



LOCAL GOVERNMENT NEW ZEALAND SUBMISSION

In the matter of the Land Transport Management Amendment Bill

To the Transport and Industrial Relations Select Committee

Submission by Local Government New Zealand

IN THE MATTER OF:

The Land Transport Management Amendment Bill

To the Transport and Industrial Relations Select Committee

26 OCTOBER 2012

Contents

Introduction.....	4
Executive Summary	5
Government policy statement.....	5
Summary.....	5
Commentary	6
Recommendations.....	7
A single regional land transport plan.....	8
Summary.....	8
Commentary	8
Recommendations.....	9
Passenger transport operating model	10
Summary.....	10
Commentary	10
Recommendations.....	12
Purpose of the Bill and decision-making criteria.....	12
Summary.....	12
Commentary	13
Recommendation	13
Regional fuel tax	14
Summary.....	14
Commentary	14
Ministry of Transport access to the NLTF.....	15
Recommendation	15
Other specific matters	15
The ability to carry forward a proportion of funds between three year funding periods:.....	15
Matters the Minister must take into account when deciding of the GPS:	16

Introduction

1. Local Government New Zealand (LGNZ) welcomes the opportunity to submit on the Land Transport Management Amendment Bill (the Bill).
2. It has been prepared after analysing the Bill and consulting with local authorities on a number of specific options. This submission seeks to reflect a workable national solution to the matters raised by the Land Transport Management Amendment Bill.
3. LGNZ wishes to be heard on this submission.
4. LGNZ is a member based organisation representing all 78 local authorities in New Zealand. LGNZ's governance body is the National Council. The members of the National Council are:
 - Lawrence Yule, President, Mayor, Hastings District Council
 - John Forbes, Vice-President, Mayor, Opotiki District Council
 - John Bain, Zone 1, Deputy Chair, Northland Regional Council
 - Richard Northey, Zone 1, Councillor, Auckland Council
 - Meng Foon, Zone 2, Mayor, Gisborne District Council
 - Jono Naylor, Zone 3, Mayor, Palmerston North City Council
 - Adrienne Staples, Zone 4, Mayor, South Wairarapa District Council
 - Maureen Pugh, Zone 5, Mayor, Westland District Council
 - Tracy Hicks, Zone 6, Mayor, Gore District Council
 - Len Brown, Metro Sector, Mayor, Auckland Council
 - Dave Cull, Metro Sector, Mayor, Dunedin City Council
 - Stuart Crosby, Metro Sector, Mayor, Tauranga City Council
 - Brendan Duffy, Provincial Sector, Mayor, Horowhenua District Council
 - Stephen Woodhead, Regional Sector, Chair, Otago Regional Council
 - Fran Wilde, Regional Sector, Chair, Greater Wellington Regional Council.
5. This submission has been prepared under the direction of the National Council. Councils may choose to make individual submissions. The LGNZ submission does not derogate from these individual submissions.
6. The final submission was endorsed under delegated authority by Lawrence Yule, President, LGNZ.

Executive summary

7. *Local Government New Zealand* supports the streamlining of legislation – making it more accessible and less prescriptive. The existing legislation is very convoluted and repetitive. Therefore, at the least it makes sense to streamline it to make it more accessible. The Bill provides a basis for this to happen.
8. However, the Bill goes further than this.
9. As a result there are a number of significant policy matters. These are:
 - Government Policy Statement (GPS) – increased scope and influence and mismatch in timing.
 - The Regional Land Transport Plan (regional Plan) – the significant focus on the programme component of the document and the complexity of the programme that must be submitted to New Zealand Transport Agency (NZTA) yet consulted with the community.
 - Passenger Transport Operating Model (PTOM) – workability across all regions, the role of the Regional Passenger Transport Plan (PT Plan), and transition (in particular in regions with smaller scale public transport provision).
10. Other policy matters of importance which we address include:
 - The purpose statement and decision making criteria – the cost and uncertainty of change and more certainty around overall policy intent.
 - Regional Fuel Tax (RFT) – lack of action on revenue suitability and funding sustainability.
11. LGNZ broadly supports or accept the policy changes relating to:
 - Narrowing membership of the Regional Land Transport Committee (RLTC).
 - Aligning consultation with the Local Government Act (LGA).
 - Access to the National Land Transport Fund (NLTF) for the Ministry of Transport.
 - Simplifying the provisions for public private partnerships (PPP's) and tolling.
12. There are a number of matters that are more specific in nature which we will comment on including:
 - The ability to carry forward a proportion of funds across three year periods.
 - The matters the Minister must take into account when deciding on the GPS.
13. LGNZ submission is focused on the policy settings provided by the Bill. Given the broad nature of our comments, in most instances we have not provided suggestions for re-drafting provisions in the Bill. If the policy suggestions we make are accepted we are happy to discuss providing further comments if needed.
14. We welcome the opportunity to appear before the Select Committee.

Government policy statement

Summary

15. LGNZ accepts that the Government has a clear interest in matters relating to land transport funding – it charges and collects over \$8 billion of road user charges and petrol excise, with around \$3 billion being invested in all local and regional transport initiatives over this and the next two years. It appropriately has expectations around the use of its funding share. The existing GPS on land transport funding

reflects this interest and has already had a significant impact. However, an effective partnership is needed to ensure that both national and local interests are appropriately served. LGNZ feel that this balance is being significantly shifted by the Bill.

16. LGNZ does not accept that a more broadly focused GPS should have the degree of influence over regional policy and implementation that the Bill enables. LGNZ does not support what almost amounts to combining the National Land Transport Strategy (NLTS) with the GPS on land transport funding, without appropriate or sufficient checks and balances. It enables significant influence over local decision making on transport well beyond the scope of the existing funding relationship. Given recent practice and experience this is likely to introduce even more churn, bureaucracy and inefficiency.

Commentary

17. Local government generally accepts the use of the existing GPS on land transport funding as a way for the Government to state its expectations around how the NZTA should manage the NLTF and National Land Transport Programme (NLTP) and what its overall expectations are around its share of regional and local transport projects. The fact that the overall direction of the GPS can change significantly and even fundamentally over time, and thus generate both cost and uncertainty, is of concern.
18. What is of significant concern is the way in which the Bill enables Government to add to the GPS matters beyond land transport funding (“other matters”). Other than referring to the inclusion of “other matters” there is no expansion of that concept in the Bill so that they could be of a nature that has a fundamental and unreasonable impact on regional/local autonomy and decision making. For a range of reasons (including timing) the GPS could well have far reaching and very costly implications at the regional/local level. The only potential means of redress is the use of Judicial Review which is costly in both time and money and by its very nature adversarial. Even with Judicial Review, only process is addressed not matters of policy substance.
19. As a non-regulatory mechanism the GPS should not be used in this way.
20. The requirement for a Regional Plan to be consistent with the GPS is a higher test than currently exists between the GPS and the Regional Land Transport Strategy (RLTS). In effect, the change creates a stronger top down link from national policy expectations to regional and local implementation, which will be driven through a document that has no genuine ‘consultation’ attached to its development. Given the requirement for local government to consult on its policy and strategy, the difference between national and regional/local setting clearly shows that there are two standards applying to fair and due process.
21. Local government has long called for the introduction of a National NLTS. While developing a NLTS might not result in a product that would necessarily satisfy local government policy views, it would be built on a foundation that was open, transparent and encouraging of debate. Its foundation would therefore more likely stand the test of time. While we acknowledge that convincing any Government to develop a NLTS is highly unlikely, it is this kind of approach that will provide the certainty that is being sought by local government and others.
22. As experienced in 2010, with the release of a new GPS, the process of responding to it was time consuming, rushed, and did not fit with the legal requirement on local government to complete Long Term Plans (LTP) before the start of the financial year. While a number of practical “work around” solutions were found, the situation was far from efficient and should not be repeated.
23. At the heart of the problem is the requirement to develop and confirm a LTP (including transport funding) before the end of a financial year and the likelihood that a new Government/Minister will want to release a GPS around the time that decisions need to be made to finalise the LTP. Local government

cannot simply adopt the GPS as NZTA first need to operationise it and advise individual local authorities on funding levels. While the Bill addresses timing issues for NZTA by formalising a September release date for the NLTP, the same consideration has not been extended to addressing the substantive and costly issues facing local government – which are generated because of government legislation. We note that this kind of policy mismatch currently is under review more generally by the Commerce Commission.

Table 1 - Timing mismatch within the LTMA and between LTMA and LGA

	2013	2014		2015		2016
	2013/2014		2014/2015		2015/2016	
national election and forming govt				*-----*		
GPS					develop/approve	
NLTP					develop	approve
regional Plan			develop	consult	approve	
PT Plan			develop	consult	approve	
LTP			develop	consult	approve	
local election	*					

24. It is possible to review the timeframes around developing, consulting and finalising the regional Plan, the NLTP, and the GPS. A number of possible options are likely to arise each with their own issues. These could include:

- Moving the LGA and LTMA planning cycle for local government on by one year. This has significant ramifications across other legislation and, because the NLTP has to be amended as soon as possible, may still trigger a review and consultation of LTP’s and transport documents.
- Delaying the timeframe within which the GPS has to be given effect to by the NZTA. This provides more time to review and modify documents but does not address the need for re-work at some stage. This may also have ramifications for the election cycle.
- Mirroring a provision in the LGA which enables a Council to delay the finalisation of their LTP till the end of October if they get an unfavourable audit result. This does not reduce the need for re-work but means that re-work does not have to be done as a possible amendment to the planning documents.

25. LGNZ encourages the Select Committee to give serious consideration to the issue of timing as it will be an ongoing source of inefficiency and substantive tension between the LGA and the LTMA. LGNZ is happy to discuss their thinking further if there is agreement that timing is an issue that needs to be resolved.

26. The GPS proposed in the Bill will not “increase certainty and reduce needless bureaucracy ... (and) reduce process costs ...” It will more likely result in the opposite, in part because local government may need to change the regional Plan more frequently and more fundamentally. This will create churn and rework that is not necessarily an efficient use of resources or in the public interest.

Recommendations

27. LGNZ strongly recommends retaining the status quo.

28. If the LGNZ recommendation is not likely to gain majority support, then at the least the Bill should be amended so that local government should only have to “have regard” to any matters beyond land transport funding. If “other matters” are to be included there should also have to be consultation (in its proper legal sense) with key interests, and there needs to be more detail in the Bill about the scope and limitations of what can be addressed.
29. Under any scenario LGNZ also recommend that the Select Committee give serious consideration to the timing of the GPS and links between the Bill and the LGA.

A single regional land transport plan

Summary

30. Under existing legislation a few regions have previously consulted on their RLTS and RLTP together, with differing views of the experience. In one situation project identification drove the strategy, and in another the focus of community comment was on strategy matters and no feedback on projects.
31. While there is varying experience on the ground, LGNZ agree with the creation of a single Regional Land Transport Plan (regional Plan) through combining the existing RLTS and the Regional Land Transport Programme (RLTP).
32. However, the Bill does not go far enough in addressing the strategic and programme links between the LGA and the LTMA. It also continues to reinforce the growing gap between expectations of the NZTA and what is needed for communities to engage effectively with councils on direction and for their communities to hold them to account.

Commentary

33. The creation of a single regional Plan has received a lot of comment from local government and many different suggestions as to how it could be improved. The following reflect some of the thoughts underpinning these suggestions.
 - There is concern about the dumbing down of the strategy and policy components of the proposed regional Plan and the reduced emphasis on the link between the resource and land use focus of the RMA and the transport focus of the LTMA.
 - There is already significant cost in complying with the existing requirements of the Regional Land Transport Programme provisions in the LTMA, especially for smaller projects beyond three years and where there is no intention by NZTA to fund the projects from the NLTF.
 - Concern exists under current legislation that the GPS and subsequent actions by the NZTA have already diminished the impact that regional prioritisation has on funding decisions. Regional prioritisation came about as the result of Regional Fuel Tax and regional or “R” funding, both of which we expect will not be available to local government. As a result, the question needs to be asked if there is any value in actually consulting on priorities at the regional level.
34. The Bill appears to have an almost single minded focus on the programme component of the regional Plan. There is little detail around the strategy and policy components of the regional Plan. However, carried over from the LTMA there is significant detail around the programme components, with the NZTA still able to specify more detail on the form and content of the material provided. In practice there is a growing disjunction between what the NZTA want for their own purposes and what the

community might need, and in what form, to ensure they can influence direction and hold their council to account. There is also a growing disjunction between the LTP consultation and the programme components of the regional Plan.

35. LGNZ recommends that further consideration be given to how the LTP, regional Plan and NLTP requirements fit together. For example, the Regional Plan could focus on the significant activities needed to give effect to the strategy/policy component of that document. The detail required by NZTA for the purpose of decisions on the NLTP could be contained in a legislated regional programme which does not require consultation as the necessary consultation should be able to occur through the LTP and regional Plan processes. It should not be necessary to prescribe requirements around the LTP consultation only those matters that NZTA say they need to receive to make funding decisions. This consideration should further the intention behind the Bill to simplify, streamline and reduce bureaucracy.
36. From a policy perspective this would make for a more streamlined linkage between the LGA and the Bill and ensure that the purpose of each document was clearer. However, this framework would leave no mechanism for people to comment more broadly on state highway projects. If government wished to provide the opportunity for community input to state highway projects, beyond those that are deemed by the RLTC to be significant, then from local government's perspective it is perfectly feasible for a national process to be run by the NZTA as it was almost a decade ago.
37. Given the timeframe available for submissions we have had insufficient time to test this proposal with the sector for its practical and cost ramifications.
38. The Bill is currently silent on the Auckland Spatial Plan. There should be a clear link between that plan and any statutory land transport documents. If spatial plans are included in the next round of RMA amendments, then a similar link will need to be created. However, consideration will need to be given through that process about the applicability, relevance and cost of extending the Spatial Plan as a tool across all regions. In the absence of a Spatial Plan then regions will have (as proposed in the Bill) little link between transport and RMA considerations on land use and resource management. This is of concern to local government.
39. If the Bill proceeds as is, it would be useful if it could recognise that the Regional Plan has two parts – one relating to policy and strategy, the other to more programme focused matters.

Recommendations

40. LGNZ agree with the creation of a single Regional Plan, and recommended that:
 - Consideration is given to more clearly aligning the role and consultation around the LTP's, the regional Plan and the programme requirements of the NZTA. This could involve the Regional Plan focusing only on the significant activities needed to give effect to the strategy/policy component of that document. The detail required by NZTA for the purpose of decisions on the NLTP could be contained in a legislated regional programme which does not require consultation as the necessary public consultation should be able to occur through the LTP and Regional Plan processes.
 - That the Bill recognises the two components that make up the document –policy and strategy, and the programme.
 - The link between Auckland's Spatial Plan and statutory transport documents are made clear.

Passenger transport operating model

Summary

41. LGNZ supports the principles and intention behind PTOM.
42. LGNZ is aware that the PTOM used to be a standalone Bill. In combining PTOM and the LTMA framework there appears to have been insufficient time to consult with stakeholders on how their feedback was reflected in the Bill, the Bills workability, and ensure that both Bills were consistent and of equal readiness.
43. As it stands the PTOM model cannot be operationalised in all regions in a way that is efficient or effective. We understand that some of the larger regions are in a position to be able to implement the Bill while others are already struggling (in terms of resources and the requirement of NZTA to begin implementation ahead of the legislation being passed). In many cases PTOM as contained in the Bill and the pre-emptive requirement of NZTA will result in more bureaucracy and churn with little improvement in service or cost.
44. LGNZ wish to see PTOM implemented in the best way possible – reflecting a workable, long term and affordable solution for both local government and operators, and ultimately to the benefit of users. It is clear that a workable balance between flexibility and certainty has not been achieved for New Zealand and thus a good outcome will not be achieved through this Bills drafting.

Commentary

45. While the Bill specifically provides for PTOM, it can in fact be implemented using the existing Public Transport Management Act. From the outset the changes therefore impose unnecessary cost. We therefore assume that the Government wants to remove the ability for other suitable models to be developed, including in regions that do not face the same scale of commercial versus contracted tension as larger centres do. LGNZ fully support the need to address these tensions while ensuring that the model is realistic, workable and affordable in all regions.
46. Of critical importance is the ability of the legislation (and indeed the associated policy and procedures of the NZTA) to provide sufficient flexibility to make the application of PTOM relevant and affordable to regions with different scales of public transport services as well as with different service and network characteristics. That said, we also acknowledge that there is a need to provide certainty that the principles underpinning PTOM are being followed.
47. In general there is broad agreement on the overall framework. However, in translating it into the Bill a number of overarching issues have arisen. There is more prescription than in other parts of the Bill. As a result of this prescription there is little flexibility to change how the PTOM operates on the ground and reduces the ability to respond to different scales of service provision, for example, Auckland versus Horizons Manawatu. For regions with smaller scale public transport provision the list of matters that must be covered in a PT Plan is far too onerous.
48. Prior to the Bill being referred to Select Committee, a number of matters were raised. They largely fall into two categories, “small p” policy and drafting issues. Some of the issues include:
 - Clarity of purpose and content of the PT Plan. For example, it is unclear what role the PT Plan has (a document that helps provide transparency and a platform for discussion between public transport operators and regional council, and/or a document for community input and comment – the two are not necessarily compatible).

- The reason for linking the PT Plan through the new regional Plan, in effect removing the need for NZTA to formally consider the PT Plan when making decisions.
 - The level of detail that needs to be contained in the PT Plan, for example routes and scheduling. As currently worded the Bill may result in changes to the PT Plan needing to be made more often than is currently the case and, if substantial, consulted on. Given the way the legislation is drafted, there is also uncertainty around how aspects of the Bill relate to procurement plans etc;
 - Enabling overlap between units to be resolved where overlap must exist. As an extreme example multiple units needing to pass through Lambton Quay.
 - The lack of transitional provisions for contracts that have to be signed between the legislation being enacted and the adoption of the PT Plan. This largely relates to the tension around local government having to give effect to the PTOM model prior to the legislation being passed.
 - Overall transitional provisions that potentially make it costly to implement in regions with smaller scale public transport provision.
49. Under existing legislation public transport has been treated somewhat differently from other modes of transport by having a separate document which describes a range of strategy, policy and operational matters. This is a point of debate in local government – with good reasons being put for both the status quo and change. However, LGNZ is unable to identify a clear system or network policy reason why the link between the PT Plan and the regional Plan proposed in the Bill should not be accepted.
50. If accepting that position then there needs to be a clearer basis to decide on the function and purpose of the PT Plan, and as a result how it is developed and consulted on.
- If a parallel is drawn between TLA's and regional councils, the LTP and informal mechanisms can be used to consult on matters relating to public transport with relevant information being reflected into the new regional Plan. This further streamlines consultation and thus the content of the PT Plan.
 - Given the importance of a number of matters that arose during the policy process (for example ensuring the creation of an appropriate relationship between operators and regional councils) the PT Plan could be a useful tool by which these matters are formalised in each region. The provisions for the PT Plan would therefore need to focus on what it might contain, how it should be develop (and if necessary consulted on), and any mechanisms to ensure that it is a fair representation of the relationship principles underpinning PTOM.
51. As already noted there is great variation in the scale and scope of public transport provision across regions. There is also great variation in the available resource to implement the changes contained in this Bill, the plethora of other legislative and policy changes confronting local government, as well as day-to-day business. The transitional provisions are critical to ensure that PTOM is implemented in a cost efficient and effective manner. Already some regions have identified a number of issues which will require time to work through with both NZTA and operators – possibly taking more time than is available to the Select Committee.
52. LGNZ understands that some of our suggestions may impact directly on the broad agreement that was reached during the policy process. To ensure that the final Bill is workable, it is important that any changes reinforce the core principles of PTOM whilst providing an agreeable and workable balance. Therefore, while the above provides a preferred framework, resolving the detail may need to be a joint effort between local government and operators as it is critical to get the balance right.
53. We would recommend that the Select Committee consider either: decoupling the PTOM provisions from the Bill and running it at a slower pace or; commit significant resource to resolve this issue within the time available. The latter could include appointing other experts from local government and operators to advise the Select Committee. LGNZ are happy to facilitate this process. On the other hand,

if further time were available it may enable local government and operators to reach suitable agreement for submission to the Select Committee.

54. Irrespective of the Select Committee's view on the above, LGNZ recommends that they consider making the transitional provisions more flexible. For example, the larger metropolitan areas who are more ready and resourced to implement PTOM continue under the proposed transitional provisions. Regions with smaller scale public transport provision should then be subject to transitional provisions that are agreed with NZTA and approved by the Minister - the test being workability and cost for both local government and operators. We have not identified which of the larger metropolitan areas the current transitional provisions might apply to. This may be a matter that you wish to raise with individual councils appearing before you.
55. Select Committee may also wish to turn its mind to matters of Public Law associated with regional councils having to give effect to PTOM prior to the passing of the Bill.

Recommendations

56. LGNZ broadly accept PTOM although recommend:
 - Focusing the PT Plan on the relationship between operators and regional councils –probably removing the need for public consultation.
 - Reducing prescription and providing flexibility in what analysis must be undertaken and what matters must be covered in the PT Plan for regions with smaller scale public transport. This needs to be effectively mirrored in the approach being taken by NZTA in its guidance.
 - Amending the transitional provisions to provide greater flexibility outside regions with large scale public transport provision based on the reality of the costs and effectiveness of transition. This transition could be agreed with NZTA and approved by the Minister.
57. LGNZ acknowledge that PTOM was designed to balance the needs and expectations of both local government and operators, while meeting the government's expectation of value for money and incentivising the development of public transport networks, including by operators. Given that, and the risk of producing poor quality legislation, LGNZ recommend that the Select Committee consider either:
 - Decoupling PTOM from the Bill and running it on a slower timeframe. This may have further ramifications for some regions who have been holding off letting new contracts but would be of significant benefit to others; and/or
 - Appointing additional experts to the Committee (including local government and operators) so that these issues can be more openly worked through. LGNZ is happy to facilitate this process.

Purpose of the Bill and decision-making criteria

Summary

58. Local government strongly believes that a legislative purpose statement should give a sense of the outcomes sought. For that reason we recommend that the existing purpose statement remain.
59. LGNZ note that changing the purpose statement of an Act to the extent proposed in this Bill in and of itself generates cost and uncertainty. This is exacerbated when put alongside changes in decision

making criteria. However, we accept the need for streamlining the decision-making criteria as part of making the Bill more accessible.

60. If an outcome based purpose statement does not gain majority support the Bill should at the least provide clarity on what is meant by the “Public Interest.” This would provide some guidance to courts and decision makers, and would clearly indicate that the intention was not purely a return to the narrow approach that developed through the 1990’s.

Commentary

61. It is clear that Government wishes to narrow the factors that local government can take into account in deciding on transport funding and planning by narrowing the framework within which decisions are made. Local government is concerned that the Bill goes too far and will result in new cost and increased uncertainty for local government, communities and business.
62. We acknowledge that “Public Interest” provides a very high level test. It has generally been used in legislation when discretion needs to be given to decision-makers. While discretion can be a positive thing (and in this case a two edged sword), the extent to which it can be exercised by local government in reality will be influenced by; other parts of the legislation; how central government uses the proposed GPS; and how the NZTA give effect to the two. The latter two will have by far the most significant influence. While the term Public Interest is only contained in the purpose of the Bill, based on generally accepted norms of administrative fairness, the decision-maker should have to justify why a decision is in the “Public Interest.” How this works in reality will be tested if someone chooses to challenge a decision. Including the term in other key parts of the Bill would help to emphasise its importance especially if being looked at by the courts.
63. There is no definition of Public Interest in the Bill. While a difficult notion to describe, it would be useful if a broad definition were included, again as a means of indicating the policy intention including to the courts. A definition could be, “in the interest of the public generally as opposed to the interest of a particular group or interest.” It would be possible to consider an argument where having something done in the interest of trucks without taking into account the community, other road users, or the environment upon which people rely, would not be in the Public Interest. Clarification could be further provided by indicating that, in considering the Public Interest a wide range of effects (including costs and benefits, both quantitative and qualitative) must be considered.
64. The other terms (efficient, effective and safe) were used in transport legislation prior to 2003 and therefore carry with them a lot of baggage. The Bill requires decisions at the strategy and programme level to be expressly considered against efficiency and effectiveness. In the absence of other tools, the current economic based benefit to cost ratio will probably continue to be the main test of efficiency. This is the current situation as the benefit to cost ratio is already very prominent in the 2012 GPS and therefore NZTA’s prioritisation framework – even though the LTMA’s purpose and decision making criteria are much broader. This reinforces the view of LGNZ that changing the purpose statement itself signals a significant shift in policy and will introduce costs to the system with unclear changes to the funding aspects of the Bill.

Recommendation

65. LGNZ recommend retaining the existing purpose statement while streamlining the decision-making criteria with the central tests being efficient and effective. LGNZ note that this will be the most cost effective option and the one least likely to generate uncertainty and churn. The Government has already

shown the extent to which it can influence final funding decision using the GPS within the existing purpose statement.

66. If our proposal does not gain majority support, LGNZ would strongly recommend providing clarity around the term “Public Interest”, including providing a generic definition of the “Public Interest” and looking to where “Public Interest” can be incorporated into other parts of the decision making process, to best effect.

Regional fuel tax

Summary

67. Regional fuel tax (RFT) is the only user focused funding which enables regions to invest in regional transport priorities. National funding is more and more focused on national priorities and an aggregate national view of what is important and how it should be addressed. Alongside that, while an efficient form of taxation rates do not provide an effective link to levels of road use.
68. The removal of RFT signals an ongoing unwillingness to address the more substantive issue around revenue collection for and funding of transport. For this reason LGNZ does not support the removal of RFT provisions from the Bill, on a matter of principle.
69. Linked to this, we support providing additional access to the NLTF so that work can be undertaken by the Ministry of Transport to address longer term and systems issues around sustainable land transport revenue and funding.

Commentary

70. LGNZ is aware of the arguments both for and against RFT, and the benefits as well as the impacts that an RFT scheme might have. One of the considerations needs to be how RFT fits with principles of good taxation. While it meets a number of these tests it does not necessarily meet others, in particular ease of compliance and administration, efficiency, equity, transparency and visibility.
71. However, there is a high level issue which is about more than the merits of RFT as a tax and funding mechanism. This issue is around the suitability of existing revenue tools (in particular rates) and linked to that the sustainability of NLTF funding.
72. Firstly, what is of core concern is providing a viable alternative source of revenue to rates. A viable alternative to rates is needed because rates are a poor proxy for road usage and demand for investment. Take a dairy farm. In some years production from the farm may result in two trucks daily. In other years this may fall to only one partly full truck. The difference between the two is significant from the perspective of, for example, road maintenance. The Road User Charges (RUC) collected, reflect actual usage and maximum weight. Rates do not and cannot reflect this variation in productivity or usage.
73. Secondly, the concern is about the overall sustainability of the NLTF. The longer term aspect of this being the suitability of fuel excise duty. We are not aware of any analysis having been undertaken in the last five years which looks at how vehicle usage and efficiency in New Zealand is actually affecting revenue collection.

74. It would seem that there is little appetite in the present Government to address these bigger issues. That willingness even extends to understanding at what point, or to what extent, the status quo becomes untenable.

Ministry of Transport access to the NLTF

75. The Ministry of Transport has for many years received up to \$1 million of funding from Fuel Excise Duty (FED) and RUC in order to maintain the existing system. This has generally been confined to implementing increases in FED and RUC and administering the model that allocates the cost of funding between the two. Until the RUC review in the late 2000's, little had been done to the existing system other than making largely administrative improvements. Funding for projects such as the Auckland Road Pricing study was funded through a separate Cabinet approval.
76. Money and more immediate priorities have been used as a reason for work not being undertaken on longer term and systemic funding issues. While subject to Ministerial approval, the amendment provides an opportunity to fund work on the more substantive funding issues. We hope that this amendment will see further work in the future which will indicate that this amendment is not just a way of reducing the cost to the Crown of funding the Ministry for one of its core policy activities.

Recommendation

77. As a matter of principle, we do not agree with the proposal to remove the RFT provisions. This is because we do not accept the lack of action by Governments around considering the sustainability of the NLTF including the suitability of existing revenue tools, including rates.
78. Associated with that we agree with the NLTF being used to fund work into revenue-related strategy and policy matters. While this reduces funding for other activities and should be a core responsibility of the Government, it removes one more excuse for not undertaking important work.

Other specific matters

79. Local government raised a number of matters during the development of this submission. LGNZ would like to draw the Select Committees attention some of these.

The ability to carry forward a proportion of funds between three year funding periods:

- When the LTMA moved to a three year programming cycle it made a significant step in enabling a proportion of funds to be carried between years by activity class. However, it only enabled this to occur within the three year timeframe of the NLTP.
- There are sound financial reasons why this same principle should apply between the three year period.
- LGNZ recommend that the Committee look to enable a proportion of funds to be carried forward between the three year period of the NLTP.

Matters the Minister must take into account when deciding of the GPS:

- The Bill provides a very narrow link between the GPS and the other policy and legislative settings facing local government.
- LGNZ recommend that the Committee consider requiring the Minister to take account of other relevant legislation, including the Local Government Act and the Resource Management Act, when preparing or reviewing the GPS.