

Submission

By

Business|NZ

To

**Transport & Industrial Relations
Committee**

On

**Local Government (Auckland) Amendment
Bill**

3 May 2004

PO Box 1925
Wellington
Ph: 04 496 6555
Fax: 04 496 6550

**LOCAL GOVERNMENT (AUCKLAND) BILL
SUBMISSION BY BUSINESS NEW ZEALAND
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1. INTRODUCTION

- 1.1 Encompassing four regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 56-member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations, Business New Zealand is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.
- 1.2 In addition to advocacy on behalf of enterprise, Business New Zealand contributes to Governmental and tripartite working parties and international bodies including the ILO, the International Organisation of Employers and the Business and Industry Advisory Council to the OECD.
- 1.3 Business New Zealand's key goal is the implementation of policies that would see New Zealand retain a first world national income and regain a place in the top ten of the OECD (a high comparative OECD growth ranking is the most robust indicator of a country's ability to deliver quality health, education, superannuation and other social services). It is widely acknowledged that consistent, sustainable growth well in excess of 4% per capita per year would be required to achieve this goal in the medium term.
- 1.4 The health of the economy also determines the ability of a nation to deliver on the social and environmental outcomes desired by all. First class social services and a clean and healthy environment are possible only in prosperous, first world economies.
- 1.5 Safe and efficient land transport infrastructure is one of the critical drivers for facilitating the rate of long-term sustainable economic growth required for New Zealand to regain a place among the top ten of the OECD. However, over recent years it has become increasingly apparent that New Zealand's land transport infrastructure constrains rather than facilitates economic growth.
- 1.6 Business New Zealand welcomes the opportunity to comment on the Local Government (Auckland) Bill, which is an attempt to improve the governance structures in order to promote increased integration of decision-making in respect of Auckland land transport. While agreeing that there is a great need for change, Business New Zealand has serious concerns about whether this legislation would result in any improvement on the existing Byzantine structure of transport decision-making in Auckland – and could in fact make matters worse.
- 1.7 Business New Zealand supports and endorses the submission of its Auckland-based regional association, the Employers' and Manufacturers' Association

(Northern). The New Zealand Business Roundtable and the Road Transport Forum of New Zealand also support Business New Zealand's submission.

2. SUMMARY OF RECOMMENDATIONS

2.1 Business New Zealand considers the Local Government (Auckland) Bill to be flawed and that it would not resolve the problems with Auckland's transport decision-making structures. We fear that it could even make the situation worse. Our overall recommendation therefore is that:

(a) The Local Government (Auckland) Bill should not proceed.

2.2 Instead, Business New Zealand recommends that the Government should:

(b) Take decisive action to resolve the wider issues constraining land transport infrastructure development, particularly problems with the Resource Management Act and the Land Transport Management Act;

(c) Do more to encourage the regional clustering of roading management; and

(d) Consult and engage more effectively with business and road user groups during the development of transport policy.

2.3 Without prejudice to recommendations (a) to (d) above, if the Local Government (Auckland) Bill does proceed then Business New Zealand recommends that:

(e) The proposal to establish the Auckland Regional Transport Authority should not proceed unless it can be shown that introducing such a body would succeed in addressing the problems of Auckland regional governance;

(f) Without prejudice to recommendation (e), if the establishment of Auckland Regional Holdings is to proceed then:

(i) Clause 8(2)(b) should be deleted;

(ii) Clause 8(1) should be amended to require the Authority to contribute to an efficient land transport system for the Auckland Region; and

(iii) Governance and accountability provisions should be strengthened.

(g) The abolition of Infrastructure Auckland and its replacement by Auckland Regional Holdings should not proceed; and

(h) Without prejudice to recommendation (g), if the establishment of Auckland Regional Holdings is to proceed then clause 17(2)(d) should be deleted.

3. THE CRITICAL IMPORTANCE OF IMPROVING LAND TRANSPORT INFRASTRUCTURE

3.1 It is almost universally accepted that safe and efficient land transport infrastructure is a key facilitator for economic growth and enhances overall welfare and quality of life.

3.2 However, road users, the wider business community and the Government itself all agree that economic growth is being constrained by increasingly inadequate infrastructure. For example:

- An *Infometrics* report undertaken last year on behalf of the Growth and Innovation Advisory Board, observed last year that land transport is the largest single impediment to business and economic growth¹.
- We understand that the Government's own *Infrastructure Stocktake* (to be released in May) is almost certain to highlight major problems with New Zealand's land transport infrastructure.
- Even the Government's seriously flawed *New Zealand Transport Strategy* purports to recognise the crucial role transport infrastructure plays in the economic development of New Zealand².

3.3 Infrastructure should be expanded to meet demand where it is economic to do so and there is a strong consensus that New Zealand must invest more in its land transport infrastructure. The Government's December 2003 *Investing for Growth* funding package is certainly a step in the right direction. However, Business New Zealand continues to have grave concerns that the package's additional investment of \$3 billion over 10 years (of which \$1.6 billion is earmarked for Auckland) will not be invested effectively and efficiently. For example:

- The layers of consultation and planning approvals required under both the Resource Management Act and the Land Transport Management Act and the latter Act's requirements to minimise social and environmental impacts will result in many significant projects either failing to proceed, being delayed, or subjected to significant cost increases through 'green-mail' and 'green-plating' (i.e., excessive environmental mitigation requirements being imposed as a condition of planning approval). The massive cost escalation of the proposed Auckland Eastern Corridor from around \$700 million to between \$2.8-3.2 billion (with a 5% chance of being between \$3.3-3.9 billion or higher) illustrates the risk³.
- The recently completed Major Projects Review will inevitably add further costs and delays to a number of significant and much-needed

¹ *Generating Growth: Infrastructure*, Infometrics, May 2003. Transport (availability and cost) was cited as a constraint to growth by 41% of firm respondents, which was more than for any other constraint.

² *New Zealand Transport Strategy*, Minister of Transport, December 2002.

³ The cost of the Eastern Corridor project is taken from page 84 of the *Opus Recommended Option Report*, March 2004, and stated in December 2003 prices excluding allowance for cost escalation.

roading projects. This Review (a trade-off to the Green Party for its support for amendments to the Land Transport Management Bill) required Transit New Zealand and Transfund New Zealand to assess several *previously approved* roading projects against the stronger social and environmental criteria set out in the Land Transport Management Act.

- Transport decision-making remains fragmented and duplicative, resulting in high administrative costs and inefficiencies. Nowhere is this more apparent than in Auckland where there are 18 different public sector agencies with responsibility for planning, funding, developing and managing different parts of the Auckland transport network. Unfortunately, this Bill will result in little real change, despite examples of successful initiatives (particularly in Marlborough) that could have been drawn on.
- Although the Land Transport Management Act enables private sector investment in land transport infrastructure, the provisions in the Act are likely to constrain such investment (despite improvements being made after the hearing of submissions on the Bill). For example, despite the success in Australia of Build, Own, Operate and Transfer ('BOOT') arrangements, New Zealand does not allow the private sector to own the infrastructure, so confining private-public partnerships to Design, Build, Fund and Operate ('DBFO') arrangements.
- Although the move towards population funding in the *Investing for Growth* package was necessary for political and public acceptance (especially outside Auckland), it does not guarantee that the additional investment will go to the areas where it is most in need. The benefit cost system for allocating road funding on a nationwide basis has come under considerable criticism by many who have felt that their region has missed out on funding. However, this criticism is unfair because the real issue has been the long-term lack of funding that has resulted in a benefit cost ratio of 4:1 being required for a project to proceed when there are numerous projects with a ratio of greater than 1:1 that are efficient and would provide net benefits to New Zealand.
- Transit New Zealand has already contributed to some passenger transport projects (e.g., Britomart) where the expected benefits fell well short of the costs. Any further move away from benefit cost analysis for allocating funding for land transport infrastructure could not only result in less efficient allocation of funds between regions but it could also result in more resources being misallocated within regions⁴. This would constrain growth and compromise well-being.

⁴ For example, a memorandum of 10 September 2003 prepared for the Ministers of Finance and Transport on the progress of the Joint Officials Group report noted: "Aucklanders do not want an evaluation of any roading projects included in any options package". Furthermore, a May 2003 report by the Boston Consulting Group on behalf of the Auckland Regional Council, Infrastructure Auckland, and the Auckland Regional Transport Network Ltd found their draft rail plan to be grossly uneconomic.

- 3.4 These concerns must be addressed if the additional funding announced in the *Investing for Growth* package is to be spent efficiently and effectively, but it seems these messages are not being heard. Business New Zealand was disappointed but not surprised to learn that Transfund New Zealand's accumulated surplus reached \$250 million in the 2003/04 year due in large part to projects being stalled by processes under the Resource Management Act, Land Transport Management Act and the Major Projects Review⁵. This accumulated surplus has risen from \$150 million in 2002/03 and \$90 million in 2001/02. Therefore, the amount spent on roading infrastructure will not be significantly higher in 2003/04 as it was in 2002/03, despite a large increase that had been forecast last June.
- 3.5 While the *Investing for Growth* funding package and the rearranging of Auckland's transport governance are both necessary moves, they are not sufficient in themselves. New Zealand must take urgent action to address all the issues raised above if its transport infrastructure is to facilitate rather than constrain economic growth and the lifting of New Zealanders' living standards. In the medium to longer term it is likely that some form of road pricing will be required.
- 3.6 *Recommendation: Business New Zealand recommends that the Government take action to resolve the wider issues constraining land transport infrastructure development, particularly problems with the Resource Management Act and the Land Transport Management Act.*
- 3.7 The remainder of this submission comments on the Local Government (Auckland) Bill.

4. THE LOCAL GOVERNMENT (AUCKLAND) BILL

- 4.1 Business New Zealand agrees that changes are required to transport governance in Auckland to promote increased integration of decision-making. However, we have some significant concerns about the direction of the change set out in the Local Government (Auckland) Bill.
- 4.2 Our most significant concern is that the proposed new structure will not change the real problem – that there are 18 different public agencies having responsibility for planning, funding, developing and managing different parts of the Auckland transport network and that these various agencies have different constituencies and often competing priorities. This system has not worked either effectively or efficiently.
- 4.3 The Local Government (Auckland) Bill only appears to change the existing structural morass by:
- (a) Abolishing Infrastructure Auckland (IA) and replacing it with Auckland Regional Holdings (ARH), controlled by the Auckland Regional Council (ARC); and

⁵ Transfund New Zealand media statement, 31 March 2004.

- (b) Establishing *yet another* agency, the Auckland Regional Transport Authority (ARTA), a subsidiary of the ARC.

Auckland Regional Transport Authority

- 4.4 ARTA will take over the ARC's responsibility for the land transport programme and its passenger transport service obligations. Despite these changes, the ARC (through its control of ARTA and ARH) will clearly have a significant influence over transport decision-making in Auckland, particularly with respect to passenger transport. However, territorial local authorities and central government agencies will also continue to be very important, particularly with respect to the funding and management of the roads (both local and state highway) and the ownership of the rail tracks. It is difficult for us to understand how ARTA will add sufficient value to the existing interaction of agencies to justify its establishment.
- 4.5 *Recommendation: Business New Zealand recommends that the proposal to establish the Auckland Regional Transport Authority should not proceed unless it can be shown that introducing such a body would succeed in addressing the problems of Auckland regional governance.*
- 4.6 Business New Zealand notes with grave concern the principles for ARTA contained in clause 8 of the Bill. Clause 8(1) contains potentially conflicting criteria and there is no guidance on how conflicts among the criteria relating to integration, safety, responsiveness and sustainability of transport systems are to be resolved.
- 4.7 Clause 8(2) places a particular emphasis on social and environmental responsibility, seemingly above all other imperatives:
 - (b) *ARTA should exhibit a sense of social and environmental responsibility, which includes –*
 - (i) *Avoiding, to the extent reasonable in the circumstances, adverse effects on the environment;*
 - (ii) *Taking into account the views of effected communities;*
 - (iii) *Giving early and full consideration to land transport options and alternatives in a manner that contributes to paragraph (a) and subparagraph (i).*
- 4.8 The strong bias in clause (8)(2)(b) is clearly on the environment. Business New Zealand is deeply concerned about the implication of this clause and considers it to be unbalanced. As discussed in section 3 of this submission, the Resource Management Act, the Land Transport Management Act, and the Major Projects Review are all causing significant delays and cost increases for crucial land transport infrastructure projects. Business New Zealand predicts that clause 8(2)(b) will add yet another constraint to infrastructure development and, as a result, traffic congestion will continue to worsen and road safety will continue to be compromised, all in the name of the 'environment'.

- 4.9 *Recommendation: Business New Zealand recommends that if the establishment of the Auckland Regional Transport Authority is to proceed, then clause 8(2)(b) should be deleted.*
- 4.10 A further weakness is the absence in clause 8(1) of a requirement for ARTA to contribute to an efficient land transport system. Although efficiency is referred to further down in clause 8(2)(f) we consider it to be severely diluted by the strong bias towards 'environmental responsibility', particularly in clause 8(2)(b).
- 4.11 Meanwhile, clause 8(2)(a) requires ARTA to focus on "both the overall needs of the Auckland Region and the views of communities within the Auckland Region". While such needs and views may on occasion be in harmony, they will more typically be in conflict. There is no basis for resolving this conflict specified in the Bill, but the inclusion of efficiency as a principal objective in clause 8(1) might assist in this regard.
- 4.12 *Recommendation: Business New Zealand recommends that if the establishment of the Auckland Regional Transport Authority is to proceed, then clause 8(1) should be amended to require the Authority to contribute to an efficient land transport system for the Auckland region.*
- 4.13 Despite being a key regional transport agency ARTA would be subject to weak governance and accountability arrangements. For example, although the Bill says that the ARTA board is to be accountable for the performance of ARTA, there are no specific provisions on how this is to occur – it is not apparent, for example, whether a director can be removed from office. Business New Zealand would be concerned if weak governance and accountability arrangements were to result in conflict and dispute between ARTA and the ARC and territorial local authorities.
- 4.14 *Recommendation: Business New Zealand recommends that if the Auckland Regional Transport Authority is to proceed, then governance and accountability provisions should be strengthened.*

Roading Management

- 4.15 While Business New Zealand would support a regional roading entity being established, we would not support ARTA, under the control of the Regional Council, taking on this responsibility. We understand that joint ventures between Transit New Zealand and territorial local authorities in Marlborough and the Bay of Plenty have resulted in significant efficiencies and more effective management of roads in these regions.
- 4.16 Business New Zealand would support further 'clustering' of local roads and state highways into single regional roading entities with the management and development of major arterial roads delegated to Transit New Zealand and managed as part of the State Highway network (i.e., the 'Marlborough Roads' model). We consider that significant benefits could be realised if a similar approach were to be taken in Auckland.

- 4.17 *Recommendation: Business New Zealand recommends that regional clustering of roading management, using the Marlborough Roads model, should be encouraged.*

Auckland Regional Holdings

- 4.18 Replacing IA with the ARH is also a matter of concern to Business New Zealand. Although IA is a creature of statute, it has acted in a business-like manner and has been a prudent investor. However, the changes in the Local Government (Auckland) Bill are unsettling, particularly as they could result in a less business-like approach being taken to its activities.

- 4.19 Currently, IA's legislation explicitly directs it to 'manage its assets in accordance with sound business practice' and 'avoid any impudent increase in the level of its liabilities' (section 707ZZM of the Local Government Act 1974). However, the principles for the ARH contained in clause 17(2) of this Bill go much further by including the following requirement in clause 17(2)(d), taken from section 14 in the Local Government Act 2002:

(d) ARH should exhibit a sustainable development approach in its decision-making by taking into account:

- (i) The social, economic, environmental and cultural well-being of people and communities;*
- (ii) The need to maintain and enhance the quality of the environment;*
- (iii) The reasonably foreseeable needs of future generations.*

- 4.20 By including a specific sub-clause 17(2)(d)(ii) on the need to maintain and enhance the quality of the environment, there is a clear message that the environment is the *overriding* imperative. This is despite the understanding that 'sustainable development' is supposedly about a *balance* between economic, social, cultural and environmental imperatives.

- 4.21 Business New Zealand is deeply concerned about the implication of clause 17(2)(d). As discussed in section 3 of this submission and in paragraph 4.6 above, the Resource Management Act, the Land Transport Management Act, and the Major Projects Review are all causing significant delays and cost increases for crucial land transport infrastructure projects. Business New Zealand predicts that clause 17(2)(d) will add yet another constraint to infrastructure development and, as a result, traffic congestion will continue to worsen and road safety will continue to be compromised, all in the name of the 'environment'.

- 4.22 *Recommendation: Business New Zealand recommends that the abolition of Infrastructure Auckland and its replacement by Auckland Regional Holdings should not proceed.*

- 4.23 *Recommendation: Business New Zealand recommends that if the establishment of Auckland Regional Holdings is to proceed, then clause 17(2)(d) should be deleted.*

Changes to Auckland Policy Statements

- 4.24 Business New Zealand notes that the Bill enables changes to be made to Auckland policy statements and plans under the Resource Management Act. Although the Bill is silent on the nature of such changes, we understand that the intention of planners is that changes would serve to provide a boost for mass passenger transport by further promoting intensive urban development around existing transport corridors.
- 4.25 Although Business New Zealand has no comment on the specific clauses 30-36, we note that recent proposals in Auckland to encourage high-density housing have been controversial and strongly opposed by many affected communities.

5. LACK OF ENGAGEMENT WITH BUSINESS AND ROAD USER GROUPS

- 5.1 Business New Zealand is concerned that the Local Government (Auckland) Bill is another example of an agreement between local and central government that has had minimal involvement or attempt of buy-in from either road users or the business community. While it is clear that there has been close collaboration between local and central government on this issue (and others previously, most notably local government reform in 2001-02), the concept of 'partnership' with those that pay the bills is not at all apparent.
- 5.2 This is particularly disappointing because business and road user groups have offered to work constructively in partnership on land transport infrastructure issues. Promises by the Government that it would engage with such groups have come to nothing and on this occasion we are again in a situation of having to comment on proposals in legislation that are less than satisfactory. Unfortunately, it is very difficult for business and road user groups not to be critical (and therefore be labelled by some as 'whiners') when it is clear that transport policy is being driven by politics and ideology rather than what is best for New Zealand.
- 5.3 *Recommendation: Business New Zealand recommends that the Government consult and engage more effectively with business and road user groups during the development of transport policy.*

6. CONCLUSION

- 6.1 Business New Zealand recognises the critical importance of land transport infrastructure to economic growth and lifting living standards for all New Zealanders. However, while the Government appears to recognise this importance, and has committed significant additional investment in land transport infrastructure (which we welcome), the Government is not adequately addressing many of the constraints that prevent the efficient and effective investment in infrastructure.
- 6.2 While Business New Zealand agrees that Auckland's transport governance structures must be improved, the Local Government (Auckland) Bill is flawed and could even make the situation worse, for example by entrenching yet

more provisions into legislation that lift the importance of environmental considerations above all others. This would add yet another constraint to infrastructure development causing traffic congestion to worsen and road safety to continue to be compromised, all in the name of the 'environment'.