

CONTRACTS ON THE FRINGE: THE PROBLEMS OF PROVIDING BUS SERVICES IN NEW URBAN AREAS OF SYDNEY

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INTRODUCTION

The New South Wales (NSW) Government implemented reforms affecting competition in the route bus sector, in the early 1990's. The introduction of five year renewable contracts gives bus operators exclusive rights to provide bus services in defined geographical areas. Operators are also responsible for service development, but must meet minimum service levels, including in low demand periods. The government expects not to subsidise urban route bus services in order to meet these minimum levels of service.

In Sydney the single government owned bus operator (State Transit Authority - STA), and many privately owned companies, provide route bus services. With most of the previous distinctions removed, all operators are treated as commercial service providers. Previously, private operators had to obtain government approval for routes and timetables. The move to a more commercial approach for both private and public operators aims to make service providers more responsive to customer need and to raise levels of service.

Debate continues about further changes, particularly about the renewal of contracts. The NSW Independent Pricing and Regulatory Tribunal favours competitive tendering of contracts every five years. The Tribunal sees this as a way of improving the efficiency of the STA, of further reducing government payments to bus operations and in keeping fare levels as low as possible. Under present arrangements the Department of Transport must renew a contract after every five year period, provided the operator meets service quality requirements. If the operator fails to meet requirements the contract is put to tender. Supporters of these arrangements argue that it ensures the stability of the industry and of the bus services offered (NSW Independent Pricing and Regulatory Tribunal 1996 pp30-32).

The Bus and Coach Association of NSW (BCA) states that privately owned route bus operations have delivered major increases in service standards (Bus and Coach Association NSW 1995). However, there have been some service rationalisations as the State Transit Authority moves to commercial operation (NSW Independent Pricing and Regulatory Tribunal 1996 pp12-13).

The impact of making operators responsible for service development has meant service increases in existing urban areas. However evidence from new urban areas on the fringe of Sydney reveals impediments to service developments.

While the state government retains responsibility for metropolitan-wide urban planning strategies, detailed planning is the responsibility of local government (councils). Integrating bus service development with detailed local urban planning involves consultation between local government and local bus operators. However, recent events in new urban areas on the fringe of Sydney, reveal that this consultation is stifled by controls on competition between route bus operators. These impediments were most evident during the detailed urban

planning of Harrington Park in the outer south west of Sydney.

Urban planning and competition policies aim to produce high bus service levels. If urban planning and competition policy do not complement each other, then poor bus services result.

REGULATION OF THE URBAN ROUTE BUS SECTOR IN NSW

Bus services in NSW are subject to the *Passenger Transport Act, 1990*, and administered by the Department of Transport. The Act provides for the management of competition between route bus operators, through the issuing of contracts.

Contracts cover a defined geographical area, or a specific route, or both. All contract holders have the sole right to provide route bus services to residents within the area of their contract or along the specified route. The only exceptions are the limited number of competing services operating before the commencement of the Act. In these cases both operators retain rights to provide services.

Restricted Competition in Existing Urban Areas

The extent of competition between urban route bus operators in existing urban areas is restricted to the occasions when the Department calls for tenders for a contract area.

The exclusive franchise arrangements exist for two major reasons. The consequence of the previous regulatory system was to protect existing bus operators from competition in their local area (Tranter 1988). The *Passenger Transport Act, 1990*, clarifies this protection, but with the imposition of service quality requirements. Secondly the accepted consequence of "complete deregulation" is that services improve in peak times and reduce dramatically in off-peak times. Subsidised services must operate in off-peak times to ensure a full range of services is available. Both the NSW government and the association representing private operators (the Bus and Coach Association of NSW) reject government subsidisation as a way to improve urban route bus services. The NSW Act considers bus services a natural local monopoly. By protecting the local monopoly, commercial operation of route bus services is profitable without government subsidy. The franchise imposes a reciprocal responsibility on operators to cross-subsidise lower patronage off-peak services from peak service revenue. The service quality standard requires the provision of off-peak services. The exclusive franchise protects revenue, enabling cross-subsidisation to occur.

Competition in New Urban Areas

One reason specified in the Act for varying the area of a contract is the extension of services to new urban areas. However the Department of Transport has stated that it will tender the contract if the proposed new urban area reaches an appropriate size (Institute of Transport Studies 1995). The "Greenfields Policy" that will specify the procedures for contracts in developing urban areas is not yet complete.

The regulation of competition in the urban route bus sector protects exclusive operator rights in existing urban areas and seeks to introduce competition in new urban areas. Operators holding contracts for areas on the urban fringe of Sydney, do not automatically receive extension of exclusive rights to developing areas. The competitive tender process is likely to

oblige the winning operator to provide a level of service above the minimum quality requirements (Institute of Transport Studies 1995). It is Department of Transport policy, for early provision of quality bus services in new urban areas (Department of Transport 1995 p46).

Operators Develop Services and Increase Patronage

The Department of Transport sees its role as promoting policies and providing infrastructure to increase the use of public transport (Department of Transport 1993 p 11). The expectation is that operators with exclusive rights in an area, will undertake service development to increase patronage. Bus services should operate as a business, competing against other transport modes for patronage, driven by the desire for greater profit.

Operators should involve themselves in issues that affect the provision of urban route bus services in local areas. In particular this means consulting with local government on local urban planning matters (NSW Department of Transport 1993 p8).

This integration of service provision and service development is reasonable, perhaps even effective for established urban areas. In established areas bus service development generally involves the fine tuning of service plans based on redevelopment in the area, which is mostly gradual and not as rapid as in outer areas. An issue is whether the contract areas are still suitable as travel patterns change over time. In new urban areas on the fringe of Sydney however, significant problems arise.

THE URBAN FRINGE AND PLANNING FOR ROUTE BUS SERVICES

The urban planning strategy for Sydney and its surrounding region (Department of Planning 1995), calculates that to accommodate projected population growth, at least 170,000 dwellings will be required in new urban areas in outer Sydney between 1991 and 2021. This will account for a third of all new housing construction (Department of Planning 1995 pp81-2). The increases in dwellings will mean over 500,000 people, moving into new urban areas in outer Sydney. This movement will include a major proportion of the total expected population increase for the Sydney Region of 803,700 by the year 2021.

The proportion of people using cars for travel to and from employment in the Sydney Region, is increasing. The lowest use of public transport for the journey to work is in the outer areas of Sydney (Department of Urban Affairs and Planning 1996 pp42-43). The location and form of urban development and population growth is likely to lead to a further deterioration in public transport usage.

The urban planning strategy was developed in conjunction with a transport planning strategy (Department of Transport 1995). A target for the development of Sydney is the integration of land use and transport planning as part of a policy to increase the use of public transport.

Sydney's new urban areas will continue to develop at some distance from railway stations. The government is not planning substantial additions to the heavy rail network in Sydney's outer areas, so bus services will be a very important public transport mode. The Department of Transport expressed the challenge of providing bus services in the new urban areas on the fringe of Sydney, as:

'It is a key aim of integrated land use and transport planning to prevent an entrenched pattern of car dependency in newly developed suburbs. This, however, depends on early introduction of appropriate, reliable and efficient services to new residential areas. The practicalities of new subdivision planning often make the provision of such services difficult...operating viability is also critically related to the staging of development, the provision of related infrastructure, and the provision of an adequate and appropriately designed road network, which facilitates, rather than discourages, bus services' (NSW Department of Transport 1995 p 46)

While the NSW government develops metropolitan wide urban planning strategies, detailed planning of new urban areas is the responsibility of local government (councils). The Department of Transport encourages local government to confer with route bus operators.

'Under the Passenger Transport Act, local bus companies are being encouraged to consult with councils and the local community on bus routes and frequencies. Similarly, councils are being asked to take an active role in the promotion and provision of public passenger transport through consultations with all transport providers, including private bus operators, the State Transit Authority [which runs Sydney Buses]..., the Department of Transport...For example, councils and local public transport operators should consult with each other on...the development of new release areas, to ensure that road design and community facilities cater for bus and that buses are provided right from the early stages of these developments.' (Department of Transport 1993 p8).

In new release urban areas consultation between the local bus company, council and the Department of Transport breaks down due to inconsistencies between controls on competition and responsibilities for bus service planning. What happened with bus service planning at Harrington Park is an excellent example of these problems.

PROBLEMS OF BUS SERVICE PROVISION IN NEW URBAN AREAS

Harrington Park

Harrington Park is in the northwest portion of a major land release area in the local government area of Camden. See *Figures 1* and *2*. The Camden local government area is west of the regional centre of Campbelltown on the south western outskirts of Sydney. Its eastern edge is the site of rapid and extensive residential and associated retail development.

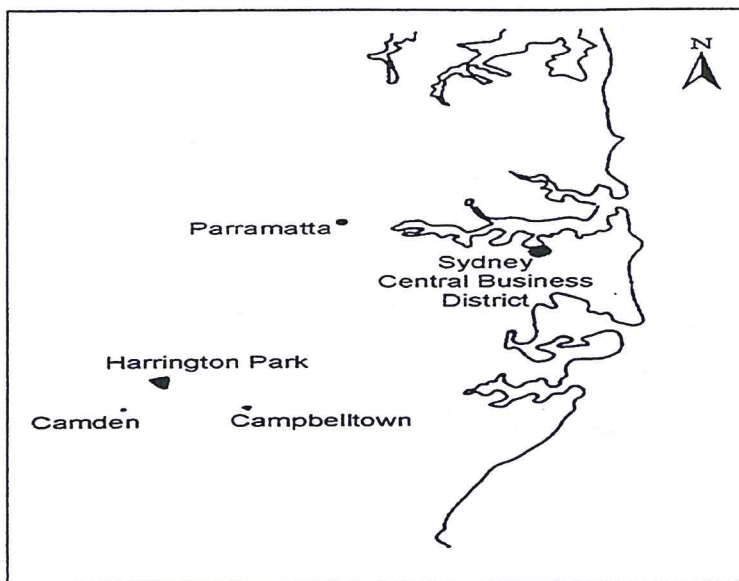


Figure 1: Location of Harrington Park in the Sydney Region

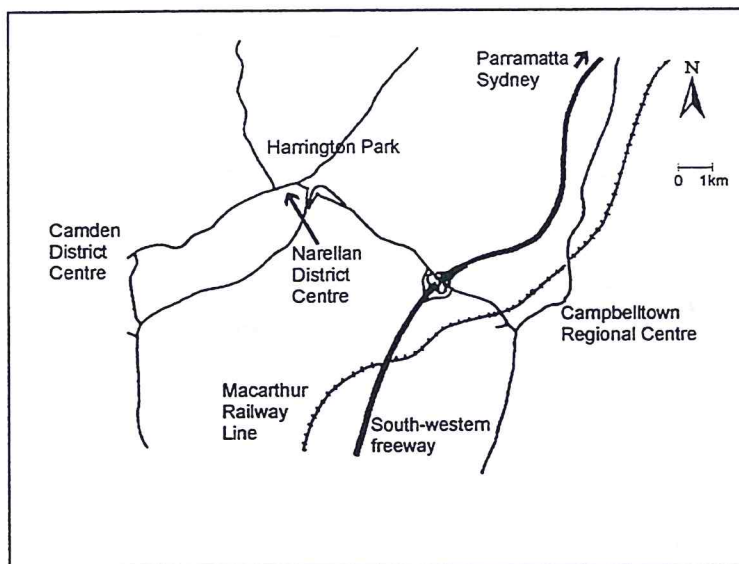


Figure 2: Location of Harrington Park in outer south western Sydney

Figures 3 and 4 show some of the proposed bus route plans for Harrington Park. Figure 3 shows a plan developed chiefly by a local bus company - Busways. Busways believed that this plan was agreed between Council staff, the developer and Busways. This initial plan was considered viable with respect to the other factors that comprise an urban plan. Arriving at this agreement was part of the process of detailed urban planning for Harrington Park that concludes with Council approving a Development Control Plan (DCP). Figure 4 shows that the DCP when finally approved, defined a bus route significantly different and inferior.

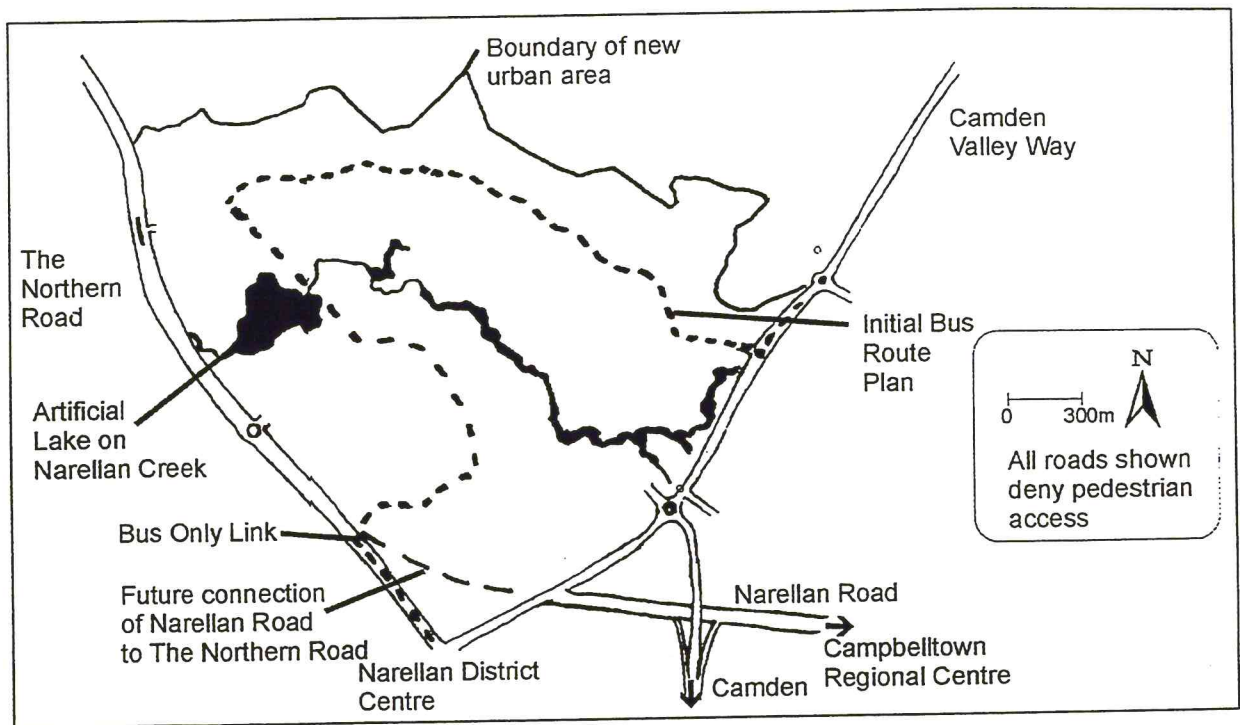


Figure 3: Initial Bus Route Plan for Harrington Park

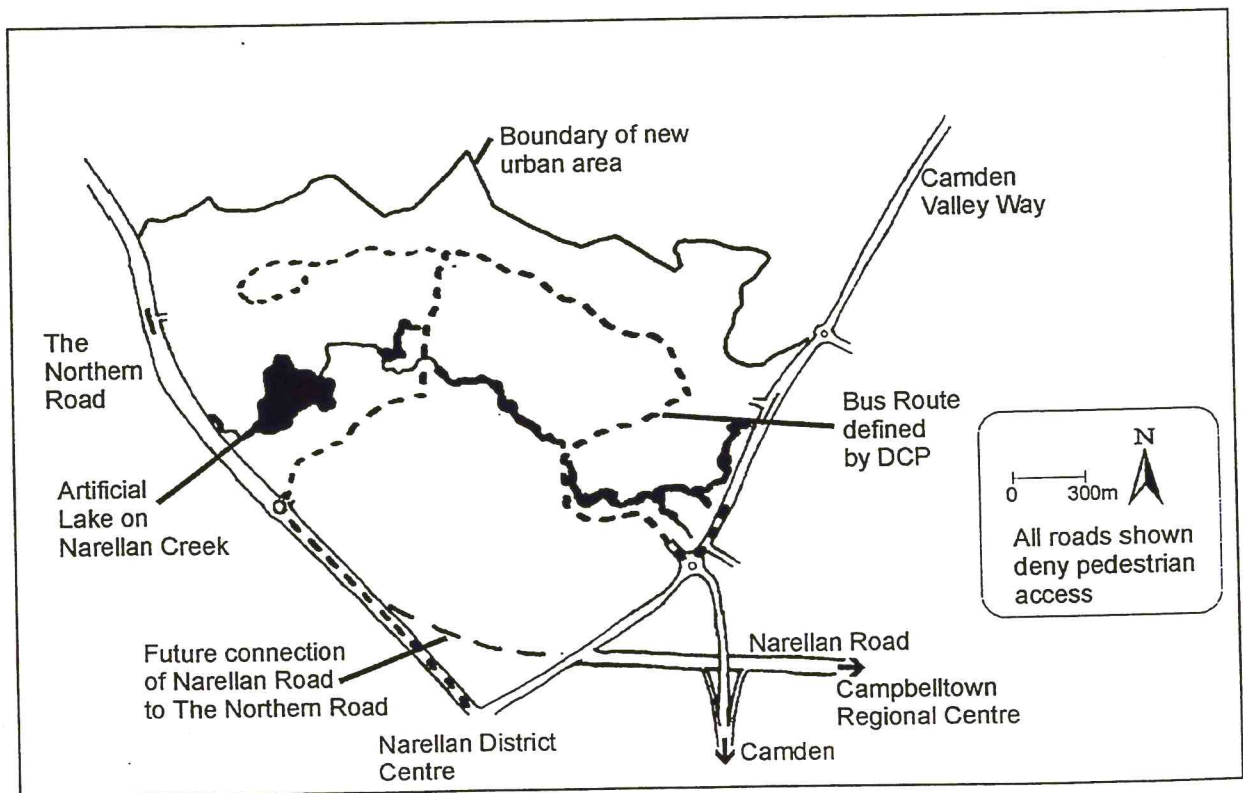


Figure 4: Final Bus Route for Harrington Park Defined by the Development Control Plan

The critical facilities missing in the final plan (*Figure 4*) are the provision of a bus only link into the southern end of the estate; an optimum location of the bridge across the artificial lake, and the eastern access point to the estate. The initial bus route plan (*Figure 3*) provided easy walking distances from residences to future bus services. The final plan defines a bus route that is less direct, causes longer trip times and forces buses to use longer sections of arterial roads, which are fenced to exclude pedestrian access. The bus route defined by the final plan is 6.7km, 1.9km longer than in the initial plan. It would use almost 40% more bus hours than the initial (*Figure 3*) route.

The same resources applied to bus services along the initial route would provide much increased frequency of service over what could be achieved along the final route. As an indication the time between services in the peak and daytime period would reduce from 20 minutes to 15 minutes. In the off-peak the reduction in time between services would be from 30 minutes to 20 minutes. The frequency of bus services is a major factor in the choice to use bus services (Bureau of Transport Economics 1976) and is a major part of the minimum requirements specified in the Passenger Transport Act (s.20). Detailed local planning has a powerful effect on the level of bus services it is possible for an operator to achieve.

Problems in Local Planning

Busways is party to a contract with the Department of Transport that covers the southern section of Harrington Park. The remainder of Harrington Park is not subject to a bus service contract, except that another operator claims a line of route along the western boundary of Harrington Park (The Northern Road).

Prior to finalisation of Camden Council's Development Control Plan, housing construction commenced. When the first houses neared completion, Busways applied to Council to operate bus services in Harrington Park. The approval of councils to use roads for a bus service route is a requirement of contracts with the Department of Transport. Councils evaluate the strength and width of the road to carry buses safely. The roads in question were planned (in consultation with Busways) and constructed as bus route roads. Busways believed that the first stage of Harrington Park was within the geographical boundaries set by its contract. Camden Council was unable to get a clarification of this from the Department of Transport and felt unable to give approval for buses to operate on the roads identified by Busways.

The Department maintained that it could not declare any operator had the right to operate services in the whole of Harrington Park. The area was subject to tendering in the future after finalisation of the "Greenfields Policy".

Council was adamant that it should give approval to use roads in Harrington Park only to the operator designated by the Department of Transport. There was no designated operator. This diminished Busways' capacity to negotiate with Council over urban planning matters. As matters progressed there were indications that Council may alter the initial bus service plan in a way that would disadvantage bus service provision. Busways attempted to have the Department of Transport negotiate with Council over the finalisation of the Development Control Plan. The Department judged that Busways was motivated less by concern that detailed planning facilitate bus services, and more by a desire to be the designated operator

for the whole of Harrington Park. The Department took no decisive action regarding detailed planning for Harrington Park.

Busways established bus services into the first stage of Harrington Park on 26 July 1995. At this time several homes were already occupied. The Department of Transport prosecuted Busways for operating outside its contract area and on roads not approved by Council. Busways was initially found guilty for operating outside the limits set by its contract. The issue of running services on roads not approved by Council was not mentioned in the original summons and was not considered by the court.

On 22 January 1996 Council finally approved the DCP. It altered the location of the bridge over the artificial lake and the eastern access on Camden Valley Way. On 8 July 1996 Council amended the DCP to remove the bus only southern access. Council did not send the application by the developer to delete the bus only access to Busways for comment, nor it appears to the Department of Transport. The report prepared by Council officers highlighted the possibilities of the developer challenging a decision of Council influenced by a submission from a bus operator, which may not ever operate services in the area (Camden Council 1996). Council was however still within its rights to refuse the application due to its adverse impact on public transport, but agreed with the developer.

Busways currently legally operates bus services to Harrington Park using alternative roads that are without dispute within its contract area. These roads were never planned to take a 50-seat bus and as a consequence a mini-bus is being used. The Department of Transport is (after requests from Busways) negotiating with Council to restore the bus only access, but is not hopeful of its reinstatement.

Busways appealed against its conviction. The judge quashed the conviction finding that the initial services ran within Busways contract area.

Putting aside the determined, perhaps even precipitous actions taken by parties in this case, the general point is the confusion created by inconsistency between competition policy and public transport planning aims in new urban areas.

It should be possible to both, plan new urban areas to facilitate bus services, as well as later ensure the actual provision of superior levels of service. The public transport planning aim is to make the operator responsible for local detailed planning that affects bus services. However the critical detailed planning in new urban areas happens well before issuing contracts, excluding operator involvement. The Department of Transport concentrates on the development of transport strategies for the entire Sydney region. The detailed local planning for bus services in developing urban areas falls to councils and developers who have insufficient expertise. Not enough emphasis is given to ensuring detailed urban planning facilitates bus services and no party in the planning process has clear responsibility for this outcome.

Other Examples of Bus Services in New Fringe Urban Areas

The same problems have arisen in other developing areas, but the outcomes have been slightly different.

In a major new urban area known as the Parklea Release Area, Busways has consulted with the local council and some significant amendments to the Development Control Plan will facilitate the provision of bus services (Fleming and Pund 1996). A proportion of the Release Area is within an existing contract area. The local council was not overly concerned about whether Busways was the designated operator for the entire Parklea Release Area.

However delivering bus services to residents at the time they occupied their new homes, met with only partial success in the Parklea Release Area. In one suburb known as Glenwood Park initial development was within 400m of a specified route in a contract issued to Busways. The Department of Transport permitted Busways to extend services further within the 400m buffer around its specified route. The Department has only once allowed extension of services using this interpretation of the Act. Busways now provides bus services in Glenwood Park beyond 400m of its specified route, but only on the basis that it does not imply the granting of exclusive rights. This allows the Department to put the area up for tender in the future.

Kings Ridge is an isolated suburban development in the Parklea Release Area. Unlike Glenwood Park two nearby operators applied to run bus services to this suburb. Residents have been without bus services for two years and this will continue until finalisation of the "Greenfields Policy". The operators have extended services to the maximum limit permissible under their contracts in order to provide a service (involving a long walk) and stake a claim in any future tendering process.

In the Warnervale Release Area north of Sydney, Busways operates bus services to the initial stages of a large residential development provided it accepts that exclusive rights do not accrue. This action by the Department of Transport is a rather deft solution to the problem of establishing service to new residential areas. However the pattern of its use indicates that it is only viable where no objections are likely from any other bus operator.

IMPLICATIONS

Planning New Urban Areas

There are serious problems of timing in regard to new urban areas. The mechanism for deciding the appropriate operator in a new urban area occurs after finalising detailed local planning. The decisions that have the greatest effect on the level of service that is possible, occur before any tender process seeks to choose the operator who will supply the highest level of service.

The *Passenger Transport Act* is primarily about managing competition between service providers and the levels of services provided. It may be possible to contort the provisions of the Act to nominate an operator to undertake the planning of a proposed new urban area. However the bus operator may not be willing to spend too much time planning bus routes in a new area, free of charge, without some guarantee of operating those services in the future. The operator may influence the planning of the new area to advantage their own future service provision when tenders are called. Conflict of interest may also prevent the industry association (BCA) from undertaking this role.

Developers and councils tend towards simplistic bus route planning in new areas, without fully understanding the importance of efficient route networks, or the intricacies of service development. Local government requires assistance. The Department of Transport has strategies to encourage local government in this role (Department of Transport 1995 p68). They will have only long term effects when implemented, but are part of the solution.

The most obvious immediate action would be for the Department of Transport to become involved in detailed planning for new urban areas. Again however the level of expertise is questionable. The Department's withdrawal from this area since the advent of the *Passenger Transport Act* has meant the loss of skilled people.

Provision of Services to the First Residents

Most new urban areas of a size for one or two new contracts, will develop over ten or fifteen years, twice or three times the length of a contract. Small areas of new urban development are only viable for bus service operation by extending an existing route without inconveniencing existing customers, or where the operator is willing to take a loss to develop patronage in the long term. It becomes very difficult for the Department of Transport to ensure immediate service provision to isolated new urban areas (e.g. Kings Ridge), unless controls are placed on the staging of developments. In this case continuing exclusive rights to operate might be a necessary precondition for many operators.

The inaccuracy of projections about when new urban areas will develop means that it is extremely difficult to issue a five year contract assuming development proceeds as shown in the DCP and the projected population increases eventuate. The operator may never have to provide the service they outlined in their tender. It would be possible to circumvent the system by offering very high services in the likelihood that they will never be required. Without the roads to provide the service the operator cannot have breached undertakings. The exclusive rights once granted in the contract are difficult to withdraw. In subsequent contracts there may be no requirement to provide other than a minimal level of service - it is difficult to force the operator to hold to an agreement in a previous contract period. The Department is correct, therefore, to issue contracts only when the population reaches a required threshold. However services to initial residents remain a difficulty.

The Department does not want to issue contracts for small areas that may lead to fragmented inefficient and ultimately poor quality bus services over an extended area.

The Department has granted approval to operate service outside contract areas so long as the operator agreed that no exclusive rights accrue. This practice is only viable where there is no competition to run the services. Where service providers compete the advantage of operating without guarantee of future exclusive rights is less likely to lead to any particular operator having control of the area in the long term.

It may be necessary for the Department to amend its policy and pay for the provision of services in these circumstances. However choosing which operator to ask to provide the service may be similar to calling for tenders. Again there is reason for delay that leaves these areas without bus services.

The Tender Process and Existing Contract Boundaries

The integration of bus services in new urban areas with services to existing urban areas can provide high initial service levels to the new area and improved levels of service to existing areas. Tendering new urban areas may not necessarily produce this result. If the operator that wins the tender is not the holder of a contract for the adjoining areas, then this most likely precludes service integration.

On the other hand the most likely winners in the tender process are adjoining operators. They are likely to have depots in the area, which will reduce operating costs and they are likely to be able to provide higher levels of service due to integration with existing adjoining areas. The tendering process may not produce a result different from giving the adjoining operator an extended area of operation.

Allowing operators to provide services in new urban areas without the guarantee of continuing exclusive rights may give the operator an advantage in the tendering process. The Department seems to recognise this and avoids the interim solution where two operators compete.

CONCLUSION

Reforms affecting competition between urban route bus operators in NSW have produced service improvements in existing urban areas, while maintaining stability within the sector.

It is critical to recognise that in NSW the regulation of competition also nominates the operator responsible to provide input to local urban planning decisions. The Department of Transport expects bus operators in existing urban areas to negotiate with councils over local urban planning decisions. This should improve the quality and profitability of their services. Bus service planning in new areas breaks down because these fringe areas are not in contracted areas.

In NSW the increased use of public transport is an aim of government. Urban planning and competition policy are two related means of achieving this aim. Detailed local planning has a large impact on an operator's ability to provide high service levels at least cost. In new urban areas previous urban development is not a major constraint on local urban planning, providing an opportunity to facilitate quality bus services. At the point where knowledge of bus service planning is vital, controls on competition between route bus operators stifle this input. No one remains in new fringe urban areas, to advocate for local planning decisions that facilitate quality bus services.

The lack of understanding of the requirements for providing quality bus services among councils, developers and perhaps even the Department of Transport, is also a major concern. An obvious immediate solution is for the Department of Transport to become involved in detailed local planning for new release areas. To overcome any expertise problems in the short term consultants could be employed, not to save money, but to ensure that the best detailed planning solutions are found.

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