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Committee Regional Transport  
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## Voting entitlements of Regional Transport Committee objective and cultural interest appointees

### 1. Purpose

To provide the Committee with advice on the legislative provision, and supplementary advice from the Ministry of Transport, in relation to voting entitlements of objective and cultural interest appointees on the Regional Transport Committee.

### 2. Significance of the decision

The matters for decision in this report **do not** trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

### 3. Background

#### 3.1 Land Transport Management Act 2003

The Land Transport Management Act 2003 (the Act) was recently amended as of 1 August 2008. One of the changes in the legislation affects the voting rights of members of the Regional Transport Committee.

The functions of the Regional Transport Committee are set out at section 106 of the Act:

- (1) The functions of each regional transport committee are to prepare for approval by the relevant regional council—
  - (a) a regional land transport strategy for its region, or any variations to the strategy, or any reports on the strategy prepared under subpart 1 of this Part; and
  - (b) a regional land transport programme for its region, or any variations to the programme prepared under subpart 1 of Part 2; and

- (c) a regional fuel tax scheme for its region if the regional transport committee decides to recommend a scheme; and
- (d) to provide the regional council with any advice and assistance the regional council may request in relation to its transport responsibilities.

Section 107 of the Act sets out the voting entitlements for members of Regional Transport Committees. It states that the objective and cultural interests appointees:

...have full speaking rights but are not entitled to vote on matters related to regional land transport programmes.

### **3.2 Issues requiring clarification**

There are two key questions that arise as a result of the wording of the new legislation.

- a) What are the voting entitlements in relation any proposed regional fuel tax schemes?
- b) What is considered to constitute ‘matters relating to regional land transport programmes’ for which the objective and cultural interest members do not have voting rights?

This paper reports on the available advice and guidance in relation to these matters.

## **4. Comment**

### **4.1 Voting entitlements for Regional Fuel Tax schemes**

The legislation does not specifically exclude objective and cultural interest members from voting on regional fuel tax schemes (see section 3.1 above).

However, given that any regional fuel tax scheme is likely to be associated with a funding gap identified through a regional land transport programme, there was some uncertainty about whether it would be considered to be a *matter related to* the regional land transport programme.

The advice from ministry officials, as set out in the Ministerial Guidelines<sup>1</sup> issued by the Ministry of Transport on 1 August 2008, is that objective and cultural interest appointees ‘Have full speaking rights and are entitled to vote on matters related to regional land transport strategies and regional fuel tax schemes’ (section 2.4.4 of the guidelines).

### **4.2 Voting entitlements for ‘matters related to regional land transport programmes’**

There is also need for clarification around how “matters relating to regional land transport programmes” should be interpreted.

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<sup>1</sup> Ministerial Guidelines for Appointments to Regional Transport Committees of Regional Council's

The Ministry's view on this is that "matters related to..." covers a broad range and should be applied to any decision which involves or affects, directly or indirectly, the preparation of a particular programme or variation, or the Committee's approach to preparing programmes or variations generally.

That would include decisions about matters such as the timing of the preparation process and the criteria which the Committee will consider when prioritising activities or assessing the programme as a whole. It would also cover the adoption of the significance policy for programmes.

The following list sets out the types of reports and decisions that are likely to be subject to the voting entitlement limitations set out in section 107(2) of the Act:

- Adopting a significance policy for variations to the programme
- Agreeing the process for developing the programme
- Endorsement of a prioritisation methodology
- Adoption of priorities related to the programme
- Agreeing a consultation plan for the draft programme
- Approval of the draft programme for consultation
- Appointment of a hearings subcommittee to consider submissions on the programme
- Hearing subcommittee decisions on the programme
- Adoption of the final programme
- Approval of any variations to the programme.

The Act does allow full speaking rights on these matters, so appointees are able to express their views and those of their "community of interest" freely.

## **5. Communication**

All future reports to the Regional Transport Committee will include a section identifying any voting entitlement implications relating to the Regional Land Transport Programme.

## **6. Recommendations**

*That the Committee:*

1. *Receives the report.*
2. *Notes the report.*

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