

To: PLANNING AND ENVIRONMENT COMMITTEE	Subject: THE TRANSPORT (SCOTLAND) BILL AND CONSULTATION ON PROPOSALS FOR STATUTORY REGIONAL TRANSPORT PARTNERSHIPS	
From: DIRECTOR OF PLANNING AND ENVIRONMENT		
Date: 10 January 2005	Ref: D/TT/16/01/JM	

1. Purpose of Report

- 1.1 This report seeks Committee approval for the submission of the response to the Scottish Executive's consultation on Proposals for Statutory Regional Transport Partnerships (RTP's), contained in Appendix 1, by 19 January 2005. It also seeks guidance on whether the Council wishes to take the opportunity to convey it's views on the Transport (Scotland) Bill, to the Local Government and Transport Committee.

2. Background

- 2.1 The Planning and Environment Committee, Roads and Transport Sub-Committee at it's meeting on 8 December 2004 agreed that a further report be brought to a special Planning and Environment Committee to seek approval of the response to the above consultation.
- 2.2 The Committee noted the evidence provided by SCOTS to the Local Government and Transport Committee and agreed to consider whether they might wish to represent the views of the Council to the Local Government and Transport Committee.

3. Comment

- 3.1 The Scottish Executive have invited responses to their consultation on the proposals for statutory Regional Transport Partnerships by Wednesday 19 January 2005 and it is proposed that the comments in Appendix 1 be sent to the Executive by the due date.
- 3.2 The Transport (Scotland) Bill 2004 was introduced into Parliament on 29 October. It is currently undergoing the stage 1 process during which the general principles will be considered by the Finance and Local Government and Transport Committees and oral and written evidence will be invited. This stage will end on 23 February 2005.
- 3.3 As reported previously, the section of the Bill dealing with the management of road works is outwith the scope of the Westrans and SPT remits and it is worth commenting further on this aspect. While generally endorsing the SCOTS response (which is attached at Appendix 2), certain elements will have direct bearing on the operation of the Roads function in North Lanarkshire and deserve further comment.
- 3.4 It is agreed that there should be a higher level of monitoring of training requirements, but there should be more emphasis both on this aspect and on qualifications for all involved in road works.

- 3.5 The requirements to provide information to the new independent Scottish Road Works Commissioner will be a drain on resources for this Department and there could be a requirement to increase the establishment to carry out this expanded function. Additional duties are also to be imposed upon Roads Authorities to notify their works through the Scottish Road Works Register. This action is not currently undertaken but will be mandatory under the new Bill and will have a significant effect on resources. Similarly, the requirement to co-ordinate works is already part of the NRSWA 1991 Act, however the additional requirements of the new Bill expand on that and impose further co-ordination duties and introduce a new duty of enforcement.
- 3.6 It would, however, be anticipated that any additional resource requirement for co-ordination and enforcement could be part funded from penalties levied from enforcement action.

4. Corporate Considerations

- 4.1 The Bill will bring forward legislation to create a statutory RTP which will replace the current WESTRANS partnership and the Strathclyde Passenger Transport Authority and Executive.
- 4.2 It will reduce the involvement of members from the number currently part of the SPT Authority Committee structure to possibly only 1 member.
- 4.3 The current funding arrangements for SPT will change with requisition from the constituent Authorities being the favoured mechanism to fund the new RTP. This may result in the Council having to make increased contributions to the new partnership.
- 4.4 It is proposed to establish the RTP with powers to carry out the transport functions currently carried out by the SPT. However the consultation asks for comments on the powers which the RTP may require for the future.

5. Sustainability Implications

- 5.1 The purpose of the Regional Transport Partnerships once established will be to promote sustainable transport throughout the west of Scotland.

6. Recommendations

- 6.1 It is recommended that Committee:-
- a) approve the submission of the comments in Appendix 1 as the Council's response to the consultation document,
 - b) agree to submit our comments contained in 3.4 and 3.5 above to the Local Government and Transport Committee.



David M. Porch
DIRECTOR OF PLANNING AND ENVIRONMENT
31 December 2004

Local Government Access to Information Act: for further information about this report, please contact John Marran, on 01236-616253

APPENDIX 1

Scotland's Transport Future: Proposals for Statutory Regional Transport Partnerships

North Lanarkshire Council Response

Response to the questions raised in the consultation document.

Boundaries

Question 1. We would welcome views on these proposed regional transport partnership boundaries. Would you suggest any modifications?

North Lanarkshire Council believes that the proposed boundary for the new Regional Transport Partnership (RTP) will introduce artificial limits on the predominant travel to work area which will be reflected in the Regional Transport Strategy for the area. The boundary should therefore include, North Lanarkshire, Glasgow City, East Dunbartonshire, West Dunbartonshire, Renfrewshire, East Renfrewshire, Inverclyde, North Ayrshire (including Arran, the Cumbraes, Bute and the Cowal peninsula), South Ayrshire, East Ayrshire, South Lanarkshire and the South East area of Argyll and Bute. There does not appear to be a case for the inclusion of Dumfries and Galloway as a member of the west RTP based on travel to work patterns or strategic transport links.

Question 2. What are the benefits and/or disadvantages of these proposals from the perspective of your organisation or the council area in which you live? Could a regional partnership based on these boundaries deliver improvements to transport in your area?

The main benefit would be that a strong regional partnership based on the above boundaries, which was adequately funded would be able to deliver major cross boundary sustainable transport solutions in the west of Scotland. If the partnership was not adequately funded there may be problems in the provision of a core bus service throughout the area.

Constitution

Question 3. What should the role of external members be?

a) To what extent do you think that external members should be: (i) representative of other stakeholder organisations; (ii) experts in particular spheres related to transport; (iii) representative of interests outside the transport world?

b) Do you agree that external members on the board of the partnership once approved should be there on the basis of personal contribution, skills and experience they bring rather than representing a particular organisation or interest group?

External members will require to be a mixture of transportation experts, business representatives and stakeholder organisations.

Members on the board of the partnership should be there based on what they can contribute as individuals and as representatives of affected users of the transportation network.

There is however an issue with accountability in that external members who do not contribute financially to the partnership will be able to vote on how the partnership spends it's funding.

Question 4. Do you agree that decisions on who are appointed as external members are taken by RTPs themselves in conformity with guidance issued by Scottish Ministers?

Yes.

Question 5. How should the RTP involve people and stakeholders within its region? For example:

(a) Is there merit in co-opting key stakeholders to work at management team level?

Key stakeholders could be co-opted to work on specific projects/initiatives for which they have expertise.

(b) Would a stakeholder forum be a practical way of including broader interests?

Stakeholder forums are a good way of involving other interests. More than one forum could be established if the need arose

(c) Are there any other means of ensuring wider engagement?

Liaison with key user groups.

(d) How can RTPs make best use of Community Planning to deliver better transport solutions? What should the Executive do to support them in this?

RTP's should be represented on Community Planning Forums and should report on issues affecting communities. However there may be a need to establish strategic transport forums, either regional, national or both. The Executive must ensure that adequate resources are provided to RTP's to allow them to actively take part in Community Planning.

Question 6. Are there some particular organisations that you believe ought to be represented on some or all of the new partnerships? Are there any organisations that should not be represented?

Representatives from the business community, organisations that are able to represent the whole of an RTP area or a particular transportation group within the area should be included. Groups with commercial interests and specific lobby groups should not be represented.

Question 7. Do you agree that on occasions when a vote is needed to reach a decision, that this ordinarily be decided by a simple majority?

Yes.

Question 8. On what issues (e.g. on issues involving the sharing or transferring of local authority transport functions) should decisions require a larger majority?

A larger majority (two-thirds) should be required in relation to changes to the constitution, powers and functions of the RTP.

Functions

Model 1 Regional Transport Strategy and Limited Transport Powers

9. What current local authority functions could be appropriate for an RTP to exercise concurrently with its constituent local authorities (in your region)?

This is not applicable to the west of Scotland.

Model 2 Regional Strategy and Some Transport Powers Transferred

10. What current local authority functions could be appropriate for delivery at a regional level by an RTP (in your region)?

This is not applicable to the west of Scotland.

Model 3 Regional Strategy and Significant Public Transport Powers Transferred

11. Do you agree that this model should be adopted by a west of Scotland RTP in order to ensure the continuity of the public transport services provided by SPT?

Yes. This is the only model in the consultation that is available to the west of Scotland. The minimum functions to be undertaken by the new west of Scotland body should be those that are currently carried out by Strathclyde Passenger Transport Authority.

The current Executive proposal for membership of the proposed new regional body is for there to be one member from each constituent local authority plus external members, with local authority representatives having weighted voting rights. If that model is chosen, it is possible that every authority would choose a representative from the same political party, resulting in a lack of political balance in the governing body. Also, the low number of members would cause difficulties in populating the necessary sub-committees to oversee the financial, staffing and many transport operations for the new body which will serve almost half the population of Scotland.

It is suggested instead that a local authority Joint Board be set up as the governing body, with the number of representatives from each council reflecting the population of the council. This is a tried and tested type of arrangement, which works well for police and fire services and has the necessary powers to control the regional transport functions that are assigned to it.

Question 12. What powers currently held by local authorities in the SPT area would it make sense to deliver alongside SPT's existing public transport powers in a new west of Scotland RTP?

It is not envisaged that any other powers would be transferred to the RTP initially.

Question 13. Which of these 3 models would you like to see your region adopt?

North Lanarkshire would wish to see Model 3 adopted in the west of Scotland as this will enable SPT's powers to be transferred to the new regional body. However as intimated in our response to your previous consultation (A new approach to transport in Scotland) the Council favoured moving to a Joint Board.

Funding

Question 14. Do you envisage that the RTP in your region will gain further functions as it develops? If so, which ones?

The functions which the RTP requires to carry out will be dependant on its success in delivering sustainable transport solutions in partnership with member authorities. In time however the RTP may require control of the strategic road network in order to deliver integrated transport solution.

Question 15. Do you agree that there is no alternative to requisition if regional transport partnerships are to have a stable and secure source of funding?

North Lanarkshire agrees that the running costs of the new body should be funded by requisitions from constituent authorities. The first task of the RTP will be to produce a Regional Transport Strategy which will have to be approved by Ministers and the National Transport Agency. This approved strategy will identify a prioritised programme for implementation which should be funded by annual block grant from the Executive.

Question 16. What classes of expenditure (e.g. core staffing, running costs, provisions of services, capital investment) are best met through (a) requisition, (b) prudential borrowing, (c) grants from the Scottish Executive?

As stated in question 15, it is suggested that the running costs of the new organisation should be funded by requisitions from constituent authorities and an annual block grant should be provided to address the priorities identified in the strategy. We are concerned that should the RTP identify the need for additional capital spend, which could be raised through Prudential Borrowing, there will be no revenue stream in place to support this.

APPENDIX 2

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

EVIDENCE OF SCOTS WITH REGARD TO THE TRANSPORT (SCOTLAND) BILL 16 NOVEMBER 2004

The Society of Chief Officers of Transportation (SCOTS) welcomes this opportunity to give evidence to this Committee with regard to the Transport (Scotland) Bill. The first part of this written submission concentrates on Sections 1-13 and the associated Section 43 and Schedule One relating to the establishment of Regional Transport Partnerships. Evidence is also offered with respect to Sections 37 and 38 regarding national travel concession schemes and requirements relating to the establishment of pedestrian crossings. The second part deals with the issue of co-ordination of roadworks and the creation of the post of Scottish Road Works Commissioner

We welcome the recognition by the Scottish Executive of the need for a regional dimension to the planning and delivery of the roads and transportation service. We also welcome the recognition of the success of the four existing voluntary regional transport partnerships. All four have demonstrated that Councils and other partners can come together to deliver on a common agenda.

We note that the Scottish Executive has mounted a separate and parallel consultation on proposals for statutory regional partnerships. Finally, in these introductory comments, we note from paragraph 28 of the Policy Memorandum that accompanies the Bill, the intention to make available illustrative draft orders for the establishment of Transport Partnerships during Stage 2 of Parliamentary consideration of the Bill.

The following comments are referenced to the Sections in the Transport (Scotland) Bill as introduced.

Section 1

- (1) We note the intention that all parts of Scotland should be within a transport partnership. We note and agree that the detailed constitution of each partnership should be left open. However, the subsequent sub section 2 seems unduly prescriptive in this respect and at this stage in the proceedings.
- (2) We express concern about the proposed voting arrangements in terms of transparency, accountability and democratic representation where there is a single member per Council with a weighted vote.

We also believe that the varying size of each of the proposed partnerships in terms of number of constituent Councils will mean big variations in the number of elected and non-elected members. This will have practical implications for the functioning of partnerships.

Section 2

It seems only reasonable that there should be powers to dissolve a Partnership.

Section 3

It seems there will be huge variations in the nature and scale of funding associated with each partnership. In the case of the West of Scotland Partnership, this will include the direct funding of the Glasgow Underground operation and large numbers of SPT staff. At the opposite end of the spectrum, the north east Scotland partnership is envisaged as having only 2 constituent Councils and a relatively small number of staff. SCOTS would wish to be assured that the Scottish Executive will continue to fund commitments currently delivered by the existing partnerships (including SPT).

A key element in the funding of any partnership might be whether or not there was some form of road-user charging. This is referred to specifically in Section 43. However to be an effective mechanism in transport strategies, there is also a need include the need to allow for charging for the use of trunk roads if this was considered to be appropriate and for any revenues to be included (see also Section 43).

Section 4

The associated Schedule One will need detailed discussion beyond the scope of this note. An SPT transferring to the West of Scotland Partnership would bring its own existing administrative powers and duties. These would need to be integrated and accommodated.

Section 5

We agree that the first priority of the new partnerships should be to establish a regional transport strategy.

However we believe there is a dimension to which further attention needs to be given. Regional strategies ought to be set within the context of a comprehensive national transport strategy. It is disconcerting to see reference to a requirement for the partnerships to indicate how they would individually measure and monitor progress in the implementation of transport strategies. This implies a lack of consistency and direction at national level.

An overall national strategy is essential when it comes to consideration of investment in trunk road/motorway and rail infrastructure. It is also vital when it comes to consideration of any strategy involving road-user charging.

Sections 6, 7 and 8

The new statutory partnerships will be able to draw on strategies that have already been devised or which are in course of being finalised by the current voluntary partnerships. However, the one-year deadline for producing what will be a statutory document, will be challenging for the larger partnerships with multiple membership.

SCOTS accepts the need for regular review and agreed strategies should be binding on constituent members but we believe there will be practical implications in terms of democratic accountability – particularly where control in a Council is firmly balanced.

Section 9

This provision is important. It would seem to offer the opportunity to have a larger number of partnership areas than the currently envisaged five. It allows for the fact that the proposed partnership areas do not necessarily match journey to work areas. It also allows for projects such as the re-opening of the Airdrie-Bathgate rail line which lies partly within two partnership areas.

Sections 10, 11, 12 and 13

The provisions regarding the transfer of transport functions from one body to another require careful consideration. SCOTS believes that Councils currently would be unwilling to cede powers

upwards to partnerships unless there was also a positive indication that the Executive was willing to transfer powers to the partnerships.

The “transfer” of the powers and responsibilities of SPT to the West of Scotland Partnership is also one which will require much detailed consideration.

Section 37

SCOTS believes that a national travel concession scheme should be just that – a scheme that applies nationally and which confers the same national rights of travel for all those eligible to travel. The Welsh Assembly has demonstrated that this is possible.

Section 38

SCOTS welcomes the proposal to abolish the requirements regarding informing Ministers about certain pedestrian crossings.

Section 43

SCOTS notes the proposal that local authorities in the SPT area should have powers to operate quality partnerships, quality contracts and joint ticketing schemes. This introduces a more level playing field across all authority areas. It recognises the direct responsibilities of all local authorities for bus and road infrastructure. It is also consistent with the provision in Section 12 to allow for the concurrent exercising of powers.

Re the use of proceeds from road-user charging, reference has already been made above with regard to the financing of the activities of the new partnerships.

PART 2: ROAD WORKS

Sections 14 – 16 The Scottish Road Works Commissioner

The proposed Scottish Road Works Commissioner appears to have the same terms of reference as the existing Roads Authorities and Utilities Committee (Scotland) (RAUC(S)). The Commissioner does not appear to have significantly different powers than Roads Authorities currently have and would thus appear have the same difficulties in getting New Roads and Street Works Act 1991 (NRSWA91) offences prosecuted.

Whilst the White Paper (Scotland's transport future) proposed strengthening training, the Bill (as introduced) does not appear to give the Scottish Road Works Commissioner any powers or duties relating to it. If a Commissioner must be appointed then monitoring of training standards and qualifications should be one of his/her functions.

The duty of road works authority and undertakers to provide Commissioner with information will be a significant additional workload for Councils as road works authorities. Smaller authorities, in particular, may find it difficult to find the resources to perform this and other duties required by the Bill.

Section 17 The Scottish Road Works Register

The SRWR is one of the real successes of RAUC(S). As mentioned above, the Scottish Road Works Commissioner appears to take over the functions of RAUC(S) and the appointment of the Commissioner calls into question the vehicle used to deliver the SRWR – Susiephone Ltd.

The requirement to enter information into SRWR is a positive but this does not require a Commissioner. The proposed section (112B) to be inserted into NRSWA91 includes some minor provisions of the Roads (Scotland) Act 1984, but omits two major sections (S56 – Control of Works and Excavations and S61 – Granting

of Permission to place and maintain etc apparatus under a road). The new section also makes much of skips, but does not include scaffolding. It is felt that this section will require significant additional work for road works authorities.

Section 18: Directions as to timing of road works.

Sub-sections (1) – (3) clarify the wording in NRSWA91 and are useful.

Section 19: Directions as to placing of apparatus in roads.

This section is complex and demands a Code of Practice – the writing of which has resource implications for RAUC(S). It is conceivable that the use of this section by two adjacent road works authorities (eg Scottish Executive and Council) could prevent apparatus being laid at all by prohibiting its placement in adjacent roads. It is likely that this Section will be used infrequently.

Section 20: Restriction on works following substantial road works.

The extension to 3 years is good news for road works authorities, but there are a significant number of exemptions for undertakers in the existing S117 of NRSWA91.

Section 21: Duty of road works authority to co-ordinate road works etc.

Whilst strengthening co-ordination is to be welcomed, a number of councils have concerns about the resource implications of this duty.

Section 22: Duty of undertakers to co-operate with authorities and other undertakers.

It is likely that this section will be difficult to implement effectively until new (GIS) developments are introduced to the SRWR. There is a need to clarify/reinforce that co-ordination remains a road works authority function.

Section 23: Enforcement of section 119 of the 1991 Act.

No comments, but see paragraph 2 above.

Section 24: Qualifications of supervisors and operatives.

This section should include requirements to do with training as well as for qualification. Currently qualifications once gained can be renewed (after 5 years) without any requirement for refresher training.

If a Scottish Road Works Commissioner is to be created then the Commissioner should be given powers in this section to monitor compliance with standards and also to issue sanctions (up to and including the removal of qualification).

This section could be extended to ensure that all those working on public roads are appropriately qualified (whether working for Councils, undertakers or private contractors).

The requirement for notification etc may be complicated, particularly for signing/guarding where many people might be involved for very short periods. Whilst the section as written might assist in tracking which supervisors and operatives were engaged on a particular set of road works, it does not require that supervisors/operatives are able to show evidence (on-site) of their qualifications (ie to Police, Road Works Authorities or the Scottish Road Works Commissioner).

Section 25: Duty of authorities, undertakers etc. to ensure competence of employees etc.

This section may require guidance or a Code of Practice to ensure consistency.

Section 26: Duty of undertaker to notify completion of road works: form and procedure.

This section clarifies the original intent of the NRSWA91.

Section 27: Notices requiring remedial works relating to reinstatements.

No comments.

Sections 28-30 Resurfacing

The principles contained within this element of the Bill are good, but there is some concern about their operation in practice.

Sections 31-33 Enforcement of the 1991 Act

Councils find it difficult to take legal action under the 1991 Act and thus increasing penalties provides no deterrent or punishment.

The introduction of Fixed Penalties is welcomed, but it is disappointing that Schedule 4: *Schedule 6A to the New Roads and Street Works Act 1991* only contains Fixed Penalties relating to notice offences. There are a number of offences listed in Schedule 3: *Increase in maximum fines for certain summary offences under the 1991 Act* for which Councils would like to see Fixed Penalties introduced to facilitate effective management of the road network.

Schedule 5: *Schedule 6B to the New Roads and Street Works Act 1991.*

Councils have a concern that the right to request a hearing (Paragraph 7) might be used in a vexatious manner to stall the prosecution of offences. It would be preferable for the right to request a hearing to become a right to request a review of the evidence in a similar fashion to off-street parking. It is not clear why Paragraph 7(4)(b) requires the notification of the Procurator Fiscal.

Resolution of disputes under 1991 Act (S34) In general this is to be welcomed, though arbitration is a currently function of RAUC(S).

Sections 35-36

Enforcement of certain offences under the Roads (Scotland) Act 1984. These sections provide useful albeit limited powers to Councils as Roads Authorities.