

Private Sector and Roads in New Zealand

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Matthew Cockram - Partner

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The appointment of Paul Swain as the new Minister of Transport is a promising development for the private sector. The Minister is known to be a keen advocate of the transport policy announced by his predecessor in February. He has a strong mandate to bring about roading reforms as a priority for this term of government.

With Auckland’s congestion problems and other special needs around the country, the political environment for real action could not be better. Public expectation is high and the restraining influence of the Green Party reduced.

Several toll road projects are already lined up. These are Weiti Toll Bridge (sponsored by the Rodney District Council) and an expressway system near Tauranga (being promoted by Transit New Zealand and Tauranga District Council). Both are relatively small.

Much bigger projects, and those attracting serious off shore interest, are in Auckland and Wellington.

Transit New Zealand’s own list of current projects gives a very clear steer about where the opportunities for private sector participation are likely to lie. Given the significant cost and time involved in securing necessary land and consents, Transit will play a leading role in the major projects to be put out to the private sector.

The first wave is expected to include: the eastern corridor highway and the SH 20 extension in Auckland (in conjunction with Auckland City). Future projects could be Transmission Gully in Wellington and other enhancements to the Auckland network.

A characteristic of all these projects is that alternative routes exist. We would not expect to see private sector participation on critical state highway routes unless there are viable alternatives.

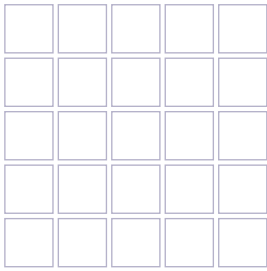
Much has been written and said about the impending arrival of PPP (public private partnerships) projects in New Zealand. Privatisation and private sector participation in public infrastructure is hardly new to this country, for example in the electricity and telecommunications industries.

We think there are several themes that will influence how PPP will be interpreted and applied to the

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New Zealand scene. Careful strategies are required from the earliest stages to deal with each.

Environmental and consents

The process required by the Resource Management Act for the designation of routes is long and expensive. Few private sector participants could manage the risks of this alone. As a result, the private sector will remain reliant on the public sector to obtain and secure necessary designations and approvals.

Securing land

Hand in hand with the consent process is the use of the Public Works Act to secure the land required. While in theory private participants can obtain rights of compulsory acquisition, it is unlikely that such a participant would be prepared or able to fund purchases that would take place over a time frame not within the acquirer's control.

Public control

It is a political reality that the public sector will want to retain a level of control and input on establishment and day-to-day operational issues – such as the setting of tolls and a freedom to promote other routes. Performance criteria can be expected to include outcomes that are subjective and fuzzy to reflect political imperatives.

An Auckland issue

On issues of regional importance, Auckland can be somewhat schizophrenic as various agencies such as the Auckland Regional Council, Auckland City Council, other territorial authorities, central government and funding agencies jostle for position and the promotion of their policy. Management of the politics of the region should not be underestimated.

As if these dimensions were not enough, there are, of course, all of the usual

considerations of allocation of risk, taxation, structuring and funding that need to be taken into account and dealt with.

It would be folly and counter productive to expect a model developed elsewhere (even one that works very successfully) to be able to be applied without modification in this country. The key to successful participation will be the clever balancing of New Zealand 'realpolitik' with the world's best practice.

The Ministry of Transport is expected to issue a draft Bill for submissions within the next few months. Bell Gully intends to make submissions on the Bill. If you would like assistance in the preparation of your own submissions, advice on the legislative process or on the Bill itself, once introduced to the House, please contact one of the members of our Projects and Construction Group below.

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