

Report 13.723
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File E/11/01/04

Committee Council
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Changes to the Land Transport Management Act 2003

1. Purpose

For the Council to consider the effect of the amendments to the Land Transport Management Act 2003 made by the Land Transport Management Amendment Act 2013 on the powers functions and duties retained by the Council.

2. The decision-making process and significance

The matters requiring decision in this report have been considered by officers against the requirements of Part 6 of the Local Government Act 2002.

2.1 Significance of the decision

Officers have considered the significance of the matter, taking into account the Council's significance policy and decision-making guidelines. Due to the procedural nature of this decision officers recommend that the matter be considered to have low significance.

Officers do not consider that a formal record outlining consideration of the decision-making process is required in this instance.

3. Background

The Land Transport Management Amendment Act 2013 (the Amendment Act) came into effect on 13 June 2013. The Amendment Act changes the planning and funding framework for land transport activities, and establishes a new policy framework for planning and contracting public transport under the Land Transport Management Act 2003 (LTMA). As a consequence, there have been changes to the powers, functions and duties previously retained by the Council under the LTMA. The Amendment Act has also repealed the Public Transport Management Act 2008 under which a number of officers held delegated authority. Similar provisions have been included in the amended LTMA. It is appropriate for the Council to consider which powers to retain under the amended LTMA, and which to delegate to the Chief Executive.

4. **Delegated authority under the Land Transport Management Act 2003**

Officers have reviewed Greater Wellington Regional Council's Delegations Register in light of the recent amendments to the LTMA. The register currently contains reference to repealed acts (the Public Transport Management Act 2008) as well as sections of the LTMA and the Land Transport Act 1988 which have now been repealed or amended by the Amendment Act. The powers, functions and duties previously retained by the Council are attached as **Attachment 1**. Suggested changes to the current delegations held by the Council and the Chief Executive are set out below.

4.1 **Powers retained by Council**

The LTMA requires the Council to prepare a regional public transport plan, establish a regional transport committee and approve the regional land transport plan (prepared by the regional transport committee). These functions are unable to be delegated and must be retained by the Council. The legislation also sets out matters for the Council to take into account when adopting and consulting on regional public transport plans.

The proposed powers, functions and duties to be retained by the Council are attached as **Attachment 2**. The suggested powers to be retained were either previously retained by the Council or are broadly consistent with those retained by the Council under the previous legislation; the majority of the changes to these sections are minor wording amendments.

4.2 **Delegation to Chief Executive**

Under Greater Wellington Regional Council's delegation structure, all powers functions and duties not retained by the Council, or delegated by the Council to committees, are delegated to the Chief Executive. This allows the Chief Executive to exercise the broad functions of the role, and carry out the day-to-day operations to achieve the outcomes set by the Council in the Annual Plan. The Chief Executive is able to sub-delegate any of his powers, functions and duties to any officer or person, subject to the conditions set out in his delegation. It is appropriate that delegations are then delegated down from the Chief Executive to officers, as the key accountability between the Council and staff is through the Chief Executive.

The proposed powers, functions and duties under the LTMA that officers consider should be exercised by the Chief Executive, rather than retained by the Council, are attached as **Attachment 3**.

In addition, it is suggested that the Council specifically delegates to the Chief Executive, the authority to incorporate in the Regional Public Transport Plan previous Council decisions and current policy, and the authority to make formatting and structural changes to the Regional Public Transport Plan, provided that such changes continue to accurately reflect and will not result in any material change to any Council decision or policy.

5. Changes to the Regional Transport Committee

The functions of the Regional Transport Committee (the Committee) have been narrowed in scope with the repeal of the LTMA provisions relating to the preparation and monitoring of the regional land transport strategy and regional land transport programme. The Committee is now required to prepare a Regional Land Transport Plan and to provide the Council with any advice and assistance it may request in relation to its transport responsibilities. The legislation also includes reference to how monitoring of the implementation of the Regional Land Transport Plan will be undertaken; however, it does not specify any reporting requirements.

The membership of regional transport committees has also been amended to include only those agencies that make a funding contribution – local authorities and the New Zealand Transport Agency. The Council will no longer be required to appoint members representing specific objectives and interests; however, the option of appointing non-local government members to the Committee remains open to the Council via provisions in the Local Government Act 2002.

Officers recommend that the Council appoint any non-local government representatives to the Committee as non-voting advisors. This will ensure that the decision makers on the regional land transport plan are only those members who are specified in the LTMA; this would be less likely to leave any decision on the regional land transport plan open to challenge. This approach is consistent with the intent of the reforms to the membership requirements of regional transport committees.

The appointment of advisors to the current Committee is discussed in report PE13.724.

It will be a matter for the new council to be elected in October 2013 to decide whether or not to appoint advisors to the Committee in future.

5.1 Regional Transport Committee Terms of Reference

The key changes to the responsibilities of the Committee are:

- The Committee is no longer required to prepare a regional land transport strategy or a regional land transport programme. Instead, the Committee will prepare and monitor the implementation of the Regional Land Transport Plan.
- The Committee must adopt a policy that determines significance in respect of –
 - Variations made to the Regional Land Transport Plan
 - The activities that are included in the Regional Land Transport Plan.
- The Act's consultation requirements have been made less prescriptive. The key changes include:

- A move to a six-yearly consultation process for the regional transport planning document
- Making the Local Government Act 2002 special consultative procedure discretionary
- Removal of other specific requirements, particularly the prescriptive list of agencies to be consulted.

The Committee will continue to provide the Council with any advice and assistance it may request in relation to its transport responsibilities.

A copy of the revised terms of reference which set out the amended responsibilities and membership of the Committee is attached as **Attachment 4**.

6. **Communication**

No external communication is required. Officers will amend Greater Wellington Regional Council's Delegations Register and provide the Chief Executive with an updated copy of his delegation.

7. **Recommendations**

That the Council:

1. ***Receives** the report.*
2. ***Notes** the content of the report.*
3. ***Notes** the changes to the powers, functions and duties previously held by the Council under the Land Transport Management Act 2003, brought about by the Land Transport Management Amendment Act 2013.*
4. ***Confirms** that, subject to any subsequent delegation made by the Council, the Council retains the sole right to exercise all those powers, functions and duties under the Land Transport Management Act 2003 described in **Attachment 2** to this report.*
5. ***Delegates** to David Benham, Chief Executive, all the powers, functions and duties under the Land Transport Management Act 2003 not retained by the Council, as outlined in **Attachment 3**.*
6. ***Delegates** to David Benham, Chief Executive, the authority to incorporate in the Regional Public Transport Plan previous Council decisions and current policy, and the authority to make formatting and structural changes to the Regional Public Transport Plan, provided that such changes continue to accurately reflect and will not result in any material change to any Council decision or policy.*
7. ***Notes** the changes to the functions and membership of regional transport committees under the LTMA and amends the Terms of Reference of the Regional Transport Committee as set out in **Attachment 4**.*

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