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Local Government (Auckland Council) (Transport Governance) Amendment Bill

Summary

1. The AA supports the Bill's policy objectives, the Auckland Regional Transport Committee's (ARTC) proposed purpose and membership. We recommend a minor amendment to make the ARTC subject to the same requirements as other regional transport committees when determining whether meetings are held in public or private.
2. We strongly support the proposed 30-year transport plan for the Auckland region. We endorse the requirements that Auckland's Regional Land Transport Plan be consistent with the plan, and that Auckland Council must take the plan into account when preparing other planning and funding documents. We also agree that the government should take the plan into account when preparing the Government Policy Statement on Land Transport and NZTA when preparing the National Land Transport Programme.
3. We support transferring Auckland Transport's strategic and policy transport functions to Auckland Council (the Council).
4. We do not support retaining a statutory transport council-controlled organisation with responsibility for public transport services due to the strong interdependencies between planning and operating public transport services and other transport functions. We recommend these provisions be removed and public transport services included in Auckland Council's transport responsibilities.
5. We are concerned that prescribing Auckland Council's and local boards' road controlling authority responsibilities in statute risks unintended consequences, including undermining the Auckland's transport network core role in connecting people across the region.
6. We recommend the Bill be amended to provide the governing body with flexibility to decide how these responsibilities are allocated, subject to engagement with local boards before making decisions. If this prescription is removed, the provisions requiring the governing body to classify all roads under a framework become redundant, and we recommend they also be removed from the Bill.
7. For similar reasons, we think changes need to be made to assign the governing body full responsibility for making bylaws, subject to consultation with local boards. This would avoid the added complexity and time needed to endeavour to secure approval from Auckland's 21 local boards.

Introduction

8. The NZ Automobile Association (AA) is pleased to provide this submission on the Local Government (Auckland Council) (Transport Governance) Amendment Bill (the Bill).
9. The AA has advocated for the transport interests of our Members throughout our more than 120-year history. Today we represent more than 1.1 million personal Members, including more than 330,000 Auckland Members, and provide support to a further one million vehicles that are owned by businesses.
10. The AA supports the Bill's policy objectives to improve democratic accountability for transport decision making and integrated government and Auckland Council long-term transport planning. We have set out below our position on the key elements of the Bill which aim to give effect to these objectives.

Establishing the Auckland Regional Transport Committee

11. We support the Auckland Regional Transport Committee's (ARTC) proposed purpose and membership.
12. Misalignment between central and local government at both a political and agency level has been a recurring theme in the development of Auckland's transport system in recent decades. This has diverted attention away from what should be the fundamental objective of any transport system – to meet the needs of people to move around and through the city and region.
13. Bringing Auckland Council and government representatives around the same table to reach agreement on the region's transport planning and investment priorities should go a long way to addressing this.

Core functions of the ARTC

14. The AA strongly supports a statutory 30-year transport plan for the Auckland region and that the plan should be jointly approved by the Minister and Auckland Council.
15. A lack of long-term planning, particularly in the face of ongoing rapid population growth, has been a significant impediment to developing the region's transport system in a way that responds to, anticipates, and influences Aucklanders' travel needs.
16. The current relatively short-term (3 and 10-year) regional land transport planning horizon is out of step with other cities of a similar size, particularly considering big projects like the City Rail Link can take much longer to plan, fund and deliver. Failure to identify and protect strategic transport corridors for future development has added significant unnecessary costs to projects, and in some cases has prevented development altogether.
17. We agree that if the plan is to have any impact it needs to be clearly linked to other key planning and funding documents. We endorse the requirements that Auckland's Regional Land Transport Plan be consistent with the plan, and that Auckland Council must take the plan into account when preparing other planning and funding documents. We also agree that the government should take the plan into account when preparing the Government Policy Statement on Land Transport and NZTA when preparing the National Land Transport Programme.

Discretion as to whether meetings are public or private

18. The AA does not support the ARTC having complete discretion as to whether it holds its meetings in public or in private.
19. Every other regional transport committee – including Auckland’s existing regional transport committee, despite its unique membership arrangements – is subject to the Local Government Official Information and Meetings Act (LGOIMA). LGOIMA sets out specific grounds that must be met to exclude the public from meetings. It is consistent with the Bill’s democratic accountability objective for the ARTC to be subject to the same requirements, particularly given the very significant ratepayer funds allocated to transport.

The AA recommends Clause 41(2) of the Bill be amended to make the ARTC is subject to the same requirements as all other regional transport committees for determining whether meetings are held in public or private.

Making Auckland Council responsible for most transport functions

20. The Bill transfers most transport functions from Auckland Transport to Auckland Council but retains a statutory transport council-controlled organisation (CCO).
 - Auckland Council will become the road controlling authority for Auckland, responsible for a wide range of policy, regulatory and operational matters. The Explanatory note to the Bill states that the purpose of this change is to improve democratic accountability.
 - The statutory transport CCO’s purpose will be to provide Auckland’s public transport services (along with any other transport functions Auckland Council directs it to perform). The Explanatory note states that the purpose of this change is to provide a dedicated focus for the public transport system.

Best practice regional transport governance

21. The AA’s view is that improving democratic accountability for transport decision making in Auckland would be best achieved by allocating strategic and policy transport functions to Auckland Council. This would enable elected representatives to determine how Auckland’s transport system will develop, how much funding will be made available for transport, and from what sources, and the priorities for investment.
22. We question whether the democratic accountability benefits from allocating most other functions to Auckland Council will exceed the benefits Aucklanders receive from having a dedicated organisation with a singular focus on running and implementing improvements to the region’s local transport network.
23. We are perplexed as to why the logic for retaining public transport services in a statutory council-controlled organisation – to provide a dedicated focus on their provision – doesn’t extend to other aspects of the region’s transport system.
24. Best practice regional transport governance requires a careful balance of democratic accountability, technical expertise and operational efficiency. In our view, the allocation of decision making proposed in the Bill fails to achieve this and risks politicisation, insufficient focus and bureaucratic decision making.

25. That said, we appreciate that the decision to disestablish Auckland Transport and assign most of its powers and functions to Auckland Council is fixed. We therefore do not consider there is any merit in recommending changes to these provisions of the Bill.

Retention of statutory CCO

26. The AA does not support retaining a statutory transport CCO with responsibility for public transport services due to the strong interdependencies between planning and operating public transport services and other transport functions.
27. Decisions about public transport service routes and frequencies cannot be sensibly separated from decisions about public transport infrastructure and road space prioritisation. Nowhere is this more evident than in the region's arterial roads, which will be far and away the most critical part of the transport network under Auckland Council's jurisdiction.
28. We appreciate that Auckland Council will be able to delegate other powers and functions to the statutory CCO (subject to the Minister's agreement). However, it is not clear to us what additional functions would be a natural fit for an agency with a narrow statutory mandate to operate public transport services.
29. By way of example, bus infrastructure seems an obvious fit with public transport services. However, decisions on where to put bus stops, signs and lanes requires taking into account the impacts on other road users. It therefore makes sense for public transport infrastructure to be a road controlling authority function.
30. Auckland Council has powers to establish a transport CCO under part 5 of the Local Government Act 2002. In our view, it would make more sense for Auckland Council to consider whether any of its transport responsibilities could be better delivered by a transport CCO once the reforms have been bedded in.
31. More significantly, if the Bill is passed in its current form, legislative change will be needed for Auckland Council to take over responsibility for public transport services from the CCO at a later date (e.g. if problems emerge either with their provision or the lack of integration with the Council's transport responsibilities).
32. By contrast, if Auckland Council elected to establish a transport CCO with responsibility for public transport services under the Local Government Act, it would have flexibility to take this function back.

The AA recommends the Bill be amended to remove the requirement for continuation of the transport CCO with sole statutory responsibility for public transport services, and that this function be included in Auckland Council's responsibilities.

Proposed division of responsibilities within Auckland Council

33. The Bill makes Auckland Council the road controlling authority for Auckland and divides responsibilities between the Council's governing body and its local boards. It:
- tasks the governing body with classifying all Auckland's roads under one of four road-types – 'arterial', 'collector', 'local' and 'city centre' (definitions for which are included in the Bill)
 - assigns the governing body responsibility for 'arterial' and 'city centre' roads, and local boards responsibility for many transport functions on 'collector' and 'local' roads

- specifies the process for how the governing body will work with local boards to make bylaws under the Land Transport Act.

34. The AA agrees that local boards are well-placed to advance their communities' priorities. However, these priorities need to be balanced with the core role Auckland's transport network plays in connecting people across the region. We think changes need be made to the Bill to achieve a better balance between local and regional priorities.

Specifying local boards' powers and responsibilities in legislation

35. We acknowledge that at face value most¹ of the Bill's proposed powers and functions for local boards may seem relatively local and unlikely to affect regional functions. However, we are mindful that the proposed approach is another bespoke, untested approach for Auckland. Prescribing in legislation how these responsibilities will be split seems to us to be inviting unnecessary risks of unintended consequences.

36. We appreciate the powers can be amended or revoked by regulation, subject to agreement of the Minister of Transport and Auckland Council. However, this seems like a cumbersome approach with an uncertain timeframe and outcome and could be problematic if only one of these decision makers wanted to change the powers.

37. Our position is that the Bill should be enabling rather than prescriptive – the governing body should ultimately have the flexibility to decide what powers and responsibilities would best sit with local boards based on regional and local transport network impacts, local boards' preferences and competencies.

38. This approach would also enable the governing body to make changes to local boards' powers and functions, without the need for regulatory change.

The AA recommends:

- Clause 47A – 47D of the Bill be amended to:
 - provide the governing body with the flexibility to allocate transport powers and functions to local boards
 - require the governing body to engage with local boards before making decisions on the allocation of any powers, functions and responsibilities to them
- Schedule 4 be deleted from the Bill.

Classification of and responsibility for different road types

39. The ultimate purpose of the proposed road classification framework is to identify the roads where local boards would be able to exercise the transport powers and responsibilities in Schedule 4 of the Bill.

40. Consequently, if Schedule 4 is removed from the Bill in line with the AA's recommendation (above), it is unclear to us what value the framework will provide.

41. Conversely, the administrative costs of "developing, maintaining and approving" a framework covering all roads in Auckland's extensive road network seems likely to be considerable.

¹ The power to install additional traffic signals being one obvious exception.

42. Auckland's road network is continually evolving and expanding. Keeping the framework up to date would require constant updates to and revisions, and each iteration would require the Minister of Transport's approval.
43. For these reasons, the AA does not support the requirement for Auckland Council to develop, maintain and seek the Minister's ongoing approval for a statutory road classification framework.

The AA recommends section 48 is deleted from the Bill to remove the requirement for Auckland Council to develop a statutory road classification framework

The power to make bylaws

44. While the Bill assigns power to make bylaws under the Land Transport Act to the governing body, the governing body must secure the agreement of all local boards. The governing body can however make a bylaw without the full agreement of local boards, provided the majority of local boards agree and the governing body considers the dissenting boards have "unreasonably withheld their agreement"².
45. The AA's view is that providing Auckland Council's governing body with full responsibility for bylaws would deliver on the Bill's objective of improving democratic accountability, without the added complexity and time needed to secure approval from 21 local boards. Local boards could instead be consulted on any proposed bylaws.

The AA recommends clause 47D of the Bill is amended to remove the requirement for local boards to agree to the making of bylaws prepared under section 22AB of the Land Transport Act 1998, and instead require the governing body to consult local boards on proposed bylaws.

Final comment

46. The AA thanks the committee for considering our submission. We request the opportunity to present the key points in person and answer any questions the committee has on our recommendations when hearings are held on the Bill.
47. The NZAA will be pleased to provide any further comment as appropriate. Please contact Martin Glynn (contact details below).

Yours sincerely



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² The Bill defines this term as meaning either that the dissenting boards' position is inconsistent with the Bill's division of responsibilities between the governing body and local boards, or that their positions can be accommodated by boards' powers to make resolutions under the proposed bylaw.