

Draft submission to the Transport and Industrial Relations Committee in the matter of the Land Transport Management Amendment Bill 2007

22 November 2007

Draft

FOR FURTHER INFORMATION

Greater Wellington
Regional Council
Wellington
PO Box 11646

T 04 384 5708
F 04 385 6960
W www.gw.govt.nz
WGN_DOCS #495199 v1

TP/01/06/04

22 November 2007

Contents

1.	Introduction	3
2.	Comments	3
2.1	Purpose: Section 4	3
2.2	Government Policy Statement: Sections 84 – 91	3
2.3	Regional Land Transport Committees: Section 104	4
2.4	Regional Land Transport Strategies: Sections 73 – 83	4
2.5	Regional Land Transport Programmes: Sections 12 – 18	5
2.6	Regional Fuel Tax: Section 65	9
2.7	The New Zealand Transport Agency: Sections 92 - 101	12
2.8	Transitional and savings provisions: Section 8	12
2.9	Drafting Errors	13
2.10	Other Matters	13

Draft

1. Introduction

1. Greater Wellington Regional Council (Greater Wellington) thanks the Select Committee for the opportunity to make a submission on the Land Transport Management Amendment Bill (the Bill) and asks that The Honourable Fran Wilde, Council Chair, appears before the Committee in support of the submission.
2. Overall, we are very supportive of the Bill which provides greater direction for, and transparency of the transport sector, as well as providing regions with stronger influence over regional transport system decisions. Greater Wellington is confident that the Bill, once enacted, will set in place a robust framework for the empowerment of stronger and more integrated regional transport decision making via revised Regional Land Transport Committees with voting rights that will lead to greater local political accountability. We welcome the ability to consider funding of new transport infrastructure through new Regional Fuel Taxes.
3. Greater Wellington believes that some sections of the Bill require amendment or further clarification. Details of suggested changes are set out below.
4. Except where otherwise noted in this submission, Greater Wellington endorses the commentary on, and changes to, the Bill made by Local Government New Zealand in its submission.

2. Comments

1. The following section is presented under key themes with section and clause references referring to the Bill rather than the original Land Transport Management Act.

2.1 Purpose: Section 4

1. Greater Wellington welcomes the addition of the word “*affordable*” in Section 4(1) (the purpose of the Act) as this clearly identifies the key consideration in the establishment a land transport system that is integrated, safe, responsive and sustainable.

2.2 Government Policy Statement: Sections 84 – 91

1. Greater Wellington strongly supports the development of a Government Policy Statement as it will set out the Government’s planned investment and funding priorities, providing strategic guidance to the transport sector.
2. Given the importance of the proposed Government Policy Statement in directing the new funding regime, Greater Wellington believes that during its preparation, not only should the national policy statement be taken into account but also Regional Land Transport Strategies. While we acknowledge that the

Government Policy Statement is Government policy, in setting that policy and in order to achieve integrated transport management, Regional Land Transport Strategies are an extremely relevant tool. Therefore, we ask that the following provision be added to Section 87 (i) (b):

Current provision	Suggested change
<p>87 Preparation of GPS</p> <p>(1) The Minister must, in preparing the GPS, -</p> <p>(b) Take into account any relevant national policy statement that is in force under the Resource Management Act 1991.</p>	<p>87 Preparation of GPS</p> <p>(1) The Minister must, in preparing the GPS, -</p> <p>(b) Take into account any relevant national policy statement that is in force under the Resource Management Act 1991 <i>and any adopted Regional Land Transport Strategy.</i></p>

2.3 Regional Land Transport Committees: Section 104

- Greater Wellington strongly supports changes to Regional Land Transport Committee make up and voting provisions. We believe the Bill appropriately reflects the wider community interests in Regional Land Transport Strategies. Limiting voting rights on decisions that have local funding implications reflects the important principle that voting should be limited to those members that have direct accountability to rate payers and for the delivery of the projects.

2.4 Regional Land Transport Strategies: Sections 73 – 83

- Greater Wellington supports changes to Regional Land Transport Strategies, to be developed every six years with a 30 year outlook, as well as the shift from annual monitoring on progress to a three yearly reporting cycle. We believe that this will make a positive contribution to reducing “planning churn”.
- Greater Wellington supports the provisions made in the Public Transport Management Bill for Regional Land Transport Strategies to not include Regional Passenger Transport Plans. Therefore we propose the removal of Section 77(i) from the Bill that currently states that Regional Land Transport Strategies must contain Regional Passenger Transport Plans as shown below:

Suggested clause to be removed
<p>77 Contents of regional land transport strategies</p> <p>(i) any regional passenger transport plan (within the meaning of section 47 of the Transport Services Licensing Act 1989)</p>

- Schedule 2 (10) (2) (a – c) of the Bill discusses transitional provisions for Regional Land Transport Strategies. The section is not clear as to what consultation will be required for renewed Regional Land Transport Strategies.

For example, consultation for the recently adopted Wellington Regional Land Transport Strategy 2007-2016 cost approximately \$250,000. We do not believe that it would be necessary to consult further provided the Regional Land Transport Committee was satisfied that any changes to align it to the requirements of the enacted Bill were minor. This would be consistent with the principle of reducing planning churn. We suggest that a new clause be added to Schedule 2, Section 10 as shown below:

Suggested addition
Schedule 2: 10 Savings and transitional provisions for regional land transport strategies
<i>(6) Renewal for the purposes of this Section would not require full consultation provided the Regional Land Transport Committee is satisfied that any changes to the Regional Land Transport Strategy to align it with the requirements of the Land Transport Amendment Act 2008 are minor.</i>

2.5 Regional Land Transport Programmes: Sections 12 – 18

1. Greater Wellington supports the provisions for Regional Land Transport Programmes. We note that achieving the Bill's requirement to have the first Regional Land Transport Programme in place by 1 July 2009 will be very demanding but we accept that it will be necessary to follow this timetable in order to provide vital planning certainty for regions.

2.5.1 Regional Land Transport Programme Consultation

1. It is very important that the Regional Land Transport Programme consultation is fully coordinated with the Annual Plan/Long Term Council Community Plan process so as to minimise the consultative burden on the community and avoid duplicating process costs. Greater Wellington is concerned that the process specified under the Bill will not necessarily achieve this.
2. Section 13(3) states that Regional Councils must have their first Regional Land Transport Programme in place by 1 July 2009. However, we understand that in order to meet the Agency's requirements for the National Land Transport Programme to be in place by 1 July 2009 (Section 19A(2)), the Agency will require Regional Land Transport Programmes to be approved by 30 April 2009.
3. This causes a conflict with information availability and timelines as most Long Term Council Community Plan processes don't conclude until June.
4. There appear to be three possible options to ensure Council consultation processes can align:

- Advance the Long Term Council Community Plan process by two months. Generally, the local government sector begins developing draft plans in October of the previous year, before consulting in April and adopting plans in June. Therefore advancing this programme by two months would be extremely difficult and would impact on the whole local government sector. We do not recommend this option.
- Delay the National Land Transport Programme by two months. This would mean a period of uncertainty in national planning. This could possibly be addressed by an interim programme. It would also require a change to clause 19A (2) of the Bill.
- The new Agency relies on the draft programmes that would be available by 30 April (i.e. those that were being consulted on) as the basis for the National Land Transport Programme and deals with changes that come about as a result of the consultation process as variances to the programme, much as it does now. This seems to be the most pragmatic approach.

2.5.2 Regional Land Transport programme consistency with the GPS

1. Greater Wellington is concerned that the requirements for the Regional Land Transport Programme to be “*consistent with*” the Government Policy Statement and Regional Land Transport Strategies is not sufficiently strong enough to ensure the strategic outcomes are achieved. Greater Wellington suggests that Section 14(a) (iii) be amended to read: “gives effect to –”, as shown below:

Current provision	Suggested change
<p>14 Core requirements of regional land transport programmes prepared by regional land transport committees</p> <p>When a regional land transport committee prepares a regional land transport programme on behalf of the relevant regional council, the regional land transport committee must -</p> <p>(a) be satisfied that the regional land transport programme -</p> <p>(iii) is consistent with –</p> <p>(A) the relevant GPS; and (B) any relevant regional land transport strategy;</p>	<p>14 Core requirements of regional land transport programmes prepared by regional land transport committees</p> <p>When a regional land transport committee prepares a regional land transport programme on behalf of the relevant regional council, the regional land transport committee must -</p> <p>(a) be satisfied that the regional land transport programme -</p> <p>(iii) <i>gives effect to</i> –</p> <p>(A) the relevant GPS; and (B) any relevant regional land transport strategy;</p>

2.5.3 Regional Land Transport Programme and Police activities

1. Section 16(2) (k) of the Bill sets out new provisions for Regional Land Transport Committees to make an assessment of police activities as part of Regional Land Transport Programmes. We assume the purpose of this provision is to achieve integration between Regional Land Transport Programmes and police activities. However, in order to achieve this integration in the best possible manner, it is essential that discussions between the parties occur before an activity or groups of activities are submitted for inclusion in Regional Land Transport Programmes. To ensure this, we believe that Approved Organisations should be party to the development of the New Zealand Police programme.
2. Section 18 of the Bill provides that police activities are determined solely between The New Zealand Transport Agency, The New Zealand Police (The Commissioner) and the Ministry of Transport (The Secretary) with no requirement to involve Local Government. We suggest that Section 18G (1) be changed as follows:

Current provision	Suggested change
<p>18 G Requirements before recommending police activities or combinations of police activities</p> <p>(1) Before recommending any police activities or combinations of police activities that are to be funded under section (2), the Agency must consult the Commissioner and the Secretary,</p>	<p>18 G Requirements before recommending police activities or combinations of police activities</p> <p>(1) Before recommending any police activities or combinations of police activities that are to be funded under section (2), the Agency must consult the Commissioner, <i>the Secretary and Approved Organisations,</i></p>

2.5.4 Inclusion of minor passenger transport improvements in the Regional Land Transport Programme Prioritisation

1. Section 16(3), as currently drafted, requires even minor passenger transport improvements to be included in the Regional Land Transport Programme prioritisation. We request that provision be made for new minor passenger transport service improvements to be treated in the same way as local roads in order to allow for minor matters to be dealt with effectively and efficiently. For example, the trial of a new harbour ferry service costing \$75,000 would need to be identified as a whole new item in the Regional Land Transport Programme. We believe this should be considered as a minor variation to the existing passenger transport base programme. Our suggested changes to Section 16(3) are shown below:

Current provision	Suggested change
<p>16 Form and content of regional land transport programmes</p>	<p>16 Form and content of regional land transport programmes</p>

(3) For the purpose of this section, existing public transport services means the level of public transport services in place in the financial year before the commencement of the regional land transport programme.	(3) For the purpose of this section, existing public transport services means the level of public transport services in place in the financial year before the commencement of the regional land transport programme <i>and any minor changes to those services</i> .
--	--

2.5.5 Variations of Regional Land Transport Programmes

1. Clause 19E (5) states that “no variation of a regional land transport programme creates an obligation of the Agency to vary the national land transport programme”. Greater Wellington supports the intent of this section. Clause 18B is a similar provision; however the inclusion of “without limitation” raises a conflict with the following test of reasonableness. This is a concern as it is almost certain that Regional Land Transport programmes will need to be varied within each three year cycle as new information on the scope, cost and timing of activities becomes available. We suggest the following amendment to the clause:

Current provision	Suggested change
<p>18B Variation of regional land transport programmes</p> <p>(3) The Agency may (without limitation) decline to agree to a variation of a regional land transport programme if the Agency is satisfied that the subject matter of the variation could reasonably have been included in the regional council's regional land transport programme.</p>	<p>18B Variation of regional land transport programmes</p> <p>(3) The Agency may (without limitation) decline to agree to a variation of a regional land transport programme if the Agency is satisfied that the subject matter of the variation could reasonably have been included in the regional council's regional land transport programme.</p>

2.5.6 Monitoring requirements of Regional Land Transport Programmes

1. Greater Wellington requests clarification of Section 16(2) (m) regarding the requirement to describe “how monitoring will be undertaken to assess the regional land transport programme”. We assume that monitoring would assess progress in implementing the programme and suggest the following amendment to the clause:

Current provision	Suggested change
<p>16 Form and content of regional land transport programmes</p> <p>(2) A regional land transport programme must contain the following matters:</p> <p>(m) a description of how monitoring will be undertaken to assess the regional land transport programme; and</p>	<p>16 Form and content of regional land transport programmes</p> <p>(2) A regional land transport programme must contain the following matters:</p> <p>(m) a description of how monitoring will be undertaken to assess <i>progress towards implementing</i> the regional land transport programme; and</p>

2.6 Regional Fuel Tax: Section 65

- Greater Wellington supports the new provisions to allow for the collection of a Regional Fuel Tax to fund capital projects that are unlikely to be funded from other sources within the timeframe desired by the region. We also support the provision to allow Regional Fuel Tax revenue to be used as a contribution towards the local share for capital projects where otherwise the local share would be unaffordable to the Authority involved.

We are concerned about five key aspects of the proposed tax:

2.6.1 Revenue risk and inflation adjustment

- Greater Wellington is concerned about exposing its rate payers to potential financial risks posed by the possibility that fuel consumption may fall in the medium to long term future, as the effects of peak oil and climate change commitments become clearer. Reduced fuel consumption would lead to reduced revenue which in turn may produce a loan payment deficit that may need to be met via rates.
- If a Regional Fuel Tax is proposed to help pay for a significant capital project that does not commence for some years after the enactment of the Bill, it might mean that the five and ten cent tax limits will be insufficient to meet future costs due to inflationary pressures. In order to address these matters, we seek a mechanism to allow for adjustments to be made to the quantum of the tax, by allowing this to be included in the Government Policy Statement under Section 88(2) (b) as shown below. We note there will need to be consequential changes made to the Bill to allow for adjustments to be made.

Current provision	Suggested change
<p>88 Content of the GPS</p> <p>(2) The GPS may include the following:</p> <p>(b) any relevant funding policy:</p>	<p>88 Content of the GPS</p> <p>(2) The GPS may include the following:</p> <p>(b) any relevant funding policy, <i>including changes to Regional Fuel Tax Scheme limits as set out in Section 65G.</i></p>

2.6.2 Targeted Tax Areas

- Greater Wellington seeks the ability to levy Regional Fuel Taxes at a sub regional level so that those members of the regional community who benefit from the tax are the ones that are required to pay it. The proposed requirement to levy the tax over the whole region is somewhat blunt and potentially inequitable (but does potentially limit cost spreading). For example, in the Wellington region, if the region decides to levy a Regional Fuel Tax to help pay for the cost of the Transmission Gully Motorway, those people living in the

west of the region would receive a disproportionately larger benefit than the people living in the east (Wairarapa) due to the location of the new motorway. Under the current Bill the Wairarapa community would pay the same tax.

2.6.3 Interregional Contributions

- As currently drafted, there are no provisions in the Bill to explicitly allow for regions to contribute portions of their collected Regional Fuel Tax to projects in other regions. For example, large projects on State Highway One might be of sufficient importance to a neighbouring region that they may choose to consider contributing a portion of their Regional Fuel Tax to help pay for the construction of the project. We would therefore support explicit provision within this section of the Bill to allow for this, although our reading of Section 65 does not appear to preclude interregional contributions. Our suggested amendment is set out below:

Current provision	Suggested change
<p>65E Preparation of proposed regional fuel tax scheme</p> <p>(1) This section applies if a regional land transport committee on behalf of a regional council considers that -</p> <p>(a) its region needs funding for 1 or more capital projects that it considers are a priority for the region; and</p>	<p>65E Preparation of proposed regional fuel tax scheme</p> <p>(1) This section applies if a regional land transport committee on behalf of a regional council considers that -</p> <p>(a) its region needs funding for 1 or more capital projects <i>(possibly outside the region)</i> that it considers are a priority for the region; and</p>

2.6.4 Early collection and saving of Regional Fuel Tax

- The Bill's explanatory note states that "*revenue is not raised before it is required*". We note that there are no provisions in Section 65 of the Bill that actually restrict the collection of a Regional Fuel Tax in advance of a project's expenditure. We support explicit provision of the ability to be able to collect a Regional Fuel Tax in advance of a project in special circumstances. The precedent has already been set for this in the collection of development contributions by Local Authorities under the Local Government Act, 2002. Often development contributions are paid by developers, with Local Authorities not actually spending the contribution on infrastructure development for many years. We recognise that a full case (and commitment to a project) will need to be established and considered on a case by case basis and suggest the following addition to Section 65G of the Bill:

Suggested addition
<p>65G General information about proposed scheme</p> <p>(1) A proposed regional fuel tax scheme must -</p>

(b) provide for when the scheme starts, which –
(iii) may be collected in advance of a project's expenditure; and

2.6.5 Consultation on Regional Fuel Tax

1. As currently written, Section 65R requires Regional Councils to consult on any additions made to a Regional Fuel Tax scheme. While variations to a scheme are provided for, these are very limited and do not enable the addition of new projects or increased rates for existing projects. All additions to a scheme require the scheme to be replaced and Section 65R (2) subjects that replacement to the full consultation provisions of Sections 65G and 65H.
2. This means that if the region decides to develop a Regional Fuel Tax Scheme to help fund a large roading project and then some time later propose to increase the tax to fund a passenger transport project (such as integrated ticketing), it would be required to consult not only on the new project but also the existing committed project on which it had previously consulted.
3. We propose that Section 65R(3) provides for a Regional Fuel Tax scheme to be changed by way of an addition and that consultation is required on the addition and not the committed component of an existing Regional Fuel Tax scheme as shown below:

Current provision	Suggested change
<p>65R Review of regional fuel tax scheme</p> <p>(3) However, only the following kinds of variation are permitted under subsection (1):</p> <p>(a) a variation that does not materially alter the scheme in any way;</p> <p>(b) a variation of the allocation of regional fuel tax between the capital projects included in the scheme;</p> <p>(c) A variation of the maximum duration of a regional fuel tax contribution referred to in section 65G (1) (f) that arises out of a material change in circumstances.</p>	<p>65R Review of regional fuel tax scheme</p> <p>(3) However, only the following kinds of variation are permitted under subsection (1):</p> <p>(a) a variation that does not materially alter the scheme in any way;</p> <p>(b) a variation of the allocation of regional fuel tax between the capital projects included in the scheme;</p> <p>(c) a variation of the maximum duration of a regional fuel tax contribution referred to in section 65G(1)(f) that arises out of a material change in circumstances;</p> <p><i>(d) a change by way of an addition to an existing scheme provided that the addition has been consulted on in accordance with the requirements of Section 65H.</i></p>

2.7 The New Zealand Transport Agency: Sections 92 - 101

- Greater Wellington supports the amalgamation of Land Transport NZ and Transit NZ, although we have some concerns about the transparency and accountability of such an agency. We hope that the provision of clear guidance via the Government Policy Statement, the increased role of regional programming, the Ministry of Transport's new audit role, and the provisions that the Agency treats itself as it would treat others (Section 95(d)), may be sufficient to ensure adequate accountability of the new Agency.

2.8 Transitional and savings provisions: Section 8

- We are very pleased that provision has been made to confirm previously agreed appropriation funding. However, we are concerned that the contents of clause 8(1) of Schedule 2 of the Bill regarding the figures given as committed amounts to the Wellington region do not reconcile with our understanding of the figures.
- The figures shown in Schedule 2 are the appropriations for 2008/09 and beyond. While Schedule 2, Section 8(2) provides for carryovers of monies unspent in 2007/08 this would mean that \$22M of "C1" funding unspent prior to 2007/08 would be lost. We suggest that Schedule 2, Section 8(2) be amended as follows:

Current provision	Suggested change
<p>Schedule 2, Section 8 Approval of certain activities or combination of activities</p> <p>(2) Any outstanding amounts appropriated in the 2007/08 financial year and unspent in that financial year and that relate to a commitment described in the first column of the table in subclause (1) are to be added to the amount specified in the second column of that table opposite the description of that commitment.</p>	<p>Schedule 2, Section 8 Approval of certain activities or combination of activities</p> <p>(2) Any outstanding amounts appropriated in the 2005/06 financial year and unspent in that financial year and that relate to a commitment described in the first column of the table in subclause (1) are to be added to the amount specified in the second column of that table opposite the description of that commitment.</p>

- In addition, we seek amendment to the figures provided in the table set out in Schedule 2, Section 8(1) so that they match the amounts previously agreed to between central government and ourselves. The discrepancy in amounts is shown in the table below:

Funding Source	Figure previously agreed to	Figure in Schedule 2 of the Bill	Difference
"C1" Regional Land Transport Strategy implementation	\$225M	\$163M	-\$62M
"C2" Western Corridor congestion, safety, access and reliability improvements	\$255M	\$235M	-\$22M
"C3" Long-term solutions to address access reliability for	\$405M	\$405M	None

State Highway 1 between Kapiti and Wellington			
---	--	--	--

2.9 Drafting Errors

- Greater Wellington has noted the following drafting errors in the Bill and identifies them for correcting in the final legislation:

2.9.1 Section 102

- Section 102(2), as currently written, would allow for Regional Land Transport Committee members to “double up” their representation on the Committees. This needs to be corrected. Section 102(4) states that the representative of economic development must be from the wider community and not a member of the regional council, local authority or the Agency. This provision should apply to all the objective representatives.

2.9.2 Section 103

- Section 103, as currently written, is not consistent with the requirements of Section 83 that require Regional Land Transport Committees to prepare a progress report on the implementation of Regional Land Transport Strategies. Greater Wellington suggests the addition of a clause (d) to this section to state this additional function of Regional Land Transport Committees as shown below:

Current provision	Suggested change
<p>103 Functions of regional land transport committee</p> <p>(1) The functions of each regional land transport committee (except for the Auckland region) are to prepare for approval by the relevant regional council or unitary authority -</p>	<p>103 Functions of regional land transport committee</p> <p>(1) The functions of each regional land transport committee (except for the Auckland region) are to prepare for approval by the relevant regional council or unitary authority –</p> <p><i>(d) Every 3 financial years a progress report on the implementation of any regional land transport strategy in place during the previous 3 financial years.</i></p>

2.10 Other Matters

2.10.1 Provision for road pricing

- Alongside the Regional Fuel Tax option, we consider road pricing to be an appropriate and sustainable tool for achieving the combined objectives of the New Zealand and Regional Land Transport Strategies. Much overseas research has demonstrated that road pricing is the most effective travel behaviour change tool available to control levels of congestion. Road pricing would support

Central Government's desire to manage greenhouse gas emissions and make the best use of existing infrastructure. Greater Wellington strongly encourages the inclusion of provision for the introduction of road pricing on existing routes as soon as is practicable. We note that the Ministry has work currently under way on the issue in Auckland.

2.10.2 Financial Assistance Rates

1. The cost of preparing and consulting on Regional Land Transport Programmes may not be offset by Regional Land Transport Strategies being moved to a six year cycle and Regional Land Transport Strategy Monitoring Reports being moved to a three year reporting cycle. This is due to the uncertainty about the ability to fully align Regional Land Transport Programme consultation with a concurrent Long Term Council Community Plan/Annual Plan process (discussed earlier in our submission) and the extent to which regional councils will need systems to support the information and analysis requirements for the Regional Land Transport Programmes.
2. Currently Regional Transport Planning is supported by a Financial Assistance Rate of 25%. Greater Wellington suggests an increase to the Financial Assistance Rate for regional transport planning to recognise the cost shift that will occur when Transit New Zealand's current consultation requirements on its State Highway Forecast are undertaken by Regions. This new Financial Assistance Rate could be addressed under the provisions of Section 88(2)(b) that allows the Government Policy Statement to include any relevant funding policy.

Signed:

Hon Fran Wilde
Chair