

Chair
Cabinet Economic Growth and Infrastructure Committee

LAND TRANSPORT MANAGEMENT ACT 2003 REVIEW: PLANNING AND FUNDING

Proposal

1. To help achieve the government's economic objectives by cutting red tape and regulation, this paper recommends changes to the Land Transport Management Act 2003 (LTMA). This will improve the planning and delivery of land transport infrastructure and services, and reduce the regulatory burden and compliance costs for organisations involved in the LTMA processes.

Executive summary

2. The statutory planning and funding processes set out in the LTMA channel about \$3 billion annually into road construction and maintenance, public transport, and walking and cycling.
3. One of the priorities in our plan for a stronger economy is to cut red tape and regulation. However, the current LTMA encourages duplicative, onerous and repetitive processes that create uncertainty, unnecessary paperwork, and result in planning churn. This leads to increased costs for organisations involved in LTMA processes. There are four main weaknesses in the LTMA that lead to these difficulties. These are:
 - an excess of evaluation criteria, which are applied repetitively and inconsistently
 - too many strategies and plans, with misalignments between them
 - regional transport committees (RTCs) with too many members
 - overlapping and prescriptive consultation processes
4. To improve the LTMA framework, I propose the following changes:
 - a significant reduction in the number of assessment criteria used throughout the LTMA, which includes a simpler statutory purpose
 - combining two national level planning documents into one, and clarifying the relationship of the new document to regional level planning, to allow for clearer national guidance

- combining two regional planning documents into one simpler document to create a better link between strategy, planning and implementation at the regional planning level
 - reducing the number of members on RTCs
 - reducing the prescription around consultation while still providing for consultation with interest groups
 - introducing more flexibility to use borrowing to support land transport investment should future circumstances make this desirable
5. These changes will result in more efficient land transport planning and funding processes that will reduce compliance costs for the sector.
 6. This paper is the first of two Cabinet papers. I am also proposing changes to the LTMA's tolling and public private partnership (PPP) provisions. These changes are discussed in the accompanying paper: *Land Transport Management Act 2003 Review: Tolling and Public Private Partnerships*.
 7. In preparing the proposals in this paper, I have considered the possible outcomes of Phase II of the Resource Management Reforms (RMII). The changes I have proposed are consistent with the likely direction of RMII, and will work effectively with any RMII changes. By having one regional transport planning document with a 10 year horizon, it will be possible for a spatial plan to take a longer (20 to 30 years) view. This could be done with or without statutory links between the spatial plan and the land transport planning document.
 8. The changes recommended in this paper will involve a Bill.

[CAB Min (11) 4/6 refers].
 9. The Land Transport Management Amendment Bill would also repeal the LTMA's regional fuel tax provisions, implementing previous Cabinet decisions [CAB Min (09) 8/11–14 refers].

Background

The Land Transport Management Act

10. The LTMA sets out the statutory processes for land transport planning and funding. About \$3 billion annually is channelled into land transport projects and services ('land transport activities') under the LTMA. Unlike other areas of central government expenditure, investment decisions are made by a Crown entity and local government representatives at arm's length from central government. These decisions follow extensive transport planning and funding approval processes set out in the LTMA. The land transport activities funded are predominantly road construction and maintenance, and public transport. Most land transport activities are also subject to processes under the

Resource Management Act 1991 (RMA) and the Local Government Act 2002 (LGA).

11. The LTMA covers the following four main areas:
- establishment of the hypothecated National Land Transport Fund (NLTF) and the processes for allocating funds from the NLTF to central government agencies and local government who deliver land transport projects and services (the NLTF mainly comprises revenue from fuel excise duty, road user charges on diesel and heavy vehicles, and motor vehicle licensing fees)
 - the central and local government transport planning processes that must be followed, and the documents that must be prepared, to identify strategic priorities, and the projects and services to be considered for funding
 - establishment and operation of the New Zealand Transport Agency (NZTA), which is the Crown entity responsible for allocating the NLTF and for delivering projects and services funded from the NLTF, including State highway construction and maintenance
 - the approval regimes for tolling new roads and for concession agreements (PPP arrangements involving leases of roads)

The Land Transport Management Act review

12. One of our priorities for a stronger economy is to reduce regulation and its associated compliance costs. Therefore, I asked the Ministry of Transport to review the LTMA to increase the value for money from NLTF expenditure, reduce the regulatory burden for organisations involved in the LTMA processes, improve the quality of land transport planning decisions, and reduce barriers to the use of tolling and PPP arrangements.
13. The Ministry identified a number of issues with the LTMA that encourage duplicative, onerous and repetitive processes. This creates uncertainty and unnecessary paperwork, results in planning churn, and leads to higher compliance costs for the sector. The four main issues identified were:
- an excess of evaluation criteria, which are applied repetitively and inconsistently
 - too many strategies and plans, with misalignments between them
 - RTCs with too many members
 - overlapping and prescriptive consultation processes
14. This paper discusses the issues and recommends changes to the LTMA to address them. The recommended changes will result in improved funding decisions over time due to clearer decision-making criteria and more efficient planning processes.

15. Similar problems are being debated through the RMII process, which points to the complex urban planning system and the resulting lack of consistency in decision-making. A discussion document, *Building Competitive Cities*, has been released by the Ministry for the Environment. Some of the options canvassed in *Building Competitive Cities* could have implications for the LTMA.
16. Spatial planning could see the integration of regional planning processes across the RMA, the LGA and the LTMA. In particular, spatial plans may be used to guide growth management, better align land use with infrastructure investment, and simplify the regional and district planning framework. For example, a spatial plan could set out the longer term land transport outcomes sought by regions, which are currently outlined in Regional Land Transport Strategies prepared under the LTMA.
17. The changes I have proposed are consistent with the likely direction of RMII, and will work effectively with or without RMII changes. By having one regional transport planning document with a 10 year horizon, it will be possible for a spatial plan to take a longer (20 to 30 years) view. This is likely to be necessary in faster growing regions, and could be done either in a statutory manner (for example, the current Auckland process) or a non-statutory manner (for example, the Bay of Plenty's *SmartGrowth Strategy*)
18. The Ministry of Transport had preliminary discussions with stakeholders in 2010 over options for changes to the LTMA, including Local Government New Zealand, the Automobile Association of New Zealand (AA) and the Road Transport Forum. The proposals were generally well received but views were mixed on some aspects.
19. The accompanying Cabinet paper: *Land Transport Management Act 2003 Review: Tolling and Public Private Partnerships* discusses changes to the LTMA's tolling and PPP provisions to reduce barriers to their use.
- 20.
21. The Bill would also repeal the LTMA's regional fuel tax provisions to implement decisions Cabinet made in 2009 [CAB Min (09) 8/11–14 refers]. Allowing local government to impose such taxes is likely to lead to higher fuel prices and thus affect the cost of living. It would also further confuse public perception of how the price of fuel is set.

Evaluation criteria

22. Decision-making under the LTMA is characterised by the use of a wide range of evaluation criteria. These criteria are designed to influence the content of planning documents and the types of land transport activities funded and delivered. However, many of the criteria are difficult to interpret and they are applied repetitively throughout funding and planning processes. This creates

friction and cost. For example, each activity submitted for funding approval must be assessed against 11 different criteria applied in the LTMA's planning processes (see figure 1). Further, the proliferation of criteria reduces the emphasis on value for money.

23. The LTMA's purpose contributes to the problem because it is convoluted. The LTMA's purpose is *to contribute to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system*. In practice, the multiple objectives and attributes making up this purpose are difficult to balance. This purpose statement is repeated throughout the LTMA as a high-level test, particularly for the plans that are made under the Act.
24. As well as the evaluation criteria contained in the purpose, there are also five transport objectives used widely in the LTMA as high-level tests. These objectives are:
 - assisting economic development
 - assisting safety and personal security
 - improving access and mobility
 - protecting and promoting public health
 - ensuring environmental sustainability
25. These transport objectives are difficult to interpret and are sometimes in conflict with each other. The LTMA does not provide any guidance on their weighting. Attempts to evaluate individual projects against objectives, which are more suited to the assessment of overall programmes, have often been counterproductive. The requirement to contribute to all five can be very difficult to achieve.
26. In addition to the purpose of the Act and the five transport objectives, there are a number of other tests used throughout the LTMA, which potentially overlap and alter the weighting of the high-level tests. A good example of this is the NZTA's multiple social and environmental responsibilities¹ that could be condensed down to a simple statement that the NZTA must show a sense of social and environmental responsibility having regard to the purpose of the Act.
27. To make decision-making more effective, I propose focussing decision-making on effectiveness, efficiency, and safety. This would involve changing the LTMA's purpose and deleting the five transport objectives. Overall, while decisions will still involve a need to balance criteria, fewer assessment criteria will contribute to better decision-making and a more durable piece of legislation. Figure 1 illustrates the change.

¹ Section 96(1)(a) of the LTMA.

28. I recommend the LTMA's new purpose should be '*to contribute to an effective, efficient and safe land transport system to support New Zealand's economic, social, cultural and environmental wellbeing*'. This would align the LTMA's purpose more closely with the purposes of the LGA and the RMA. The NZTA's statutory objective would be aligned with the LTMA's new purpose.

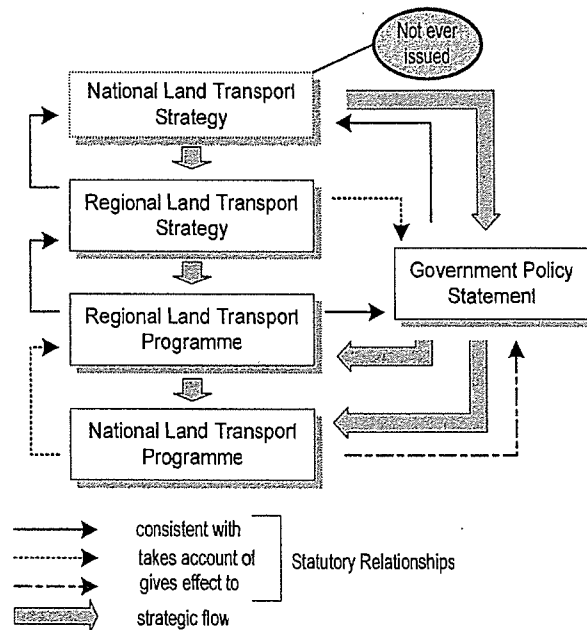
Figure 1 — Main decision-making criteria

Decision-making criteria	Streamlined decision-making criteria
Affordable Integrated Safe Responsive Sustainable Assist economic development Assist safety and personal security Improve access and mobility Protect and promote public health Ensure environmental sustainability	Effective Efficient Safe

LTMA planning structure

29. The LTMA's planning structure is complex. There are five statutory transport planning documents flowing from the national level to the regional planning level. The nature of these documents ranges from strategic guidance to operational planning. There is a complicated set of statutory relationships between them, and each has detailed content requirements. In addition, all of these planning instruments, on top of funding approval requirements, involve the application of the assessment criteria already discussed, which are then repeated in the funding approval process. Some form of statutory consultation or engagement is required for the National Land Transport Strategy, the Government Policy Statement (GPS), the Regional Land Transport Strategy and the Regional Land Transport Programme (although the last two can be done jointly).
30. The number of planning documents, coupled with the complicated statutory relationships between them, leads to process churn. Figure 2 illustrates the LTMA's planning structure

Figure 2: Current LTMA Planning Structure



31. Appendix 1 describes the various LTMA planning documents in more detail.

National level planning

Issues with national planning arrangements

32. The LTMA provides for three national level planning documents. The National Land Transport Strategy and the GPS allow central government to guide land transport planning and investment. The National Land Transport Programme is an operational document prepared by the NZTA, which prioritises land transport activities for funding.
33. If one were to be issued, the National Land Transport Strategy would set out central government's land transport policy objectives over a 30-year period to guide regional planning. However, there has never been a National Land Transport Strategy issued. The lack of a National Land Transport Strategy, when the LTMA presumes there will be one, confuses the legislative picture with many of the LTMA's provisions referencing a non-existent document. The previous government issued a non-statutory strategy that has confused people.
34. The GPS sets out short-to-medium term funding priorities for the NLTF and establishes the amounts of funding for particular areas of land transport investment. The GPS is issued by the Minister of Transport every 3 years. The GPS has a powerful influence on the system, particularly in the absence of a National Land Transport Strategy. However, the GPS is focussed on funding.

35. This situation creates ambiguity in the way central government communicates its priorities to local government. Without clear guidance to the sector on the outcomes central government wants from the land transport sector, there is a risk that regional transport planning will not be well aligned with central government's priorities. There is room for a healthy tension between national and regional planning perspectives. However, poor alignment between national and regional transport policy causes unnecessary friction between local government and the NZTA when decisions are made about the projects and services to be delivered. The non-statutory transport strategy issued by the previous government provided a long-term central government perspective but non-statutory strategies cannot formally guide planning under the LTMA.
36. Given its operational nature, there are no major issues around the National Land Transport Programme although a timing issue is discussed later in this paper.

A single national transport planning document

37. I propose the National Land Transport Strategy and the GPS be merged into one national land transport planning document to guide land transport outcomes for at least 10 years. It would contain land transport policy objectives and a 3 year investment strategy. The investment strategy would be very similar to the current GPS. The new document would be called the 'Government Policy Statement on Land Transport'. The NZTA would need to give effect to the Government Policy Statement on Land Transport, and regional programmes prepared by local government would need to be consistent with it.
38. The Minister of Transport would issue the Government Policy Statement on Land Transport at least once every 6 years. The Statement's investment strategy would be reviewed every 3 years, preferably in advance of the local government planning cycle. When issuing the Government Policy Statement on Land Transport or reviewing its investment strategy component, the Minister would be required to have regard to the views of Local Government New Zealand, and representative groups of land transport users and providers (this is the current requirement for preparing the GPS).
39. A clear and simple long-term planning hierarchy, with national priorities well articulated, would increase certainty at the regional and national programming level. The Government Policy Statement on Land Transport would provide a clear avenue for the government to influence regional policy at the strategy, planning and funding level, and for regions to align their strategies with overarching government transport policy. While non-statutory documents, the National Infrastructure Plan, combined with a forward-looking plan for transport that I am developing, will inform the development of the proposed Government Policy Statement on Land Transport.

Regional level transport planning

Issues with regional planning arrangements

40. The LTMA currently requires two regional transport planning documents to be prepared by local government: Regional Land Transport Strategies (the Strategies) and Regional Land Transport Programmes (the Programmes).
41. Strategies are issued every 6 years after consultation with the public. Strategies guide Programmes by setting out desired regional transport outcomes over a 30 year period. The content and process requirements for Strategies are very detailed, and some of these requirements are vague and subject to variable interpretation.
42. Programmes are more operational and consist of the proposed activities regions would like funded from the NLTF over a 3 year period. The Programmes are issued every 3 years after public consultation, and contain indicative forecasts for 10 years. RTCs prepare both documents and they are approved by regional councils².
43. Strategies and Programmes can be poorly aligned with each other, as well as with central government policy. For example, a Strategy does not need to be consistent³ with the GPS. However, a Programme must be consistent with both the Strategy and the GPS. The lack of a National Land Transport Strategy confuses matters further, given the LTMA refers to it in relation to the development of Strategies.
44. Consultation requirements for both documents are very prescriptive, and multi-layered. As well as consulting under the LTMA, councils also consult the public over their proposed land transport activities through long-term plans and annual plans under the LGA. This creates churn.
45. For some regions, Strategies are a compliance exercise because there are either limited transport issues that cover their whole region, or the issues are insufficient to make a detailed strategy necessary. As a result, in some cases, Strategies add limited value to the transport planning process.

A single regional transport planning document

46. I propose to simplify regional planning by removing the need for separate Strategies. Programmes would set out the region's transport outcomes instead. However, the Programme would be less prescriptive than the current Strategy requirements. This would give regions much more flexibility over the development of long-term strategic policy to inform their operational plans. The Programme would need to be consistent with the Government Policy Statement on Land Transport.

² Auckland Transport approves the Auckland Regional Land Transport Programme.

³ Although it must take account of any relevant GPS (s75(b)(i) refers).

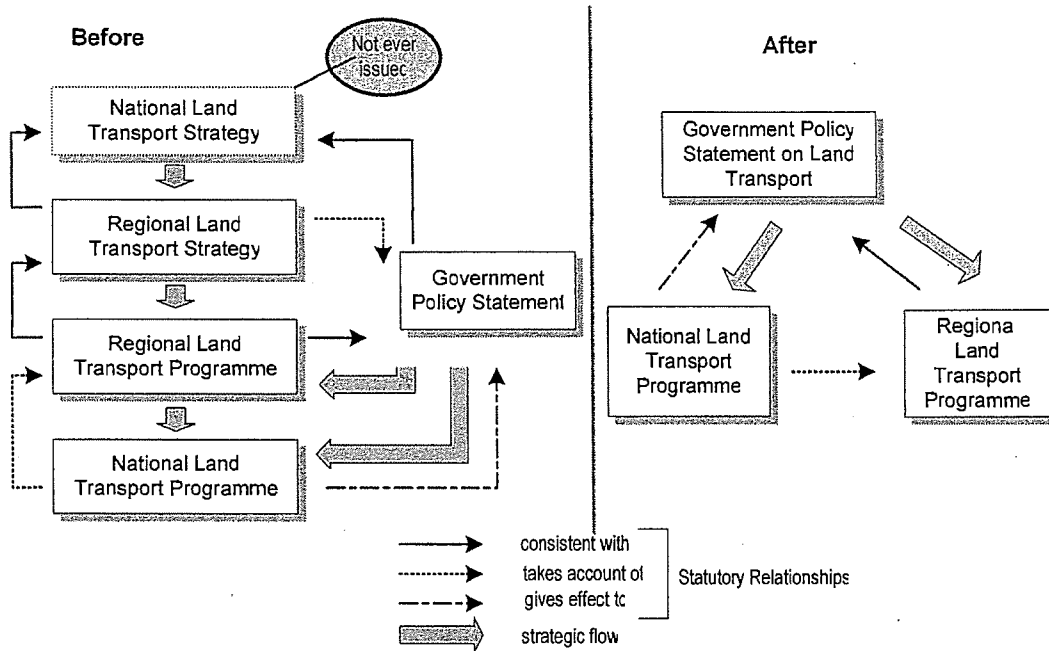
47. There would be one less document to be prepared and consulted on. A single regional transport planning document, with a focus on significant activities, will encourage stronger community engagement on transport decisions, and reduce the opportunity for re-litigation.
48. Under my proposals, the Programme would establish transport outcomes and objectives sought for each region for at least 10 years and would identify the preferred option to achieve those outcomes and objectives.
49. The Programme would also describe the main activities and interventions for achieving the outcomes and objectives, and would set out a prioritised list of significant public transport, walking and cycling, local road and State highway activities to be considered for funding from the NLTF. Minor State highway projects are currently prioritised in Programmes adding to churn while local government minor projects and services are excluded from the prioritisation process. Performance measures would also be included. Options, feasibility and affordability would need to be considered in developing Programmes.
50. Programmes would still be prepared by RTCs and approved by regional or unitary councils. Unlike the current requirements, the Programmes would only need to be issued, and consulted on, every 6 years. A formal review would be undertaken before the end of the Programme's third year, having regard to the views of representative groups of land transport users and providers. If the review identified potential changes, the need for consultation would depend on the significance of the proposed amendment to the Programme.
51. The proposed timeframes for the Programme are broadly consistent with the approach recently agreed for long-term plans under the LGA as amended in 2010. Long-term plans cover at least 10 years and are issued every 3 years. The next set of long-term plans is due to be issued on 1 July 2012.

RMII process

52. The RMII process is looking at the option of allowing regions to have a single spatial plan that could assume the role of the Strategy and, by implication, the role of any strategic element of the new Programme. As a result, the relationship between the Programmes and spatial planning will be considered as part of the RMII process.
53. In the meantime, the new Programme will maintain links with statutory planning documents issued under the RMA, such as regional policy statements. These links recognise the benefits of aligning transport planning with land use planning. RMII has identified significant problems with the integration of infrastructure and land use and will further look to improve those links.

54. Figure 3 contrasts the current LTMA planning structure with the proposed planning structure set out in this paper.

Figure 3 Revised transport planning system



Auckland

55. In Auckland, I propose that Auckland Transport approve Auckland's Programme. Currently, the Auckland Council is responsible for Auckland's Strategy while Auckland Transport is responsible for the Auckland Programme. This reflects the split in strategic and operational transport roles in Auckland.

56. Auckland has a statutory spatial plan. Under section 92 of the Local Government (Auckland Council) Act 2009, the Auckland Council is able to require Auckland Transport to act consistently with its strategies or plans. Therefore the Auckland Council is able to expressly link Auckland's new Programme to its spatial plan or to any other strategy. This will ensure that the new transport planning requirements in Auckland reflect the City's particular governance arrangements.

57. As noted above, further work on RMI will consider whether the Auckland Spatial Plan should be formally linked to the Auckland Regional Land Transport Programme. Until that work is complete, there will be no statutory links between transport planning documents and spatial plans that are being proposed.

Consultation

58. Under my proposals, there will be one less regional transport planning document and the new Programmes will only need to be consulted on every 6 years. This should reduce the incidence of consultation in regional transport planning.
59. I also propose improvements to make consultation more effective. In general, the LTMA requires public consultation to be conducted in accordance with the principles and procedures under the LGA. However, the LTMA also has a set of very specific requirements. These include specifying who must be consulted, requiring consultees to be given early and full opportunities to contribute to decision-making, and requiring the special consultative procedure in the LGA be used. As noted previously, this is a very prescriptive approach, particularly in a context where consultation may have taken place on similar or related matters either in the context of local government processes or in addressing RMA issues.
60. I propose minimising the extent to which the LTMA modifies the LGA processes, by removing the specific requirements discussed in the paragraph above. This change would allow consultation processes to be tailored to local situations rather than requiring the same approach across all regions. For example, the LGA does not prescribe a list of who should be consulted. Rather, it establishes a set of consultation principles that require local government to identify affected or interested parties.⁴

Regional transport committees

61. RTCs are currently responsible for preparing Strategies and Programmes, and facilitate a regional view on the transport issues affecting a region. The LTMA requires regional councils to establish a RTC for each region in New Zealand. There are currently 15 RTCs⁵.
62. Regions that have both regional councils and territorial authorities must have a RTC that has two regional council representatives, a representative of each city or district council, and a representative of the NZTA. Committees for unitary authorities must have five council representatives and a NZTA representative. In addition, for each RTC, the relevant regional council must appoint a representative for each of the five transport objectives, as well as a cultural representative (six altogether).
63. These membership requirements mean RTCs are invariably large, and require tailored voting processes. Only the local authority and the NZTA members can vote on matters related to Programmes but all members can vote on Strategies.

⁴ Section 82, Local Government Act 2002

⁵ Currently there is no Auckland RTC. It was disestablished by the recent Auckland governance process. This RTC had 23 members.

64. Further, RTCs in regions controlled by unitary authorities are larger than necessary to ensure the appointed community representatives are balanced by the council and NZTA representatives. There are an estimated 205 RTC members across the country. A table showing the membership requirements for each RTC is attached as Appendix 2.
65. Feedback from council officers points to problems with the appointment of the community representatives. Some committees have had difficulty filling vacancies and, in some cases, the community representatives have felt disempowered during committee deliberations.
66. Under the proposals in this paper, RTCs would still be needed because they would be responsible for preparing Programmes for approval by the regional or unitary council, or for Auckland Transport in the case of Auckland.
67. To make RTCs more effective, I propose setting a lower statutory maximum for the membership of RTCs, by removing the requirement for objectives and cultural representatives. This means that regions that have both regional councils and territorial authorities would need to have a RTC that has two regional council representatives, a representative of each city or district council, and a representative of the NZTA. Committees for unitary authorities (excluding Auckland) would need to have four council representatives and a NZTA representative.
68. I propose the composition of the Auckland RTC consist of the Board members of Auckland Transport, which contains two members of the Auckland Council. Auckland Transport will have the mandate to approve the new Programme. This allows the Auckland Council to influence the Board through the appointment of Board members and by making operating rules for Auckland Transport.
69. Overall, these proposed changes would reduce the membership of RTCs by around 87 members and should improve decision-making as a result. It is important to note that reducing the number of committee members, does not prevent a RTC from seeking specialist advice. Such advice would be in addition to input from the formal consultation process.
70. Some community groups are likely to be concerned about the change to the membership of RTCs. For example groups such as cycling and public transport advocacy groups, and groups that advocate on behalf of those with disabilities, view the current arrangements as an additional opportunity to add their views to the decision-making process.
71. Other groups such as the AA and the Road Transport Forum have argued strongly that they should have a larger role in land transport decision-making because road users fund the majority of investment through the LTMA. They may view changes to the consultation processes and RTCs with concern.

72. However, it is important to note that these groups will have ample opportunity to be heard by Regional Transport Committees. It is a very useful principle that elected officials consult and make strategic decisions on behalf of their communities, as they are elected to do.
73. Interested groups will be consulted through formal consultation processes and, as noted above, RTCs will need to have regard to the views of representative groups of land transport users and providers when Programmes are reviewed. There would be nothing to prevent interest groups from providing specialist advice if a RTC believes such advice is necessary. This should go some way to acknowledging the concerns of these groups.

Joint planning

74. I propose that the LTMA provide the flexibility to allow two or more regions to have a joint Programme if they wish. Joint planning arrangements could enable regions to pool resources and reduce costs.

Timing issues for adoption of the National Land Transport Programme

75. Once activities are recommended in a Programme, they are then prioritised nationally by the NZTA. The results are set out in the NZTA's National Land Transport Programme (NLTP).
76. Land transport planning is effectively on a 3-yearly cycle that coincides with the local government planning cycle. Time pressures arise because local, regional and national planning and programming processes (including consultation) must run their course, before the land transport investment programme for the next 3 years can be captured in the NLTP. These processes finish on 30 June in the year that the NLTP is issued and that programme must be adopted on 1 July, unless the Minister of Transport agrees to an extension (up to 1 September). Given these timings, an extension is almost always needed. Therefore, I propose moving the adoption of the NLTP to 1 September at the beginning of each 3 year cycle. The need for the Minister of Transport's agreement to an inevitable extension would be avoided.

Borrowing to manage the National Land Transport Programme

77. Under the LTMA, only borrowing that is undertaken for the purpose of managing cashflow for the NLTP can be included in the NLTF, and repaid from the NLTF. The government has recently utilised this by agreeing to an overdraft facility for the NZTA.
78. While there are significant risks to the current funding system from borrowing for wider purposes than managing cashflow, I believe that it would be sensible to remove the borrowing limitation from the LTMA now. A compelling case could be made for such borrowing in the future, and the LTMA should be flexible enough to allow this. Despite any changes to the LTMA, the government would retain strong control over any potential borrowing because

section 160 of the Crown Entities Act 2004 would be retained. This requires the Minister of Finance and the Minister of Transport to approve any borrowing undertaken by the NZTA.

79. I intend to set out any borrowing policies in relation to the NLTF in the GPS (or the proposed Government Policy Statement on Land Transport when it replaces the GPS). This approach would be both transparent to the land transport users and the wider community and binding on the NZTA.

Section 101 review power

80. Section 101 of the LTMA requires the Secretary for Transport to undertake a programme of reviews of aspects of the NZTA's operations. This requirement is relatively new, and a review programme had to be established. The intent of this provision was to address concerns around the performance of the overall land transport system following serious questions over the value for money in the sector.
81. To a degree, the section 101 review power duplicates generic powers available under the Crown Entity Act 2004. The NZTA currently allocates almost \$3 billion of public funds annually, and the amount involved does raise a serious question about whether specific review powers, in addition to generic powers, are justified in this case. On balance, I would like to retain the power. However, I would like to make it discretionary rather than mandatory. At the moment, a review must be undertaken whether or not it is needed. This risks the process becoming a compliance exercise. If it were discretionary, the Secretary for Transport would retain a reserve power to conduct a review if an issue of particular concern or risk became apparent.

Monitoring of road policing under Section 102 of the LTMA

82. The current administrative arrangements for the monitoring of road policing under the LTMA could be streamlined. Under section 102(1) of the LTMA, the Secretary for Transport monitors the road policing programme funded out of the NLTF. The Secretary may (and has) designated the NZTA to perform this function, but remains responsible for reporting to me on the performance of the Police.
83. The current process results in monitoring churn (including needless double handling of documents), and a lack of clarity about responsibility and accountability.
84. Greater efficiency and clearer accountability could be achieved by formally transferring the monitoring of road policing activities to the NZTA. In this way, we could reduce the Ministry of Transport's involvement in what is essentially an operational matter, which is more the domain of the NZTA.

85. I propose that:
- the NZTA becomes directly responsible for monitoring (rather than under designation)
 - the NZTA becomes responsible for reporting on the performance of the Police to the Minister of Transport and the Secretary for Transport
86. The Ministry of Transport will continue to monitor the NZTA because it is a transport Crown entity. At a policy level, the government will continue to shape road safety policy and road policing via our national road safety strategy 'Safer Journeys', and will decide on funding levels under the Government Policy Statement on Land Transport. At the Ministerial level, my role will remain unchanged.

Consultation

Departments consulted

87. The following departments were consulted: the Treasury, the National Infrastructure Unit, the Ministry of Economic Development, the Department of Internal Affairs, the Ministry for the Environment, the Ministry of Social Development, the Office for Disability Issues, and Te Puni Kokiri. Additionally, the NZTA has been involved in the preparation of the proposals included in this paper. The Department of the Prime Minister and Cabinet and the State Services Commission were informed.

The Treasury's views

88. The Treasury supports the overall purpose of the amendments to help achieve economic objectives by amending the LTMA to improve planning and delivery of land transport infrastructure and services. However, the Treasury notes that the scope of remedies considered in the review is narrow, and that achieving the objectives of the review would require a more fundamental investigation to reveal those elements of the system that have the greatest impact on efficiency. For example, an assessment of the impact of activity classes, removing barriers to tolling and/or prioritising processes (for example the use of multi-criteria analysis), which relate to specific transport outcomes.
89. The Treasury also has concerns over the proposal to remove the provision for regional fuel tax from legislation without replacing it with a regional alternative. The Treasury appreciates that the regional fuel tax has some practical limitations. However, the Treasury considers that, on balance, leaving the regional fuel tax provision in the LTMA, rather than repealing it, appears to provide a future option. It would also send an important signal to the regions about being accountable for funding their transport decisions.

My response to Treasury's comments

90. I note that the regional fuel tax issue has been discussed previously by Cabinet and a decision made (see Appendix 3). The regional fuel tax system created by the previous government has many "practical limitations" and would result in much higher fuel prices in those regions that introduced it. In Auckland, prices currently would be 10 cents per litre higher under the previous government as a result of regional fuel tax and their emissions trading scheme. Regional fuel taxes would hand the authority to spend central government taxation over to local authorities, who would make decisions based on ratepayers' rather than taxpayers' (in this case road users) views. However the accountability for these taxes would, in practice, remain with central government.

External discussions

91. In 2010, discussions took place with Local Government New Zealand; local government officials in Auckland, Waikato, Bay of Plenty, Wellington and Canterbury; the AA; the Road Transport Forum; and the New Zealand Council for Infrastructure Development.

Financial implications

92. Any financial implications of these changes for the Crown are expected to be small and able to be absorbed within existing funding.

Human rights implications

93. The proposals contained in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative implications

94. The Land Transport Management Amendment Bill, will primarily amend the LTMA but there may be minor technical amendments to other legislation.
95. There are no good reasons why the Crown should not be bound by the amendments to the LTMA proposed by the Bill. The LTMA is itself binding on the Crown, and to exclude the Crown from the application of the amendments would impact adversely on third parties. For example, there would be less guidance or direction available to local authorities and the NZTA in performing their functions under the LTMA if the Crown were not bound by the obligation to prepare a Government Policy Statement on Land Transport. Accordingly, I recommend the Bill bind the Crown.
96. The national planning and funding system for transport set out in the LTMA is complex, and matters of detail may still emerge as the legislation is developed. Therefore, I am seeking delegated authority to include outstanding matters of minor policy detail in the Bill before it is introduced.

Regulatory impact analysis

97. The Regulatory Impact Analysis requirements apply to the proposals in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached. The RIS also covers proposed changes to the LTMA's tolling and concession agreement (PPP) provisions, which are discussed in a separate paper.
98. The Regulatory Impact Analysis Team has reviewed the RIS prepared by the Ministry of Transport and associated supporting material, and considers that the information and analysis summarised in the RIS meets the quality assurance criteria.
99. I have considered the analysis and advice of my officials, as summarised in the attached RIS and I am satisfied that, aside from the risks, uncertainties and caveats already noted in this Cabinet paper, the regulatory proposals recommended in this paper:
- are required in the public interest
 - will deliver the highest net benefits of the practical options available
 - are consistent with our commitments in the government statement 'Better Regulation, Less Regulation'

Gender implications

100. There are no gender implications arising from these papers.

Disability perspective

101. While there will be a change in representation on RTCs, there will continue to be formal opportunities to raise issues impacting on disabled people's ability to access transport and to influence Programmes.
102. The Ministerial Committee on Disability Issues' Disability Action Plan has promoting mobility and access for disabled people as one of its top three priorities for government.

Publicity

103. I announced the LTMA review in October 2009. I intend to make another media announcement following Cabinet's decisions. I will also write to a number of stakeholders summarising Cabinet's decisions. These include regional council chairs, the mayor of each city and district council, the chairs of RTCs, the AA, the Road Transport Forum, the NZ Council for Infrastructure Development and other interest groups.

Recommendations

104. I recommend the Committee:

Land Transport Management Act 2003 (LTMA) review

- 1) **note** the LTMA has been reviewed with the objective of reducing compliance costs and regulation
- 2) **note** the LTMA encourages duplicative, onerous and repetitive processes that create uncertainty, and result in planning churn, because:
 - (a) there is an excess of evaluation criteria, including a convoluted statutory purpose
 - (b) there are too many strategies and plans, with misalignments between them
 - (c) regional transport committees (RTCs) have too many members
 - (d) there are overlapping and prescriptive consultation processes

LTMA decision-making criteria

- 3) **agree** to reduce the decision-making criteria contained in the LTMA by:
 - (a) changing the LTMA's purpose to require the Act to contribute to an effective, efficient and safe land transport system that supports New Zealand's economic, social, cultural and environmental wellbeing
 - (b) removing references in the LTMA to the five criteria of assisting economic development, assisting safety and personal security, improving access and mobility, protecting and promoting public health, and ensuring environmental sustainability
 - (c) simplifying the operating principle that covers the NZTA's social and environmental responsibilities, which is set out in section 96(1)(a) of the LTMA, to state the NZTA must show a sense of social and environmental responsibility having regard to the purpose of the Act
- 4) **agree** the principal tests for funding approval under the LTMA be consistent with the Government Policy Statement on Land Transport and the effectiveness and efficiency of the proposed activities
- 5) **agree** to align the purposes of the LTMA's planning documents and the objective of the NZTA with the LTMA's new purpose

Government Policy Statement on Land Transport

- 6) **agree** to replace the National Land Transport Strategy and the Government Policy Statement with a new national land transport planning document based on those two documents
- 7) **agree** the new national land transport planning document be called the 'Government Policy Statement on Land Transport'
- 8) **agree** the Government Policy Statement on Land Transport would:
 - (a) contribute to the purpose of the LTMA
 - (b) set out central government's outcomes and objectives for the land transport sector for 10 consecutive financial years
 - (c) set out the impacts that central government wishes to achieve from the allocation of the NLTF for a 10 year period
- 9) **agree** the NZTA be required to give effect to the Government Policy Statement on Land Transport provided it does not impose an obligation on the NZTA to fund particular activities
- 10) **agree** the Government Policy Statement on Land Transport be issued by the Minister of Transport every 6 years with a review of the short-to-medium term investment strategy every 3 years
- 11) **agree** the Minister of Transport has regard to the views of Local Government New Zealand and representative groups of land transport users and providers when preparing or reviewing the Government Policy Statement on Land Transport

Regional Land Transport Strategies and Regional Land Transport Programmes

- 12) **agree** to remove the requirement for regions to prepare Regional Land Transport Strategies
- 13) **agree** that the LTMA be amended so that Regional Land Transport Programmes would:
 - (a) be consistent with the Government Policy Statement on Land Transport
 - (b) set out the region's outcomes and objectives in relation to land transport for at least 10 consecutive financial years
 - (c) describe the main activities and interventions likely to be required to achieve the outcomes and objectives in the Regional Land Transport Programme, including a prioritised list of significant local and State highway activities to be considered for funding from the NLTF for the first 6 years of the Programme
 - (d) include performance measures

- 14) **agree** that options, feasibility and affordability be considered when Regional Land Transport Programmes are developed
- 15) **agree** that the Regional Land Transport Programme be prepared, and consulted on, by RTCs every 6 years for the approval of the relevant regional council, the relevant unitary council or, in the case of Auckland, Auckland Transport
- 16) **agree** that Regional Land Transport Programmes can be changed during their term subject to consultation on any significant change
- 17) **agree** that RTCs review Regional Land Transport Programmes before the expiry of the Regional Land Transport Programme's third year, having regard to the views of representative groups of land transport users and providers
- 18) **agree** that Regional Land Transport Programmes be issued to coincide with the beginning of the long-term council plan cycle, as established by the Local Government Act 2002
- 19) **agree** that Regional Land Transport Programmes retain links to planning documents in the Local Government Act 2002, the RMA, and the Energy Efficiency and Conservation Act 2000 in the interests of better alignment between land use and infrastructure planning
- 20) **note** that the relationship between Regional Land Transport Programmes and spatial planning will be considered in the context of the RMII process

Consultation

- 21) **agree** consultation processes be simplified where possible by reducing the prescription around the processes
- 22) **agree** consultation on Regional Land Transport Programmes take place under the principles set out in section 82 of the Local Government Act, the use of the special consultative procedure under the Local Government Act be discretionary, and the list of consultees in the LTMA be repealed

Regional transport committees

- 23) **agree**, except in the case of Auckland, the membership of RTCs be reduced to two nominees of the relevant regional council (or four in the case of a unitary authority), one nominee of each of the territorial authorities in the region and one nominee of the NZTA
- 24) **agree** that the Auckland RTC should consist of the Board of Auckland Transport

Joint planning

- 25) **agree** that two or more regions be allowed to prepare a joint Regional Land Transport Programme

Preparation of National Land Transport Programme

- 26) **note** the next 3-year NLTP is due to be adopted on 1 July 2012, although that adoption date is allowed to be extended to 1 September by the Minister of Transport
- 27) **agree**, in future, the NLTP be adopted by 1 September in the year it is issued

Borrowing to manage the National Land Transport Programme

- 28) **agree** to remove the restriction in section 10 of the LTMA that the proceeds of borrowing can only flow into the NLTF if the borrowing is undertaken for the purpose of managing cashflow
- 29) **agree** government policy with respect to the use of borrowing to manage the NLTP be set out in the Government Policy on Land Transport

Section 101 review power

- 30) **agree** to recast the Secretary for Transport's power, under section 101 of the LTMA to review, to the NZTA as a discretionary power

Monitoring of road policing under Section 102 of the LTMA

- 31) **agree** that the NZTA become directly responsible for monitoring road policing (rather than under designation)
- 32) **agree** that the NZTA become responsible for reporting on the performance of the Police to the Minister of Transport and the Secretary for Transport

Regional fuel tax

- 33) **agree** the regime for regional fuel tax be removed from the LTMA in accordance with Cabinet's earlier decision [CAB Min (09) 8/11-14 refers]

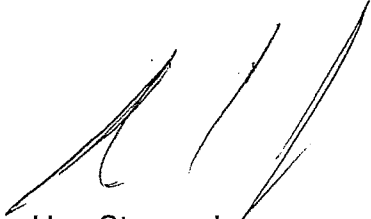
Publicity

- 34) **invite** the Minister of Transport to announce Cabinet's decisions and write to stakeholders advising them of the decisions

Land Transport Management Amendment Bill

- 35)
- 36) **note** the Land Transport Management Amendment Bill will primarily amend the LTMA but there may be minor technical amendments to other legislation
- 37) **note** that it is appropriate for the Land Transport Management Amendment Bill to be binding on the Crown because the principal Act is itself binding on the Crown, and third parties would be adversely affected if the Crown were excluded from the application of the amendments
- 38) **agree** that the Land Transport Management Amendment Bill should include a provision stating that it will bind the Crown
- 39) **note** that any implications for government departments of the Land Transport Management Amendment Bill binding the Crown will be minor
- 40) **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to prepare a Land Transport Management Amendment Bill giving effect to the recommendations 3–19, 21–25, 27–33, and 38 above, including any necessary consequential, savings and transitional provisions

- 41) **authorise** the Minister of Transport to determine any matters of minor policy detail that arise in the preparation and passage of the Bill, including the simplification and removal of decision-making criteria in the LTMA and the contents of the new Government Policy Statement on Land Transport, and Regional Land Transport Programmes.



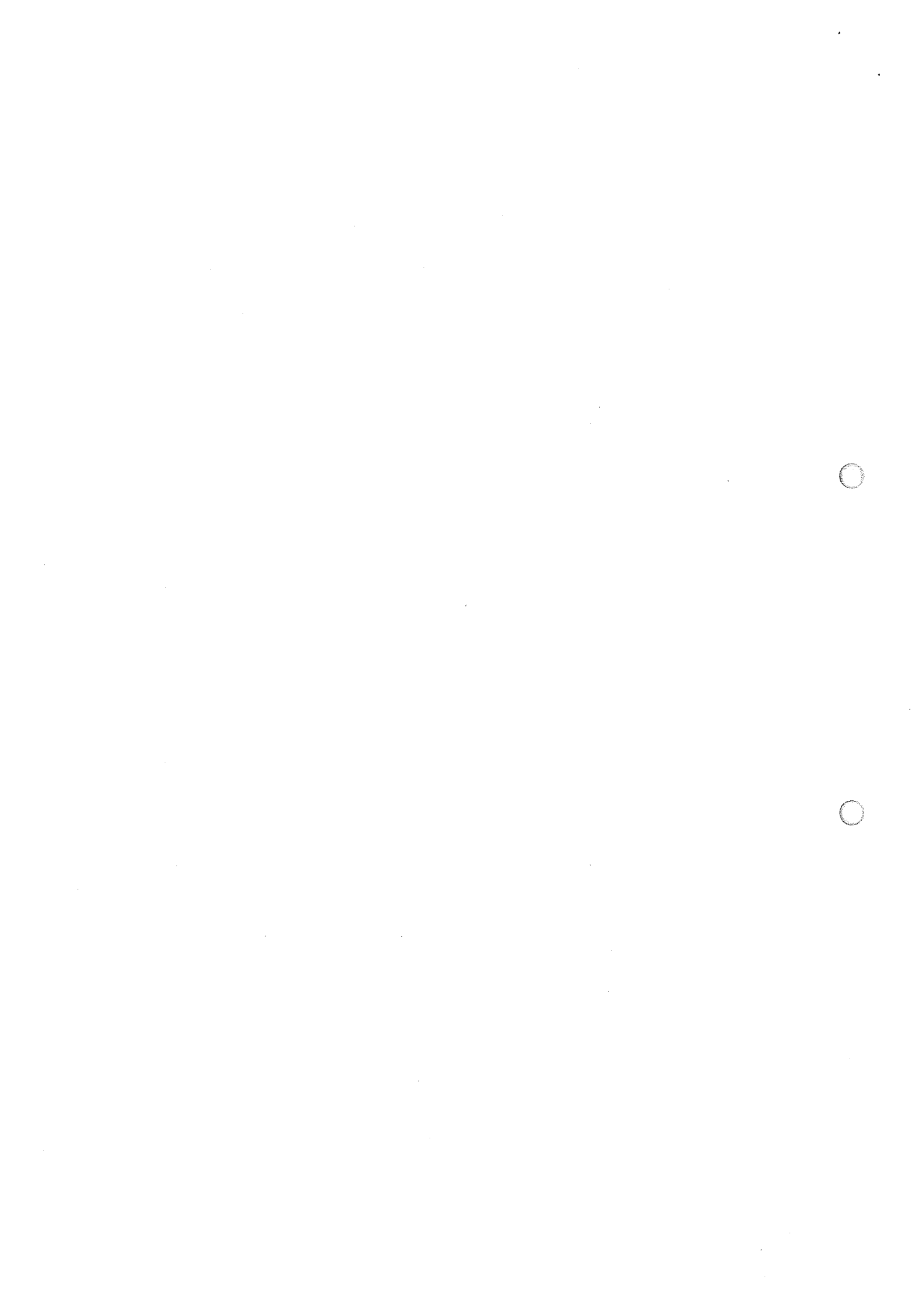
Hon Steven Joyce
Minister of Transport

Dated: 5/5/11

Appendix 1

Planning Documents in the Land Transport Management Act 2003

Planning Document	Usual Acronym	Role	Issued
National Land Transport Strategy	NLTS	Guidance on the Crown's land transport sector outcomes and objectives for at least 30 financial years. Issued by the Minister of Transport. <i>NB: A National Land Transport Strategy has never been issued.</i>	30 year horizon (6+24). If issued, every 6 years thereafter.
Government Policy Statement	GPS	The short-to-medium term impacts the Crown wishes to achieve through the allocation of the NLTF and a 3-year programme of investment broken down into State highways, local roads and public transport (and a forecast for years 4 to 10).	10 year horizon (3+3+4). Issued every 3 years, usually 12 months in advance of the regional long-term plan cycle under the Local Government Act 2002.
Regional Land Transport Strategy	RLTS	Regional transport outcomes for a 30-year period. Prepared by regional transport committees.	30 year horizon (6+24). Issued every 6 years (no common issue date between regions).
Regional Land Transport Programme	RLTP	Recommended programme of proposed State highway and local government activities required to deliver a Regional Land Transport Strategy.	10 year horizon (3+3+4). Issued every 3 years in alignment with the LTP cycle under the Local Government Act 2002.
National Land Transport Programme	NLTP	Sets out a national programme of activities (following prioritisation of the activities found in Regional Land Transport Programmes). Prepared by the NZTA.	10 year horizon (3+3+4). Issued every 3 years.



Regional Transport Committee Membership:
Land Transport Management Act 2003 Requirements

Region	Councils and NZTA (A)	Objective Reps (B)	Current LTMA Requirement (A+B)	Streamlined Membership (2 RC, 1 per TA, 1 NZTA)
Regional Councils				
Northland	6	6	12	6
Waikato	12	6	18	12
Bay of Plenty	7	6	13	7
Hawkes Bay	7	6	13	7
Taranaki	6	6	12	6
Manawatu/Wanganui	10	6	16	10
Wellington	11	6	17	11
West Coast	6	6	12	6
Canterbury	12	6	18	12
Otago	8	6	14	8
Southland	6	6	12	6
Total Regions	91	66	157	91
Unitary Councils				
Gisborne	6	6	12	5
Tasman	6	6	12	5
Nelson*	6	6	12	5
Marlborough	6	6	12	5
Total Unitaries	24	24	48	20
Auckland*	0	0	0	7
Grand Total	115	90	205	118
Difference from status quo				87

Notes:

* The Auckland RTC was disestablished by the Auckland Governance Reforms. It had 23 members.

** Nelson's RTC, at 18 members, is actually larger than the statutory requirement of 12 but only the statutory requirement is shown.



Cabinet

Minute of Decision

Appendix 3
In Confidence

CAB Min (09) 8/11-14

Copy No: 32

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Transport Funding Package

Portfolio: Transport

On 9 March 2009, following reference from the Cabinet Economic Growth and Infrastructure Committee (EGI), Cabinet:

Overview of Transport Funding Package [CAB (09) 83]

- 1 **noted** that the paper under CAB (09) 83 provides an overview of the suite of papers on the transport funding package [CAB (09) 84-86];
- 2 **noted** that the package of transport funding proposals will, through re-allocation of existing transport taxes and confirmation of previously announced Crown appropriations:
 - 2.1 give effect to a number of the government's election promises;
 - 2.2 increase funding for State highways by almost \$1 billion over the next three years;
 - 2.3 replace the regional fuel tax introduced by the previous government, with its high compliance costs;

Replacement of Regional Fuel Tax with Increases to Fuel Excise Duty and Road User Charges [CAB (09) 84]

Background

- 3 **noted** that:
 - 3.1 on 6 October 2008, the former government authorised the submission to the Executive Council of the Land Transport Management (Regional Fuel Tax Scheme – Auckland Region) Order 2008 (the Order) [CAB Min (08) 39/2];
 - 3.2 the Order approved an Auckland regional fuel tax of 2 cents per litre from 1 July 2009, 5 cents per litre from 1 July 2010, and 9.5 cents per litre from 1 July 2011 until 30 June 2039, to meet the majority of the costs of Auckland regional fuel tax scheme projects;

28

- 4 **noted** that:
- 4.1 other regions are considering regional fuel taxes of up to 5 cents per litre, mainly to fund additional State highway works;
 - 4.2 compared with the national fuel excise duty and road user charges system, regional fuel tax is a comparatively expensive way to generate revenue, with a range of boundary issues, compliance costs for non-transport businesses that use petrol, and particularly diesel and administration costs;

Revoking Regional Fuel Tax

- 5 **noted** the intention of the Minister of Finance and the Minister of Transport to recommend that the Land Transport Management (Regional Fuel Tax Scheme – Auckland Region) Order 2008 be revoked as soon as possible;
- 6 **agreed** that the regional fuel tax empowering legislation be repealed at the earliest opportunity;

Increase in Fuel Excise Duty and Road User Charges

- 7 **agreed** to the changes to fuel excise duty and road user charges in the following table (expressed in cents per litre), to:
- 7.1 support the Government Policy Statement on Land Transport Funding expenditure targets, set out in the paper *Amending the Government Policy Statement on Land Transport Funding 2009/10-2018/19* [CAB (09) 86]; [see paragraphs 22-29 below]; and
 - 7.2 replace Crown funding on roading infrastructure being used to fund rail investment, as detailed in the paper *Confirmation of the Commitment to Transport Infrastructure* [CAB (09) 85] [see paragraphs 10-21 below];

Change	1 October 2009	1 October 2010	1 July 2011
Total	3	3	1.5

- 8 **noted** that the final changes to fuel excise duty and road user charges will be given effect on 1 October 2009, and will take into account the results of the Road User Charges Review;
- 9 **invited** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to draft amendments to legislation to give effect to the above proposals including any consequential savings or transitional provisions as necessary;

Confirmation of the Commitment to Transport Infrastructure [CAB (09) 85]

- 10 **agreed in principle**, subject to the report referred to in paragraph 15 below, to the Crown owning passenger transport rail rolling stock via the New Zealand Railways Corporation;
- 11 **confirmed** the government's pre-election commitment to the Auckland rail electrification project;

- 12 **noted** that the Minister of Finance and the Minister of Transport will further consider funding for the Auckland electrification project;
- 13 **noted** that Auckland ferry wharf upgrades, integrated ticketing and ferry and bus real time information upgrades, and the proposed Penlink project, which were to be funded by the proposed Auckland Regional Fuel Tax, would not be guaranteed funding under the proposed package;
- 14 **agreed** to appropriate \$258 million for Wellington metro rail rolling stock and infrastructure over 2009/10 - 20010/11, to replace funding that has been allocated in the National Land Transport Fund, as part of the signalled \$8.55 billion expenditure on infrastructure;
- 15 **invited** the Minister of Transport to report back to the EGI by 1 July 2009 on:
- 15.1 implementing paragraph 14 above relating to the funding of Wellington metro rail, taking into account the in-principle decision referred to in paragraph 10;
- 15.2 the funding and ownership of Auckland metro rail, specifically taking into account the report from the Royal Commission on Auckland Governance;
- 16 **noted** that the introduction into service of Auckland's electric rolling stock may be delayed by at least six months;
- 17 **agreed** to establish a new Non-Departmental Capital Expense "Metro Rail Rolling Stock and Infrastructure (Wellington)" appropriation in Vote Transport;
- 18 **agreed** that the scope of the new Non-Departmental Capital Expense Rail Infrastructure (Wellington) be "this appropriation is limited to metro rail rolling stock and infrastructure projects in Wellington";
- 19 **approved** the following changes to appropriations to give effect to paragraph 14 above, with a corresponding impact on debt:

	\$m - increase / (decrease)		
	2009/10	2010/11	2011/12 & Outyears
Vote Transport			
Minister of Transport			
Non-Departmental Capital Expenditure:			
Metro rail rolling stock and infrastructure (Wellington)	146.000	112.000	-
Total Capital	146.000	112.000	-

- 20 **noted** that the Crown will need to manage the following fiscal risks:
- 20.1 losing around \$42 million per annum in revenue as a result of the repeal of Auckland's regional fuel tax that was scheduled to commence from 1 July 2009 (but this will be partially offset by an additional \$283 million from increased fuel excise duty and road user charges over the three years);

- 20.2 additional revenue shortfalls for the New Zealand Railways Corporation if track access charges currently paid by regional councils are cancelled;
 - 20.3 costs incurred in purchasing existing rolling stock from regions;
 - 20.4 possible costs of changing existing procurement contracts;
- 21 **invited** the Minister of Transport to report to the EGI with advice on the best legislative vehicle to amend clause 14 of Schedule 2 of the Land Transport Management Amendment Act 2008, which needs to be amended to recognise the transfer of rail infrastructure expenditure from the National Land Transport Fund to Crown appropriations;

Amending the Government Policy Statement on Land Transport Funding 2009/10 – 2018/19 [CAB (09) 86]

Background

- 22 **noted** that:
- 22.1 the Government Policy Statement on Land Transport Funding (GPS) is a statutory document issued by the Minister of Transport every three years;
 - 22.2 the existing GPS was issued in August 2008;
- 23 **noted** that in December 2008, the Cabinet Business Committee noted that the Minister of Transport intends to amend the GPS to better reflect the government's priorities for the land transport sector [CBC Min (08) 30/5];

Amendments to Government Policy Statement

- 24 **noted** that the Minister of Transport intends to make the following the key amendments to the GPS:
- 24.1 make economic growth and productivity the primary objective for investment in land transport infrastructure and services;
 - 24.2 ensure that the allocation of funds within activity classes represents a more economically efficient allocation of those funds;
 - 24.3 ensure that transport infrastructure investment better reflects the modal options realistically available to New Zealanders, and that investment in alternative modes be undertaken at a rate which does not lead to a mis-match between investment and usage;
 - 24.4 signal that public transport rail infrastructure (capital expenditure) will be funded from the Crown account and not from the National Land Transport Fund, freeing up more revenue generated from road users for road related activity;
 - 24.5 identify a number of corridors or roads of national significance in the vicinity of New Zealand's five largest urban areas, which will be further developed as part of the process of developing a government national infrastructure plan;

- 25 **noted** that the major consequence of the proposed changes is that the revised GPS will increase the level of funding for "New and improved infrastructure for State highways" by around \$1 billion over the next three years;
- 26 **noted** that the amended GPS will make \$32 billion available to land transport over the ten years 2009/10 – 2018/19, funded by road users;
- 27 **noted** that the financial changes related to amending the GPS are discussed in the associated paper *Replacement of Regional Fuel Tax with Increases to Fuel Excise Duty and Road User Charges*, under CAB (09) 84;
- 28 **noted** that the Minister of Transport will shortly be engaging with local government, key stakeholders, and the New Zealand Transport Agency on the proposed amendments to the GPS;
- 29 **invited** the Minister of Transport to report back to the EGI with the final proposed GPS, following the engagement and consultation processes referred to above, and before the Minister releases the GPS publicly (expected to be in early April 2009);

Announcement

- 30 **noted** that the proposals in the transport funding package will be announced in a joint communications strategy led by the Prime Minister and the Minister of Transport.

Secretary of the Cabinet

Reference: CAB Min (09) 8/11-14;
CAB (09) 83 – 86;

