# The Transport Integration Act 2010: driving integrated and sustainable transport outcomes through legislation

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## Abstract

The Transport Integration Act 2010 (TIA) is Victoria's key piece of legislation in the area of transport.  It provides an example of the use of aspirational legislation to reflect the broad policy aims of the Government for integrated and sustainable transport.  This paper traces the policy development process for aspirational legislation in Victoria that took place as part of a broader review of transport legislation. It locates the development of a policy framework for integrated and sustainable transport in Victoria within global and national debates regarding sustainable development.  This has resulted in the inclusion of a vision, set of objectives and decision making principles for transport in the TIA reflecting an integration and sustainability policy framework.  It is necessary to continue work on implementing this policy framework across transport and land use planning agencies in order to ensure that the TIA is successful in achieving its policy outcomes.
*Keywords: Victoria, sustainability, policy, legislation, sustainable development, integrated and sustainable transport policy, aspirational legislation, transport and land use planning integration.*

## 1  Introduction: the role of policy and legislation

Governments influence a range of societal outcomes and seek to effect change through policy.  To this end, governments have a number of policy instruments at their disposal, including programs, projects, taxing and funding arrangements, administrative/institutional arrangements, advocacy, education, regulation and legislation [1]. The particular policy instrument (or combination of policy instruments) used to effect change and influence depends ultimately on the

policy issue under consideration and the Government's objectives, including whether it wishes to make the policy enforceable.

Legislation is one of the most powerful tools to implement policy for a number of reasons. It is often the subject of extensive stakeholder engagement; it is ultimately endorsed by cabinet, thereby representing a concluded view of Government on the policy; it is debated publicly in Parliament, offering further opportunities for scrutiny and review of the policy; it is often referred to Parliamentary committees for detailed review; and finally, it is binding and authoritative.

There are a number of different legislative models that can be used to implement and give effect to policy. These include facilitative, coercive and aspirational legislation [2]. Facilitative legislation can be used to enable a particular course of action, project or program. It can also be used to create institutional and administrative arrangements for Government. Coercive legislation can require or prohibit certain behaviour and conduct. Aspirational legislation seeks to specify broad policy aims, targets, objectives and principles in law in order to give clear direction to decision makers on present and future outcomes. Indeed, modern legislation increasingly includes broad objectives that reflect the community's expectations and vision.

## 2   The transport legislation review in Victoria

In 2003, a project to review transport legislation in Victoria, Australia commenced. This was a timely point to commence the review, given it had been 20 years since the State's central transport statute, the *Transport Act 1983* (Transport Act), was first enacted.

Since its enactment, the Transport Act had become the largest statute in Victoria, with over 700 pages of dense and prescriptive provisions in accordance with the prevailing legislative style. A number of other transport related Acts (and amendments to the Transport Act) had also been created to respond to different transport policies of successive governments over time. Most of these were examples of either facilitative or coercive legislative approaches. Importantly, however, there was no overarching framework for transport policy reflected in the State's legislation. In other words, transport legislation did not have aspirational elements. More specifically:

- There was no clear vision for the transport system.
- Transport bodies (such as VicRoads and the Director of Public Transport) were established with different (and potentially competing) objectives.
- There was no overarching framework to express broader policy objectives for transport as a whole.
- The legislation contained minimal reference to social policy objectives and no reference to environmental objectives.
- Linkages with other related areas (such as planning and local government) were not clear or not recognised.

The need for an overarching Act with symbolic and aspirational content was identified early in the review as part of a modular approach. As well as expressing in legislation the broad policy aims of government for transport, this approach sought to more clearly delineate between overarching institutional elements and more detailed regulatory, operational, project and service delivery elements. It also sought to explicitly identify linkages within transport portfolio (road, rail, tram, bus, taxi, hire car, tow trucks) and interfaces with other portfolios (local government authorities and planning authorities).

## 3 Reflecting sustainability policy in transport legislation

In determining an appropriate conceptual basis for a visionary and aspirational framework for transport legislation, it was necessary to identify and examine the key policy themes for transport in the 21st century. To this end, the work of the review focussed on global and local developments in the area of sustainable development and sustainable transport.

### 3.1 Global and national developments in the area of sustainability policy

At the beginning of the 21st century, "sustainable development" or "sustainability" had been endorsed almost universally as an agreed policy goal and direction for the activities of nations, states, businesses and communities across the world. This was the result of developments globally in sustainability over the last 20 to 25 years.

The term sustainable development was first defined in 1987 by the United Nations Commission on Environment and Development Report 'Our Common Future' as development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs [3]. In the early 1990s, the United Nations Conference on Environment and Development (UNCED) developed a blueprint for action on sustainable development, called Agenda 21 [4]. This blueprint provided a framework of concepts and principles to enable governments at all levels to implement actions to achieve sustainable development.

Australia endorsed this international approach to achieving sustainable development by developing its own National Strategy for Ecological Sustainable Development. This strategy included its own definition of sustainability as 'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, on which life depends, now and in the future, can be increased' [5]. It also led to the Intergovernmental Agreement on the Environment, in 1992, which sought to define the roles and responsibilities of various levels of government in Australia in giving effect to the principles of sustainability [6].

Since the beginning of the 21st century, sustainability has become a common theme in Government policy documents. A survey of these documents indicates that sustainability is no longer an issue of marginal or purely environmental concern [7]. It is an issue of mainstream concern to governments at all levels.

### 3.2  Core principles of sustainability

It is possible to identify from a survey of various literature [8] and policy statements some core principles of sustainable development. They are a mixture of substance and process principles which, to some extent, overlap and reflect the complex and dynamic nature of sustainability. These are described in broad terms below.

*Principle of integration of economic, environmental and social factors: decision making processes for sustainable development should effectively integrate economic, environmental and social factors.*

This principle is sometimes referred to as the 'triple bottom line' and features prominently in government policy.

*Principle of futurity and equity: the present generation should ensure that it considers the needs of future generations when making decisions and conducting activities (Inter-generational equity); the present generation should also ensure that the needs of all people are met fairly (Intra-generational equity).*

This principle refers to the need to consider current and future generations in all our decisions. It also refers to the need to think equitably within and across generations and is often thought of as the 'social' element of sustainability.

*Principle of protection of biological diversity and ecological integrity: The present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.*

This principle requires us to recognise and respect the ability of the planet to sustain our activities (carrying capacity) and absorb the by-products of our activities (assimilative capacity).

*Precautionary principle: where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not postpone measures to prevent environmental degradation.*

This principle guides policy makers in making decisions where there is the possibility of environmental harm from taking a particular course action, in circumstances where extensive scientific knowledge on the matter is uncertain or lacking. It promotes the use of risk mitigation measures in the absence of full certainty.

*Participation / Community Capacity: all groups must be involved in decision making for sustainability and local communities should be actively engaged in deciding what future they want.*

This principle recognises the importance of stakeholder engagement and community participation in determining sustainability policy. It acknowledges that many of the issues required to be addressed as part of the sustainability agenda will require local community endorsement and participation.

### 3.3  Application of sustainability policy to transport

As identified above, sustainability is a complex and dynamic concept that requires integrated thinking about our society, economy and environment. It also requires us to think about our role in shaping triple bottom line outcomes. Having identified broad principles of sustainability policy, it was necessary for

the review to determine how these principles could be applied to the transport sector.

The concept of 'sustainable transport', as an application of sustainability to transport, originally grew out of concerns to minimise the harmful environmental effects associated with our increasing use of transport (particularly automobiles). However, the concept has evolved to require a more explicit link to the achievement of the triple bottom line, rather than purely addressing environmental concerns, in the context of transport.  In other words, the goal of sustainable transport needs to express how transport integrates, influences and affects broader social, economic and environmental outcomes.

Another key theme in applying sustainability to transport is the need to recognise the explicit links between transport and land use planning.  It has long been accepted that both transport and land use planning are inherently linked and that activities in one area can affect the other.  So, for example, the planning of new and existing urban communities needs to take account of the transport infrastructure that supports it.  Likewise, the planning of transport infrastructure needs to take account of the needs of the communities it serves.

Accordingly, in applying the concept of sustainability to transport, the work of the review proceeded on the basis of developing an overarching legislative framework based on integrated and sustainable transport.

## 4 Towards integrated and sustainable transport: determining an aspirational framework for transport legislation

The starting point for the development of an overarching aspirational framework for transport legislation, based on integration and sustainability, was to address the nascent problem identified early in the review, namely the absence of overarching strategic objectives for the transport portfolio in the Transport Act.

A discussion paper was released in 2007 to promote debate and thinking on strategic objectives for transport [9].  It identified a triple bottom line approach to government and decision making based on building a liveable, productive, fair and environmentally sustainable Victoria.  The paper proposed draft objectives for the transport system to be considered for inclusion in transport legislation based on integration and sustainability.  These objectives were drafted from analysis and discussion of the key challenges facing Victoria's transport system (e.g. population growth, ageing, changing travel demands, land use and transport integration, economic growth, environmental sustainability).  The eight draft objectives were: an integrated and co-ordinated system; a safe and secure system; an efficient and reliable system; a system that provides value for money; a system that supports economic growth; an equitable, accessible and socially inclusive system; a healthy system; and an environmentally sensitive system.

Following extensive stakeholder engagement, involving forums, workshops and briefings, the review received 78 submissions in response to the discussion paper.  The results of the stakeholder engagement process were summarised in a comprehensive feedback report [10].

## 4.1 Key themes from stakeholder engagement

There was broad support for the proposed objectives outlined in the discussion paper. However, a key theme from the feedback was that some objectives needed greater clarity and precision in order to be useful, meaningful and a catalyst for changing behaviour and improving the planning and delivery of transport services in Victoria. For example, the objective regarding value for money was seen as being of limited relevance to integration and sustainability unless it was expressed in terms of social, environmental and economic value and therefore balanced within a triple bottom line framework.

Another key theme from the feedback was the need to explicitly define the transport system, in the broadest possible terms, in order to clarify coverage of the objectives. A truly integrated transport system is one that would include the broadest possible definition.

There was also a strong theme about clarifying the extent to which decision makers with the ability to affect transport outcomes should be covered by the framework (e.g. local governments in their capacity as planning or responsible authorities or urban development authorities established under separate pieces of legislation).

In order to have practical relevance, stakeholders suggested the need for legislation to include guidance on the decisions to be the subject of the framework, as well as providing guidance to decision makers on balancing competing objectives and making trade offs between possibly competing objectives.

## 4.2 Possible models for aspirational legislation

Three models emerged for expressing overarching objectives in an aspirational framework. The first model was to specify all objectives in legislation with equal weight and priority. This would provide minimal guidance to decision makers, but would express at a high level multiple objectives needing to be pursued equally by decision makers. The second model would again specify all objectives as a single set, but assign rank to the objectives to reflect their priority. This would provide more guidance to decision makers, but ultimately constrain flexibility and require values judgements to be made as to what is more important (e.g. safety vs. the environment).

The third model involved a hierarchy of three levels, namely a vision and two sets of objectives. The vision would set out a long term goal for transport over the next 20 years based on a broad reading of sustainability. The first level of objectives would specify broad social, economic and environmental outcomes and how the transport system should achieve these outcomes. The second level of objectives would specify transport specific objectives (for example, in relation to safety, efficiency and reliability). This model assumed that the objectives were of equal weight.

Following the extensive review of stakeholder feedback, a policy statement was released in 2009 which set out the government's policy framework for transport [11]. It outlines a vision for the transport system, as well as a set of

transport system objectives and decision making principles for inclusion in legislation.  In doing so, it essentially adapts the third model described above for an aspirational framework.  The integration and sustainability framework has since been embodied in the **Transport Integration Act 2010**.

# 5   The Transport Integration Act 2010

The TIA commenced operation on 1 July 2010.  It represents a watershed in the evolution of transport policy and legislation in Victoria and Australia [12].  It also represents a best practice model for aspirational legislation built on the foundations of sustainability and the triple bottom line.  Key elements of the TIA are described below.

## 5.1  Coverage

The TIA recognises that a 21$^{st}$ century transport system should be conceived and planned as a single system performing multiple tasks rather than separate transport modes.  Accordingly, the TIA seeks to define the transport system broadly including public transport on road and rail, commercial road and rail transport, private motor vehicles, commercial and recreational water transport, walking and cycling.

## 5.2  The policy framework: vision, objectives and decision making principles

The TIA sets out a vision, objectives and principles for transport, making it clear that the transport system needs to be integrated and sustainable - in economic, environmental and social terms - and clearly establishes transport as a triple bottom line issue.  The framework is described below in summary form.

### 5.2.1  Vision
The vision statement is an aspirational statement describing how the transport system relates to broader policy outcomes.  It provides a strategic vision to guide the activities of the transport portfolio, namely: "The Parliament recognises the aspirations of Victorian for an integrated and sustainable transport system that contributes to an inclusive, prosperous and environmentally responsible State" [13].

### 5.2.2  Transport system objectives
The transport system objectives describe the outcomes which will deliver on the vision for an integrated and sustainable transport system.  They are the direct result of applying the concept of sustainable development to the transport sector and respond to the key themes identified by stakeholders as important and relevant to transport.  They are:

- Social and economic inclusion
- Economic prosperity

- Environmental sustainability
- Integration of transport and land use
- Efficiency, coordination and reliability
- Safety and health and wellbeing.

### 5.2.3 Decision making principles

The decision-making principles describe 'process' principles for decision makers to have regard to in delivering on the outcomes for integrated and sustainable transport embodied in the transport system objectives. Again, the principles are derived from the principles of sustainable development and arose from the stakeholder engagement process. They are:

- Principle of integrated decision making
- Principle of triple bottom line assessment
- Principle of equity
- Principle of the transport system user perspective
- Precautionary principle
- Principle of stakeholder engagement and community participation
- Principle of transparency.

### 5.3 Transport bodies

The TIA creates new charters for Victoria's transport agencies and aligns them with the Act's vision, objectives and principles for the transport system. The key transport agencies created under the TIA include the Department of Transport, the Roads Corporation (the State's key Road Agency, known as VicRoads), the Director of Public Transport, V/Line Corporation (a regional rail operator), VicTrack (the legal owner and custodian of transport infrastructure in Victoria), the Director, Transport Safety, the Chief Investigator, Transport Safety and the Port of Melbourne Corporation.

The new charters build sustainability into agencies' objectives and functions, giving them a triple bottom line focus. For example, part of VicRoads' new charter is to "manage the road system in a manner which supports a sustainable Victoria by seeking to increase the share of public transport, walking and cycling trips as a proportion of all transport trips in Victoria" [14].

Transport bodies must have regard to the transport system objectives in exercising their powers and performing its functions under any transport legislation. A transport body must have regard to the decision making principles in making any decisions under any transport legislation.

### 5.4 Integrated transport and land use: interface mechanism

The TIA recognises the importance of non-transport bodies (e.g. the Department of Planning and Community Development and municipal councils acting as planning authorities) in achieving transport outcomes. These 'interface bodies' must apply the TIA's framework when making decisions that are likely to have a

significant impact on the transport system. In this way the TIA reinforces the importance of integrating land use and transport.

## 5.5  Transport planning

A major strategic planning initiative in the TIA is to enshrine a requirement in legislation for the Department of Transport to prepare and periodically revise a transport plan.  The plan is required to include explicit links to the vision, objectives and decision making principles, as well as providing short, medium and long term directions, priorities and actions.  Corporate planning by transport bodies across the portfolio is required to be aligned to the policy framework and consistent with the Department of Transport's strategic priorities.  This is aimed at driving further integration.

## 5.6  Application of the policy framework under the TIA

As described above, the TIA requires that transport bodies and interface bodies "must have regard to" the policy framework in the legislation.  The framework applies to all transport bodies when making decisions, exercising powers or performing functions.  It also applies to 'interface bodies' when making decisions, exercising powers or performing functions that are 'likely to have a significant impact' on the transport system.

   The phrase 'must have regard to' imposes a positive obligation on transport bodies and interface bodies to think about the policy framework in these circumstances.  This obligation is balanced by a discretion to determine the weight to give to each transport system objective and decision making principle. 'Having regard to' does not mean that all of the specified matters must be applied.  A transport body or interface body may elect to give little or no weight to certain objectives or principles in a particular case.  However, the key is to ensure that objectives and principles have been considered.  The most obvious way to do so is to document the thinking behind their decision or action. The extent of documentation is a matter of judgment and common sense in each case.

# 6   Implementation: the key to the policy framework for integrated and sustainable transport

Implementation of legislation is crucial to achieving associated policy outcomes. This can be particularly challenging in relation to an aspirational legislative framework, given that it may require a shift in thinking for those decision making bodies and agencies who are the subject of the framework.   In the context of the TIA, implementation will require transport bodies to conceive, plan and co-ordinate their activities as part of a single integrated system.

## 6.1  Strategy and implementation plans

The TIA requires transport bodies to determine a strategy and implementation plan.  This plan specifies the processes and procedures that a transport body will

put in place to enable the transport body to have regard to the transport system objectives and decision making principles. To this end, it is expected that the plans will detail how the bodies will ensure that the TIA policy framework is embedded in their core business, from policy development through to service delivery. Transport bodies have commenced development of the plans and they are required to be completed and publicly available by 1 July 2011.

## 6.2  The TIA and the planning system in Victoria

One of the key policy outcomes specified in the TIA is achieve better integration between transport and land use planning outcomes. The key planning document in Victoria governing land use planning is called a planning scheme. It sets out a broad range of policy considerations that are relevant to planning permit applications, as well as specifying quite prescriptive requirements in relation to particular land uses for the area that the scheme applies to.

In order to ensure that the requirements of the TIA are taken into consideration by planning authorities, when determining the content of planning schemes, guidance material has been issued to planning authorities by the Minister for Planning in early 2011 [15]. In particular, a Ministerial Direction on strategic assessment of planning scheme amendments has been updated to include the question: "Does the amendment address relevant requirements of the Transport Integration Act 2010?"

Where the amendment is expected to have a significant impact on the transport system, a short assessment against the transport system objectives, the decision making principles and any relevant specified statement of policy principles as set out in the TIA is required to be provided as part of the amendment Other requirements of the Ministerial direction include documenting the weightings given to the objectives and decision making principles as well as keeping a record of a planning authority's full assessment in background documentation for the amendment, in order to demonstrate compliance.

Over time, it is expected that the inclusion of the transport integration framework under the TIA in the requirements for planning scheme amendments and assessments will lead to greater consideration of transport and land use impacts at a strategic planning level. It is hoped that this will ultimately filter down to decision making "on the ground" in relation to planning permit applications that gives greater consideration to the transport infrastructure and service delivery impacts of land use decisions.

## 7  Conclusion

The TIA provides an example of the use of aspirational legislation to help drive change at an institutional level to achieve integrated transport and land use planning outcomes, as well as recognising transport's role in affecting and influencing broader societal outcomes. It is based on an application of the principles of sustainable development and sustainability to transport and is the result of an extensive stakeholder engagement and policy development process.

Ultimately, the success of the framework will depend on appropriate implementation and ongoing review to ensure that it achieves integrated and sustainable transport policy outcomes.

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