

In Confidence

Minister of Transport

Cabinet Environment, Energy and Climate Committee

Public Transport Operating Model Review Discussion Paper

Proposal

- 1 This paper seeks agreement to the publication of a Discussion Paper on the review of the Public Transport Operating Model (PTOM) for public consultation and engagement with the sector. The Discussion Paper includes options to facilitate accelerated decarbonisation of the public transport bus fleet.

Relation to Government priorities

- 2 This Government was elected on a manifesto that included a commitment to:
 - 2.1 require only zero-emission public transport buses to be purchased by 2025
 - 2.2 target the decarbonisation of the public transport bus fleet by 2035, and
 - 2.3 support regional councils to achieve these outcomes through a \$50 million fund over four years.
- 3 The Cooperation Agreement between the Labour and Green Parties includes “decarbonising public transport” as an area of cooperation. Decarbonising the public transport bus fleet is an important part of this. I intend to work closely with the Green Party on decarbonisation of the bus fleet and other forms of public transport, such as commuter rail and ferries.
- 4 This proposal also relates to the Government’s commitment to reducing emissions as part of our response to climate change. Specifically, New Zealand ratified the Paris Agreement in 2016 and committed to reducing greenhouse gas emissions to 30 percent below 2005 levels by 2030. The Climate Change Response (Zero Carbon) Amendment Act 2019 set a statutory domestic target for reductions in greenhouse gas emissions, including net emissions of greenhouse gases other than biogenic methane, to be zero by the year 2050.

Executive Summary

- 5 In December 2020 Cabinet agreed that officials will commence a work programme to support local government to decarbonise the public transport bus fleet that will address systemic barriers. This work programme includes reviewing PTOM, in part to consider how changes to it could enable accelerated decarbonisation.

- 6 The PTOM Review also addresses other issues relating to the framework governing the provision of public transport bus and ferry services. These issues concern roles and relationships in the sector, the labour market, exempt services and on-demand services.
- 7 I have prepared a draft Discussion Paper for public consultation and to support engagement with the public transport sector on the PTOM Review. This is attached in Appendix 1. The Discussion Paper explores the issues (and options to address them) but does not identify preferred options. This reflects the complexity of the issues and the importance of engagement before reaching preferred options.
- 8 As part of the PTOM Review I am also proposing new overarching objectives for PTOM. These objectives retain elements of the founding objectives while also providing for wider social, economic and environmental outcomes.
- 9 I anticipate that consultation will run for six weeks. Officials propose to target engagement with councils, operators and unions and will proactively seek to engage with peak bodies in the sector (including Local Government NZ, Transport Special Interest Group, Bus and Coach Association, and the Council of Trade Unions). I will report back to Cabinet on the outcomes of consultation and engagement and detail the next steps for the PTOM Review. Further engagement with the sector may be necessary once preferred options are identified.

Background

- 10 In December 2020 Cabinet considered a paper titled *Decarbonisation of the public transport bus fleet*. Cabinet agreed that officials will commence a work programme to support local government to decarbonise the public transport bus fleet by addressing systemic barriers [CBC-20-MIN-0118 refers]. The work programme also includes a wider review of the PTOM framework.
- 11 The PTOM Review is structured in two parts: the PTOM Evaluation (completed and now published) and the Policy and Legislative Review.
- 12 The PTOM framework applies to the planning and procurement of public transport bus and ferry services. Public transport rail services have a separate procurement model called the Metro Rail Operating Model (MROM). MROM is not within scope of the PTOM Review. However, it is important to note that if the PTOM Review results in changes to Part 5 of the Land Transport Management Act (which sets out the Regulation of Public Transport) this would also impact public transport rail services. This is noted in the Discussion Paper.

The PTOM Review addresses a number of issues relating to the provision of bus and ferry public transport services

- 13 I have prepared a Discussion Paper to support consultation and engagement on the PTOM Review. The PTOM Review and the Discussion Paper is limited to public transport bus and ferry services. The following issues are within scope of the PTOM Review and are included in the draft Discussion Paper:

- 13.1 the findings of the PTOM Evaluation
 - 13.2 new overarching objectives for PTOM
 - 13.3 decarbonisation of the public transport bus fleet
 - 13.4 roles and relationships in the public transport sector
 - 13.5 the labour market in the public transport bus sector
 - 13.6 the framework for services that operate outside of PTOM (exempt services)
 - 13.7 the treatment of on-demand public transport services.
- 14 These issues and the approach I have taken to each is outlined further below.

The findings of the PTOM Evaluation provide the foundation for the Policy and Legislative Review and the Discussion Paper

- 15 The PTOM Evaluation found that PTOM has only partially met the original objectives and operators with lower wage costs were likely advantaged in tendering. However, under the PTOM framework public transport networks have expanded; access has increased; services have become more affordable for users; and networks have become more integrated.
- 16 The Evaluation findings suggest the PTOM framework has enabled some positive outcomes for the delivery of public transport services. However, I am concerned about the labour market impacts of PTOM and the implications for service delivery. I also want to ensure PTOM supports the Government's decarbonisation objectives. I consider these issues can be addressed through changes to the existing framework. As a result, the Discussion Paper suggests that rather than being a fundamental review of PTOM, the Policy and Legislative Review will address:
- 16.1 specific issues identified by the Evaluation
 - 16.2 priority issues for the Government, including decarbonisation of the public transport bus fleet and protecting bus driver wages and conditions in future procurement
 - 16.3 issues officials are aware of from ongoing engagement with the sector
 - 16.4 new issues that emerge from engagement with the sector on the Discussion Paper.
- 17 To ensure the PTOM Review is successful, I am planning to progress it collaboratively with the sector that is responsible for the planning, procurement and delivery of services. With the exception of the overarching objectives (discussed below), the Discussion Paper largely presents issues and options and seeks stakeholder feedback on these. I have not identified preferred options to address issues. This reflects that many of the issues are

complex and interrelated and resolving them will require action by a range of players. I intend to identify preferred options following engagement.

I am proposing new overarching objectives for PTOM

- 18 The Discussion Paper proposes new overarching objectives that align more closely with the Government's objectives. The proposed objectives retain elements of the founding objectives, but support wider social, economic and environmental outcomes. I propose the new overarching objectives of PTOM should be:
- 18.1 **Competitors have access to public transport markets** – this is intended to ensure ongoing value for money from public transport service procurement.
 - 18.2 **Public transport is an attractive mode of transport** – this is intended to support the Government's mode shift objectives and encompasses factors such as reliability, frequency, accessibility and affordability.
 - 18.3 **There is sustainable provision of services, including through a sustainable labour market** – this relates to the ability of the sector to deliver, on an ongoing basis, the public transport services desired by the community.
 - 18.4 **Public transport services reduce the environmental and health impact of land transport** – this relates to the contribution of public transport to decarbonising the transport system, including through decarbonising the public transport bus fleet.
- 19 These objectives would replace the founding objectives, which were:
- 19.1 to grow the commerciality of public transport services (as measured by the proportion of costs covered by fare revenue) and create incentives for services to become fully commercial
 - 19.2 to grow confidence that services are priced efficiently and there is access to public transport markets for competitors.

The Discussion Paper explores a range of issues and options to enable accelerated decarbonisation of the bus fleet

- 20 This Government was elected on a manifesto that included a commitment to:
- 20.1 require only zero-emission public transport buses to be purchased after 2025
 - 20.2 target the decarbonisation of the public transport bus fleet by 2035, and
 - 20.3 support regional councils to achieve these outcomes through a \$50 million fund over four years.

- 21 I have proposed a set of parameters for the 2025 zero-emission bus mandate and identified several options to establish it
- 22 The Government has announced it will require only zero-emission buses to be purchased by 2025 (the 2025 mandate). In the Discussion Paper I have proposed a set of parameters for this mandate:
- 22.1 Start date – I propose the requirement will start from 1 July 2025.
 - 22.2 Definition of zero-emission – buses that produce zero emissions at tailpipe. I expect this would include fuel sources such as electricity and hydrogen.
 - 22.3 Scope of vehicles included – the requirement will apply to public transport buses used for services contracted to regional councils. It will not apply to school bus services contracted by the Ministry of Education.
 - 22.4 Meaning of “purchase” – I propose the requirement applies to public transport buses registered for the first time in New Zealand from 1 July 2025. This would cover new and used buses that are imported to New Zealand and new buses manufactured or built up in New Zealand. It would not cover buses that are already in the public transport bus fleet prior to 1 July 2025 – even if they are transferred between regions or operators, or refurbished.
- 23 The Discussion Paper also explores three potential options to establish the 2025 mandate:
- 23.1 an amendment to the Requirements for Urban Buses; and/or
 - 23.2 through changes to the existing Government Policy Statement on Land Transport (GPS) or in the next GPS; and/or
 - 23.3 through legislative changes (such as the LTMA).

I do not anticipate mandating particular ownership or procurement options to enable decarbonisation

- 24 The Discussion Paper acknowledges some of the challenges that councils and bus operators may face when decarbonising their public transport bus fleets and raises potential ways to reduce or remove these barriers.
- 25 In particular, the Discussion Paper explores a range of issues with decarbonising the public transport bus fleet under the existing ownership and procurement models. Officials have also identified a range of alternative models that could be considered. However, at this stage I do not anticipate that central government would mandate particular ownership or procurement models, recognising that councils and operators in large urban areas may face different barriers/issues compared to those in smaller regional towns.

26 Issues relating to decarbonisation are a core element of the Discussion Paper and I expect to get a wide range of feedback from stakeholders.

27



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The Discussion Paper presents options to refine roles and relationships for public transport

28 The Discussion Paper highlights some issues with current roles and relationships in the public transport sector. I have identified two potential options to improve outcomes from public transport investment:

28.1 Regional councils and territorial local authorities could be required to prepare regional public transport plans in partnership to ensure alignment of service networks and infrastructure. As part of this, territorial authorities could be required to demonstrate how they plan to support efficient public transport service delivery.

28.2 Waka Kotahi NZ Transport Agency (Waka Kotahi) could be given a stronger role in ensuring consistency and efficiency from public transport service procurement. A new principle to support this outcome could be added to section 125 and/or section 25 of the Land Transport Management Act 2003 (LTMA). Section 125 contains the principles that guide the performance of functions in relation to public transport and section 25 details requirements for Waka Kotahi's procurement procedures.

29 The Discussion Paper also notes that there may be opportunities to improve the partnership between councils and operators, but does not propose any specific option to achieve this. The Discussion Paper notes that the role of unions, and relationship between unions and operators, is outside the scope of the PTOM Review. This is because the legal framework for these relationships is in the Employment Relations Act 2000.

The Discussion Paper explores options to protect bus driver wages and conditions under PTOM

30 The Discussion Paper notes the Government wants to ensure bus driver wages and conditions are protected in the longer-term. It outlines two pathways to achieve this: through Waka Kotahi's procurement guidance or through legislative change. It identifies two legislative options:

30.1 Through amendments to the LTMA – for example adding to or amending the principles in section 125 to confirm that drivers' wages and conditions should not be negatively affected by procurement under PTOM. This would provide a legislative backing for changes to

procurement guidance set by Waka Kotahi and would also guide the functions of regional councils.

- 30.2 Add public transport bus drivers to Schedule 1A of the Employment Relations Act. This would mean that when councils procure bus services through competitive tendering, the employees of existing operators would have the right to transfer to any new operator of the services under their existing terms and conditions.

The Discussion Paper considers the suitability of the framework for exempt services

- 31 When PTOM was implemented, some public transport services that were operating on a fully commercial basis and all inter-regional public transport services were exempted from PTOM. These services were not required to operate under a contract to regional councils, which meant the operators of these services were free to set the fares and timetables.
- 32 The Discussion Paper considers the rationale for the exemptions and seeks views on whether the rationale still holds. It also outlines the process for registering, varying and withdrawing exempt services and seeks views on whether these processes are still appropriate.
- 33 I do not anticipate that the PTOM Review will make specific recommendations about the future status of individual exempt services and this is explicit in the Discussion Paper. Exempt services will need to be assessed on a case-by-case basis, while the PTOM Review is intended to consider issues at a framework level rather than for individual services. I intend to separately consider the status of some exempt services.

The Discussion Paper outlines the options for the treatment of on-demand transport services

- 34 When PTOM was introduced, the framework was designed with conventional timetabled public transport services in mind. Since then, new technology has facilitated new forms of on-demand public transport services. These types of services are of particular interest to councils in areas where the demand for public transport has not been sufficient to sustain scheduled services.
- 35 Currently on-demand public transport services operate outside of the PTOM framework. This means operators of these are free to establish services that may compete with or complement contracted public transport services. The Discussion Paper explores several options for the treatment of on-demand services:
- 35.1 Status quo – on-demand services remain unregulated for the purposes of PTOM.
- 35.2 Classify as exempt services under PTOM – all on-demand services would need to be registered with councils and councils would have the

opportunity to decline a registration if it would be detrimental to the region's public transport network.

- 35.3 Require on-demand public transport services to be contracted, unless exempt/commercially operated – this would treat on-demand public transport services the same as scheduled public transport services.

Financial Implications

36 Publishing the Discussion Paper has no financial implications.

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[REDACTED] I will also report back to Cabinet on:

Withheld to maintain the constitutional conventions which protect the confidentiality of advice tendered by Ministers and Officials.

37.1 how funding for decarbonising the public transport bus fleet should be spent

37.2

[REDACTED]

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Legislative Implications

38 Publishing the Discussion Paper has no legislative implications.

39 Some of the potential options outlined in the Discussion Paper may require legislative change. I will report back to Cabinet on options following consultation and engagement, including any legislative implications.

Regulatory Impact Statement

40 The RIA panel at the Ministry of Transport has reviewed and confirmed the Discussion Paper substitutes for a Regulatory Impact Statement. The Discussion Paper is likely to lead to effective consultation and support the delivery of a quality Regulatory Impact Analysis.

Climate Implications of Policy Assessment

41 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply at the consultation stage. The Ministry for the Environment will work with the Ministry of Transport to assess the emissions impacts of policy proposals as they are advanced – as appropriate – at a later date.

42 I have previously prepared a Climate Implications of Policy Assessment for the decarbonisation of the public transport bus fleet. The Climate Impacts of

decarbonising the public transport bus fleet were detailed in my paper to Cabinet in December 2020 [CBC-20-MIN-0118].

Population Implications

- 43 There are no population implications from publishing the Discussion Paper. Some of the options explored in the Discussion Paper could:
- 43.1 improve pay and working conditions for those employed in the public transport sector
 - 43.2 enable positive impacts on those living in urban areas, through reduced vehicle emissions and improved air quality
 - 43.3 impact employment opportunities in the sector, particularly for diesel mechanics. However, I anticipate this will be part of a broader shift in the road transport sector that requires retraining or upskilling.

Human Rights

- 44 There are no human rights implications from publishing the Discussion Paper or from the options outlined in the Discussion Paper.

Consultation

Public consultation and sector engagement

- 45 I anticipate there will be sufficient interest in the PTOM Review to justify public consultation. In particular, I expect individual bus drivers (especially those not represented by unions who would not be included in the usual consultation with bus companies and unions), Waiheke Island residents and other stakeholder groups outside the public transport sector will want to have input into the PTOM Review. As a result, I propose to make the Discussion Paper publicly available on the Ministry's website and invite written submissions for a period of six weeks.
- 46 I propose to focus the engagement effort with the key sector stakeholders, namely Waka Kotahi, councils, operators and unions. These stakeholders are critical to the success of public transport planning, procurement and delivery. I also intend to seek the views of public transport users, including through disability organisations and councils' public transport user groups. I propose to notify these key stakeholders when the Discussion Paper is published and have asked officials to make themselves available to meet and engage on the Discussion Paper. Officials will also proactively seek engagement with peak bodies, such as Local Government NZ Transport Special Interest Group, the Bus and Coach Association, and the Council of Trade Unions. Officials will also engage with the Rest and Meal Breaks Steering Group, which includes representatives from these organisations.

Consultation risks

47 The PTOM Review considers a range of complex issues, most notably in the area of decarbonisation. I anticipate there will be a range of views on how best to address these issues. As a result, further sector engagement beyond the planned six week consultation period may be necessary to resolve these issues. It may also be desirable to engage with the sector once we have identified preferred options, and prior to seeking policy decisions from Cabinet.

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[Redacted]

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Withheld to maintain the constitutional conventions which protect the confidentiality of advice tendered by Ministers and Officials and as the information relates to the effective conduct of public affairs through the free and frank expression of opinion by Ministers or Officials.

Agency consultation

50 The following agencies have been consulted on this Cabinet paper: ACC, Department of Conservation, Department of Internal Affairs, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry for Women, Ministry of Social Development, Ministry for Primary Industries (Rural Communities team), Office for Seniors, Office for Disabilities, NZ Police, Waka Kotahi NZ Transport Agency, Te Puni Kōkiri, NZ Treasury, WorkSafe and Ministry for the Environment. The Department of the Prime Minister and Cabinet has been informed.

51 The Ministry for Women noted that an important part of public transport being attractive is that it is safe and accessible, particularly given different patterns of public transport use by women compared to men. I consider that these concepts are already captured by the new overarching objectives that I am proposing.

52 In the context of decarbonising the bus fleet, WorkSafe noted the importance of industry training to ensure staff were able to safely manage vehicles powered by new fuels. I consider the PTOM framework enables this outcome through contractual requirements set by regional councils and general health and safety obligations on employers.

53 The Ministry for the Environment noted the linkage between the PTOM review and wider emission reduction imperatives. In particular, MfE noted the need to significantly increase investment in public transport, beyond the

decarbonisation of the bus fleet, to achieve emissions reductions from transport.

- 54 The Office for Disability Issues also noted the importance of ensuring public transport is accessible to disabled people, and suggested the PTOM Review is an opportunity to address this. I consider accessibility is captured in the new overarching objective around public transport being attractive. I also note that Waka Kotahi has recently updated the Requirements for Urban Buses (RUB), which includes accessibility standards. The RUB was updated following sector feedback, including feedback from the disability sector.

Communications

- 55 If Cabinet agrees to the publication of the Discussion Paper, I will prepare the Discussion Paper for release and issue a press release. Officials will notify key sector stakeholders as noted above.

Proactive Release

- 56 I intend to proactively release this Paper and associated papers within 30 days of the Cabinet decision, subject to any redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Transport recommends that the Committee:

- 1 **note** that the Discussion Paper proposes new overarching objectives for PTOM
 - a) competitors have access to public transport markets
 - b) public transport is an attractive mode of transport
 - c) there is sustainable provision of services
 - d) the environmental impact of public transport service delivery reduces over time
- 2 **note** that the Discussion Paper proposes parameters for the 2025 zero emission bus mandate are:
 - a) a start date of 1 July 2025
 - b) that zero emission is defined as zero emissions from the tailpipe
 - c) that the mandate would apply to when buses are first registered in New Zealand
- 3 **note** the Discussion Paper indicates the government:
 - a) does not anticipate mandating particular ownership or procurement models to enable decarbonisation of the bus fleet

b) does not anticipate making recommendations on the future status of individual exempt services.

- 4 **agree** that the Discussion Paper can be published with editorial changes necessary to support public engagement
- 5 **agree** that this Cabinet paper be proactively published as part of the consultation process
- 6 **invite** the Minister of Transport to report back to Cabinet on the outcomes of consultation and engagement and detail the next steps of the PTOM review in the second half of 2021.

Authorised for lodgement

Hon Michael Wood

Minister of Transport

PROACTIVELY RELEASED BY
THE MINISTRY OF TRANSPORT