ROAD TRANSPORT FORUM NEW ZEALAND INC

SUBMISSION TO TRANSPORT AND INFRASTRUCTURE SELECT COMMITTEE GOVERNMENT BILL 191-1 LAND TRANSPORT(RAIL)LEGISLATION BILL

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1. Representation

1.1 Road Transport Forum New Zealand (RTF) is made up of several regional trucking associations for which RTF provides unified national representation. RTF members include Road Transport Association NZ, National Road Carriers, and NZ Trucking Association. The affiliated representation of RTF is some 3,000 individual road transport companies which in turn operate 16-18,000 trucks involved in road freight transport, as well as companies that provide services allied to road freight transport.

1.2 The RTF is the peak body and authoritative voice of New Zealand's road freight transport industry which employs 32,868 people (2.0% of the workforce), and has a gross annual turnover in the order of $6 billion. Road transport in its totality transports about 70% of New Zealand's land-based freight measured on a tonne/kilometre basis.

1.3 RTF members are predominately involved in the operation of commercial freight transport services both urban and inter-regional. These services are entirely based on the deployment of trucks both as single units for urban delivery and as multi-unit combinations that may have one or more trailers supporting rural or interregional transport.

2. Introduction

2.1 The RTF's comments are based around commentary and explanatory notes as well as the Regulatory Impact Statement (RIS), which was released in August 2019.

2.2 We see little point in commenting clause-by-clause as the Bill is largely administrative and the issues from our perspective can be largely confined to philosophical aspects of the Bill's policy direction and the potential unknowns.

3. Specific comments Part 1

3.1 The objective of this Bill in Part 1 is to implement a new planning and funding framework for the heavy rail track network (the rail network) owned by KiwiRail. This new framework involves bringing planning and funding of the rail network under the land transport planning and funding regime set by the Land Transport Management Act 2003 (the LTMA) according to the explanatory notes that form the preamble to the Bill. The explanatory notes also make the comparison between this Bill's funding process and the funding of other largely road related

expenditures covered by the LTMA and funded from the National Land Transport Fund (NLTF).

3.2 The proposals of this Bill diverge from the road related expenditures (drawn from the NLTF) in very unique way. The reason being, the rail track network is owned exclusively by KiwiRail (confirmed by the Bill's objective statement) whereas, the roading infrastructure utilised by road users is owned by the Crown and a number of road controlling authorities (RCAs).

3.3 The users who pay into the NLTF have no right of ownership whatsoever, but are obliged to pay prescribed user fees for the privilege of using (consuming) and maintaining the roading asset, and ensuring public safety expectations are met. The asset remains under the stewardship of the RCAs, including NZTA, which is responsible for the state highway system and for the financial assistance portion of local road funding.

3.4 As a second source of road asset funding, vehicle users also are subject to property rates for providing accessibility to the network. In this context, there is a direct connection between asset funding and the user fees and charges.

3.5 But the Bill turns that separation of user fees and the funding of the rail asset on its head. It pushes ahead for the NLTF not only to provide funding for the planning and investment analysis (a modest amount is mentioned in the RIS, page 5) but undoes the road related hypothecated arrangements that have traditionally underpinned the NLTF (this is discussed in some detail in the RIS under para 4.2) by enabling rail investment to be directly funded from the NLTF because rail is a land-based transportation system under the LTMA 2003, although totally exclusively owned by the principal user.

4. Specific comments Part 2

4.1 From that policy point, the discussion in the RIS attempts to placate criticism of the Bill by suggesting rail users who draw funding from the NLTF should contribute to the NLTF by way of TUCs, or track user fees.

4.2 Part 2 of the Bill covers off an amendment to the Land Transport Act 1998 and to quote the explanatory note:

that will ensure track users contribute to the costs of the rail network in a fair and transparent way.

4.3 When you look at the RIS commentary on this aspect **Table 3**, **Affected organisations and implications,** pages 22 and 23, the comments allude to the road users concerns and attempt to explain how those concerns may be dampened down by the quality of

explanation as to the benefits of sourcing rail network funding from the NLTF.

4.4 The concern we have is there is no evidence of what those TUCs might look like. Arguably its early days and no economic demand analysis has been carried out, although the RIS states that a separate work stream is being looked at to determine what the rail or track user fee should be.

4.5 This approach does not give the road freight sector any comfort the TUCs are going to meet the rail programme draw downs. The RIS comments that the road users will see their network user fees, such as RUCs and fuel excise duty (FED), being used to support another mode that ostensibly is their competition, when the competition exists only because rail services price up to the market. The principal rail operator arguably has no mandate to operate on a full cost recovery basis.

4.6 The new TUC is simply a smoke and mirror approach and implicitly represents a discrete form of rail service subsidy. This is a form not unlike the bus or passenger service subsidies payed from the NLTF now. We explain the reality of how things actually work in practice below.

5. The fairness principle - a reality check

5.1 As an example, when RUCs increase (as a portion of vehicle operating costs), the passenger service subsidies payed to the bus companies (buses pay RUC) also increase, to ensure fare box price continuity. These increases in bus operator costs are in effect, drawn from the NLTF back through the regional councils, so the concept is something of a money go around. The net effect of the RUC increase on the passenger service providers is neutralised to a large extent.

5.2 This is in complete contrast to trucking and freight carriers who bear the full impact of any RUC increase and then must renegotiate their charges and cost recoveries directly with customers.

5.3 We suspect that the TUC approach to rail will simply mirror the passenger service scenario where the charge is simply redistributed back to the rail operator, the economic impact being largely neutral. It could be argued the TUC is simply a sop to inhibit opposition to funding rail's financial demands from the NLTF. If rail is funded in any way from the NLTF, that will be an anathema to the commercial trucking sector.

5.4 A comment in the RIS, on page 25, alludes to this scenario while offering a comment supporting a mass/distance charge TUC. The comment implies a TUC would provide "*a semblance of mode neutrality"* in terms of charging systems. However, in our opinion, even the most sophisticated charge will simply be a money-go-around, just like the bus RUC scenario explained above.

5.5 If we accept the Bill has some merit in that it introduces track charges for rail service providers that will place revenue into the NLTF, being realistic, the quantum of the revenue is unlikely to even come close to the financial draw downs. In fact, a likely quantum of the actual charges, or evidence of the total revenue capable of being generated, is not disclosed, or even indicated, in the RIS.

5.6 Track charges have had an unhappy history where they been tried overseas. They have had mixed success and according to reports from the UK, it was cheaper to transport broken down locomotives by road than to pay the track charges and accompanying disruption penalty charges to return them to base on the rail system.

5.7 Rail economics expert Professor Chris Nash, from the UK, stated some 20 months ago that changes to how track access charges in the UK are calculated could present a threat to rail's competitiveness. These are our concerns also.

This article can be found at:
https://www.railfreight.com/policy/2018/02/07/changes-to-uk-track-access-charges-system-could-harm-rails-competitiveness/?gdpr=accept

5.8 The RIS highlights a need for competitive modal neutrality as one of the goals of the revitalised rail policy, then imposes track charges that must be recovered through the service provided.

5.9 Consequently, while begrudgingly acknowledging the provision for TUCs is a positive initiative in itself, a broader criticism exists unresolved.

5.10 The broader criticism is this Bill sets in place an opportunity to reduce funding available to support roading improvements by using the National Land Transport Fund (NLTF) paid into by road transport companies and other road users, to support rail services and rail investment under a separation model titled the rail network investment programme (RNIP). Interestingly, there is no evidence of a cap on the rail support draw downs. In effect the NLTF is expected to fund the needs of two depleted modal systems and their relevant infrastructures from a finite revenue source.

5.11 It is doubtful the NLTF has sufficient revenue capacity and funding inflow to pay for both a worn out a rail network and the significantly underfunded and arguably worn out primary roading system.

5.12 Rail systems have historically proven to be bottomless pits as far as investments go and the corollary argument of environmental benefits over road are simply illusionary, as any level of success of rail transport is entirely dependent on truck transport.

5.13 In a statement on 13 December 2019, Rt Hon Winston Peters and Hon Phil Twyford stated that they had already committed $2.8 billion to rail

since coming into office in 2018, expecting rail to accommodate the expected increase in freight demand.

5.14 The same statement referred to Government contributing $1 billion in the 2019 budget; $741 million to restore a reliable and resilient functioning network. (Press release dated 13 December 2019). This was further supported by the Provincial Growth Fund to the tune of $300m.

5.15 These figures give some idea of the typical drawdowns that rail requires to be viable in a New Zealand context.

5.16 As RTF represents one of the principal contributors to the NLTF, it has a significant interest in the introduction of this Bill. The changes proposed present uncertainty in terms of how the revenue demand for funds from the NLTP will be met sufficient to serve both masters, road and rail, arguably (if you believe in the competition scenario) competing for the same freight traffic. However, this is not pure competition that the government is tempting the market with.

5.17 One entity is a government funded and owned nationwide corporate entity (KiwiRail) and the other a conglomerate of, in the main, financially vulnerable small businesses (road freight transport).

5.18 For the record, in excess of 75 percent of New Zealand's road freight enterprises (3,885) employ five or less FTEs (RTF sourced data from Statistics NZ 2019).

5.19 So, making a comparison between road and rail freight services contestability is not comparing apples with apples. In the small New Zealand freight market, the two modes should operate as complementary, not competitive.

5.20 We are not convinced the aspirations of the Bill will produce tangible and meaningful results from the investment decisions. No matter what the size of the freight market, the customers decide which mode they want. This is evidenced by the 2017/18 Freight Demands Study, Executive Summary, Table 1, showing a decline in rail freight of 17% and conversely, road freight increasing by 16%. There is footnote to the table citing the Kaikoura earthquake and decline in coal traffic as impacting the rail freight performance, and that must be acknowledged.

5.21 The New Zealand freight market sets its own equilibrium and the main driver of logistics companies' and customer decisions to favour road is due in large part, to the inherent flexibility and timeliness of road freight over rail and the ability of road to deliver door-to-door. Trucks enable every movement of freight by rail.

5.22 Given that most of New Zealand's economic wealth is derived from the rural hinterland where there are no rail lines, rail is on the back foot from the get go. Rail's problems are compounded by its narrow-gauge,

low tunnel heights and as the RIS points out, its aging infrastructure. In many parts of the rail infrastructure train movements are already at network capacity. The outstanding question is: how is rail expected to grow when it has all these well documented disadvantages? One could argue under these circumstances, the Government is simply funding rail as an institution and not a business. The funding is ideological, rather than based in any business reality.

5.23 Without the availability of reliable and cost-effective road surface vehicles, particularly trucks, food supply, industry, and commerce in New Zealand would cease to be possible in its present form. Product distribution by commercial road vehicles has, over the past 100 years, resulted in a cost-effective and almost unchallengeable service for household consumers and value-adding producers alike. The reliability, flexibility, and efficiency of road transport has, since the 1950s, largely displaced much of the rail terminal-to-terminal distribution service. This simply reiterates the point that rail cannot deliver point-to-point. Any step to enhance rail capability is entirely dependent on road transport support.

5.24 The environmental benefits of rail are a mirage, being completely undone by the environmental costs of transhipping goods to road vehicles to meet end point customer expectations. In a New Zealand context, rail also has considerable one-way laden traffic, that is, the freight is only transported one way and the empty freight cars have to return to base as there is little chance of getting substantial freight to offset the return journey costs. Under this Bill however, both journeys should include a TUC.

5.25 Measuring environmental performance solely on the basis of the relative performance of the truck versus train approach, instead of the point-to-point sender to end receiver approach, is very narrow perspective, typically favoured by academics without any interest in economics. Freight service purchasers take into account total trip cost and service convenience when selecting which modal method they choose. Even in the most modern freight context, rail will fail to be a viable alternative to road.

5.26 So, while we will agree rail services need support to provide their complementary services, the facts cannot be ignored. Rail freight's strength is in long distance transportation (over 500km) of high volumes of relatively low value products.

5.27 The historical demands for financial support don't bode well for the future. We are representatives of the RUC payers (heavy vehicle users paid $921m into the NLTF in 2017-18). Many vehicle combinations have paid more than the costs they occasioned (ref RUC analysis 2019) with both single unit vehicles and some combinations paying up to 42% more than they should be (ref *RIS-Funding-the-GPS-final-version-website.pdf).* Therefore, the road freight sector has no passion to see the present cost anomalies exacerbated by a Bill founded on a faulty RIS analysis. We would argue that funding rail, as proposed, will

add even more costs to end consumers of both modes for no tangible benefit.

5.28 This statement finds some support in the research of Transcare AG where authors Ralf Jahnke et al examined the influence of using truck tolls to support the transition of freight to rail. They found the outcome was almost negligible because the actual amount of freight that is truly contestable in the market is only about four percent, across the both specified EU countries and more generally across the EU25 (Reference Transcare AG; Ralf Jahnke et al, *Influence of truck tolls in the modal split in cargo traffic;* March 2006).

5.29 The report of Jahnke also commented that any goods transfer from road to rail is entirely dependent on distance, with the 0-100km range showing no transferability of freight, and 100 to 250km having only about 10% of this volume a candidate for transfer. Not until the freight distances get beyond this is there some measure of transferability and then, it is largely thwarted by pure economics, time sensitivity, and special requirements not offered by rail services. The nub of his analysis is: don't tax trucks to foster rail performance. Unfortunately, this is the very thing this Bill is proposing to do. If rail can't fulfil its promise in the European markets where there is a strong rail centric vision, it has little chance of making any significant change to market here.

5.30 Taking money from the NLTF for rail other than that capped to its own track fee contributions brings about a competition for financial resource, but will do little to change the freight modal market. It simply creates another level of corporate dependency for rail when it should be examining and optimising its present efficiencies.

6. Summary

6.1 The RTF does not support funding rail from the National Land Transport Fund (NLTF).

6.2 The proposals in this Bill diverge from the road related expenditures drawn from the NLTF in a very unique way. The rail track network is owned exclusively by KiwiRail whereas, the roading infrastructure utilised by road users is owned by the Crown and a number of road controlling authorities (RCAs). The users who pay into the NLTF have no right of ownership whatsoever, but are obliged to pay prescribed user fees for the privilege of using (consuming) and maintaining the roading asset, and ensuring safety expectations are met. Vehicle users are also subject to property rates for providing accessibility to the roading network. In this context, there is a direct connection between asset funding and the user fees and charges. This makes the suggested funding model in this Bill inequitable for road users.

6.3 While the Bill attempts to counter this with reference to track user fees (TUCs), there is no evidence of what those TUCs might look like. The road freight sector does not believe the TUCs are going to meet the rail programme draw downs, which the Government has indicated are significant. The principal rail operator arguably has no mandate to operate on a full cost recovery basis, so this puts road freight at a disadvantage to its heavily subsidised freight competition.

6.4 In effect, the NLTF is expected to fund the needs of two depleted modal systems and their relevant infrastructures (road and rail) from a finite revenue source.

6.5 Rail's environmental benefits over road are simply illusionary, as any level of success for rail transport is entirely dependent on truck transport. Measuring environmental performance solely on the basis of the relative performance of the truck versus train approach, instead of the point-to-point sender to receiver approach, is a very narrow perspective, typically favoured by academics without any interest in economics.

6.6 Despite the Government's desire to control markets, customers decide which freight mode best suits them. The Ministry of Transport's National Freight Demand Study 2017/18 shows demand for road freight increasing by 16%, while demand for rail freight declines by 17%. This is because the advantages of road over rail are many.

6.7 We believe the excessive amount of funding planned for rail is ideologically driven, rather than based in any business reality.

6.8 We agree rail services need support to provide a service complementary to road freight, however, rail freight's strength is in long distance transportation (over 500km) of high volumes of relatively low value products.

6.9 In New Zealand's freight market, the two modes should operate as complementary, not competitive.

We would like to appear before the Select Committee to further discuss our views.