

**TAYSIDE AND CENTRAL SCOTLAND TRANSPORT PARTNERSHIP****25 SEPTEMBER 2018****TRANSPORT (SCOTLAND) BILL 2018****REPORT BY PARTNERSHIP DIRECTOR**

This report seeks Board approval for the proposed consultation responses to:

- The Scottish Parliament's Rural Economy and Connectivity Committee's call for views on the content of the Transport Bill, and,
  - The Scottish Parliament's Finance and Constitution Committee's call for views and questionnaire on the Bill's Financial Memorandum.
- Both Committees are seeking comments by **Friday 28 September 2018**.

**1 RECOMMENDATIONS**

1.1 That the Partnership :-

- (i) notes the introduction of the Transport (Scotland) Bill to the Scottish Parliament on 8 June 2018; and
- (ii) approves the proposed responses to the call for views in respect of the proposed Transport Bill and associated Financial Memorandum, attached at Appendices A and B to the report.

**2 BACKGROUND – PARLIAMENTARY PROCESS**

- 2.1 The Transport (Scotland) Bill was laid before Parliament on 8 June 2018. It is intended to help make Scotland's transport network cleaner, smarter and more accessible than ever before. It aims to empower local authorities and establish consistent standards in order to tackle current and future challenges, while delivering a more responsive and sustainable transport system for everyone in Scotland.
- 2.2 The Bill takes forward a number of Scottish Government commitments from its 2017-18 Programme for Government.
- 2.3 The Bill is currently at Stage 1 of the parliamentary process where it is allocated to a Scottish Parliament committee to undertake an inquiry and report on the Bill and its contents. The Scottish Parliament will then debate the Bill, and should its general principles be agreed to, it will then enter Stage 2. At this stage, the Committee will undertake detailed consideration of the Bill and amend it as necessary.
- 2.4 The Bill then moves to the Scottish Parliament for Stage 3 where it is given further detailed consideration and amended as necessary. The Bill will then be subject to a Scottish Parliament debate on passing it; if successful it will be

given Royal Assent and become an Act of the Scottish Parliament. It is difficult to gauge exactly how long the full Bill process will take, but provided it is not subject to substantial challenge and change, the process can be completed in one year.

- 2.5 As part of the debating process the Rural Economy and Connectivity Committee has launched a call for views to gather the opinions of both individuals and organisations on the proposals contained within the Bill. A copy of the proposed response on behalf of the Partnership can be found at Appendix A.
- 2.6 The Finance and Constitution Committee has also launched a call for views on the associated Financial Memorandum. A copy of the proposed response on behalf of the Partnership to the questionnaire can be found at Appendix B.

### **3 CONSULTATION TOPICS**

3.1. There are seven key topics in the Bill. These are:-

- (i) Low Emission Zones;
- (ii) Bus Services;
- (iii) Smart ticketing;
- (iv) Parking;
- (v) Road works;
- (vi) Regional Transport Partnerships, and,
- (vii) Scottish Canal Boards.

#### **Low Emission Zones**

- 3.2. The Scottish Government is committed to introducing LEZs into Scotland's four biggest cities (Glasgow, Edinburgh, Aberdeen and Dundee) between 2018 and 2020, and the Bill will further empower local authorities to transform other cities and towns into cleaner, healthier places to travel and enjoy. The Bill enables the creation and civil enforcement of LEZs by local authorities.
- 3.3. The most polluting vehicles would be banned from entering a LEZ during its hours of operation. Any banned vehicles entering a LEZ would be subject to a penalty charge, with enforcement carried out using Automatic Number Plate Recognition (ANPR) cameras, technology currently used for bus lane, red light and speed limit enforcement.
- 3.4. The Bill would grant Scottish Ministers the power to approve all LEZs and to set national rules for their operation, a position which is supported. Furthermore it would grant local authorities the power to set the rules governing the operation of individual LEZs, which is also supported.
- 3.5. The promotion of LEZs, however, should not focus solely on the prohibition or banning of certain vehicles but must take a holistic view of the provision of viable alternative forms of the transportation of both people and goods. Particularly, but not exclusively, across Scotland LEZs must not simply focus

on the “soft” target of buses, as there has been a huge decline in bus patronage over recent years, which shows no signs of slowing down.

- 3.6 It is noted that the Government is committed to the introduction of LEZs in to Scotland’s four biggest cities between 2018 and 2020 and into all other Air Quality Management Areas by 2023 where the National Low Emissions Framework appraisals advocate such mitigation.

### **Bus Services**

- 4.1 As drafted the Bill proposals would see a range of new powers that would allow Authorities to put in new arrangements such as:
- 1) New Bus Service Improvement Partnerships;
  - 2) New local franchising;
  - 3) New/extended powers for local transport authorities to provide bus services to meet social needs;
  - 4) Powers to require bus operators to make more information available to the public on services, including routes, timetables and fares; and
  - 5) Powers to require operators withdrawing services to provide more information to local transport authorities.
- 4.2 The Bill would provide local transport authorities with the powers aimed at improving local bus services. These include powers to provide bus services where no commercial service is provided and to work in a formal partnership with commercial operators to improve services both of which Tactran generally supports. It should be noted, however, that similar powers already exist and across Scotland where local transport authorities provide a degree of support, as far as funding permits, for socially necessary bus services.
- 4.3 It also includes the power to specify all aspects of local bus services, which will be provided by commercial operators following a tendering exercise, effectively a franchise model. While Tactran is generally supportive of the proposals it is important that the financial implications and business cases are robustly evaluated.
- 4.4 The Bill would require bus operators to share information on routes, timetables and actual running times with third parties in order to make it easier for passengers to know when their bus will arrive and how much it will cost.
- 4.5 Local transport authorities have been asked how best they or bus operators could improve the ways information on timetables and routes is provided. Five options are suggested which are bus operator apps, paper timetables on bus stops, bus operator web sites, portable paper timetables and real-time displays at bus stops. The call for views asked that they be ranked in order of favourite first and least favourite last, however, Tactran considers them all to be relevant, but with different options more appropriate in different circumstances, for example in an urban environment as opposed to a rural one.

4.6 Finally the call for views asks whether the proposed changes to bus regulation in the Bill could be improved. While Tactran welcomes, in principle, the Bill, in many respects it could be regarded as a missed opportunity to provide stimulus to the Scottish public transport market, particularly for bus services. As it stands the Bill is unlikely to create the right conditions for the step-change required in the Scottish bus market to arrest substantial decline and deliver growth. As without strong complementary support and significant capital and revenue funding from Scottish Government key provisions of the Bill are likely to prove ineffective or unworkable.

### **Smart Ticketing**

5.1 This section includes the following proposals;

- 1) Extending existing ticketing arrangements and schemes to include connecting services;
- 2) Giving Scottish Ministers the power to set a national technological standard for smart ticketing;
- 3) Setting up the National Smart Ticketing Advisory Board;
- 4) Provide a guide for a consistent approach for smart ticketing arrangements and schemes, and clearer processes for them;
- 5) The requirement for local transport authorities to produce annual reports on ticketing arrangements and schemes to evaluate and adapt for best practices; and
- 6) Giving Scottish Ministers the power to direct a local transport authority to make or vary a ticketing scheme.

5.2 The Scottish Government want to make it easier to get around Scotland by public transport, and make it simpler to travel across connecting networks. The Bill seeks to strengthen compatible smart ticketing technology across operators and modes, and set in place an advisory body to best support Scotland-wide smart ticketing between operators and transport type.

5.3 Smart ticketing is the name given to a system where an entitlement to travel (or ticket) is stored electronically rather than being printed on a paper ticket. Most smart ticketing schemes store payment and ticket data on a smartcard, such as London's Oyster card.

5.4 Those operators who can be considered the leading promoters of smart ticketing in Scotland, support in principle, the provisions of the Bill in relation to smart ticketing, however, they consider elements are unnecessary or over-prescriptive, a view which Tactran would share.

5.5 For example a national technological standard for smart ticketing already exists and the proposed National Smart Ticketing Advisory Board or the requirement for local authorities to produce annual reports on the use of ticketing powers may be of questionable benefit.

- 5.6 Finally the Bill gives Scottish Ministers the power to direct local transport authorities to implement ticketing schemes. It should be acknowledged that Local Authorities already have this power and if they are not implementing a scheme it may be there is no demand, or they do not have the resources to implement a scheme.

## **Parking**

- 6.1 This section of the Bill covers issues around Double Parking and Pavement Parking. It includes proposals covering the following;
- 1) Providing local authorities with powers to enforce the national ban;
  - 2) The ability for local authorities to promote exemptions from the national ban, but they will be required to meet strict criteria;
  - 3) The Bill provides exceptions to certain vehicles if they are involved in emergencies or delivering goods;
  - 4) Detailed standards and guidance will be produced for local authorities to deliver a consistent approach in how they enforce the new parking restrictions;
  - 5) Providing local authorities with powers to share services with other Councils to enforce the new restrictions; and
  - 6) Requiring local authorities to keep accounts in relation to the money they received from the enforcement of the new restrictions.
- 6.2 The Bill will introduce a national ban on pavement and double parking to make it easier for local authorities to ensure pavements and roads are safer and more accessible to all, both of which we support in principle.
- 6.3 By taking no action to address the issue of obstructive parking on pavements and at pedestrian dropped crossings it can be considered as an impediment to the safe and efficient passage of pedestrians. Those pedestrians considered most vulnerable, and therefore at greatest risk, are the young and elderly, and those with mobility impairments. Parents and carers with children in pushchairs are also likely to experience adverse impacts from pavement parking.
- 6.4 While supporting the principles of the Bill, Tactran has significant concerns at the, as yet un-quantified burden which will be placed on local authorities to implement and enforce this legislation and the potential negative effects on other road users, for example refuse collection vehicles and buses. It is often the case that larger vehicles can only gain access to residential streets, the majority of which are less than 7.3 metres wide, due to road space created by cars being parked either partially or fully on pavements.
- 6.5 The Bill proposes a number of exemptions to the prohibition on pavement parking and double parking, such as emergency service vehicles, vehicles undertaking road works, and refuge and postal delivery vehicles.

- 6.6 The Bill, however, requires that vehicles that benefit from an exemption only use it where it is unavoidable and for the shortest time possible to complete the task being undertaken (with a limit of 20 minutes on vehicles being used for deliveries). Tactran is supportive of the proposed exemptions and the principle of this approach.
- 6.7 The Bill would allow local authorities to exempt any footway from the prohibition on pavement parking, as long as it has had regard to any guidance issued by Scottish Ministers. As outlined above there are many narrow and / or circuitous streets where parking fully on the carriageway would severely restrict or prevent access. Quite often at these locations the issues are compounded by a high demand for parking and a lack of appropriate alternatives, for example in high density residential areas. While Tactran is supportive of the principle of exemptions there are significant concerns with regard to resources required to assess what is expected to be large numbers of potential streets for potential exemptions and in turn enforcement of non-exempt areas. There is also uncertainty with regard to the arrangements for formalising exemptions which again have the potential to be onerous. It is suggested that “Orders” will be required which, if akin to Traffic Regulation Orders, may become extremely cumbersome and potentially unworkable.

### **Road Works**

- 7.1 This section of the Bill covers a number of key aspects of how Road Works are managed and inspected:
- 1) Clarification on the legal status of the Scottish Road Works Commissioner (SRWC);
  - 2) Compliance notices with enforcement consequences for those who fail to take the required steps;
  - 3) Non-compliance with a Compliance Notice will be an offence, which will mean that the SRWC will become a specialist reporting agency, and be able to submit reports to the Procurator Fiscal;
  - 4) An inspection function for the Scottish Road Works Commissioner with associated enforcement powers and new offences including for obstruction;
  - 5) A requirement for reinstatement quality plans (to establish that organisation have the necessary processes and competence to execute road works to the required standards);
  - 6) Requirements to notify actual starts and works closed within specified timescales to improve the accuracy of information relating to road works on the Scottish Road Works Register; and
  - 7) A requirement to place details of all utility apparatus onto the Scottish Road Works Register.
- 7.2 The Bill aims to raise the standard, and improve the quality, of road works in Scotland, and provide the Scottish Road Works Commissioner with better options to deal with poor performance. The Bill seeks to create a regulatory environment which encourages the approach of getting road work reinstatements right first time, to provide better information about road works,

and to ensure a consistent approach to safety at road works sites regardless of who is undertaking them.

- 7.3 The Scottish Road Works Commissioner is an independent public official who aims to improve the planning, co-ordination and quality of road works throughout Scotland. The Commissioner monitors performance and promotes and encourages good practice across both utility companies and roads authorities. The Commissioner has powers to impose financial penalties on roads authorities who systematically fail in their duty to coordinate road works and on utility companies who systematically fail to cooperate when undertaking road works.
- 7.4 The Commissioner is not responsible for works being undertaken in roads on Scotland. Such responsibilities rest with roads authorities, utility companies and their contractors.
- 7.5 The Bill would give the Scottish Road Works Commissioner, and Commissioner Staff appointed as inspectors, the power to inspect roads works, documents and the like, to establish the facts in possible cases of non-compliance with road works related legislation that falls within the Commissioners remit.
- 7.6 The Bill would grant the Commissioner, and Commissioner Staff, new powers to investigate and take enforcement action against organisations that failed to comply with statutory road works requirements.
- 7.7 Tactran considers that any powers and measures that will strengthen the existing powers of the Commissioner, in order to help drive compliance across the sector and improve health and safety, are to be supported.

### **Regional Transport Partnerships**

- 8.1 The Scottish Government want to make it easier for the Regional Transport Partnerships (RTPs) to manage their year-end finances by enabling them to hold a balance of funds. They also want to make sure that there is no additional financial burden on the local authorities that contribute towards the RTP running costs. This will assist the RTPs with larger capital investment projects which cover more than one financial year.
- 8.2 The Bill would allow a RTP to establish a capital fund, a renewal and repair fund, and an insurance fund. Tactran supports these proposals as if RTPs have the ability for funding to span financial years it will make the delivery of RTP funded local authority schemes much easier. It could also assist with the delivery of transport related City Deal schemes whereby a RTP could hold the project funding over financial years. Currently if a scheme is not going to be completed within a fiscal year it either has to be curtailed or abandoned and the funding returned. This is particularly relevant as the lead-in to the end of the financial year is through winter and inclement weather can lead to the delay or cancellation of works.

## **Scottish Canals Board**

- 9.1 The Bill would expand the size of the Scottish Canals board, increasing the number of members appointed by Scottish Ministers from between one and four to at least 4 but no more than 9. The aim of this proposal is to allow the appointment of members who possess a wider range of skills and experience than at present.
- 9.2 As Tactran does not have any operating canals in its area it does not, therefore, intend to express an opinion on this proposal.

## **Financial Memorandum**

- 10.1 Neither of the consultations provided any financial assumptions. While, at that time, the details of the proposals were embryonic Tactran made it clear, both in the consultation response and at the workshops, that there would undoubtedly be a financial burden upon local authorities for implementation and enforcement of LEZ's and the parking ban. It is felt that this has not been accurately reflected in the Financial Memorandum, which assumes that for those local authorities already undertaking decriminalised parking enforcement costs will be minimal. No mention of financial matters was sought or made in the LEZ consultation.
- 10.2 A question is posed as to whether there was sufficient time to contribute to the consultation exercise. While reasonable time was available the greater issue is around the lack of detail in relation to some aspects of the bill, awaiting the publication of future Regulations, hence the difficulty in assessing potential financial consequences.
- 10.3 There are clearly a number of assumptions and uncertainty within the Financial Memorandum so it is difficult, if not impossible at this time, to gauge its accuracy. Without having a better understanding of the potential implications of aspects of the Bill it is not, at this time, possible to say whether, or how, the local authorities will meet additional financial costs.
- 10.4 It is noted, however, that in the case of LEZs the Financial Memorandum acknowledges that the financial management required to deliver LEZs will require a joint / partnership effort between the Scottish Government and local authorities. Therefore no single body will be responsible for the entire financial outlay and management necessary to deliver LEZs.
- 10.5 Despite this commitment there will be an as yet unquantifiable, financial outlay required for implementation and enforcement should a local authority promote an LEZ, however, this would also generate income from the issue of penalty charge notices. It is important that local authorities are given the financial ability to implement a LEZ with an allowable pay-back period once penalty charge income is generated.
- 10.6 Similarly there will be a financial outlay required to install the necessary signing and lining if any streets are exempted from the pavement parking ban.

Once again, however, there will be some income generated from the issue of penalty charge notices for contravention of the ban. The Financial Memorandum states that the City of Edinburgh Council anticipates nine exemptions to the ban and Aberdeenshire Council ten but we consider these figures to be surprisingly low and would expect there to be considerably more across the Tactran area. The suggested average cost per local authority of £25,000 to undertake the necessary assessments also appears extremely understated. As outlined above, with additional resources required to enforce the ban there will be further financial implications associated with this.

- 10.7 The Financial Memorandum seems to indicate that local authorities will be funded in relation to any additional financial burden a new Act imposes on them, but the details of how this works in practice has yet to be established and the low estimates referenced above are a concern.
- 10.8 Some of the costs associated with Bus Service Improvement Partnerships and franchising currently arise and may not be a burden, however, as outlined in the Financial Memorandum, for the local transport authority to provide and run bus services would have significant implications. However, local transport authorities can only support socially necessary services to the extent their funding allows.

## **11 CONCLUDING REMARKS**

- 11.1 It should be noted, however, that at this time not all of the wider answers to the Financial Memorandum questions are known and partner organisations (Councils/RTP's /COSLA/professional bodies) continue to consider the wider implications of this Bill. As the Bill moves through parliament it may evolve and further detail may become available. Further reports may therefore be brought back to the Board as appropriate should significant further policy and/or financial implications become apparent.
- 11.2 At their meeting on 5 September 2018, the RTP Chairs considered an overview response on behalf of all RTPs, this is attached at Appendix C. Members are invited to consider the proposed response and endorse it or propose any amendments.

## **12 CONSULTATIONS**

- 12.1 The response detailed within this report and appendices has been prepared in consultation with relevant officers from the constituent Councils and other RTPs.

## **13 RESOURCE IMPLICATIONS**

- 13.1 This report has no direct resource implications. However, the proposals within the Transport (Scotland) Bill 2018 in due course are likely to have significant resource implications for partner local authorities.

## 14 EQUALITIES IMPLICATIONS

14.1 This report has been screened for any policy implications in respect of Equality Impact Assessment and no material issues have been identified.

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### **NOTE**

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing this Report:

Transport (Scotland) Bill 2018:

[http://www.parliament.scot/Transport%20\(Scotland\)%20Bill/SPBill33S052018.pdf](http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33S052018.pdf)

Rural Economy and Connectivity Committee – Transport (Scotland) Bill 2018  
Call for Views:

<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/108853.aspx>

Report to Partnership Executive Committee RTP/17/41, Consultation, Senior Partnership Manager, 21 December 2017.

Report to Partnership Board RTP/18/12, General Consultations, Senior Strategy Officer, 27 March 2018

## Transport (Scotland) Bill 2018 – Proposed Consultation Response

### Low Emission Zones

Low Emission Zones (LEZ) are to be used to improve air quality and have been introduced in cities throughout Europe over a number of years to meet EU regulations. In support of this approach, a number of initiatives to reduce emissions and improve air quality were referenced in the Programme for Government 2017:

- A proposal for a new Climate Change Bill to update Scotland's already pioneering climate change targets;
- Taking the lead in promoting the use of ultra-low emission vehicles (ULEVs) and phase out the need for new petrol & diesel cars by 2032;
- Making Scotland's towns and cities more attractive places in which to invest, work and protect health by introducing low emission zones (LEZs) in the four biggest cities by 2020 and all other Air Quality Management Areas by 2023.

The Bill would grant Scottish Ministers the power to approve all LEZs and to set national rules for their operation. It would also grant Councils the power to set the rules governing the operation of individual LEZs. The legislation allows local authorities to introduce a LEZ within a designated geographic area to prohibit drivers who are driving vehicles which fail to meet specific emission standards. Where a driver or person breaches this rule, a penalty charge will be payable unless the vehicle is exempt. Exemptions are likely to be for emergency vehicles although local authorities will be allowed to consider other local exemptions.

The Bill also makes provision about a number of other matters relating to the operation of low emission zone schemes: for example, the installation of signs and cameras, the potential creation of offences in connection with the enforcement of schemes, accounting requirements, and the ability to review the effectiveness of a scheme. In addition, it provides for a grace period in relation to a zone so that those wishing to drive within it have the opportunity to upgrade their vehicle to a less polluting model (either by replacing or having it modified) before penalty charges begin to apply.

The Scottish Government has committed to introduce Low Emission Zones in Glasgow, Edinburgh, Aberdeen and Dundee by the end of 2020. An LEZ in Glasgow city centre is being introduced on 31 December 2018. The Glasgow LEZ will initially only apply to buses and is not using powers contained within the new Bill. Instead bus movements will be controlled through a Traffic Regulation Condition granted by the Traffic Commissioner.

In their Programme for Government 2017/18, the Scottish Government states they will work with local authorities to introduce LEZs into Scotland's four biggest cities, including Dundee, by the end of 2020. It is anticipated that **Tactran** will be represented on the officer steering group supporting colleagues in Dundee City Council in order that this timescale for Dundee can be met. It is considered that a 'Glasgow type' scheme will be the basis of developing a Dundee LEZ albeit with option of using some of the new Powers contained within the Bill. The Transport

Minister has indicated that this would be acceptable and the new legislation should be used support implementation.

It is expected that according to the timetable both Perth and Crieff would need to follow suit by 2023 unless the timing of delivery of the Cross Tay Link Road (CTLR) offers sufficient certainty to delay or negate the need for the implementation of a LEZ in the city. As the issue for Crieff largely relates to the A85 Trunk Road addressing the air quality issues and the possible introduction of a LEZ would need to be discussed closely with Transport Scotland as the responsible authority.

The work being undertaken on the Regional Traffic Model can include the provision of assessing any LEZ's that are implemented within the area and the wider impact on the various categories of traffic and potential diversion to alternative routes. There is some concern at the potential for displacement with 'dirty buses' being moved out of the cities and becoming concentrated in other disadvantaged areas thus exacerbating air quality issues in these areas.

In conclusion, **Tactran** is in support of the LEZ proposals within the Transport Bill with the caveat that it will be important that local authorities are given the financial ability to implement a LEZ and that this financial support provides an underwriting for the first few years of operation with an allowable pay-back period once penalty charge income is generated.

From its previous research on SULPs (Sustainable Urban Logistics Plans) **Tactran** will also support the work on the impact of business deliveries and collections through Green City Logistics and will include consideration of Freight Consolidation / Last Mile Logistics with low and zero emission vehicles. This will be a medium to longer term component of LEZ development.

### **Delivery of Bus Services**

The Bill provides local transport authorities with powers to improve local bus service provision through statutory partnership working with bus operators, the creation of local bus service franchises and the ability to operate services themselves, where these are not in competition with commercially operated services.

The Bill also addresses a perceived powerlessness of local transport authorities to intervene when there is market failure and commercial bus networks do not meet the aspirations of local communities. There is a widespread view that in many respects the Bill could be regarded as a missed opportunity to provide a stimulus to bus services across Scotland and reverse the drastic loss in patronage over recent years.

Without strong complementary support and significant capital and revenue funding from Scottish Government, which appears to have been underestimated, key provisions of the Bill are likely to prove ineffective or unworkable. For example the ability for local transport authorities to operate services themselves, but only where these are not in competition with commercially operated services, places a high financial risk upon them. Such a service could, theoretically, become

commercially attractive. A private operator may then decide to provide a rival service, requiring the authority to cease direct operations despite the financial and material investment in vehicles, depot infrastructure, staff and the like.

The Bill also addresses partnership working and tries to counter some of the failings of the previous Transport Acts (2001 and 2005) that sought to introduce partnerships. The complexities of establishing Statutory Quality Partnerships and Statutory Quality Contracts meant powers given in the 2001 Act were not used in the Tactran area and rarely used elsewhere in Scotland. The new proposals seek to promote Bus Service Improvement Partnerships (BSIPs) and allows local transport authorities to offer a suite of policies that support bus (e.g. higher parking charges or improved road works management) rather than simply focusing on installation of hard infrastructure (bus lanes / bus shelters). The route to establishing a BSIP is long and protracted and it is again possible that without support these powers will be left unused. **Tactran** could conceivably have a role in supporting or leading on a BSIP where there are cross-boundary and/or inter-city routes covered.

Where the local transport authority has determined that there is a requirement for change that cannot be delivered through partnership, the Bill will allow it to consider bus franchising. In effect, route planning, frequencies and fares for a city/locality will all be determined by the local transport authority and then put out to tender. This approach resembles the London model where TfL (Transport for London) agrees the network and operators bid to run it. Given that this is such a radical departure from the current market approach, the prospect of franchising has been resisted by bus operators. As a result, the Bill requires local transport authorities wishing to adopt franchising to undertake viability modelling, market testing and independent assessment of any franchising proposals and Ministerial approval.

The introduction of franchising could have a transformative effect on the bus market but only if the ability to allow cross-subsidy between commercial and non-commercial routes is facilitated. Similarly, with the proposal for municipal bus operations, it is unreasonable to expect local transport authorities to run bus operations that will be loss-making from the outset. This would be untenable in the current financial climate. **Tactran** would advocate for the ability for both franchising and municipal operations to be operated on a cost-neutral basis as a minimum and for appropriate financial support to be made available to allow that to happen.

While the role of an independent audit on franchising proposals is an important check and challenge, the suggested 'Independent Panel' that would make the final decision is not conducive to supporting local democratic control, would undermine the consultation process and should be rescinded from the Bill.

The Bill would require bus operators to share information on routes, timetables and actual running times with third parties in order to make it easier for passengers to know when their bus will arrive and how much it will cost.

Local transport authorities have been asked how best they or bus operators could improve the ways information on timetables and routes is provided. Five options are suggested which are bus operator apps, paper timetables on bus stops, bus operator

web sites, portable paper timetables and real-time displays at bus stops. **Tactran** considers them all to be relevant, but with different ones more appropriate in different circumstances, for example in an urban environment as opposed to a rural one. Clearly, there is a shift to on-line, real-time information to support advance and in-transit journey planning and **Tactran** has been proactive in this regard with the GoToo web site and associated applications.

The final section of the Bill relating to buses places greater onus on bus operators to share data – such as passenger numbers, fares and bus operations and specifically where services have been withdrawn, in order to allow local Transport authorities to consider whether to replace those services.

### **Pavement Parking and Double Parking**

It is commendable that the Scottish Government has realised the inconvenience and problems that inconsiderate and poor parking has on pedestrians, the disabled and elderly groups that are presently 'let down' by current regulations. The Scottish Government have therefore have brought forward legislation to tackle it.

The Transport Bill will prohibit parking on pavements which is footways and footpaths and double parking which is defined in the Bill at parking more than 50cm away from the edge of carriageway. The Bill will introduce a national ban on parking on pavements and double parking in Scotland. This will negate the need for each local authority to introduce pavement parking restrictions via Traffic Regulation Orders (TROs). The new duties will require local authorities to assess if necessary, what footways should be exempt from the national prohibition on pavement parking in accordance with directions to be given by the Scottish Ministers to local authorities.

Pavement parking prohibits all vehicles excluding emergency vehicles, bikes, electric bikes, grass cutting machinery and shop mobility scooters for disabled people.

The Bill does not apply to vehicles:

- collecting waste
- postal vehicles,
- road works vehicles,
- medical professionals undertaking urgent /emergency health care,
- delivery or collection of goods (no more than 20 minutes),
- parked within an authorised bay / parking place,
- permission of the police,
- saving a life or responding to an emergency,
- providing accident / breakdown assistance,

The Bill defines that if a vehicle is stationary and one or more of its wheels are on the pavement then it would be in contravention of the legislation. The bill also states that a stationary vehicle is parked even though the driver is present and the engine is running.

The Bill is going to create very significant issues and challenges as there are many roads across the **Tactran** area and particularly in the cities where pavement parking is tolerated by the local authority as footways are wide and this is deemed preferable to parking in a way that blocks passage of vehicle on the carriageway. Partner local authorities will have to undertake a major review of all footways / footpaths to identify locations where exemption orders (authorised footway parking) may be required or are deemed desirable. The Bill indicates that exemption orders will apply to all or part of the footway and at all times. This will likely require additional resources for implementing these orders and the creation of authorised bays.

However there are a number of streets where the practice of footway parking has become established, even where the footways are not wide enough for both parking and pedestrian flow. This presents a significant challenge as under the proposed Bill the local authority will likely have to restrict parking in areas where there are already limited parking opportunities for residents and businesses. It is likely that car-owning residents will be displaced from these on-footway parking locations leading to on-street parking supply in such areas becomes increasingly restricted.

The legislation could also assist in addressing parking issues surrounding schools when children are going to and coming from school. This Bill will make inappropriate parking around schools more restrictive and should result in fewer parents taking their children by car if they know that they can get a Penalty Charge Notice (PCN) for say bumping on to the kerb and double parking.

The Bill also makes provisions for installing approved cameras, exemption orders, and removal/disposal of vehicles, accounting and enforcement of the regulations.

Enforcement is going to be a very significant issue as the new Bill places an additional burden on the local authorities already stretched enforcement teams. The pressures coming from this Bill will likely require additional resources although there should be an uplift of PCNs issued which over time would be expected to reduce as driver behaviour adjusts to the new regulations. Where exemption orders are promoted additional signage will be required and the cost of cameras and a back office system will need to be met. The four cities introducing the first tranche of LEZs are discussing means of creating shared service back office operations to simplify the technology investments, there is an opportunity for greater adoption of 'automated' enforcement systems through this new legislation.

There will have to be a national PR campaign to inform motorists of the new regulations as many people will be unaware of the proposed new Bill.

**Tactran** is of the view that the potential resources and costs associated with assessing large parts of residential areas for potential exemptions have not been fully appreciated. **Tactran** believes the "Order" process for defining exemptions is bureaucratic, expensive and potentially unworkable and also notes that additional resources will be required to enforce the legislation. In summary, **Tactran** believes the required resources have been substantially underestimated and elements of the proposal are potentially unworkable. As a consequence, **Tactran** would question

whether local transport authorities have the appetite, capacity and resource to address the proposed new powers adequately.

### **Road Works and the Scottish Road Works Commissioner**

The Bill will amend the functions of the Scottish Road Works Commissioner although this is not regarded as making any significant change to the status of the Commissioner.

At present there are two, substantially, legislative powers under which permission may be granted to a person to carry out works involving apparatus. This is Section 61 of the Roads (Scotland) Act 1984 and Section 109 of the New Roads and Street Works Act 1991. The Bill will remove the power contained in Section 61 of the 1984 Act and therefore requires all permissions which relate to apparatus to be sought and granted under Section 109 of the 1991 Act. This may have an impact on permissions for works carried out across the **Tactran** area where Section 109 is not currently used.

There was a previous Advice Note 22 from Roads Authorities & Utilities Committee (Scotland) RAUC(S). The purpose of the guidance was to set out the advantages of Section 109 so that a voluntary transition occurs and it becomes the default position for road works authorities when issuing permissions to execute road works.

By amending the relevant sections of the 1991 Act, the Bill will place an additional duty on the person carrying out the works to enter the date that the works actually starts (and not just the proposed start date) in the Scottish Road Works Register.

**Tactran** considers that any powers and measures that will strengthen the existing powers of the Commissioner, in order to help drive compliance across the sector and improve health and safety, are to be supported.

### **Smart Ticketing**

**Tactran** supports, in principle, the provisions of the Bill in relation to smart ticketing, however, it feels elements are unnecessary or over-prescriptive. It is considered that a national technological standard for smart ticketing already exists in the form of ITS0, a UK national standard which is widely used in Scotland for most bus operators as well as ScotRail and the Glasgow Subway.

Also, Tactran cannot see any significant benefits from a National Smart Ticketing Advisory Board or the requirement for local transport authorities to produce annual reports on the use of ticketing powers.

The bus industry has largely pre-empted this and, for example, the voluntary introduction of the ABC ticket locally has been a success.

The Bill seeks to give Scottish Ministers the power to direct local authorities to implement ticketing schemes. As the local transport authorities already have this power the prerogative given to Ministers could be regarded as excessive given the current and foreseeable budget constraints.

### **Regional Transport Partnership finances**

The provisions in the Bill will make it easier for the Regional Transport Partnerships (RTPs) to manage their year-end finances by enabling them to hold a balance of funds. There is also an intention to avoid any additional financial burden on the local authorities that contribute towards the RTP running costs. This will assist the RTPs with larger capital investment projects which cover more than one financial year and will provide for the flexibility for an RTP to hold project funding beyond a single year, for example in support of the delivery of City Deal projects. **Tactran** supports the proposals for financial flexibility in relation to RTPs.

### **Scottish Canals Board**

There are no operational or redundant canals in the **Tactran** area, therefore, we do not wish to express an opinion on this proposal.

## Transport (Scotland) Bill 2018 – Proposed Consultation Response

### Financial Memorandum - Finance and Constitution Committee Questionnaire

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by the Transport (Scotland) Bill FM (Financial Memorandum).

In addition to the questions below, please add any other comments you may have which would assist the Committee's scrutiny of the FM.

#### Consultation

1. *Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?*

**Tactran** responded to the previous consultations on elements of the Transport Bill with the Partnership confirming its responses to:

- Improving Parking in Scotland – A Consultation: Deadline was 30 June 2017 – extended to 31 August 2017 for RTPs. (Report RTP/17/22)
- Local Bus Services in Scotland – Improving the Framework for Delivery: Deadline was 5 December 2017, but extended to 12 December 2017 for RTPs.
- The Future of Smart Ticketing in Scotland – A Consultation: Deadline was 5 December 2017, but extended to 12 December 2017 for RTPs.
- Building Scotland's Low Emission Zones – A Consultation: Deadline 28 November 2017. (Report RTP/17/37)

**Tactran** also responded to the consultation on the Financial Accounting Arrangements for Regional Transport Partnerships (RTPs) that closed on 12 January 2018. The provision to allow flexibility for capital/revenue carry over between financial years now forms part of the Bill and the Financial Memorandum (Part 6). (Report RTP/18/12)

2. *If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?*

In response to the consultation on the Financial Accounting Arrangements for RTPs, **Tactran** advocated that RTP's be afforded the same range of powers and flexibilities that are available to other public sector bodies under the Local Government (Scotland) Act 1975 including the repair & renewal funds, insurance funds and capital funds and this has been reflected in the Bill.

3. *Did you have sufficient time to contribute to the consultation exercise?*

While reasonable time was available the greater issue is around the lack of detail in relation to some aspects of the bill, which the stakeholder consultation meetings have relayed that the detail will be contained in future Regulations, hence the difficulty in assessing potential financial consequences.

## Costs

4. *If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.*

Yes, although in both the implementation of LEZs and Pavement Parking provisions **Tactran** considers that the financial burden for partner local authorities may have been grossly underestimated.

5. *Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?*

No, as per the above, the detailed processes and enforcement involved in implementing these policy changes may be prohibitive for Partner Councils at this time and may result in the powers being unused.

6. *If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?*

As detailed in the response, there needs to be adequate up front funding made available for the implementation of both LEZs and Parking controls with the ability of Partner Councils to recoup this funding once the enforcement regime income starts to accumulate.

7. *Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?*

In response to questions: 4 to 7 inclusive, **Tactran** believes that there are clearly a number of assumptions and uncertainty within the Financial Memorandum so it is difficult, if not impossible at this time, to gauge its accuracy. Without having a better understanding of the potential implications of aspects of the Bill it is not, at this time, possible to say whether, or how, partner local authorities will be able to meet additional financial costs.

It is noted, however, that in the case of LEZs the Financial Memorandum acknowledges that the financial management required to deliver LEZs will require a joint / partnership effort between the Scottish Government and local authorities. Therefore no single body will be responsible for the entire financial outlay and management necessary to deliver LEZs.

Notwithstanding this there will be an, as yet unquantifiable, financial outlay required for implementation and enforcement should the local authorities promote any LEZs, however, this would also generate income from the issue of Penalty Charge Notices (PCNs).

Similarly, there will be a financial outlay required to install the necessary signing and lining for streets that are exempted from the pavement parking ban. Once again, however, there will be some income generated from the issue of penalty charge notices for contravention of the ban. The Financial Memorandum states that the City of Edinburgh Council anticipates nine exemptions to the ban and Aberdeenshire

Council ten but we consider these figures to be surprisingly low and would expect there to be considerably more across the **Tactran** area. The suggested average cost per local authority of £25,000 to undertake the necessary assessments also appears extremely understated. As outlined above if additional resources are required to enforce the ban there will be financial implications associated with this. In addition the resources required to promote and administer exemption “Orders” do not appear to have been quantified.

The Financial Memorandum seems to indicate that Partner Council’s will be funded in relation to any additional financial burden a new Act imposes on them, but the details of how this works in practice has yet to be established.

Some of the costs associated with Bus Service Improvement Partnerships and franchising currently arise and may not be a burden, however, as outlined in the Financial Memorandum, for partner local authorities to provide and run bus services would have significant implications. However, the level of activity by Partner Councils in commissioning subsidised non-commercial routes is limited by available funding.

### **Wider Issues**

8. *Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?*

As detailed above, **Tactran** does not believe that all costs associated with the implementation of LEZs and Pavement Parking have been acknowledge and accounted for with the result that the costs may be prohibitive for Partners Councils and the powers left largely unused.

9. *Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?*

In response to questions 8 and 9 it is not apparent, at this time, that there are any apparent costs associated with the Bill that have not been considered in the Financial Memorandum, or any future cost not yet identified. The exception to this is with regard to pavement parking where the cost of promoting and administering exemption orders will be substantial. It appears to be suggested this process will be akin to Traffic Regulation Orders which involve extensive consultation, are open to objection and require appropriate procedures to be in place to consider objection and decide upon the way forward. Given the number of exemptions **Tactran** anticipates the expected workload, and the associated costs, to be substantial.

In addition, while in some areas costs have been identified, **Tactran** believes some of the resourcing estimates, particularly in relation to pavement parking, are significantly understated.

There may also be additional costs that flow from the unintended consequences of implementing a LEZ resulting from the rerouting of traffic, signal amendments, alternative cycling and pedestrian facilities along with fleet costs of key employers, including the public sector, in the area.

**Scottish Parliament**

**Rural Economy and Connectivity Committee**

**Transport (Scotland) Bill – Call for Evidence**

**RESPONSE BY THE REGIONAL TRANSPORT PARTNERSHIPS OF SCOTLAND**

The seven Regional Transport Partnerships of Scotland (RTPs) – Hitrans, Nestrans, Sustran, Strathclyde Partnership for Transport (SPT), Swestrans, Tactran, and ZetTrans – were established by the Transport (Scotland) Act 2005. The RTPs have a range of responsibilities including preparation of the statutory Regional Transport Strategy for their respective areas, and development and delivery of transport projects across their region. Some RTPs also have operational responsibilities including the provision of socially necessary bus services, and infrastructure such as bus stations. Further information on RTPs is available at <https://www.transport.gov.scot/our-approach/strategy/regional-transport-partnerships/> where there is also a link to each RTPs website.

***General comments***

The RTPs welcome the opportunity to comment on the Transport (Scotland) Bill, and indeed have been liaising with Transport Scotland and other partners throughout development of the Bill to this stage.

In principle, the RTPs welcome the Bill, but believe in its current incarnation that it falls short of providing a framework for future growth in sustainable transport in Scotland. Further, without significant complementary support and significant capital and revenue funding, it will be difficult to realise the mechanisms available in the Bill. In addition, the RTPs believe that there must be greater recognition of their status within the Bill, bearing in mind that RTPs are democratically accountable, cross-boundary authorities working in the public interest.

The RTPs are guided that how the Bill when enacted operates in practice will be heavily reliant on regulation, secondary legislation and guidance. It is therefore essential that RTPs and partners continue to be fully involved throughout that process to ensure the Bill when enacted operates in the public interest.

Notwithstanding the above, however, the RTPs will continue to work with the Scottish Government and others to improve the Bill, and will explore every opportunity afforded by the new legislation to improve the transport networks of their respective areas.

***Low Emission Zones (LEZ)***

The RTPs support the LEZ provisions in the Bill but would highlight that supplementary regulations or guidance need to be clear on the commitments of partners, censure available should partners not deliver, and an appropriate level of funding is available to deliver an effective LEZ.

LEZs should not be viewed in isolation and must be implemented alongside complementary measures that encourage the uptake of public transport, active travel and reduce the number of single occupancy vehicle journeys.

Care will need to be taken to ensure that the public are aware of the need for an LEZ, to ensure the penalty scheme is not seen as another “road user tax”. This would require a consistent marketing campaign and promotional materials across Scotland, ahead of implementation. This should be considered along with the provisions made within the Bill regarding the provision of signs, ANPR cameras and the enforcement of schemes. Sufficient investment must be made in further public transport and active travel initiatives and infrastructure in order to make an LEZ work. Funding and support must also be made available to ensure that public transport operators within the region are able to operate within a city’s LEZ.

### ***Bus Service Improvement Partnerships (BSIPs)***

The principle of BSIPs is welcome, and indeed provided transport authorities such as RTPs are given the power to specify the information required from operators in developing a BSIP, they may present a good opportunity for genuine progress. We have concerns regarding making the provisions in relation to standard-setting work in practice, and the potential for operators to dominate the BSIP development process. We further believe that there should be greater recognition of the publicly accountable, democratically elected nature of both RTPs and councils in the Bill in relation to BSIPs. The emphasis on BSIPs being binding, long-term commitments to improvement is very much welcomed, as is the fact that all signatories will be held to account and subject to censure if they fail to deliver on those commitments.

### ***Franchising***

The RTPs, in principle, support the provisions within the Bill in relation to franchising, and believe it has the potential to deliver a step-change in the bus market in Scotland. However, we have concerns in relation to the proposal for an unelected, appointed panel having the final decision on the establishment of a franchise; we also believe that without significant funding, it will be unlikely that any public authority in Scotland would wish to explore a franchising solution. Further, and as with BSIPs, it is essential that transport authorities such as RTPs are given the power to specify the information required from operators in developing a franchise to ensure it is based on solid evidence and a level-playing field. There must also be censures for those who do not comply with any such request.

### ***Municipally-owned bus companies***

The RTPs believe that if a public authority can prove it can deliver an activity more efficiently and effectively than the private sector, then there must be legislative provision available to facilitate this. However, the Bill’s provisions restrict the scope of municipally-owned bus companies to services that are ‘socially necessary’. This significantly reduces the viability of any such company, making it a wholly unattractive provision to any public body. Were there to be greater flexibility given in the type of services such a company could run, then this may be a more attractive proposition and the RTPs would welcome consideration of such a change in the Bill.

***Information***

The RTPs are fully supportive of the principle of 'open data' and the provisions within the Bill. There must however, be opportunities to censure those who do not comply the Bills provisions. We would also highlight that we are aware that similar provisions in the Bus Services Act 2017 in England and Wales are proving challenging to implement and so lessons learned from there should be applied in Scotland.

We would also emphasise the importance of the information specified being made available at a sufficiently detailed level to be useful and meaningful for its given purpose. Further, appropriate provisions should be contained within the Bill to enable the transport authority to censure an operator in some form should they not comply with the information provisions of the Bill.

We would also support the powers that require operators varying or withdrawing services to provide detailed information to authorities, as this will allow authorities to understand the reasons for service withdrawal and provide them with strategic oversight on whether the authority is able to replace the service.

***Smart ticketing***

The RTPs have played a key role in the development of smartcard ticketing in Scotland, and welcome the provisions in relation to smart ticketing, but believe there could be greater clarity around the intentions of some parts of the smartcard proposals and trust that these will be addressed through guidance, regulations and secondary legislation.

***Responsible parking***

The RTPs welcome the principle of this and can see real benefits for some societal groups as a result of the Bill's provisions. However, we are concerned that the impacts of these provisions on local authority resources will be significant, and that there will be negative impacts on certain public service vehicles (emergency vehicles, buses, including demand responsive services) which can only currently gain access around a housing estate due to road space created by cars being parked on pavements.

Further, costly, assessment work of the road network would need to be conducted by the Authority to establish areas to be excluded from the legislation. The practicalities of enforcement will also be challenging, particularly for short duration offenders.

***Road works***

The RTPs are supportive of the provisions in relation to Road Works.

***Regional Transport Partnerships Finance - Reserves***

The RTPs very much welcomes and support the provisions in relation to RTP finance. This will allow RTPs to more effectively manage finance in the short term, while planning for longer term.