

Land Transport Management Bill: improved by select committee - but is it enough?

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Tom Bennett - Senior Associate

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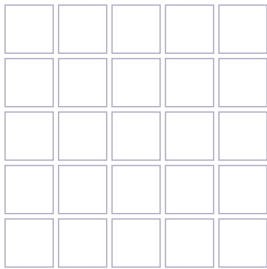
The Bill is in much better shape than before. For example, it now provides a number of improvements (largely consistent with Bell Gully's submission) as follows:

- conditional Ministerial approval of a road tolling scheme and concession agreements – which should allow for, essentially, pre-approval of a scheme and/or agreement, subject only to satisfaction of specified conditions;
- a less onerous standard (and less uncertainty) in assessing whether a proposed road tolling scheme or concession agreement satisfies the statutory criteria for Ministerial approval;

- some clarity around the meaning of “concession agreements” which must be approved by the Minister. Essentially, concession agreements are leases of roads for roading purposes;
- removal of a number of restrictions on concession agreements, such as the requirement for “public supervision” of the relevant assets, and the prohibitions on public sector compensation for lack of traffic and “majority private ownership” of project assets (other than land and road);
- limited flexibility for the extension of the maximum term of a concession agreement from 35 years to up to 45 years in exceptional circumstances;
- greater scope for a road controlling authority to delegate its relevant statutory powers to a concessionaire;
- streamlining some procedures. For example, there is now only one procedure for Ministerial control – Ministerial direction. There are also more streamlined consultation requirements – although the generic consultation provisions prescribe numerous categories of organisations that must be consulted;
- a less prescriptive approach to the objectives for Transfund's procurement procedures; and
- simplification of the process for regional councils to hold an interest in public transport services and infrastructure.

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However, certain aspects of the Bill will require refinement if it is to fulfil the Government's intention of supporting the development of land transport infrastructure - in particular, the constraints around the tolling of existing roads and the apparent lack of protection of a tolled road from the creation of substitute publicly-funded "free" roads.

As recognised in the Government's press release on the Bill report back, the Bill is not the end of the story – particularly for Auckland. Expect further announcements in December.

Advice and information

For further information on the Land Transport Management Bill, or any other transport and infrastructure issues, please contact Bell Gully's Transport Group at the numbers listed below.

For further information, please contact your usual Bell Gully adviser or:

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