

Treasury Report: Amendment to the Land Transport Management Bill

Date:	22 November 2002	Treasury Priority:	High
Security Level:	Commercial Sensitive	Report No:	T2002/1602

Action Sought

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Minister of Finance	Raise the issue of an amendment to the Land Transport Management Bill with the Minister of Transport prior to Cabinet on Monday, 2 December 2002 to amend the legislation set for introduction on 3 December 2002.	Prior to Cabinet, Monday 2 December 2002.

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact

Enclosure: **Yes**

22 November 2002

SH-8-4

Treasury Report: Amendment to the Land Transport Management Bill

Purpose of Report

1. This report sets out a proposed amendment to the Land Transport Management Bill in order to maintain some flexibility in meeting the Government's national rail objectives.
2. Should you agree, it would require you to propose a change, to the Minister of Transport, to the Bill before it is introduced on 3 December 2002.

Analysis

3. The Land Transport Management Bill is set for introduction on 3 December 2002 and is due to be considered at Cabinet on 2 December 2002.
4. We have flagged this issue with the Minister of Transport's officials previously.
5. Amongst other things, the Bill specifies how funds in the National Land Transport Account can be disbursed. In particular, the National Land Transport Account may be used to provide funds [clause 8 (2) (e) refers]:

to approved public organisations for any land transport purposes as specified by the Minister
6. As currently drafted, the Bill does not allow Transfund to disburse funds from the National Land Transport Account to a private company. This means that under some of the national rail policy options, the Government would not have an ability to direct money directly from Transfund to Tranz Rail or an alternative rail operator for the maintenance of services levels or investment in infrastructure.
7. While such a subsidy option would not necessarily need to be allocated through Transfund, there are some significant benefits in retaining the option at this stage for Transfund to do this directly including:
 - An ability to evaluate expenditure within a wider set of land transport objectives;
 - An ability to capture some of the benefits and experience Transfund has in evaluating service delivery and infrastructure investment in the roading and passenger transport context.
8. Under the proposed legislation, Transfund would have the ability to provide funding via regional councils or via a public organisation (including a Minister, department or the Railways Corporation), where that public organisation is notified by Order in Council.
9. Under all of the national rail options available to Government, we think it is likely that some type of long-term financial assistance for the provision of services on uncommercial lines will be needed.
10. In practical terms the proposed legislation would require a public organisation to make a bid to Transfund on behalf of Tranz Rail or another rail operator. This is not that different from the current legislation where Tranz Rail has made bids to the ATR

programme through local and regional authorities. This requirement for a public organisation, even if it is a department such as Treasury, to act as an intermediary between Transfund and a rail operator would be an:

- Unnecessary complication; and
 - Impediment to effective negotiation between the rail operator and Transfund.
11. A subsidy arrangement would require Transfund to have sophisticated pricing information to minimise potential for gaming. This pricing information is most likely to be provided without the involvement of a third party to the negotiation. In work done for Treasury by LEK Consulting, its view is that any negotiation between Transfund and the rail operator is likely to be an order of magnitude more complicated than for roading contracts so there is a strong case for minimising any unnecessary process costs.
 12. In addition, experience with the bids to the ATR programme administered by Transfund so far has highlighted that third parties can also sometimes have ulterior motives (particularly local authorities who have ownership interests in other parts of the transport infrastructure).
 13. Retaining this ability for Government to channel funding direct to a rail operator would require a small but not insignificant change to the current legislation. A suggested legislative change to give effect to this policy concern is attached in annex. Should you support considering this change, we would need to work with Transport officials and PCO to ensure that the proposed change is accurate.

Recommendation

14. It is recommended that you:
 - a **raise** the issue of an amendment to the Land Transport Management Bill with the Minister of Transport prior to Cabinet on Monday, 2 December 2002 as the bill is set down for introduction on 3 December 2002.
 - b **note** that should you support considering this change, Treasury would need to work with Transport officials and PCO to ensure that the proposed change is accurate.

for Secretary to the Treasury

Hon Dr Michael Cullen
Minister of Finance