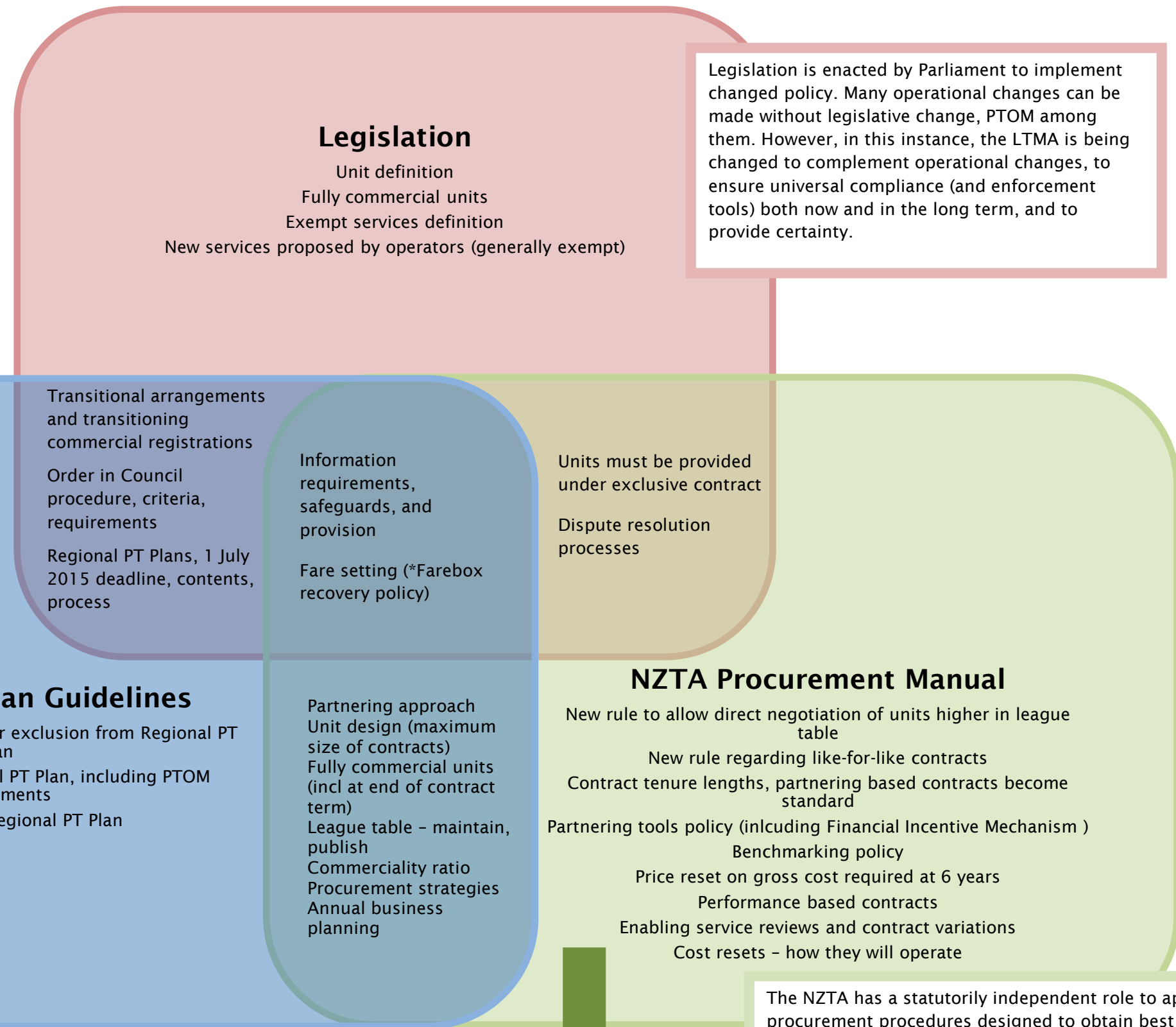


# PTOM components and implementation framework



Legislation is enacted by Parliament to implement changed policy. Many operational changes can be made without legislative change, PTOM among them. However, in this instance, the LTMA is being changed to complement operational changes, to ensure universal compliance (and enforcement tools) both now and in the long term, and to provide certainty.

Transitional arrangements and transitioning commercial registrations  
 Order in Council procedure, criteria, requirements  
 Regional PT Plans, 1 July 2015 deadline, contents, process

Information requirements, safeguards, and provision  
 Fare setting (\*Farebox recovery policy)

Units must be provided under exclusive contract  
 Dispute resolution processes

Partnering approach  
 Unit design (maximum size of contracts)  
 Fully commercial units (incl at end of contract term)  
 League table - maintain, publish  
 Commerciality ratio  
 Procurement strategies  
 Annual business planning

**NZTA Procurement Manual**

New rule to allow direct negotiation of units higher in league table  
 New rule regarding like-for-like contracts  
 Contract tenure lengths, partnering based contracts become standard  
 Partnering tools policy (including Financial Incentive Mechanism )  
 Benchmarking policy  
 Price reset on gross cost required at 6 years  
 Performance based contracts  
 Enabling service reviews and contract variations  
 Cost resets - how they will operate

The NZTA Regional PT Plan Guidelines are prepared with consultation and provide a robust statement of what the NZTA expects to see in Regional PT Plans. Regional councils must take the guidelines into account when developing Regional PT Plans, and the matters set out in the guidelines are considered by the NZTA when making investment decisions.

Regional PT Plans - transparent planning framework and basis of unit design

Agreements and contracts, annual business planning - legally binding documents

The NZTA has a statutorily independent role to approve procurement procedures designed to obtain best value for money under section 25 of the Land Transport Management Act 2003. The NZTA performs this role by publishing standard procurement procedures in its *Procurement manual*. This manual also establishes the need for regional councils to develop and gain NZTA endorsement of a procurement strategy, which must be endorsed by the NZTA. Procurement rules in the manual must also be followed by regional councils. Any change is usually in consultation with stakeholders and subject to NZTA approval.

## Public Transport Operating Model – components

### Purpose

The purpose of this note is to provide stakeholders with a clear indication about how components of PTOM will be given effect through legislation, RPTP Guidelines, procurement rules, and partnership approaches. This table has been updated to reflect the LTMA as reported back to the House and the proposed changes to the *Procurement manual* and operational policy set out in the consultation documents.

### Background

PTOM is a policy change that has been agreed to by Cabinet. In announcing the policy change in March 2012, the Minister of Transport invited the NZTA to review its policies and procedures to give effect to PTOM, and signalled that implementation could commence immediately.

### Legislation

Legislation is the statutory ‘law of the land’ enacted by Parliament to ensure universal compliance with changed policy. Many operational changes can be made without legislative change, PTOM among them. However, in this instance, the LTMA is being changed to complement the operational changes and to ensure universal compliance (and enforcement tools) both now and in the long term.

### Regional Public Transport Plan (RPTP) Guidelines

The NZTA *RPTP Guidelines* are prepared under legislation and provide a robust statement of expectation about what the NZTA expects to see in RPTPs. Regional councils must take the guidelines into account when developing RPTPs, and the matters set out in the guidelines are considered by the NZTA when making investment decisions.

### Procurement procedures and rules (NZTA *Procurement manual*)

The NZTA has a statutory role to approve procurement procedures designed to obtain best value for money under section 25 of the Land Transport Management Act 2003. The NZTA plays this role by publishing standard procurement procedures in the *Procurement manual*. This manual also establishes the need for regional councils to develop and gain NZTA endorsement of a procurement strategy. Procurement rules in the manual must also be followed by regional councils.

### Partnering approaches, contracts and business planning

Contracts, partnership approaches and joint business planning will be critical in implementing PTOM. Transparency of roles and accountabilities through clear communication, combined with robust monitoring and reporting, will enable better planning and operation of networks. Partnering and planning requirements will be evident in NZTA policies regarding procurement procedures (eg financial incentive mechanisms). Contracts between an operator and regional council are legally binding documents.

## Public Transport Operating Model – NZTA components table

No.	Component	Definition/description	LTMA Bill (as reported back to the House)	RPTP Guidelines	Procurement Manual proposed changes
1	<b>Partnering approach</b>	<p>PTOM is based on a collaborative partnership between regional councils and operators to deliver and develop services. The intent is that patronage and commerciality will increase as a result of the partners working together.</p> <p>It is expected that this will lead to better network design, better value for money, greater willingness to innovate and invest in service development and greater coordination of services.</p>	<p>The following principles guide powers/functions under the LTMA:</p> <ul style="list-style-type: none"> <li>a) Regional councils and operators should work in partnership and collaborate with territorial authorities to deliver services and infrastructure to meet the needs of passengers</li> <li>b) The provision of public transport services should be coordinated with the aim of achieving the levels of integration, reliability, frequency and coverage necessary to encourage passenger growth</li> <li>c) Competitors should have access to regional public transport markets to increase confidence that public transport services are priced efficiently</li> <li>d) Incentives should exist to reduce reliance on public subsidies to cover the cost of providing public transport services</li> <li>e) The planning and procurement of public transport services should be transparent.</li> </ul>	<p>Yes – guidance on partnering with operators (business planning, consultation).</p>	<p>Yes – ‘Procurement procedure 3 – public transport services’ is being amended by the addition of a proposed new ‘partnering delivery model’.</p>
2	<b>Units</b>	<p>Units are an area, no smaller than a route for the full timetable (24/7) defined and identified by the regional council in its RPTP in which services are to be provided. All units, including fully commercial units, will have a performance based contract with the council. Units may cross over each other or overlap in places.</p>	<p>Unit means a public transport service, or group of public transport services that a regional council identifies as integral to the region’s public transport network, and that operates on one or more routes specified in the RPTP, and includes all the public transport services operating to a timetable that applies to the entire route or routes specified for the unit. RPTPs must arrange all public transport services (except exempt services) into units.</p>	<p>Yes – guidance on designing units. Units should be consulted on (especially with operators) when preparing the draft RPTP.</p>	<p>The restriction on the maximum size of contracts in procurement rule 10.25 will be removed, as this will now be determined by unit design.</p>
3	<b>Commercial units</b>	<p>Commercial units will be identified in the RPTP and have a contract with the council, but will not receive a subsidy (but will receive SuperGold card payments). These may be formed through the increase in commerciality of units, or some units may begin as fully commercial. These will be subject to standard fares and will have a fixed tenure of 9 years. Financial incentive mechanisms are optional for commercial units</p>	<p>Existing commercial registrations that don’t offer fares set by council will become exempt services unless they have been identified in the RPTP and brought under contract.</p>	<p>Yes</p>	<p>Guidance regarding the treatment of commercial units at the end of the contract term, including the ‘challenge process’.</p>

No.	Component	Definition/description	LTMA Bill (as reported back to the House)	RPTP Guidelines	Procurement Manual proposed changes
4	<b>Exempt services</b>	<p>Services that:</p> <ul style="list-style-type: none"> <li>i. pick up or drop off outside of the region; or</li> <li>ii. are existing fully commercial ferry services, as at 30 June 2011; or</li> <li>iii. do not receive direct subsidy (contract payment) and do not offer a standard fare, as at 30 June 2011; or</li> <li>iv) are not identified by the regional council as forming part of the network as set out in the RPTP</li> </ul> <p>are exempt services and do not need a contract with the council. They do not have an exclusive right to operate and must be on the register of services. Operators of these services will set their own fares</p>	<p>Defined – interregional public transport services registered as commercial services, rail services registered as a commercial service, and as at 30 June 2011 commercial services not offering fares set by council, and ferry services registered as commercial and comprising all trips on every route.</p> <p>Link to requirement to be on a register.</p> <p>Order in Council process for deregistering exempt services that are integral to the network.</p> <p>Offences – operating unregistered exempt services, operating services that are not exempt or contracted, varying registered exempt services without giving notice.</p>	<p>Guidance for applying to write services in and out of the RPTP.</p>	<p>No.</p>
5	<b>League table</b>	<p>The PTOM league table ranks units by commerciality ratio from highest to lowest. In smaller markets this will be published largely to provide transparency about the performance of services. In larger regions the league table will help determine which units will be subject to tender or negotiation. The higher a unit is on the league table the more likely a new contract will be negotiated and vice versa.</p> <p>Post transition units in larger markets will be ranked according to a weighted formula (Blended commerciality ratio) where each unit will get a score between 0 and 100.</p> <p>Commercial units will get an automatic score of 100%.</p>	<p>No</p>	<p>Publish every three years with an annual refresh</p>	<p>Yes. The league table must be documented, maintained and publically available as part of the requirement to document and publish procurement policies and procedures. Rule 10.6 of the <i>Procurement manual</i> will be changed to reflect this. The new rule governing negotiated units will address the role of the league table in determining what units are negotiated.</p> <p>Guidance on using the league table in negotiation.</p>
6	<b>Commerciality ratio</b>	<p>The commerciality ratio is a financial calculation (expressed in percentage terms) that provides an indication of the extent to which the costs of providing public transport services are recovered from fare revenue.</p> <p>The formula for the commerciality ratio is <i>Revenue / Cost</i>.</p> <p>A commerciality ratio is calculated for a region as a whole and each operating unit in a region.</p> <p>The commerciality ratio will be used:</p> <ul style="list-style-type: none"> <li>• to monitor regional/unit performance</li> <li>• as an input into the league table formula to determine a unit's position relative to other units in the network</li> <li>• to inform decisions on how much to procure by tender/negotiation (large bus markets).</li> </ul>	<p>No</p>	<p>No</p>	<p>Yes. The commerciality ratio must be documented, maintained and publicly available as part of the requirement to document and publish procurement policies and procedures. Rule 10.6 of the <i>Procurement manual</i> will be changed to reflect this.</p>

No.	Component	Definition/description	LTMA Bill (as reported back to the House)	RPTP Guidelines	Procurement Manual proposed changes
7	<b>New services proposed by operators</b>	<p>After 1 July 2011 new services proposed by operators, not already identified in the RPTP, will be exempt unless there are grounds to decline the service proposed.</p> <p>The regional council may only decline a proposal for a new fully commercial service or changes to an existing exempt service if they:</p> <ul style="list-style-type: none"> <li>i) are likely to have a material adverse effect on the financial viability of an existing unit; or</li> <li>ii) are likely to increase the net cost to the regional council of any existing unit; or</li> <li>iii) are contrary to sound traffic management.</li> </ul> <p>The regional council must identify in its RPTP its policy for assessing new services and changes to exempt services (eg timeframes and processes).</p>	Yes		Note that the quality based supplier selection method will be applied for new commercial units in a revised chapter 8.
8	<b>Order in Council mechanism for exempt services</b>	The Governor-General may from time to time, by Order in Council, exempt a public transport service from operating under contract or require an exempt service to be provided under contract. An Order in Council can only be made on the recommendation of the Minister of Transport.	<p>The Governor-General may by Order in Council make regulations specifying a service is exempt, or requiring exempt services to be provided under contract.</p> <p>The NZTA must be consulted, and must consult councils and operators. The service will not receive a subsidy, and must not be an integral part of the network, or need its fares regulated.</p>	Yes – criteria, process, timeframes.	No
9	<b>Tendering and direct negotiation</b>	<p>Under PTOM unit contracts may be awarded through a mix of tendering and negotiation. A proportion of a region’s network (as measured by in-service vehicle kilometres) must be subject to tender on a regular basis.</p> <p>How much will be subject to tendering depends on the size of the region, the overall commerciality of services within a region, as measured by the regional commerciality ratio, and the region having enough units to support a mix of tendering and negotiation. As a general principle the more commercial a region’s services are the smaller the proportion of services that have to be subject to tendering.</p> <p>For regions with small public transport markets (bus and ferry) and limited opportunities for testing unit prices, it is expected that all unit contracts will be tendered, irrespective of the regional commerciality ratio.</p>	Requirement that services must be part of units and must be provided under contract.	Procurement approach must be set out in RPTP – guidance will be provided regarding extent of detail needed.	<p>Yes. Policy to be given effect through procurement guidelines and endorsement of procurement strategies. Guidance around benchmarking particularly important.</p> <p>Negotiated units:</p> <p>A new procurement rule is being developed to allow for direct appointment of units that are higher in the league table. This will also address negotiation of like-for-like units. For units to be negotiated (in the PTOM steady state) they will need to have above-average commerciality and be performing well. The region must have sufficient units to provide good benchmark information (confidence in costs) to inform negotiations.</p> <p>A negotiation advisor is also proposed to ensure that both parties and the NZTA get fair outcomes from the process.</p> <p>Some forms of direct negotiation are already permitted under rules 10.9, 10.10 and 10.11 for low-value contracts or where there is limited competition or competition would not improve value for money.</p>

No.	Component	Definition/description	LTMA Bill (as reported back to the House)	RPTP Guidelines	Procurement Manual proposed changes
10	<b>Transitional arrangements for existing commercial services operators ('like-for-like' units)</b>	A proportion of units will be negotiated with incumbent bus operators on a 'like-for-like' basis with a 12-year tenure. The proportion will be based on the equivalent amount of annual in-service km represented by commercial registrations as at 30 June 2011.	<ul style="list-style-type: none"> <li>• Exempt services defined</li> <li>• Order in Council (OIC) process required for any change from a unit to an exempt service or</li> <li>• Lead-in time by which operators must relinquish commercial registrations and regional councils must segment the network into units (s151 )</li> <li>• Requirement that when councils prepare units, commercial operators are not unreasonably disadvantaged (s153(7))</li> </ul>	<p>Guidance for councils on establishing units, including transition commercial registrations (cross reference with <i>Procurement manual</i>)</p> <p>OIC criteria, process and timeframes will be fully outlined</p>	A new procurement rule will require regions with commercial services identified as part of the network in the RPTP to provide operators with 12-year like-for-like contracts of equivalent in-service km. Prices will be based on benchmark data.
11	<b>Contract tenure lengths</b>	<p>Different types of contracts will have different tenure lengths:</p> <ul style="list-style-type: none"> <li>• Like-for-like transitional contracts = 12 years</li> <li>• Tendered = 9 years</li> <li>• Commercial = 9 years</li> <li>• Negotiated = 6 years</li> <li>• Ferry units = 12 years</li> <li>• Rail units = 12 years</li> </ul> <p>It is intended to establish a 3-year cycle for re-tendering and negotiations in larger markets, while recognising the business certainty long tenure provides for operators.</p>	No	No	<p>Chapter 8 of the <i>Procurement manual</i> will provide guidance on what should be included in contracts, as will rule 10.12.</p> <p>Rule 10.24 will be changed to reflect standard contract terms of:</p> <ul style="list-style-type: none"> <li>• 9 years (with a 6-year reset) for tendered contracts</li> <li>• 9 years for commercial units</li> <li>• 6 years for negotiated contracts</li> <li>• 12 years for like-for-like, ferry and rail contracts.</li> </ul> <p>Any other terms proposed should be addressed with a value for money case in the procurement strategy. A specific rule will deal with like-for-like negotiations.</p>
12	<b>Financial incentive mechanism</b>	All partnering contracts will incorporate a financial incentive mechanism to incentivise the parties to maximise unit performance	Partnering is referenced in new s114A (Principles)	No	Yes – chapter 8 will set out the contents of contracts. Rule 10.12 will require RFPs to contain FIMs.
13	<b>Benchmarking</b>	The regional council will use tender cost information to inform cost setting for resets on tendered units and prices for negotiated units, using benchmark data. For negotiated units data envelopment analysis will help to determine the 'acceptable' price range for negotiated contracts	No	No	Yes – new rules are proposed for direct appointment and gross cost reset using benchmark data. There is an additional change proposed to rule 10.26.
14	<b>Gross cost reset</b>	<p>Some contracts will have their assessed gross costs reset during the term of the contract. This will occur:</p> <ul style="list-style-type: none"> <li>• for tendered contracts, at the end of year 6</li> <li>• where an incumbent operator wishes to turn a subsidised unit into a fully commercial unit</li> <li>• where a unit has undergone a significant service review which requires revisiting the current gross cost estimate</li> </ul>	No	No	Yes – a new procurement rule is being drafted requiring a price reset on the gross cost of tendered contracts at 6 years using benchmarking data.

No.	Component	Definition/description	LTMA Bill (as reported back to the House)	RPTP Guidelines	Procurement Manual proposed changes
15	<b>Information requirements</b>	<p>Patronage and revenue information for all units will be provided to regional councils and the NZTA.</p> <p>Patronage and revenue information, for units being put out to tender, will be disclosed to registered tenderers. Revenue information for fully commercial units will not be publicly released (unless the unit goes out for tender for reasons of poor performance or operator choice).</p>	<p>New section 126 gives regional councils the power to require operators to provide fare revenue and patronage data for units, requires the council to publish the patronage data and make the fare revenue data available to potential bidders.</p>	<p>Will provide guidance on information provision policies – what data this might be and safeguards for commercially sensitive information</p> <p>Will include guidance regarding significance policy (updated to cover what may be significant matters under PTOM)</p>	<p>Yes. The RFP for tendered units will be required to contain patronage and revenue data for the preceding 3 years. Rule 10.12 of the <i>Procurement manual</i> will be changed to reflect this. A new rule is required to ensure that sensitive information is handled appropriately at tender time.</p>
16	<b>Regional public transport plans</b>	<p>The RPTP is the key planning document for public transport. It sets out what policies a council has and what services a council proposes be provided and segments these services into units. Exempt services will not be included in the RPTP.</p> <p>RPTPs are public documents that are subject to public consultation. Funders and providers (including operators) will have active input into RPTP development before consultation drafts are prepared. Annual business planning will also feed into the RPTP. RPTPs will include:</p> <ul style="list-style-type: none"> <li>• segmentation of a region into units</li> <li>• policies regarding fare setting, assessment of new services, exempting services, service reviews, tendering expectations</li> <li>• service expectations and network-wide targets like improvements to the region’s overall commerciality or patronage growth</li> </ul>	<p>New section 118 states RPTPs under the LTMA must be adopted by 1 July 2015.</p> <p>New section 119 – contents of RPTPs:</p> <ul style="list-style-type: none"> <li>• Services integral to the network?</li> <li>• An outline of routes, frequency, hours of operation, of services</li> <li>• Arrange all services into units</li> <li>• The date the unit is expected to start operating</li> <li>• The date exempt services to be replaced by a unit will be deregistered</li> <li>• Units for which council intends to provide financial assistance</li> <li>• Description of the Total Mobility services in the region</li> <li>• Description of how services will assist the transport disadvantaged</li> <li>• Any objectives and policies that will apply to public transport and Total Mobility services, what services those will apply to and how they will be implemented</li> <li>• Significance policy</li> <li>• Policies on accessibility, quality and performance</li> <li>• Fares and the method of setting/reviewing</li> <li>• Process for establishing units</li> <li>• Approach taken to procuring delivery of services in a unit</li> <li>• How procurement of units will be phased in over time</li> <li>• Managing, monitoring and evaluating performance of units</li> </ul>	<p>Purpose of the RPTP, responsibility for preparation and adoption</p> <ul style="list-style-type: none"> <li>• When to prepare an RPTP</li> <li>• Relationship with Long Term Plan (LTP)</li> <li>• Relationship with Regional Land Transport Plan (RLTP)</li> <li>• Transitional provisions/timeframes and consideration of RPTPs prepared under PTMA and RPTPs prepared under LTMA</li> <li>• <b>Updating or varying RPTPs under PTMA or LTMA</b> (transitional provisions)</li> <li>• Description of the network of public transport services</li> <li>• Identification of any other services (taxis, shuttles) that the regional council intends to financially assist</li> <li>• Units and contracting approaches including commencement dates for transition – incorporating Core Working Group concept/wording ‘marketable whole’</li> <li>• Treatment of services not in a unit and not exempt</li> <li>• Achieving consistency with the RLTP</li> <li>• Assisting the transport-disadvantaged</li> <li>• Total Mobility services</li> <li>• SuperGold card</li> <li>• Public transport service policies</li> <li>• Farebox recovery policy</li> <li>• Accessibility, quality and performance standards, performance standards – in the context of PTOM</li> </ul>	

No.	Component	Definition/description	LTMA Bill (as reported back to the House)	RPTP Guidelines	Procurement Manual proposed changes
				<ul style="list-style-type: none"> <li>• National Total Mobility Policy</li> <li>• Requirements for Urban Buses</li> </ul> <p><b>Best practice elements</b></p> <ul style="list-style-type: none"> <li>• Network planning</li> <li>• Timetabling</li> <li>• Ticketing</li> <li>• Information provision</li> <li>• Customer service</li> <li>• Investment planning</li> <li>• Aligning services and infrastructure planning</li> <li>• Exempt service registration information</li> </ul>	
17	<b>Procurement strategies</b>	The procurement strategy is where regional councils set out how they intend to procure services. These are endorsed by the NZTA. The procurement strategy is not a public document.		Will be referred to	Yes – an additional table is being added to the checklist for procurement strategies to incorporate relevant PTOM elements that must be considered by regions.
18	<b>Dispute resolution process</b>	Disputes over contractual matters will be dealt with pursuant to the dispute resolution provisions in the respective contract through existing legal systems.  Appeal provisions to the District Court in the legislation will allow operators to appeal adverse decisions of councils. The grounds for such an appeal will be specified and will include decisions relating to exemption of services, refusal to contract a new service and approval of a new service.	New section 139 sets out a process for appeals to the Environment Court against decisions of the regional council in identifying units in RPTPs. New section 140 also provides for appeal to the District Court for adverse decisions of the regional council in registering exempt services.		Under chapter 8 contracts will be required to include dispute resolution provisions.
19	<b>Fare setting process</b>	Regional councils are expected to set out the policy for fare setting in their RPTP, eg the farebox recovery policy. The consultation arrangements for RPTPs in respect of operators will apply (including annual business planning arrangements for units).	New section 119(2)(b) requires the regional council to set out fares in the RPTP, along with the method, formula or other basis for setting and reviewing fares.	Will include supplementary information  See the NZTA Farebox recovery policy	See the NZTA Farebox recovery policy.
20	<b>Annual business planning</b>	Annual business planning will be a requirement of contracts. It will require operators to present proposals for market development and targets for the year ahead against which performance will be measured.	No	No	Rule 10.12 will be amended to require that all RFTs for public transport services will include annual business planning provisions.  The NZTA is developing guidance on annual business planning processes.
21	<b>Performance based contracts (KPIs)</b>	All units will have a performance based contract with the council with a standard set of key performance indicators.	No	No	Yes – will eventually reside in chapter 11. These are being developed through a separate process.



No.	Component	Definition/description	LTMA Bill (as reported back to the House)	RPTP Guidelines	Procurement Manual proposed changes
22	<b>Service reviews and contract variations</b>	Service levels and routing will need to reviewed Any resulting changes that have a significant impact on the configuration of a unit or units	No	Minor changes through change control and annual business planning	Procurement rule 10.26 will be changed to create an enabling environment for service variations, and a new rule will set out how cost resets will operate.
23	<b>Monitoring</b>	There will need to be ongoing monitoring of whether the PTOM is delivering the desired outcomes of increased commerciality and value for money.	RPTP must be reviewed and if necessary renewed or varied as soon as possible after the public transport service components of an RLTP are approved or varied.	Monitoring of the RPTP – including PTOM requirements Review of the RPTP	Monitoring is dealt with through chapter 11.