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**REPORT 2**  
(1215/11/IM)

**SUBMISSION ON LAND TRANSPORT MANAGEMENT ACT 2003  
AMENDMENT BILL 2012**

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**1. Purpose of report**

This report outlines a draft Wellington City Council submission on the Land Transport Management Act 2003 Amendment Bill 2012. A copy of the draft submission is attached as Appendix One to this report.

**2. Executive summary**

The amendments proposed in this Bill streamline process, give more central direction to regional transport decision-making and repeal the Public Transport Management Act 2008.

Some to the changes are welcomed whilst others could prove problematic for local government.

**3. Recommendations**

Officers recommend that Council:

- 1. Receive the information.*
- 2. Agree to the submission (attached in appendix one) to the Transport and Industrial Relations Select Committee.*
- 3. Delegate to the Transportation Portfolio Leader and the Chief Executive the authority to make any minor editorial changes required as part of finalising the submission.*

**4. Background**

The Government introduced the Land Transport Management Act 2003 Amendment Bill 2012 in the House for its first reading on 13 August 2012 and intend to report back to the House on 11 March 2013. The Transport and Industrial Relations Select Committee decided to progress the Bill as far as is possible before Christmas and consequently announced a closing date for submissions as being 26 October 2012.

The Land Transport Management Act 2003 fits along side the Resource Management Act 1991 and the Local Government Act 2002 as being one of the most important pieces of guiding legislation for local government. Transport planning and land use planning have been demonstrated as being two of the most useful tools available to local government in terms of creating vibrant communities.

The Land Transport Management Act 2003 was last amended in 2008 and was heralded by the creation of the New Zealand Transport Agency. It also changed the planning and funding relationships between the government, the Agency and local government.

Regional Land Transport Committees were established to develop and approve regional transport strategies, prioritise regionally significant transport projects and develop regional land transport programmes. Planning and programming moved from being an annual process to a three year process.

The amendments proposed in this Bill streamline process, give more central direction to regional transport decision-making and repeal the Public Transport Management Act 2008.

Limiting the membership of Regional Land Transport Committees, combining the Regional Land Transport Strategy and Regional Land Transport Programme in one document and streamlining processes around tolling and public private partnerships are generally welcomed.

However changing the purpose of the Act and strengthening the role of the Government Policy Statement are likely to have the effect of weakening regional autonomy in decision-making. The danger in this approach is that central priorities do change and this then forces regional transport outcomes to also change – even when commitments to invest in very long life infrastructures and services may have been made.

There are some proposed changes, such as Regional Public Transport Plans, where the Bill perhaps don't go far enough in creating an integrated transport strategic and planning framework.

Each of the significant changes is addressed in the attached draft submission and accompanied by specific recommendations.

## **5. Discussion**

A submission on this Bill is important because some of the proposals it contains may influence the ability to realise the overall vision of *“Wellington Towards 2040: Smart Capital”*

Whilst the impact of some of the proposals, such as streamlining process, is clear other changes are less certain in their outcomes. This could potentially undermine the ability to deliver on regional transport strategic outcomes, the Wellington City Transport Strategy or even the transport outcomes in the 2012-2022 LTP.

### **5.1 Consultation and Engagement**

The timing of this legislative process has provided little opportunity to consult widely. Nevertheless discussions have been held at an officer level with the Greater Wellington Regional Council and with forums organised by Local Government New Zealand.

### **5.2 Financial considerations**

The development of this submission has incurred no direct cost. The implications on future work programmes and priorities will become clearer after 2015 when the first Regional Land Transport Plan has to be prepared.

### **5.3 Climate change impacts and considerations**

No direct impacts.

### **5.4 Long-term plan considerations**

Any impact is likely to be post the preparation of the next Regional Land transport Plan in 2015.

## **6. Conclusion**

The Land Transport Management Act 2003 Amendment Bill 2012 introduces a number of changes to the Act which, individually and collectively will have a significant impact upon local authorities and their role in transport decision-making.

Some of the changes will be advantageous and others less useful.

The attached draft submission sets out these issues for submission to the Transport and Industrial Relations Select Committee.

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**Submission to:**      **Transport and Industrial Relations  
Select Committee**

**Bill:**                      **Land Transport Management Act  
Amendment Bill (2012)**

**From:**                    **Wellington City Council**

**Date:**                     **October 2012**

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## 1. Introduction

Wellington City Council (WCC) welcomes the opportunity to comment on the Land Transport Management Act 2003 Amendment Bill 2012 (the Bill).

The Public Transport Management Act 2008 is to be repealed by the Bill and new provisions included in the Land Transport Management Act.

The Land Transport Management Act 2003 (the Act) sits alongside the Local Government Act 2002 and the Resource Management Act 1991 as one of the primary tools driving local government decision-making, planning and funding. The Act also defines decision-making and funding relationships between the various parties involved in the provision of land transport.

Current annual local government investment in land transport is \$869m and this is matched by an investment of \$1.3billion by NZTA. (2012/13 to 2014/15 NLTP).

Transport is unique amongst infrastructures/service as it can be both an enabler and shaper. It is also unique in that it is the largest funding transfer between central and local government who work in partnership for the delivery of good transport outcomes.

The roles which transport (all modes) plays in place shaping positions it alongside land use planning as one of the most potent tools available to local government.

Total NZTA annual investment including RoNS is \$3.12billion. (2012/13 to 2014/15 NLTP).

WCC recognises that these amendments are being introduced with the intention of delivering process clarity and reducing legislative prescription in order to deliver greater value for money and reduced compliance costs. It is also recognised (though not necessarily accepted) that central government wishes to have greater ability to guide transport planning and investment to contribute to New Zealand's economic productivity.

Wellington City invests \$36million in land transport annually (LTP 2012/13).

This submission raises a number of issues and provides comments both supportive of and opposed to different aspects of the Bill. This submission also identifies where the Bill is unclear, creates uncertainty or potentially increases process.

Transport is moving people and freight efficiently, effectively and safely across all modes for all purposes.

WCC wishes to be heard in support of this submission.

## 2. Submission

### 2.1 Funding & Planning Framework

#### 2.1.1 Purpose

Proposed purpose in Bill is to contribute to an effective, efficient, and safe land transport system that supports the public interest.

The current purpose of the Act is “to contribute to the aim of achieving an affordable, integrated, safe, responsive and sustainable transport system”. In addition to this the current decision-making criteria include: assisting economic development; assisting safety and personal security; improving access and mobility; protecting and promoting public health; ensuring economic sustainability; efficiency and effectiveness; and social responsibility.

Public interest is difficult to define but a possible option is “in the interest of the public generally as opposed to the interest of a particular group or singular interest.”

Unless the term “public interest” is clarified the new purpose in the Bill has the potential to be too restrictive considering the impact transport has on a wide range of other activities and opportunities.

#### **Submission:**

- **Wellington City Council supports the retention of the existing Purpose Statement in the Land Transport Management Act 2003**

#### 2.1.2 Consolidating National Planning Documents and Government Policy Statement (GPS)

Current GPS limited to funding matters with a 10 year planning horizon.

The Bill proposes extending the GPS to cover any “other matters” at the discretion of the Minister of Transport. This is likely to involve a range of policy issues.

The Bill proposes the GPS have a 6 year horizon and be able to consider matters other than funding.

Further the Minister only has to “have regard” to the views of others in preparing the GPS.

Current Regional Land Transport Plan must “be consistent the GPS”.

And the Bill proposes that the Regional Land Transport Plan must “be consistent with the GPS”. While this is consistent with the current wording in the Act, because the GPS as proposed in the Bill will potentially take on strategic and policy context this ultimately reduces the ability to have a regional variance from a national direction. In effect this introduces a higher compliance threshold than currently exists.

This is clearly the mechanism which central government will use to ensure its outcomes will be delivered at a regional level. There will be little consultation attached to the GPS.

Given that the composition and views of government can change (and be reflected through the GPS) this doesn’t “increase

certainty and reduce bureaucracy” because every time this happens Regional Land Transport Plans will need to change.

**Submission:**

- ***Wellington City Council supports the introduction of more effective consultation provisions for the GPS; and***
- ***Given the elevated status of the GPS reduce the requirement for Regional Land Transport Plans such that they must “have regard to” the GPS.***

### ***2.1.3 Regional Land Transport Plan***

The Bill proposes combining the existing Regional Land Transport Strategy and Regional Land Transport Programme into one document to be called the Regional Land Transport Plan which covers strategy, policy and the priority of significant activities for funding.

This new document will take a 10 year strategic perspective and a 6 year funding perspective for funding. Each aspect must be reviewed within six months of their expiry.

There are also changes which streamline the consultation processes for developing the Regional Land Transport Plan by restricting this to matters of “significance”.

The Bill proposes that a separate Regional Public Transport Plan “consistent with” the Regional Land Transport Plan be prepared. While a separate Public Transport Plan may provide an opportunity to expand upon operational intent it does seem as though an opportunity to get integrated strategic transport planning is being missed.

**Submission:**

- ***Wellington City Council supports the integration of the Regional Land Transport Strategy and Regional Land Transport Programme into a Regional Land Transport Plan; and***
- ***Recommends that the proposed Regional Land Transport Plan be expanded to include the non operational detail of the Regional Public Transport Plan.***

### **2.1.4 Regional Fuel Tax**

The provisions of the Act require any proposal for a Regional Fuel Tax to have Ministerial approval followed by Order in Council.

Only one proposal was developed and none have been approved.

A regional fuel tax provides an alternative funding mechanism for projects of high regional priority.

A regional fuel tax is inefficient to administer and subject to “gaming”. (40% of fuel is non road use and would require a tax refund scheme.)

The Bill proposes to remove all references to regional fuel tax from the Act.

For clarity a regional fuel tax is a tax collected from fuel consumed within a region and is different from the current “R” funds which are a regional distribution of nationally collected tax.

In that the Act allowed for a Regional Fuel Tax its success ultimately relies upon convincing the Minister of Transport who then passes the proposal on for an Order in Council.

The Minister has made it clear that Regional Fuel Taxes are not a favoured funding mechanism and therefore any proposal is unlikely to be approved.

Clearly there are two options with the first being to retain the status quo (which in a sense offers false hope) and the second is to repeal the provisions (the removal of temptation and need for rebuttal).

The bigger question to be addressed is determining the range of funding options and tools available to realise regionally significant transport outcomes.

#### ***Submission:***

- ***Wellington City Council acknowledges the desire of central government to remove provisions for a regional fuel tax (as per the Bill) but nevertheless believes the need for a range of funding tools to enable regionally significant transport outcomes remains.***

### **2.1.5 Membership of Regional Transport Committees**

The Bill proposes to move from a mandatory (but non-voting) committee membership to a permissive regime.

The proposal in the Bill is to remove the requirement to have “non-voting” members on committees.

This doesn’t prevent committees from consulting with the interests that those non-voting members may have formerly represented but it does allow committees a greater level of self determination as to who they can draw upon to informing their decision-making.

**Submission:**

- **Wellington City Council supports the proposal in the Bill to limit the membership of Regional transport Committees.**

### **2.1.6 Ministry of Transport Access to Funding**

The proposal in the Bill is to clarify and widen the reasons why the Ministry of Transport can receive funds from the National Land Transport Fund.

The Ministry has always received some funding to maintain the existing revenue system. There is a growing and urgent need to do more substantive work on systemic funding issues and opportunities to ensure the suite of transport interventions is able to be maintained now and in the future.

**Submission:**

- **Wellington City Council supports the proposal in the Bill to clarify and widen the reasons for the Ministry of Transport to access funds from the National land Transport Fund.**

## **2.2 Road Tolling & Public Private Partnerships**

### **2.2.1 Tolling**

The proposal in the Bill is to simplify the provisions within the Act relating to tolling. A new high level test requiring tolling to be efficient and effective will replace some of the more detailed prescription in the Act. This includes easing provisions over the payment methods for tolls.

On the basis that this assists in removing barriers to tolling schemes the changes in the Bill are supported.

### **2.2.2 Public Private Partnerships**

The proposal in the Bill is to simplify the process of approving public private partnerships. In essence this will allow them to be addressed as another form of procurement. It is not clear from the drafting of this section of the Bill that the proposals will in fact address the findings of the Office of the Auditor General where a number of challenges to the up take of public private partnerships were identified

The Office of the Auditor General published a report in November 2011 "Managing the Implications of Public Private Partnerships" <http://www.oag.govt.nz/2011/public-private-partnerships/docs/public-private-partnerships.pdf>

**Submission:**

- **Wellington City Council supports the simplifying of legislation relating to both tolling and public private partnerships in the Bill as a first step in the process of improving the ability to utilise these tools going forward.**

**2.3 Public Transport Operating Model (PTOM)**

**2.3.1 General**

Public Transport Management Act 2008 was never implemented by regional councils when the incoming government signalled that it was going to be amended.

The proposal in the Bill is to repeal the Public Transport Management Act 2008 and replace it with a single operating model as outlined in the Bill.

The aim of the PTOM is to improve value for money – based upon the design of a single operating model which would apply across the country.

Fundamental to this approach is the need for such a model to be scalable on the basis of the size and complexity of public transport services within a region.

Passenger transport is a vital transport mode for Wellington City serving the needs of residents' commuters and visitors alike.

Unfortunately it appears in order to achieve this single operating model that Bill becomes much more prescriptive in this part than in others.

As side from a number of drafting issues needing clarification (as identified by Local Government New Zealand and regional council submissions) the high level of prescription gives rise to concerns over flexibility to respond to different scales of service provision

The issue of Regional Public Transport Plans was addressed in clause 2.1.3 of this submission. The aim of achieving in one document a statement of strategy, planning, funding and implementation for transport is laudable. The Regional Public Transport Plan should contain material used to define relationships between transport operators and regional councils. The strategic level information can then go directly into the Regional Land Transport Plan.

**Submission:**

- **Wellington City Council supports the PTOM as outlined in the Bill subject to:**
  - **Drafting issues being clarified; and**
  - **Flexibility being provided within the model to allow for size and scale of passenger transport services as they vary across regions**
  
- **Wellington City Council prefers that the Regional Public Transport Plan scope be restricted to “operational” detail to define the relationships between operators and regional councils and that all other detail be included in the integrated Regional Land Transport Plan.**

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