

**Taranaki's
Regional Land Transport
Programme
Variation Process
2009/12**

March 2010
Doc#669028

Table of Contents

1	Purpose	1
2	Background	1
3	Definitions	1
4	Process for dealing with variations	2
4.1	Projects costing less than \$4.5 million and group allocations	2
4.2	Projects costing more than \$4.5 million and those that trigger the significance policy	3
4.3	Regional Council approval	3
5	Process for changes, emergency works and preventive maintenance	4
6	NLTP decisions	4
7	Reporting to the RTC	4
8	Reviewing the variation process	4
Appendix One:	Legislative requirements	5
Appendix Two:	RLTP Significance Policy	6
Appendix Three:	RLTP variation flowchart	7
Appendix Four:	Schedule of RLTP variations proposed	8

1 Purpose

The purpose of this report is to record the process for dealing with any changes or variations to the *Regional Land Transport Programme for Taranaki 2009/12* (RLTP). This report does not deal with variations to the *National Land Transport Programme* (NLTP), as these are the responsibility of the New Zealand Transport Agency (NZTA).

2 Background

Once adopted the RLTP remains in force until 30 June 2012 and may be varied from time-to-time under section 18D of the Land Transport Management Act 2003 (Appendix One).

Section 9.3 of the approved RLTP sets out the variation process for implementing changes to the RLTP. This specifies that:

Over the duration of the Programme, activities or projects could change, be abandoned or be added. Variation requests could occur due to variations in the time, scope or cost of proposed activities (especially given that a funding application can be made three years before an activity is to be undertaken). Approved organisations or the New Zealand Transport Agency, can therefore request that the Regional Transport Committee prepare a Programme variation.

The Committee can also prepare variations of its own initiative. The Committee will consider requests for variations promptly and forward the amended Programme to the Taranaki Regional Council for its consideration.

When variations are 'significant' in terms of the Committee's significance policy, the Committee must consult on the variation before adopting it and forwarding it to the Taranaki Regional Council and ultimately the New Zealand Transport Agency.

Public consultation is not required for any variation that is not significant in terms of the significance policy adopted in section 9.4 of the RLTP or from a variation arising from the declaration or revocation of a state highway (made by the Ministry of Transport). It is probable that the majority of variations will not be significant.

Section E4.4 of NZTA's *Planning, Programming and Funding Manual* also specifies the rules around preparing and implementing a RLTP variation process.

3 Definitions

The term 'variation' is ambiguous and has been used previously to refer to formal 'variations' under the Land Transport Management Act 2003 as well as 'changes' that are part of the normal course of managing activities through to completion. However for the purposes of this report 'changes' are not considered to be variations and will proceed according to standard NZTA review procedures. It is proposed that the following definitions are used as a reference:

'Variations' are defined as:

- 'Committed activities' which were included in the previous NLTP but not included in the current RLTP.

- Changes in activity scope (i.e. from the information provided during the preparation of the RLTP).
- Proposals to add new activities to the RLTP (and therefore the NLTP).
- Any variation or change that triggers the significance policy (Appendix Two).
- Where a change to the project will result in the delivery of a different project than which the public were expecting delivery of (e.g. construction of two lanes on a state highway has now changed to the construction of four lanes).
- Where a project is to be deleted when it already has funding approved (this would only require consultation where it was considered 'significant').

'Changes' are defined as:

- Modification of activities or combinations of activities, identified by approved organisations in the region relating to maintenance, renewals and minor capital works, and existing public transport services (LTMA section 16(1)(a) activities) which do not constitute a change in project scope.
- Changes to the status of activities already in the NLTP (i.e. a change from Cat 2 to Cat 1 funding approval, or Reserve to Cat 2).
- Changes to cost estimates or the timing of activities in the RLTP, as long as the timing change does not remove the activity from the current 10 year RLTP.
- Where a project has been deleted but funding had not been approved.

4 Process for dealing with variations

The outline and principles of the proposed variation process have been discussed and approved by the Regional Technical Advisory Group (RTAG) and Regional Transport Committee (RTC). This final variation process is therefore based on those discussions, as well as updated information from NZTA and information received from other regional councils. Where an action is based on a legislative requirement the legislation reference is noted. All other actions have been determined as the simplest way to manage the process.

A diagrammatic summary of the variation process has been included in Appendix Three.

Variations are to be managed in a similar way to the original preparation of the RLTP (LTMA section 18D(5)). Like the preparation of the RLTP, where the RTC decides which activities are to be included (except for activities covered under section 16(1)(a) of the LTMA i.e. activities that must be included in an RLTP), the RTC can decide which variations to include. The RTC may then make a recommendation to the Regional Council to vary the RLTP. However the Regional Council only has one opportunity to request further information from the RTC before it must forward its decision to NZTA, whether or not it agrees with the RTC recommendation (LTMA section 18B).

A schedule of variations proposed will be maintained by the Regional Council and included on the Council's website. An example of this schedule is included in Four.

4.1 Projects costing less than \$4.5 million and group allocations

The Regional Transport Advisory Group (RTAG) will assess each variation request to identify whether or not the activity needs to be prioritised and if the activity triggers the significance policy. The RTAG will then make a recommendation to the RTC to either:

- Approve the variation request – if the RTAG members agree then this will be forwarded to the Regional Transport Committee for consideration and then onto the Regional Council as a request to vary the RLTP.

- Approve the variation request with conditions – if the RTAG members agree then this will be forwarded to the Regional Transport Committee for consideration and the Regional Council as a request to vary the RLTP.
- Decline the variation request – if the RTAG members agree then this will be forwarded to the Regional Transport Committee for consideration and the request to vary the RLTP declined (if the RTC agrees). The applicant will then be informed as to the reasons why. If the applicant wishes to appeal this decision then a covering report by the RTAG will be tabled at the next available RTC meeting for discussion and a final decision.

Definitions:

- Voting RTAG members – defined as a nominated staff member from each of the approved organisations in the RTC (i.e. district, city and regional councils) and NZTA’s Highways Network Operations (HNO).
- RTAG agreement is defined as unanimous agreement by voting RTAG members

4.2 Projects costing more than \$4.5 million and those that trigger the significance policy

When a variation request is presented to the RTAG for an activity which costs more than \$4.5 million and/or triggers the ‘significance policy’ a report will be presented to the next RTC meeting which gives details of the proposed variation and the impact on the RLTP.

Approved organisations and NZTA’s HNO are aware of the RTC meeting schedule and will be expected to manage any variation requests to match the published schedule. These types of variations are likely to be fairly major items and so should not come as a surprise to project managers. Regional Council staff are available to advise approved organisations and NZTA’s HNO whether a request is a ‘variation’ or ‘change’ ahead of time, so the applicant can allow the necessary time for the variation process.

If the variation triggers the significance policy then the RTC decision will include a recommendation on the appropriate level of consultation to be carried out.

If the RTC approves the variation request (with or without conditions) it will be forwarded to the next Regional Council meeting for consideration. If the RTC declines the request there is no appeal and Regional Council staff will inform the applicant with the formal Committee minute detailing the reason for the decision. A revised request may be made at a later date if the points raised by the RTC in their decision are addressed.

4.3 Regional Council approval

All variations approved by the RTC must be forwarded to the Regional Council as a request to vary the RLTP. If approved by the Regional Council, a request to vary the NLTP will be forwarded to NZTA.

As is the case with the development of the RLTP, the Regional Council may decide to refer the matter back to the RTC, in which case the RTC could amend the original application or provide more evidence in support of their original request. At this stage the Regional Council must decide whether or not to support the request to vary the RLTP. This decision must then be communicated to NZTA as either a Regional Council request to vary the NLTP or a Regional Council disagreement with an RTC recommendation to vary the RLTP and NLTP (LTMA sections 18B and 18D).

There is no provision in the LTMA for a Regional Council to decline outright a request to vary the RLTP (section 18D(6)).

5 Process for changes, emergency works and preventive maintenance

Emergency works and preventive maintenance budgets are held by NZTA at a national level and applications must be made directly to NZTA as they do not form part of the RLTP. Approved organisations and NZTA's HNO will apply directly to NZTA for any changes (as defined above), and preventive maintenance requests, using the normal monthly review process through LTP online unless otherwise directed by NZTA. Emergency works requests will follow their normal process.

6 NLTP decisions

NZTA is required to notify applicants in writing of all decisions (LTMA sections 18D(8), 18E(5), 20D(1) and others), whether they be changes or variations to the NLTP. As part of this process NZTA will copy all decisions to the Taranaki Regional Council to allow monitoring of the RLTP implementation process to occur.

7 Reporting to the RTC

An annual monitoring report will be provided to the RTC which will cover all variation and change requests made during the previous financial year.

8 Reviewing the variation process

In order to ensure that the variation process is functioning as it is intended to and is meeting all legislative requirements, a review will be undertaken in 12 months time following RTC approval for the final process.

Appendix One: Legislative requirements

Section 18D of the Land Transport Management Act 2003

Variation of regional land transport programmes

- (1) If good reason exists to do so, a regional transport committee or ARTA may prepare a variation to its regional land transport programme during the 3 years to which it applies.
- (2) A variation may be prepared by a regional transport committee:
 - (a) at the request of an approved organisation or the Agency; or
 - (b) on the regional transport committee's own motion.
- (3) ...
- (4) The regional transport committee or ARTA must consider any variation request promptly.
- (5) The provisions of this Act that apply to the preparation of a regional land transport programme apply with the necessary modifications to a variation of a regional land transport programme; however, consultation is not required for any variation that:
 - (a) is not significant; or
 - (b) arises from the declaration or revocation of a State highway.
- (6) Section 18B applies, with the necessary modifications, to the approval by a regional council or ARTA of a variation of a regional land transport programme.
- (7) The Agency must consider promptly whether to vary the national land transport programme after receiving a varied regional land transport programme forwarded to it by a regional council or ARTA.
- (8) A variation of a regional land transport programme does not create an obligation on the Agency to vary the national land transport programme, but the Agency must give written reasons for any decision not to do so.

Appendix Two: RLTP Significance Policy

Pursuant to section 106(2) of the Land Transport Management Act 2003, the following procedures set out how the Committee determine the 'significance' of variations to the Programme.

General determination of significance

The Committee has the final say on what is considered significant in terms of requested or recommended variations to the Programme.

In determining significance, the Committee must ask the following two questions:

1. Does the change require variation or amendment to the Regional Land Transport Programme?
2. Is the variation or amendment to the Regional Land Transport Programme significant?

The significance of variations to the Programme will be determined on a case-by-case basis. However, when determining the significance of a variation to the Programme, consideration must be given to the extent to which the variation:

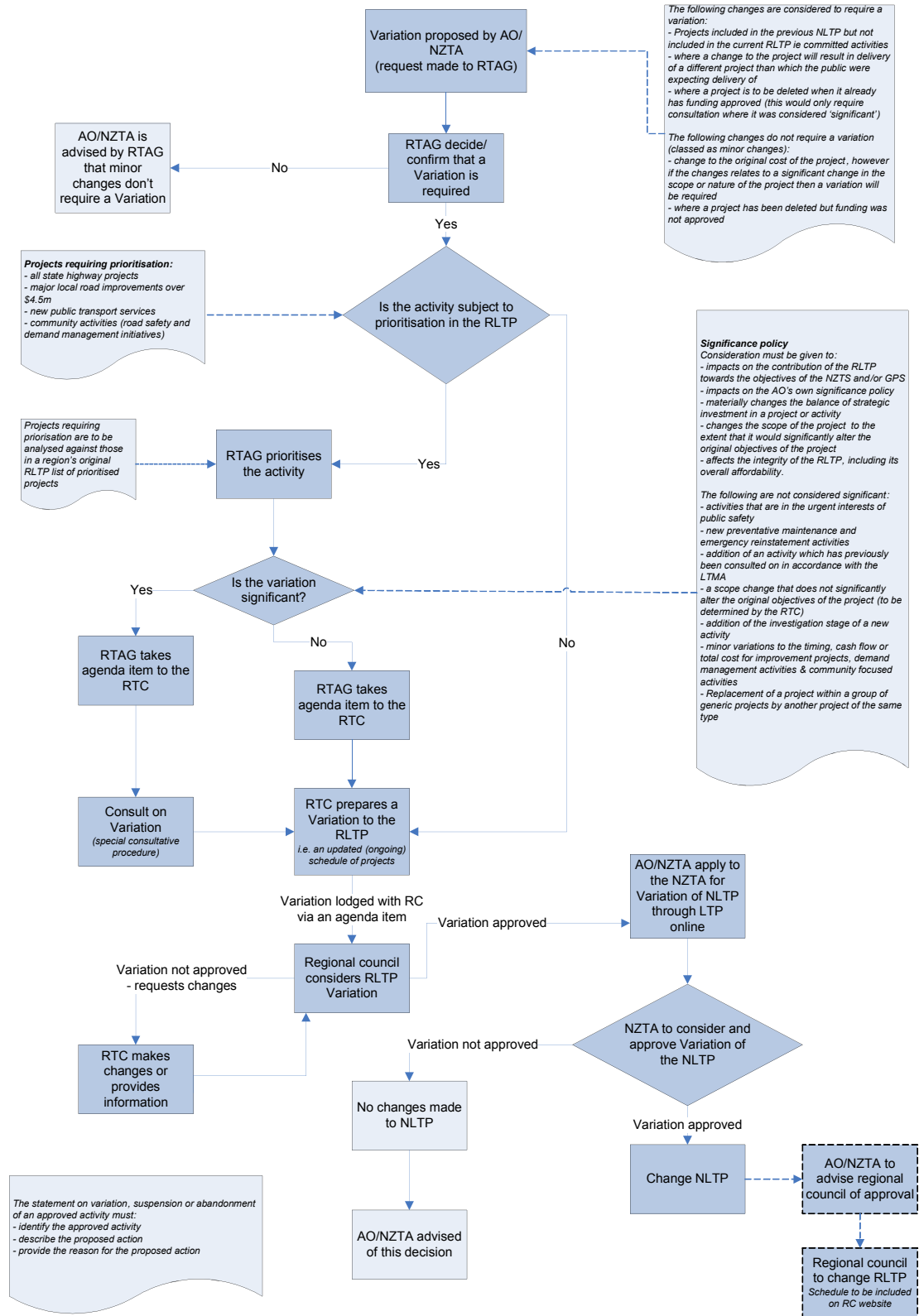
- Impacts on the contribution of the Programme towards the objectives of the New Zealand Transport Strategy and/or Government Policy Statement.
- Impacts on the appropriate approved organisation's own significance policy.
- Materially changes the balance of strategic investment in a project or activity.
- Changes the scope of the project or activity to the extent that it would significantly alter the original objectives of the project or activity.
- Affects the integrity of the Programme, including its overall affordability.

The following variations to the Programme are considered to be **not significant** for the purposes of consultation:

- Activities that are in the urgent interests of public safety.
- New preventative maintenance and emergency reinstatement activities in accordance with the Planning, Programming and Funding Manual.
- Addition of an activity or activities that have previously been consulted on in accordance with sections 18 and 18A of the Land Transport Management Act 2003 and which the Committee considers complies with the provisions for funding approval in accordance with section 20 of that Act.
- A scope change that does not significantly alter the original objectives of the project (to be determined by the Committee).
- Addition of the Investigation Phase of a new activity, one which has not been previously consulted upon in accordance with section 18 of the Land Transport Management Act 2003.
- Minor variations to the timing, cash flow or total cost, for the following:
 - improvement projects
 - demand management activities
 - community-focused activities.
- Replacement of a project within a group of generic projects by another project of the same type.

Appendix Three: RLTP Variation Flowchart

The following flow chart gives an overview of the RLTP variation process.



Appendix Four: Schedule of RLTP Variations Proposed

Project name	Description	Agency	Project phase	Total cost for 3 years (\$)	Proposed funding source	Profile	NLTP funding approved	
							\$\$\$\$	N/R funding

Each project is to demonstrate how it varies from the information included in the *Regional Land Transport Programme for Taranaki 2009/10 – 2011/12*.