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Transport and Infrastructure Committee
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Dear Chair

Land Transport (Rail) Legislation Bill – Environment Canterbury Submission

Thank you for the opportunity to make a submission on the Land Transport (NZTA) Legislation Amendment Bill.

Environment Canterbury does wish to make an oral submission.

Environment Canterbury (the Canterbury Regional Council) works with territorial authorities and other stakeholders in Canterbury to enable a resilient and safe, multi-modal transport network. Environment Canterbury also convenes the Canterbury Regional Transport Committee (RTC), which is responsible for developing the Canterbury Regional Land Transport Plan under the Land Transport Management Act 2003.

Preliminary matters

Submissions on this Bill were called for at the end of December 2019, immediately before the Christmas break. Due to this timing, it has not been possible for the Canterbury RTC to convene to prepare a submission. Noting also the number of other transport-related government policy documents released in December 2019, including the Draft Rail Plan, it has also been difficult for Canterbury territorial authorities to consider the implications of this Bill and prepare their own submission in the time allowed.

Environment Canterbury first wishes to draw the Committee's attention to this matter, as some of the proposals in the Bill have implications for local government. This approach has hampered Environment Canterbury's ability to engage as meaningfully as it would have wished on this Bill.

Summary of key points

1. Environment Canterbury supports the objective of the Bill.
2. Environment Canterbury supports the development of a Rail Network Investment Programme (RNIP) by KiwiRail. However, Environment Canterbury submits that KiwiRail

should consult on the RNIP with Regional Transport Committees (RTCs) before the RNIP is submitted to the Minister of Transport.

3. Environment Canterbury seeks clarity on funding sources for rail infrastructure activities. Environment Canterbury is concerned that there will be a shortfall in funding for rail infrastructure activities and that this will be met by reducing funding for other transport activities from the National Land Transport Fund (NLTF).
4. Environment Canterbury does not support the 'partial integration' model (Option 3 in the Regulatory Impact Analysis) and submits that the 'full integration' model (Option 4), be adopted. Rail projects should be incorporated in the regional land transport planning process and be prioritised alongside other transport activities before being included in the National Land Transport Programme (NLTP).
5. Environment Canterbury considers the appointment of KiwiRail as a member of an RTC should be made by regional councils, and not by KiwiRail, consistent with the approach to appointing other members under the Land Transport Management Act 2003 (LTMA). Under the LTMA organisations nominate their members and regional councils make the appointments.
6. Environment Canterbury proposes the assessment criteria developed by Waka Kotahi NZ Transport Agency (Transport Agency) for rail infrastructure projects must be consistent with assessment criteria that the Transport Agency uses for other transport activity classes.

Further detail is provided below, to expand on the key points of our submission.

1. Environment Canterbury support for objective of Bill

Environment Canterbury supports the objective of the Bill to implement a new planning and funding framework for the heavy rail network owned by KiwiRail. This includes bringing the planning and funding of the national rail network under the LTMA. This will help to provide greater certainty for investment in rail and will improve the integration of rail within the wider land transport system.

2. RTCs should be consulted on the RNIP

Environment Canterbury supports the development of the RNIP, which sets out all rail activities to be funded or partially funded from the NLTF.

First, Environment Canterbury is concerned that KiwiRail can prepare an RNIP without any requirement for KiwiRail to consult with RTCs on rail network improvements in the relevant region. This presents an unnecessary challenge to moving toward an integrated multi-modal transport planning and investment approach.

Second, KiwiRail must prepare the first RNIP by 1 July 2021 which coincides with the legislative date by which the next NLTP must be released. Environment Canterbury recommends that this date be brought forward to 1 October 2020 to enable suitable consideration of the RNIP within the regional land transport planning process. It should be noted that Regional Land Transport Plans (RLTPs) must be submitted to the Transport Agency by 30 April 2021 specifically to support the preparation of the next NLTP.

This approach will also make it challenging to include the RNIP activities in the RLTP and difficult for RTCs to gain an understanding of what rail network infrastructure projects are proposed in their regions.

Recommendations

- A. Environment Canterbury recommends that KiwiRail be required to undertake early engagement and consultation on the RNIP with RTCs before the RNIP is submitted to the Minister.
- B. Environment Canterbury recommends the date for KiwiRail finalising the first RNIP be brought forward from 1 July 2021 to 1 October 2020 to enable inclusion of the RNIP into RLTPs.
- C. Environment Canterbury also recommends the Bill be amended to ensure future RNIPs are also presented to RTCs prior to the date by which the Transport Agency require RLTPs to be finalised.

3. Clarity on funding sources for rail infrastructure activities

Environment Canterbury supports the development of the RNIP, setting out all rail activities to be fully or partially funded from the NLTF.

It is unclear how much investment from the NLTF will be directed to heavy rail activities in addition to funding sources from outside of the NLTF. Further clarity about the track user charges process and the investment priorities and activity class bands in the Government Policy Statement on Land Transport (GPS) 2021, including how much supplementary Crown funding will be available for rail network improvements, is needed.

Environment Canterbury is concerned that a significant amount of NLTF funding could be required to upgrade rail network infrastructure. This could impact on the ability to fund other transport activities, including those needed to deliver key Government objectives such as implementing *Road to Zero*, as well as maintaining existing infrastructure to the standard required by the Government.

Rail is not as prevalent in the South Island as it is in the North Island, with the focus of government investment in rail primarily on rail in Auckland and Wellington. Removing funding from other activity classes to support rail investment in the next planning period would likely disproportionately disadvantage the South Island.

Recommendation

- D. Environment Canterbury recommends that sufficient Crown funding for rail infrastructure should be allocated in the GPS to enable rail investment activities to be undertaken without reducing funding for the other transport activity classes.

4. Fully integrated model is preferred

With respect to the planning and funding of rail, the Bill adopts the 'partial integration' model (Option 3) in the accompanying Regulatory Impact Analysis. Under this option, the Minister of Transport holds decision-making rights over the programme of activities and funding approval for individual activities rather than the Transport Agency Board.

Environment Canterbury considers that the 'full integration' model (Option 4) should be adopted. Under Option 4, rail network activities would be considered as part of the RLTP and NLTP decision-making process in the same way as all other transport activities funded through the NLTF. This would allow RTCs to determine which rail activities they want to put forward and to prioritise these activities alongside other transport projects based on a whole-of-network approach. The 'full integration' model respects the critical role of RLTPs as the primary documents guiding integrated land use and transport investment in a region.

Environment Canterbury considers that KiwiRail should develop the RNIP and lodge this for inclusion in RLTPs in a similar way to the manner in which the Transport Agency prepares and submits its Transport Agency Investment Proposal (TAIP) and local government prepares and submits their transport programmes.

Recommendation:

- E. Environment Canterbury recommends that the Government adopt the 'full integration' model (Option 4), as set out in the Regulatory Impact Statement, to ensure rail network activities are considered as part of the RLTPs and NLTP development process.

5. Appointment of KiwiRail to an RTC should be by the relevant regional council

Clause 14 provides for the appointment of KiwiRail representation on RTCs, including that the KiwiRail member must be appointed by KiwiRail.

Environment Canterbury considers that the KiwiRail member should be nominated, but not appointed, by KiwiRail. Rather, the appointment should be made by the relevant regional council, consistent with appointments to RTCs under section 105 of the LTMA. Section 104(4) of the LTMA also makes it clear that those appointments may only be made on the nomination of the relevant entity.

It is also important to ensure that this provision does not create any legal ambiguity about whether representatives from organisations not referred to in the LTMA can nonetheless be appointed to an RTC. Currently some RTCs have members who are not referred to in the LTMA, such as Police or representatives from other modes.

Recommendation:

- F. Environment Canterbury recommends the appointment of KiwiRail as a member of an RTC be made by regional councils, and not by KiwiRail, consistent with the approach to appointing other members under section 105 (members still need to be nominated by their own organisation).

G. Environment Canterbury seeks assurance that this provision does not create any legal ambiguity about whether representatives from organisations not referred to in the LTMA can nonetheless be appointed to an RTC.

6. Consistency of assessment method

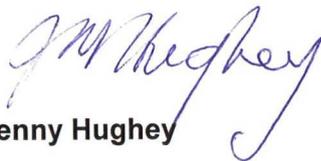
Clause 11 inserts a new Section 22F into the LTMA. Section 22F(1) provides for a number of matters that the Transport Agency must advise the Minister on, including whether a rail activity proposed for funding is efficient and effective and consistent with the GPS. Under Section 22F(3) the Transport Agency must develop assessment methods to use when giving advice on whether the activity is efficient and effective and consistent with the GPS.

Environment Canterbury considers that the assessment methods used by the Transport Agency to assess rail infrastructure activities should be consistent with the existing assessment criteria the Transport Agency uses for assessing other transport activities. This will ensure a more consistent and mode-neutral approach is taken to transport funding for rail activities.

Recommendation:

H. Environment Canterbury recommends that the assessment methods for rail activities be consistent with the assessment methods used by the Transport Agency when evaluating other transport activities being put forward for inclusion into the NLTP.

Yours sincerely



Jenny Hughey

Chair, Environment Canterbury

