

AUCKLAND TRANSPORT GOVERNANCE: COMMENT ON PAPER OF 11 NOVEMBER TO INFRASTRUCTURE MINISTERS

Introduction

- 1 On 10 September, Ministers directed officials to prepare proposals for the reform of Auckland transport governance, including the future of Infrastructure Auckland (IA). On 7 October, Infrastructure Ministers directed officials to report in detail on a transport governance option based around a new ARC-subsidary transport entity, with a view to announcing changes on 12 December as a complement to strategy and funding recommendations (JOG).
- 2 The requested report was finalised this week (11 November). We understand that Infrastructure Ministers will meet to discuss it (time not yet decided), and subsequently may take a paper to POL (provisionally set down for 18 November).
- 3 There are options included at several points in the report. This note provides our comments on the options, and also draws attention particular issues/risks that you may wish to discuss with colleagues before or at POL.

Overview of the paper

- 4 The key proposals in the paper are to:
 - a establish a new transport agency from 1 July 2004 as a subsidiary of the ARC, to have primary responsibility for implementing transport strategies;
 - b disestablish IA and transfer its assets and management functions either to an ARC subsidiary (preferred option) or to ARC directly;
 - c require the ARC (via legislation) to notify changes to the Regional Policy Statement (RPS) by April 2004 so that the RPS reflects key policies in the Regional Growth Strategy and the Regional Land Transport Strategy;
 - d *either*
 - i not provide special rates relief to ARC for 04/05;

or

 - ii should Ministers decide to provide such one-off rates relief, do so either by using IA funds or by Government grant.
- 5 Further work is proposed on accountability arrangements and financial implications.
- 6 Further work is also proposed on the appropriate balance of central/local government funding of Auckland transport long-term in light of the proposed governance and JOG-related changes.

Overall comment

- 7 We support the preferred options in the paper. While they fall short of a “guarantee” of improved transport performance in Auckland, we think they offer the greatest probability of medium-term gains because, compared to the status quo, they concentrate decision-making powers in the new (regional) entity, clarify accountability, and align planning and funding activities. Whether they prove sufficient to deliver improved performance is less clear; to some extent this will depend on the response of Auckland authorities to the combined governance and funding package.
- 8 Further work on accountability arrangements is essential to ensuring that the proposals are as effective as possible.

Comment on options in paper

Local authority representation on the board of the new transport entity

- 9 The paper proposes either a wholly ARC-appointed board, or a board including minority representation of local authorities.
- 10 We see *achieving good governance* as the prime consideration.
- 11 We support a wholly ARC-appointed board because
 - a *Clear accountability*: ARC would be clearly identified as having overall responsibility for transport in Auckland. Local authority representation would muddy this, enabling regional and local councils to “blame” each other in the event of disagreements.
 - b *Risk of dysfunction*: Local authority representatives, with minority status, would be consistently outvoted in case of disagreements. This would ultimately lead to destructive debate about the makeup of the board.
 - c *Incentive to form collective views*: Adding local authority representatives to the board would create a “mini-parliament” but without the collectivity constraints that operate in central government. It is unlikely to promote collective views about priorities any more than current arrangements do.
- 12 In our view, a more effective way of getting co-operative planning and implementation is to place clear requirements on both parties to consult each other in the development of their plans, while making the regional council through the new transport entity properly accountable for ultimate decisions.
- 13 The case in favour of minority representation of local authorities reflects their continuing responsibility for managing road corridors within their boundaries and contribution to costs. This does not warrant a governance role in our view – other players (e.g. the Crown, neighbouring regions) could claim similar status.
- 14 Should Ministers opt for minority representation of local authorities, we would suggest that additional consideration be given to measures (e.g. grounds for board dismissal, Crown appointees, etc.) to apply in the event of the board under-performing or behaving dysfunctionally. While such measures weaken accountability, we think they may be justified to protect the Crown’s interest in the performance of the new entity.

Destination of IA's assets and liabilities

- 15 The paper proposes transferring IA's assets and liabilities either to a new ARC subsidiary ("ARC Holdings") or to the ARC directly.
- 16 We (marginally) support transfer to a new ARC subsidiary because:
 - a *Role clarity*: There is potential for conflict between ARC's regulatory role and its ownership of IA assets (e.g. in respect of Ports of Auckland) if they were transferred to ARC directly.
 - b *Specialist capability*: Retaining a specialist entity to manage IA's assets at arms-length from elected representatives is more likely to provide security of investment income and sound asset management.
- 17 The key argument in favour of transferring IA's assets directly to ARC is to locate accountability and control of assets in a single entity. While we favour the subsidiary option, any risks of transferring IA's assets to direct ARC control could be managed (via legislation, internal organisation, etc.) in our view.

Rates relief for ARC in 2004/05

- 18 The paper proposes to either not provide additional funding to ARC to offset its projected transport-related rates increase in 2004/05 (\$15 million p.a.), or, should Ministers decide to do so, to provide it by use of IA funds or by Government grant.
- 19 We do not support providing additional funding to ARC for this purpose in the first instance because:
 - a *Precedent risk*: In our view there is a high risk that providing funding (from whatever source) to ARC to reduce its 2004/05 rates bill will send a signal to other local authorities to lobby for similar relief based on their special circumstances.
 - b *Incentive effect*: Providing additional funding would create a medium-term incentive for local authorities to increase rates to a point which would ultimately achieve a Government response.
 - c *Efficient taxation*: Rates on land are a more efficient tax than income taxation. A shift of taxation from rates to income tax therefore increases overall deadweight costs in the economy.
 - d *Fairness*: Many people will consider the use of national taxes to solve local Auckland problems as unfair.
- 20 In our view, the announcement of additional transport measures for Auckland (e.g. the JOG package, funding of rolling stock, etc.) provides an opportunity for the ARC to re-evaluate its projected rates increase. Subsequently, should the ARC find that an increase of this order is necessary to avoid negative impacts on public transport, the Government could reasonably argue that an increased regional contribution is fair in light of the additional central contribution.
- 21 Should Ministers decide to proceed with short-term rates relief in any case, we suggest doing so via a direct grant announced as an integral part of the JOG package (rather than via IA funds):

- a *Leverage for governance proposals:* A direct grant would add to leverage on Auckland authorities to accept proposed governance changes.
 - b *Risk mitigation:* A direct grant would mitigate the risks above to the extent that it could be presented as part of a one-off total package.
- 22 By contrast, there is a risk that using IA funds for short-term rates relief will lead to claims from other local authorities later. Broadly speaking, all IA funds have effectively been earmarked for expenditure. If significant amounts are used for rates relief in 04/05, replacement funding for IA transport and storm water projects would be needed at some point. This would be seen as “special treatment” for Auckland, potentially giving rise to claims from other local authorities (unless replacement funds were to come from later rates rises). In our view, the main benefit of using IA funds to provide rates relief would be a short-term signal that the Government expects the Auckland region to meet its “share” of transport costs. This benefit seems relatively small given its short-term nature.

Other issues you may wish to raise

Accountability issues

- 23 At this stage the exact arrangements that would operate between the new transport entity, ARC, local authorities and central agencies (including Transfund) have not been fully worked through. A report back is proposed for February 2004. It may be appropriate to highlight this report to your colleagues should questions arise about the detail of how proposals will work in practice.

Ownership of infrastructure assets

- 24 The report notes that the transport system would work better if its assets were transferred to an ARC subsidiary, and recommends that ARTNL be transferred to ARC ownership at some point in future, subject to further work.
- 25 In our view, ownership issues will need to be resolved sooner rather than later. For example, if the new regional transport entity is responsible for funding local roads that are “owned” by local authorities, this raises questions about their ongoing management and maintenance.
- 26 It is also not clear that new infrastructure assets and management leases (such as those currently held by ARTNL) would be best located in ARC Holdings as proposed, or whether a separate ARC-subsiary should be established to own and manage infrastructure assets.

Recommendation: Explicitly include ownership issues in the February 2004 report back, including where infrastructure assets are best located and the implications of transferring ownership.

Regional Policy Statement

- 27 The report proposes introducing legislation in December 2003 to require the ARC to notify changes to the RPS by April 2004 so that the RPS reflects key policies in the Regional Growth Strategy and the Regional Land Transport Strategy. It argues that this is essential to ensuring that the construction industry has more certainty of consents by the end of 2006, without which projected transport developments will face delays. Certainty of consents is not sufficient, however; in

addition, a second legislative step would be needed early next year aimed at speeding up the consents process (i.e. objectives and issues would be similar to the “major projects” initiative).

28 On balance we support the proposal because more certainty around consents will reduce the probability of important projects being held up in the consents process. However, you may wish to note:

- a *Criticality of consents:* JOG has indicated that buildability – not consents – appears to be the dominant constraint facing Auckland transport projects. It is therefore possible that the RPS proposal will achieve little in practice. However, it is also possible that it will facilitate some projects, notably those planned to occur in 06/07 – 08/09. While we support the proposal on this basis, it is worth noting that the payoff is far from certain.

[s9(2)(f)(iv) and s9(2)(g)(i)

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Recommendation: You may wish to indicate to your colleagues that the benefit of the RPS proposals is not clear, but that it *could* be critical to *some* projects. This possible benefit should be weighed up against the possible waste of legislative effort should the second step not proceed due to RMA risks.

Long term regional contribution to Auckland transport costs

[s9(2)(f)(iv) and s9(2)(g)(i)

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