



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Establishing the Sustainable Public Transport Framework

Portfolio **Transport**

On 1 August 2022, following reference from the Cabinet Environment, Energy and Climate Committee (ENV), Cabinet:

- 1 **noted** that in April 2021, ENV agreed that a discussion paper for the Public Transport Operating Model (PTOM) Review be published and invited the Minister of Transport to report back to Cabinet on the outcomes of consultation and engagement [ENV-21-MIN-0011];
- 2 **noted** that the Minister of Transport intends to replace the PTOM, with a new framework called the Sustainable Public Transport Framework (SPTF), which will have the following objectives:
 - 2.1 public transport services support mode-shift from private motor vehicles, by being integrated, reliable, frequent, accessible, affordable, and safe;
 - 2.2 employment and engagement of the public transport workforce is fair and equitable, providing for a sustainable labour market and sustainable provision of public transport services;
 - 2.3 well-used public transport services reduce the environmental and health impact of land transport, including by reducing reliance on single-occupancy vehicles and by using zero-emission technology;
 - 2.4 provision of services supports value for money and efficiency from public transport investment while achieving the first three objectives;
- 3 **noted** that the SPTF will retain some key features of PTOM including:
 - 3.1 public transport authorities (PTAs) will remain responsible for planning, procurement, delivery, and regulation of public transport services;
 - 3.2 PTAs will plan networks by preparing regional public transport plans (RPTPs);
 - 3.3 PTAs will set fares and fare policies;
 - 3.4 public transport services a PTA intends to provide will be bundled into units;

- 3.5 some services will continue to be exempt from the SPTF, including services operated commercially and inter-regional public transport services;
- 3.6 Waka Kotahi NZ Transport Agency (Waka Kotahi) will continue to be responsible for developing and administering operational policy in relation to public transport;
- 4 **noted** that the Minister of Transport has asked Waka Kotahi to review the exempt status of the Fullers ferry services to Waiheke Island;

Legislative amendments

- 5 **agreed** that the necessary legislative amendments be made to:

Embed the new SPTF objectives in the regulation of public transport

- 5.1 amend section 115 of the Land Transport Management Act 2003 (LTMA) to reflect the overarching objectives set for the SPTF (see paragraph 2 above);

Enable more flexibility around service delivery and asset ownership arrangements

- 5.2 create an exception for public transport services from the requirement to outsource activities to receive funding from the National Land Transport Fund;
- 5.3 modify the requirement that public transport services are contracted, unless exempt, such that this requirement only applies to where services are outsourced;
- 5.4 establish a requirement that public transport services delivered in-house are bundled into units;
- 5.5 create an exception for public transport services from the requirement that Waka Kotahi considers the desirability of enabling competition and encouraging competitive and efficient markets when approving a procurement procedure;
- 5.6 remove the requirement that local authorities and regional councils hold public transport interests in a council-controlled trading organisation;

Support benchmarking to inform investment decisions in relation to delivery models

- 5.7 establish a requirement that public transport services must be procured, contracted, and/or delivered in such a way that ensures transparency of operating costs, service performance, the vehicles or vessels used to deliver services, aggregate employee terms and conditions, and financial performance of operators;
- 5.8 define key terms for the requirement in paragraph 5.7 above, to incorporate the following concepts:
- 5.8.1 operating costs – the cost of operating public transport services, including input costs such as labour costs and vehicle/vessel operating and maintenance costs;
- 5.8.2 service performance – performance against defined metrics, which are usually identified in contracts as key performance indicators, such as reliability and punctuality;
- 5.8.3 financial performance – the financial standing of public transport operators, including but not limited to factors such as equity, assets, liabilities, and profitability;

- 5.8.4 aggregate employee terms and conditions – collective and individual employment agreements for non-management staff involved in operating public transport services;
- 5.9 ensure Waka Kotahi can require information from PTAs on operating costs, service performance, vehicles and vessels used to deliver services, aggregate employee terms and conditions, and financial performance of operators;

Improve roles and relationships in the public transport sector

- 5.10 establish a requirement that regional councils and territorial authorities should prepare RPTPs in collaboration, and in doing so, identify in RPTPs the infrastructure necessary to support public transport service provision;
- 5.11 add publicly consulted local transport strategies to the matters that must be considered by regional councils when adopting RPTPs;

Improve the regulation of exempt services

- 5.12 increase the minimum notice period in the LTMA to withdraw an exempt service that has been identified as integral in a RPTP to 60 working days;
- 5.13 establish two alternative triggers for commencing the Order in Council process in section 150 of the LTMA to remove an exemption:
 - 5.13.1 a PTA requests that Waka Kotahi commences the process; or
 - 5.13.2 the responsible Minister requests that Waka Kotahi commences the process;
- 5.14 amend the criteria for recommending an Order in Council in section 150, such that where an exempt service would be replaced by a unit, the Minister would need to be satisfied that:
 - 5.14.1 Waka Kotahi has consulted the relevant PTA and operator of the service;
 - 5.14.2 the service is an integral part of region's public transport network; and either:
 - 5.14.2.1 the service needs its fares to be regulated; or
 - 5.14.2.2 contracting/exempting the service would have a positive overall impact on achieving the SPTF outcomes – namely achieving mode-shift, a sustainable labour market, health and environmental outcomes, and value for money/efficiency;
- 5.15 amend the criteria for recommending an Order in Council in section 150, such that where public transport service would be made exempt, the Minister would need to be satisfied that:
 - 5.15.1 Waka Kotahi has consulted the operator of the service;
 - 5.15.2 the public transport service, while operating as an exempt service:
 - 5.15.2.1 will not receive a subsidy;

- 5.15.2.2 will not be an integral part of the relevant region's public transport network;
 - 5.15.2.3 will not need its fares to be regulated; and
 - 5.15.2.4 will have a positive overall impact on achieving the SPTF outcomes – namely achieving mode-shift, a sustainable labour market, health and environmental outcomes, and value for money/efficiency; or
- 5.15.3 the public transport service is being provided as part of the local roading network;

Clarify the treatment of on-demand public transport services

- 5.16 expand the definition of public transport in the LTMA such that all services contracted and/or identified as integral to a public transport network in a RPTP that are available to the public generally will be considered public transport; except
- 5.16.1 services contracted or funded by the Ministry of Education;
 - 5.16.2 event transport that is not available to the public generally;
 - 5.16.3 tourism services;
- 5.17 include commercial on-demand public transport services, excluding shuttle services, in the LTMA framework for exempt services if they are:
- 5.17.1 provided in shared vehicles;
 - 5.17.2 available to the public generally; and
 - 5.17.3 provided exclusively in buses (vehicles with 9 or more seats); or
 - 5.17.4 provided by 10 or more vehicles;
- 5.18 amend the definition of a 'unit' in the LTMA to ensure that PTAs can procure and contract on-demand services separately to timetabled services;
- 5.19 remove the requirement in the LTMA that public transport services are contracted on an exclusive basis to ensure that PTAs can procure and contract on-demand services separately to timetabled services;

Development of operational policy

- 6 **noted** that the Minister of Transport has established a steering group to inform the development of operational policy to give effect to the SPTF objectives;
- 7 **noted** that the 2025 zero-emission bus mandate has been implemented through amendments to the Requirements for Urban Buses;
- 8 **noted** that the Minister of Transport has asked officials to develop operational policy to protect and improve bus driver terms and conditions, to achieve the following outcomes:
- 8.1 bus drivers have the opportunity to maintain employment if there is a change of operator;

- 8.2 the substantive terms and conditions of bus drivers are not negatively impacted by a change of operator;
- 8.3 the terms and conditions of the bus driver workforce are improved to increase recruitment and retention;
- 9 **noted** that the Minister of Transport has asked officials to develop operational policy to support the other reforms, including:
- 9.1 to support different asset ownership arrangements;
- 9.2 to support increased transparency of operating costs and financial performance of public transport operators;
- 9.3 guidance to improve partnering through procurement and contracting;
- 9.4 guidance on processes relating to the registration and variation of exempt services;
- 9.5 guidance on how exempt services should be transitioned into the SPTF, if an exemption is removed by Order in Council;
- 9.6 guidance on establishing units to ensure PTAs have the ability to procure and contract on-demand services separate to, or bundled with, timetabled services;
- 9.7 to assist public transport authorities to manage potential conflicts of interest in contracting services where an in-house unit is one of the options for provision alongside external providers;
- 10 **invited** the Minister of Transport to issue drafting instructions to the Parliamentary Council Office to prepare amendments to the LTMA giving effect to paragraph 5 above, including any necessary consequential savings and transitional provisions;
- 11 **authorised** the Minister of Transport to determine matters of minor or consequential policy detail that may arise in the course of preparing the Bill;
- 12 **authorised** the Minister of Transport to make decisions that are consistent with the overall policy, provided that these decisions are confirmed when the Bill is considered for introduction;
- 13 **agreed** that the amendments to the LTMA will be binding on the Crown.

Rachel Hayward
Acting Secretary of the Cabinet

Secretary's Note: This minute replaces ENV-22-MIN-0026. Cabinet agreed to add paragraph 9.7.
