

7 November 2005

**RTO MEETING, WELLINGTON**

**Auckland Passenger Transport Procurement,  
Funding and Contracting Reform**

*The problem with the current system and imperative for change*

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## Context

### The Auckland RLTS sets ambitious patronage growth targets which will require major investment

- The Regional Land Transport Strategy (RLTS) adopted on 18 October 2005 sets a very ambitious target of:
  - 108million PT trips per annum (all modes) by 2016 from 52million (2005)
  - Bus target = 90million from 42million
- ARTA's review of procurement therefore takes as a starting point:
  - The factors which motivate customers – both current and potential:
    - > *Improved reliability*
    - > *Enhanced frequency and temporal coverage*
    - > *Integration of the system (modes, services, timetables, ticketing & fares)*
    - > *Comparable convenience to the car*
  - These predominantly require significant ARTA investment, therefore, the conditions which will allow ARTA to derive best value-for-money
- Auckland % commercial trips: 2003, 36%; 2004: 31%; 2005: 26%



## The Current Situation

### The Transport Services Licensing Act, Part 2, 1989 creates a 2-tier procurement system, fragmenting PT service procurement and provision

- The TSLA creates a 2-tier procurement system:
  - 'Commercial' registered services that in theory make a profit. **Private sector** sets performance and quality standards
  - Contracted gap filling services where the public sector fills any gaps around the above. **Public sector** sets performance and quality standards
- TSLA was part of a:
  - "set of reforms of the land transport system ... will create a land transport system that will be safe, cost-effective, and clearly funded by the users of the system ... create opportunity for innovation and service development ... puts all elements of land transport into one integrated planning framework ..."
  - Transport Law Reform Bill (No. 2) Second Reading; 14 September 1989.
- Intention to place both cost and revenue risk with the private sector, to get greatest efficiency and value for government



The Current Situation

**However, NZTS and new legislation seem to contradict a 2-tier system**

- New Zealand Transport Strategy sets principles for the land transport system of:
  - **Sustainability**
  - **Safety**
  - **Responsiveness**
  - **Integration**
- New legislation:
  - Land Transport Management Act 2003 (LTMA), objective to obtain **value-for-money**
  - Local Government (Auckland) Amendment Act 2004 (LGAAA), established ARTA with an objective to **plan, fund, and develop the Auckland regional land transport system in a way that contributes to an integrated, safe, responsive, and sustainable land transport system for the Auckland Region**



The Problem: Conflict with NZTS

**The 2-tier system created by the TSLA cannot deliver the principles of the New Zealand Transport Strategy ... Sustainability and Safety ...**

- Sustainability:
  - ARTA ultimately picks up all risk (and public/ political accountability) for the delivery of the PT system, but cannot manage 45% of services (commercials)
  - ARTA has no visibility of financial performance of commercials, and no warning of problems
  - 21 days notice for deregistration makes budget and planning certainty difficult
  - Commercial services allow manipulation of the tender process creating poor value
  - Future commercials can be "reserved" with no max. time to start; plus no ability to decline commercials if no contract is in place; = new infrastructure & greenfield urban development is prone to unregulated services; long-term PT planning is undermined; anti-competitive
- Safety:
  - No reason to believe the current system is inherently unsafe, however,
  - ARTA cannot remove commercial services for non-operation or poor performance



The Problem: Conflict with **NZTS**

**... and for Responsiveness and Integration**

- Responsiveness:
  - No legal ability to obtain detailed patronage data, makes it difficult to respond to change
  - Economics limit operator investment to grow demand with more frequency & temporal coverage
  - Can't vary commercials to respond to the market and implement publicly consulted PT plans
  - ARTA cannot decline commercials if they conflict with PT plans, the RLTS or are low quality
  - Operators taking all revenue risk means market protection slows service innovation
- Integration:
  - ARTA has no control over commercials to deliver an integrated PT plan or RLTS
  - ARTA can't integrate timetables, modes & easily deliver integrated fares
  - ARTA can't set quality & performance standards for commercial services; service fragmentation; risk of low quality & poor performing services



The Problem: Conflict with **LTMA**

**Sizeable public investment is needed; but ARTA is skeptical of doing this under the existing system with limited control and limited value for money**

- Auckland needs improved **reliability**, enhanced service **frequencies** and **temporal coverage**, system **integration** and improved **convenience** versus the car
- This requires significant investment by ARTA, but ARTA is skeptical of investing in the current system, as it believes it offers poor value-for-money (LTMA conflict):
  - Questionable value from tendering, where commercial services are used by incumbents strategically and create a barrier for bidders
  - Use of commercial services to manipulate tendering
  - Little knowledge of whether subsidy gives value-for-money, due to influence (operationally, financially) of commercial services, but no transparency
  - System fragmentation, with little incentive for operators to co-operate to integrate
  - Quality and performance standards can differ, with no ability for ARTA to stop the "cowboy" operators
- Risk is not appropriately allocated:
  - Revenue risk rests (at lower level) with operators; e.g. difficult to vary commercials
  - Risk ultimately rests with ARTA, but with little control; commercial abandonment



The Problem: Recent Case Studies include:

- Commercial service abandonments, with 90 (21 legally) days notice:
  - Early 2004, Western Bays (\$100,000~subsidy needed to reinstate)
  - Mid-2004, South Auckland corridors (\$100,000~)
  - March 2005, Great South Road (\$1m)
  - June 2005, 12 bus corridors across Auckland (\$6.9m) & Half Moon Bay Ferry (<\$1m)
- Non operation of Waiheke Island vehicular ferry commercial service
- Use of commercial services to influence "lost" tenders, e.g. sequence of events:
  - Partial registration of timetable prior to tenders (Monday - Friday, 7am to 6pm)
  - Preferred tenderer identified as different to "incumbent" with the above registration
  - Full registration of timetable during tender negotiation
  - Contract still awarded to non-incumbent
  - Subsequent abandonment of commercial service, and many others by incumbent
- 2005: Can't decline new or vary existing commercial services that conflict with PT plan
- Traditional low number of bidders, with single bids ranging from **40% - 80%**
- Impossible to get integrated fares without significant underwriting of commercial service revenue (but with no fare policy control for ARTA)



The Implications of No Change

**Without change ARTA believes that legislation will be misaligned; major PT investment will be inefficient; and government policy not implemented**

- Questionable value-for-money and transparency of public investment through contracted services will continue (LTMA conflict)
- ARTA cannot be accountable for commercial services without operator goodwill (LGAAA conflict) - non-delivery of publicly consulted PT plans
- Integration becomes difficult (NZ Transport Strategy, RLTS and LGAAA conflict)
- If efficiency and value from public investment is questionable, or not proven, ARTA and other government may not be willing to invest
- Patronage growth may not meet its potential
- Carpet-bagging of future public PT infrastructure investment
- Continual ARTA (and therefore ARC and LTNZ) budget uncertainty



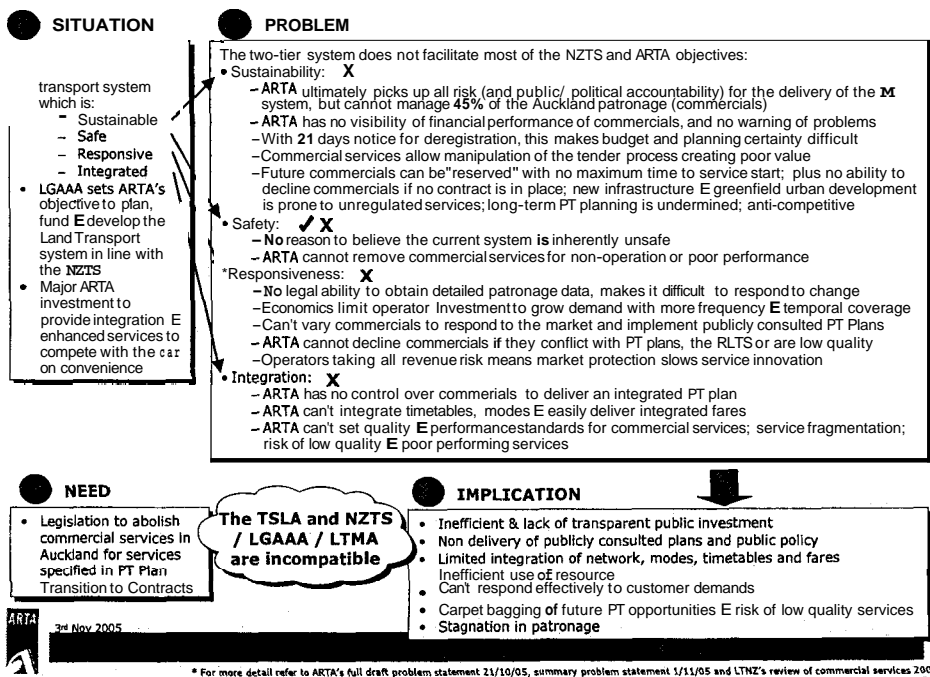
**What Should be Done?**

**To permit major public (and private) investment to grow patronage, risks and costs must be appropriately allocated**

- Allocate risk and cost effectively:
  - Fully contracted system (larger, longer contracts)
  - Net cost with revenue sharing or Gross cost with incentives
  - No commercial services permitted for those specified in PT plans
- Complete cost transparency where public money is invested
- Some negotiation of new contracts on open-book basis
- Some tendering of new contracts
- The above can be achieved under existing legislation, with operator agreement, BUT,
- Must remove residual risk of any new commercial services:
  - During tendering at start and end of contracting period
  - Where new contracts may not exist, e.g. greenfield urban development



**Summary: The NZTS / LGAAA / LTMA cannot be delivered under the current TSLA**



# Public Transport Procurement Legislation Review Presentation to Regional Council CEOs

PRESENTED  
BY Anatole  
Sergejew  
7 November 2005



## PT Procurement Legislation Review Background

The PT contracting framework was changed by the Land Transport Management Act 2003 (LTMA).

The new focus in the LTMA is on value for money from PT contracting, rather than competitive processes and minimising cost.

Land Transport NZ are reviewing their policies for approving PT contracting procedures to align with the LTMA.





## PT Procurement Legislation Review Background / cont.

On 8 December 2003 Cabinet agreed that "a joint working group of Auckland and central government officials will be established to assess the need for changes to regulatory (other than Resource Management Act) arrangements governing Auckland public transport, as part of the Sustainable Cities Programme of Action"

(CAB Min (03) 40/7B refers).



## PT Procurement Legislation Review Background / cont.

Focus is on

- the current legal right of operators to register and provide commercial services, and the limited controls that local government has over these services (Part Two of the Transport Services Licensing Act 1989)
- This review will not consider other PT issues, e.g. funding.



## PT Procurement Legislation Review Background / cont.

The Transport Services Licensing Act 1989 (TSLA) provides for two types of public transport ('hire and reward') services:

- 'Commercial' services – essentially non-subsidised services, with routes, frequencies, fares, vehicle type etc. specified by and provided on the initiative of operators.
- 'Contracted' services – essentially subsidised services funded by the regional council with routes, frequencies, fares, vehicle type etc. specified by and provided on the initiative of the regional council.



## PT Procurement Legislation Review Background / cont.

Operators proposing to operate a commercial service are required to notify details of the service to the regional council (RC) at least 21 days in advance of the start of the service.

The RC is then required to register the notified service within 21 days, except that it may decline registration where the service proposed :

- (a) Is likely to have a material adverse effect on the financial viability or increase the net cost to the RC of any contracted service; or
- (b) Is contrary to sound traffic management or any other environmental factor identified by the RC as being of importance to its region.



## PT Procurement Legislation Review Issues reported by Regional Councils

Difficult to effectively and efficiently implement regional passenger transport plans.

Planning of services is more difficult, because of information deficiencies re commercial services, uncertainties re commercial registrations etc.

The existence of commercial services causes difficulties in achieving services with a consistent set of standards (service levels, service quality, fares/ticketing, integration etc).

Procuring desired services is more difficult because of uncertainties/instabilities associated with the commercial registration system.



## PT Procurement Legislation Review Issues reported by Regional Councils / cont.

Places an undue focus on commercial provision/cost minimisation.

Inconsistent with optimal, integrated pricing.

The existence of commercial services makes it difficult to achieve service integration.

Limited success in providing market-oriented services and hence maximising patronage.

No evidence that the “two-tier” system is more cost-efficient than an all-contract system.

Service funding costs and administration costs are not lower, and probably higher, than under an all-contract system.



## PT Procurement Legislation Review Operator's Perspective

Operators think the current arrangements are generally successful and that:

- they provide value for money
- competition or the risk of competition forces bids to be priced competitively
- commercial registrations give operators certainty and stability in an otherwise tendered environment
- net contracts, commercial registrations and revenue risk establish an entrepreneurial and innovative environment
- asset ownership is central to their business interest for most operators

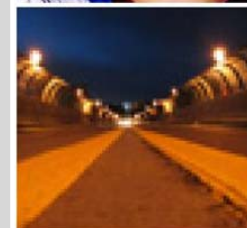


## PT Procurement Legislation Review Operator's Perspective / cont.

- current arrangements provide a high level of service
- operators could deliver integrated ticketing faster and more cost effectively than Regional Councils

But operators generally agree the current arrangements could be improved at the margin:

- a more consistent approach between regions (timing of and approach to commercial registrations, indexation, selection of preferred tenderer, quality standards, etc)
- operators could provide better data to Councils on commercial services to assist planning, if data treated confidentially with appropriate protocols
- operators accept that the notification period is too short





## PT Procurement Legislation Review Project Plan

The project plan for this legislation review has been approved by the Auckland CEO Forum and the Minister of Transport.

The project is on a tight timeframe – draft report by end Dec 2005, recommendations to Minister by end March 2006.

Although the project has an Auckland focus, must ensure that it is undertaken within a national context and that other regions' views on any possible changes to national legislation are captured:

- ▶ Local Authority Reference Group established through LGNZ.
- ▶ Industry Reference Group established through the Bus & Coach Association.



## PT Procurement Legislation Review Project Plan / cont.

Joint working group membership:

- Ministry of Transport
- Land Transport New Zealand
- Auckland Regional Council
- Auckland Regional Transport Authority
- North Shore City Council  
(representing Auckland territorial authorities)
- Auckland bus, ferry and train operators



## PT Procurement Legislation Review Project Plan / cont.

Stage:	Action:	Timeframe:
Stage 1a	Develop a set of criteria for evaluating the performance of Auckland's PT system.	Completed
Stage 1b	Problem definition, incl. evaluating PT performance against criteria established in stage 1a.	Underway
2a	Confirm problems, and establish dis/agreements and rationales for these.	Underway
2b	Establish which problems are a function of the legislation or due to other reasons.	Underway
2c	Options for legislative change if appropriate.	By 18 Nov 2005
2d	Evaluate options against criteria established in stage 1a.	25 Nov 2005
2e	MOT draft report with draft recommendations.	By 9 January 2006
3	Consultation on draft report with stakeholders, including reference groups and Combined ASCP Steering Group.	January - February 2006
4	Final recommendations and report of all views submitted to Minister and copied to participants.	End March 2006



## PT Procurement Legislation Review Opportunities for Input

Draft outputs of the joint working group are being circulated to the Local Authority Reference Group as they are produced.

There will be a formal round of consultation with stakeholders (circulating the draft review report, and seeking submissions) in January-February 2006.



## PT Procurement Legislation Review Opportunities for Input / cont.

Membership of local government reference group:

Anne Redgrave (Horizons Regional Council),

Dave Watson (Wellington Regional Council)

Don Hill (Dunedin City Council)

Ken Lawn (Environment Canterbury)

