
  - 7.1 embed the SPTF objectives in the regulation of public transport
  - 7.2 enable more flexibility around service delivery and asset ownership arrangements – including enabling PTAs to operate public transport services

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1 Public transport authorities are regional councils, Auckland Transport, unitary authorities (other than Auckland Council) and territorial authorities that have the public transport function.

- 7.3 support benchmarking to inform investment decisions in relation to delivery models – including by requiring transparency around various aspects of service operation
- 7.4 improve roles and relationships in the public transport sector – encouraging greater collaboration between regional councils and territorial authorities
- 7.5 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
- 7.6 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**

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

- 8 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*

- 9 The Bill enables PTAs to operate public transport services 'in-house' or to continue to contract out the operation of public transport services. As part of this, the Bill removes the requirement that local authority interests in public transport services are held in a council-controlled trading organisation. This will provide greater flexibility around asset ownership and service delivery arrangements.

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

- 10 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.

*The Bill implements other agreed reforms to public transport*

- 11 The Bill implements the other agreed reforms to public transport. This includes encouraging greater collaboration between regional councils and territorial authorities, improving the regulation of exempt services, and providing greater flexibility around the types of services PTAs can provide.

**I have made policy decisions in the course of preparing the Bill**

- 12 Cabinet authorised me to determine matters of minor or consequential policy detail. Cabinet also authorised me 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]. I have made policy decisions in the course of preparing the Bill and I am seeking confirmation of these decisions.

*The Bill allows some exempt commercial services to be operated without being registered*

- 13 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, I wanted to ensure a smaller subset of commercially operated passenger transport services are subject to registration requirements in the exempt services framework – limited to those services more likely to impact public transport services provided by PTAs.
- 14 To achieve this, the Bill:
- 14.1 expands the definition of public transport to include unscheduled (on-demand) public transport services and shuttle services
  - 14.2 expands the scope of exempt services to include commercial on-demand services and commercial shuttle services
  - 14.3 allows some exempt commercial on-demand services and all exempt shuttle services to be operated without being registered with the relevant PTA.<sup>2</sup>
- 15 This is consistent with the policy intent of what was agreed by Cabinet and is necessary to avoid unintended consequences.

*The Bill includes transitional provisions to clarify the impact of reforms on public transport planning*

- 16 The Bill clarifies that regional public transport plans (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 must be renewed or varied.
- 17 I am 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, I 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.
- 18 To provide for any delays to the adoption of RPTPs, I 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.

## **Impact Analysis**

### **Regulatory Impact Statement**

- 19 A regulatory impact assessment was prepared in accordance with the necessary requirements, and was submitted at the time that Cabinet approval of the policy relating to the Bill was sought [CAB-22-MIN-0293.01 refers].

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2 Currently all exempt services must be registered with the relevant PTA.

## Compliance

- 20 The Bill complies with each of the following:
- 20.1 the principles of the Treaty of Waitangi;
  - 20.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
  - 20.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 20.4 the disclosure statement requirements;
  - 20.5 the principles and guidelines set out in the Privacy Act 2020;
  - 20.6 relevant international standards and obligations;
  - 20.7 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

## Consultation

### *Public consultation and sector engagement*

- 21 Officials undertook public consultation on the PTOM Review Discussion Paper in May 2021 and undertook further engagement with key sector stakeholders to refine policy proposals. This consultation informed Cabinet policy decisions, which have been reflected in the Bill.

### *Agency consultation*

- 22 The following agencies have been consulted on this Cabinet paper: ACC, Department of Conservation, Department of Internal Affairs, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of Social Development, Ministry for Primary Industries (Rural Communities team), Office for Seniors, Office for Disability Issues, NZ Police, Waka Kotahi NZ Transport Agency (Waka Kotahi), Te Puni Kōkiri, NZ Treasury, WorkSafe, Ministry for the Environment, Ministry for Housing and Urban Development, and the Public Service Commission. The Department of the Prime Minister and Cabinet has been informed.
- 23 The agencies consulted were supportive of the proposed reforms. The Ministry of Social Development and Department of Internal Affairs noted the importance of supporting local government to implement reforms and noted the capacity of PTAs and territorial authorities to give effect to the Bill will vary. As previously noted by Cabinet, I have asked officials to develop operational policy to support implementation of reforms [CAB-22-MIN-0293.01 refers]. Waka Kotahi is developing this operational policy and will engage with key stakeholders, including PTAs, during this process.

## Binding on the Crown

- 24 The Bill amends the Land Transport Management Act 2003, which binds the Crown.

## Creating new agencies or amending law relating to existing agencies

- 25 The Bill does not create a new agency.

### Allocation of decision-making powers

- 26 The Bill does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

### Associated Regulations

- 27 Regulations will not be needed to bring the Bill into operation.

### Other instruments

- 28 The Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

### Definition of Minister/department

- 29 The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

### Commencement of legislation

- 30 The Bill is drafted to come into force on the day following Royal Assent.

### Parliamentary stages

- 31 The Bill should be introduced to the House on 13 March 2023 and passed no later than 31 August 2023.
- 32 I propose that the Bill be referred to the Transport and Infrastructure Committee for a period of more than four months.

### Proactive Release

- 33 This paper will be proactively released on the Ministry of Transport's website following the Bill's introduction into the House of Representatives, with any redactions in line with the Official Information Act 1982.

### Recommendations

The Minister of Transport recommends that the Cabinet Legislation Committee:

- 1 **note** that in August 2022, Cabinet agreed [CAB-22-MIN-0293.01 refers] that legislative amendments be made to establish the Sustainable Public Transport Framework and:
  - 1.1 invited the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office;
  - 1.2 authorised the Minister of Transport to determine matters of minor or consequential policy detail that may arise in the course of preparing the Bill; and
  - 1.3 authorised the Minister of Transport to make decisions that are consistent with the overall policy, provided that these decisions are confirmed when the Bill is considered for introduction;
- 2 **note** that the Land Transport Management (Regulation of Public Transport) Amendment Bill (the Bill) has been prepared to give effect to Cabinet policy decisions;

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- 3 **note** that in accordance with recommendations 1.2 and 1.3 above the Minister of Transport has decided that the Bill should:
- 3.1 clarify the treatment of on-demand public transport services by:
    - 3.1.1 expanding the definition of public transport to include unscheduled (on-demand) public transport services and shuttle services;
    - 3.1.2 expanding the scope of exempt services to include commercial on-demand services and shuttle services;
    - 3.1.3 allowing some exempt commercial on-demand services and all commercial shuttle services to be operated without being registered with the relevant public transport authority;
  - 3.2 include transitional provisions that:
    - 3.2.1 clarify that regional public transport plans (RPTPs) adopted prior to the Bill passing will be unaffected;
    - 3.2.2 require public transport authorities to give effect to the Bill in RPTPs that are in-progress when the Bill is passed;
    - 3.2.3 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 these RPTPs to be adopted as soon as reasonably practicable;
- 4 **note** that the Bill holds a category 3 priority (to be passed if possible before the 2023 general election) on the 2023 Legislation Programme;
- 5 **approve** the Land Transport Management (Regulation of Public Transport) Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 6 **agree** that the Bill be introduced on 16 March 2023;
- 7 **agree** that the government propose that the Bill be:
- 7.1 referred to the Transport and Infrastructure committee for consideration;
  - 7.2 enacted by 8 September 2023.

Authorised for lodgement

Hon Michael Wood

**Minister of Transport**

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