Attachment 3

Transport Funding Agreements Policy

Strategy and Planning

Auckland Transport
An Auckland Council Organisation

1. Definitions

Acronym	Description
AC	Auckland Council
AT	Auckland Transport
BCR	Benefit to cost ratio
CMPs	Corridor Management Plans
DA	Development agreement subject to provisions in the LGA 2002 Amendment Act 2014
DCs	Development contributions (under the Local Government Act 2002)
GPS	Government policy statement on land transport funding
ITA	Integrated Transport Assessment
ITP	Auckland Integrated Transport Plan
LTMA	Land Transport Management Act 2003
LTP	Auckland Council Long-term plan
NLTP	National Land Transport Programme
NZTA	New Zealand Transport Agency
RLTP	Regional Land Transport Plan
RMA	Resource Management Act 1991
TFAs	Transport Funding Agreements
PAUP	Proposed Auckland Unitary Plan (Sept 2013)

2. Introduction

This policy provides guidance on how Auckland Transport (AT) will assess proposals received from the private sector seeking to change the order of projects or services listed in the LTP or to introduce completely new projects.

AT's funding is set by Auckland Council in the council's Long Term Plan (LTP) and/or Annual Plan. Subject to existing funding constraints, AT may enter into a contract called a Transport Funding Agreement (TFA) with private parties to enable the delivery of transport infrastructure and services identified in the ITP and funded within the LTP to ensure that the financial costs of new transport infrastructure and services are met by the appropriate parties. TFAs will usually arise in the context of processes under the Resource Management Act 1991 (RMA). The Proposed Auckland Unitary Plan (PAUP) requires that Integrated Transport Assessments (ITAs) are prepared to identify the extent of works required to avoid, remedy or mitigate transport effects of a particular development[1]. Those works may, or may not, form part of a developer's responsibility to mitigate development effects and may or may not be in current funding plans under the Long Term Plan (LTP) or Regional Land Transport Plan (RLTP).

This policy recognises that funding may be required separate from, and additional to the costs of infrastructure required to be provided by the developer under relevant statutory consents, and any development contributions levied by the council. For example, works which achieve a greater Level of Service than strictly required by a development. This approach is consistent with Environment Court and

[1] ITA's are produced at the developer's expense and identify mitigation measures to address potential effects on the surrounding transport network based on modelling of traffic generation levels by mode share attributable to a proposed development and the wider area. Information on the costs and benefits (the public/private 'split') of a proposed transport proejct/service is expected to be provided as part of an ITA as required by AT's *Integrated Transport Assessment Guidelines.*

Supreme Court case law which stipulates that developers may only be required to provide infrastructure where they are directly creating an impact, or where a financial contribution is required, that this is relative to the level of impact created by their development.[2]

The New Zealand Transport Agency (NZTA) operates a similar process to the TFA policy under its Planning and Investment Framework. Auckland Council also has a policy guiding its provision of non-transport infrastructure or services in similar circumstances (i.e. for parks or stormwater infrastructure associated with private development).

Auckland Transport and Auckland Council are currently reviewing the respective approaches to develop a consistent whole of council approach .This policy may need to be amended to respond to that review.

Sufficient lead-in time is needed for AT to assess its contribution to any new transport infrastructure or service associated with private sector development and for inclusion of any necessary funding provision in the next ITP/RLTP and to be approved for funding in the Auckland Council LTP or Annual Plan.

Developers wishing to partner with AT to integrate or synchronise new transport infrastructure or services with developments need to engage with AT as early as possible. This will ensure adequate information is produced for AT to assess whether the new transport infrastructure or service provides an appropriate partnering opportunity and the nature of AT's contribution to the delivery of the infrastructure or service including whether it will contribute funding for the required transport infrastructure or services. In some situations AT may have already identified the need for the infrastructure or service, and the proposed development may bring the work forward or otherwise make changes to AT's programming. Consideration will need to be given to whether bringing forward the project displaces an existing project or whether third party contributions or other factors mean that AT will remain within budget for the relevant financial year.

AT may deliver the necessary works with the developer covering the entire cost or make an agreed contribution towards it. Alternatively, the works may be delivered by a developer to an agreed standard, with AT paying an agreed contribution to reflect the assessed benefit to the wider transport network.

3. Purpose and Scope

AT may agree to enter into a TFA with private landowners and other parties to deliver:

Type of projects:

Transport infrastructure (capital expenditure):

- roading, cycleway, or walkway connections
- public transport stations, wharves or park and ride facilities
- parking buildings[3]

Transport services (operational expenditure):

- provision of bus, rail or ferry services
- travel planning programmes aimed at promoting alternatives to road travel (e.g. In new large-scale industrial or commercial developments)

[2] *Waitakere CC v Estate Homes Ltd [2007] 2 NZLR 149 (SC) & Magsons Hardware Ltd v Auckland Council [2012) (EC)*

[3] *It is noted that s591(1)(a) of the Local Government Act 1974 would appear to prevent Auckland Transport from acquiring land or building parking buildings or transport stations. In any instance where parking or transport stations are contemplated the Council would need to be party to any agreement.*

- road maintenance or traffic management services during land development or building construction activities

The above projects may be required to mitigate the effects of development where the mitigation obligation is not the sole responsibility of the developer or to improve Levels of Service above that proposed by the developer.

4. Auckland Transport's strategic direction

The organisation's current long-term transport programme is set out in the ITP 2012-41. Medium term priorities are included in the RLTP 2012-15 and funded in the council's Long-term Plan (LTP 2015-25). The organisation's transport investment programme is guided by the Auckland Plan development strategy and transport performance targets; and by the Government's policy statement (GPS) on national land transport objectives.

The ITP recognises the funding gap between the 30 year ITP and the programme of projects with committed funding in the LTP. AT's investment programme is required to align with the pattern of growth envisaged in the AP, which broadly includes urban intensification and staged release of greenfield land within a defined rural-urban boundary (RUB) that delineates the future metropolitan urban area to 2040.

The organisation's current priorities are focussed on existing transport networks, driving public transport patronage, and improving safety or degraded levels of service. A significant proportion of capital expenditure is utilised for the essential renewal of existing assets. Accordingly, there is very limited capacity for AT to fund unplanned additions to roading or public transport networks or services over the next 10 years unless new funding sources are found.

However, opportunities may arise that enable AT to enter into agreements to deliver growth related projects on a case by case basis.[4]

5. Principles

AT will apply the following key principles in its assessment of any partnering opportunity to enter into a TFA. The partnering proposal:

a) supports and enables Auckland Plan priorities

b) is consistent with the organisation's strategic direction as outlined in the ITP and the 'one system' approach [Link to ITP]

c) integrates with the assessment and prioritisation process used to develop the ITP and the Long Term Plan 2012-22 (LTP)

d) takes into account NZTA Planning and Investment principles applying to similar circumstances[5] [Link to NZTA policy]

e) is compatible with relevant policy approaches adopted by the council (eg. Infrastructure Funding Agreements)

[4] For example, budgeted spending may not be tracking as quickly as envisaged in any given year due to consenting delays etc.

[5] NZTA's policy notes that the transport effects of a development should be avoided in the first instance or alternatively be remedied or mitigated within the site where the development occurs. From time to time, this may not be possible and mitigation works may be required on a state highway or local road to manage the effects of a development. NZTA has regard to a variety of matters including the developer's duty to mitigate transport effects and current and projected traffic levels on roads around the site. NZTA will only enter into cost sharing agreements for works that have wider network benefits beyond the development.

f) integrates with other transport infrastructure provider programmes (NZTA and Kiwirail)

g) complies with legal requirements

h) takes into account the relative private and public benefits of providing the transport infrastructure, service or activity [Insert link to ITA Guidelines]

i) takes into account NZTA approved funding

j) recognises that the private sector partner contributions are additional to development contributions levied by the council, and on-site infrastructure required to be provided at the developer's cost under relevant statutory consents. [Link to DC policy]

k) is assessed consistently with other partnering proposal assessments

l) maximises the public benefits and commercial outcomes for AT where appropriate.

6. Auckland Transport's prioritisation process

Any new proposed infrastructure or service must be assessed against existing priorities under AT's prioritisation process. All projects within the RLTP programme are prioritised under a seven-layer prioritisation framework to guide the allocation of AT's capital and operational budget (refer **Attachment 1).**

The current prioritisation process is based on four priority focus areas from the AP:

1. support greater integration between land use and transport
2. improve the efficiency and effectiveness of the region's transport networks
3. make best use of the existing transport system
4. improve transport safety and reduce the adverse impacts from transport on the surrounding environment.

Non-discretionary activities are given first call on available funding; they include all projects and activities which are already committed to by contract or legal agreement, existing bus, train and rail services and essential maintenance and renewals. Non-discretionary activities account for approximately two thirds of the total value of expenditure in the RLTP.

'Discretionary activities' may include new proposals for organisational expenditure generated through tactical plans[6], high level strategies such as the Parking Strategy or Council plans or strategies. All discretionary activities are assessed for priority through the course of the RLTP and LTP processes.

Discretionary activities are ranked within each activity class, based on three criteria:

1. the **strategic fit** of the issue or problem being addressed – how well the project scores against the seven step prioritisation process outlined in the ITP.
2. the **effectiveness** of the proposed solution - in addressing the issue identified in the strategic fit criteria and whether a thorough investigation of potential solutions has been undertaken
3. the **economic efficiency** (or benefit/cost ratio, BCR) of the proposed solution

Projects are given a high, medium or low ranking on each of the above criteria. A new proposed project or service would need to be ranked as high or medium 'strategic fit' for it to proceed through the prioritisation process. It would then need to achieve high or medium rankings on the other two criteria in order to be prioritised above an existing discretionary project in the RLTP. In assessing a project's economic

[6] Examples include Corridor Management Plans or the Takapuna Centre Based Transport study.

efficiency AT will take into account the effective cost for AT by netting off any proposed private funding contribution.

In assessing any proposal to change the timing of a project listed in the ITP/LTP, AT has developed criteria to ensure that projects are assessed in a fair and consistent manner (refer **Attachment 2)**. A proposal would need to be one of the priority areas listed in those criteria in order for the project to be brought forward. There would also need to be available budget in that year or both AT/AC would need to agree to displace an existing project.

NZTA has updated its investment assessment framework (IAF, September 2014[7]), to give effect to changes signalled in the draft Government Policy Statement on Land Transport for 2015/16-2024/25. The new IAF will be used to assess land transport activities priority for NZTA funding and inclusion in RLTPs, as part of the development and delivery of the 2015-18 NLTP.

7. Process for entering into a TFA

A high level overview of the steps required for making a decision in response to funding requests for development related transport proposals is shown in **Attachment 3**. The diagram indicates the starting point for AT's assessment is whether or not the project or service is already in the LTP/RLTP.

Where the partnering proposal relates to a transport infrastructure project or service that is included in the LTP and satisfies the key principles above, funding for the project or service may be brought forward to enable delivery subject to the developer entering into a TFA on acceptable terms to AT. The developer will be expected to meet all additional costs to AT of bringing forward a project or service (including increased interest costs or costs associated with displacing an existing project).

AT may contribute to cost sharing with developers when works intended to mitigate the effects of a specific development will also provide additional benefits for users of the wider transport network. In cases where the benefits will be to a readily identifiable geographic area, AC may fund additional transport capacity and put in place measures to recover that funding from private landowners over time (e.g through an encumbrance on land titles or through special funding areas for Development Contributions). Such mechanisms would be established by the Auckland Council as our funder, with AT's role being to deliver infrastructure or services, or to distribute funds given to it for that particular purpose.

Where a project or service is not included in the LTP the proposal will be assessed under the ITP prioritisation process to determine its strategic fit, effectiveness and economic efficiency, and the relative public and private benefits and ranking relative to approved transport projects or services within the LTP (refer priority criteria in **Attachment 2**). Projects with sufficient priority may be allocated funding within the current LTP or Annual Plan as appropriate.

It should be noted that the approval of Council may be needed in some instances.[8]

8. TFA standard terms and conditions

The following matters will be considered for inclusion as standard terms and conditions in TFAs:

[7] Refer www.pikb.co.nz/assessment-framework/)

[8] Standard financial delegations will apply as per CCO Funding principles

A) TFAs where AT is a part or full funder and is the delivery agent

i. Express acknowledgement that a pre-requisite for AT to commit funding to a transport project/service is that the project or service be incorporated in the RLTP and LTP, which are both subject to statutory processes and timeframes (under the Land Transport Management Act and Local Government Act respectively).

ii. Reference to relevant Auckland Council policies such as the CCO funding principles[9] which limit AT's discretion to alter the timing or funding of projects incorporated in the LTP, and prescribe circumstances requiring shareholder engagement or approval.

iii. Reference to any other statutory dependencies including the Land Transport Management Act, Resource Management Act or other statutory processes, including:

   - Clarification that a TFA is separate from and not subject to the 'development agreement' provisions of the LGA[10]
   - Acknowledgment that agreed funding contributions from a developer are separate from any development contributions or any financial contribution condition on a resource consent[11] in relation to the same development, payable to Auckland Council
   - Acknowledgement of AT's independent statutory functions as a requiring authority under the RMA and that the fact of entering into the agreement does not oblige AT to progress any particular project if it is not satisfied in its capacity as a requiring authority to do so[12].

iv. For large-scale projects ATs funding contribution and/or delivery of the project may be contingent on a timeline for land acquisition, design, and construction that requires developer's payments to be made in advance of AT incurring expenditure over the course of project delivery.

v. For significant projects ATs funding contribution and delivery may be contingent on milestones being reached (such as minimum levels of building development or traffic volumes being reached in a defined area).

B) TFAs where AT is a part or full funder and another party is the delivery agent:

If a capital project is deemed to be appropriate for the developer to deliver rather than AT, and requires part-funding or full-funding from AT, the following matters will be considered in the TFA:

i. Acknowledgement that AT requires sufficient lead time before the project is commissioned in order to confirm funding provision in the relevant LTP/Annual Plan. AT will normally require at least six months advance notice of intent to commence design or construction work so that AT can confirm availability of funding from within the current year's budget, or otherwise indicate when it will be in a position to commit funding.

ii. For significant funding contribution AT's agreement may be contingent on milestones being reached (such as minimum levels of building development or traffic volumes being reached in a defined area).

[9] Refer Auckland Council Shareholders Expectations Guide, July 2013 pp14-15. Funding of new projects not included in an approved asset management plan, the LTP/Annual Plan, that are seeking to (even in part) improve service levels, or otherwise over $1 million operating expenditure or $2 million capital expenditure must be approved by council following the submission of an investment proposal.
[10] The Local Government Act 2002 Amendment Act 2014, s207 provides for 'Development Agreements (DAs)' which are intended to encourage private funding and delivery of infrastructure as an alternative to council provision, and as a substitute for paying development contributions levied by the council.
[11] Imposed by the council under Section 108(2)(a) of the RMA
[12] AT may require the developer to contribute funding for a detailed assessment of any proposed works to be subject to a Notice of Requirement (NOR).

iii. Compliance with AT’s procurement process or otherwise a ‘value for money’ approach that provides for independent review of contract terms and risk.

iv. Compliance with ATs Code of Practice/Transport Design Manual in relation to design specifications so as to manage consequential operating costs.

v. Delivery partner to be held responsible for delivering a work/service to specified standards, not to a fixed monetary value.

In considering a TFA, AT will take into account the factors outlined in Table 1 (following page) for calculating the amount of contribution toward a new transport project or activity:

Table 1: Auckland Transport financial considerations in the TFA assessment process

Option	Process	Financial consideration
A) Proposed transport infrastructure project, activity or service <u>IS</u> included in the LTP	a. Project, activity or service's capital and operational expenditure costs in line with budget provision in LTP but not timing	• Allowance for debt servicing costs incurred if a planned capital project or service is advanced ahead of the LTP's scheduled timing. An amendment to the Annual Plan will be required.
	b. Project, activity or service's capital and operational expenditure costs greater than provision in LTP	• Developer to meet all additional costs including for the subject project/service, and any additional costs expected to be incurred by AT if it shifts the timing of other projects from the LTP to accommodate a lower priority project[13] OR • Project, activity or service to be reassessed under the ITP prioritisation process, and potentially included in the Annual Plan for that year
B) Proposed transport infrastructure project, activity or service <u>IS NOT</u> included in the LTP	a. Where the proposal is assessed as Low Strategic Fit AT will not contribute funding	• 100% capital funding by the developer • AT may seek a fixed sum contribution or annual payments from the developer for a finite period of time for on-going costs of operation, maintenance and depreciation of a new transport asset or service
	b. For proposals with medium or high strategic fit and effectiveness, proceed to assess BCR (including capital and operational expenditure costs) against other discretionary projects, activities or services. Identify any implications for AT's role as a requiring authority and whether	• AT may include the project in the Annual Plan for that year. AT's maximum contribution will be based on assessment of benefits for the wider transport network. If the assessment of private and public benefit of a project or service suggests that private benefits disproportionately exceed the public benefit, AT may

[13] For example if project x is displaced by project y and delayed for 3 years, AT may seek to recover the projected increase in design and build costs for project x from the developer as a funding contribution to project y. Note, any such agreed funding is separate from any DCs associated with the same project in the council's DCs policy.

	the project should be included in the Council’s DCs policy as a project subject to development contributions.	propose that the developer bear the whole capital cost • AT may seek a fixed sum contribution or annual payments from the developer for a finite period of time for on-going costs of operation, maintenance and depreciation of a new transport asset or service • In ranking discretionary projects/services AT will take account of the effective BCR for AT (the BCRAT)by excluding the development contributions component as well as any additional developer agreed-funding, from the calculation of project costs[14]. • Where AT assumes initial funding responsibility for a project, this would only be on the basis that repayment is secure. Auckland Council is currently considering options such as registering encumbrances on land titles where private agreements are entered into to deliver infrastructure to secure repayment. Other options include special funding areas based on either development contributions or rates. • Where the projected transport benefits of a proposed project/service are subject to significant uncertainty AT may seek to manage its funding investment risk by the developer assuming initial financial responsibility for the project/service with AT reimbursement subject to key milestones being met (e.g. minimum levels of building development or traffic volumes being reached in a defined area).

[14] For example, project X overall may have a lower BCR than project Y, but once developer funding is taken into account it’s BCR for AT may exceed project Y.

9. Monitoring and Review

This policy shall be reviewed as part of the three year review cycle aligned to the LTP.

10. Document Status

Owner (contact for updates, clarity etc.)	Scott Macarthur and Don Munro	Ext: Email :	
Responsible department	Strategy and Planning		
Stakeholders for consultation	NZTA Auckland Council		
Principle users	Capital Development Division Operations Division Strategy & Planning		
Authorised by:	Peter Clark		
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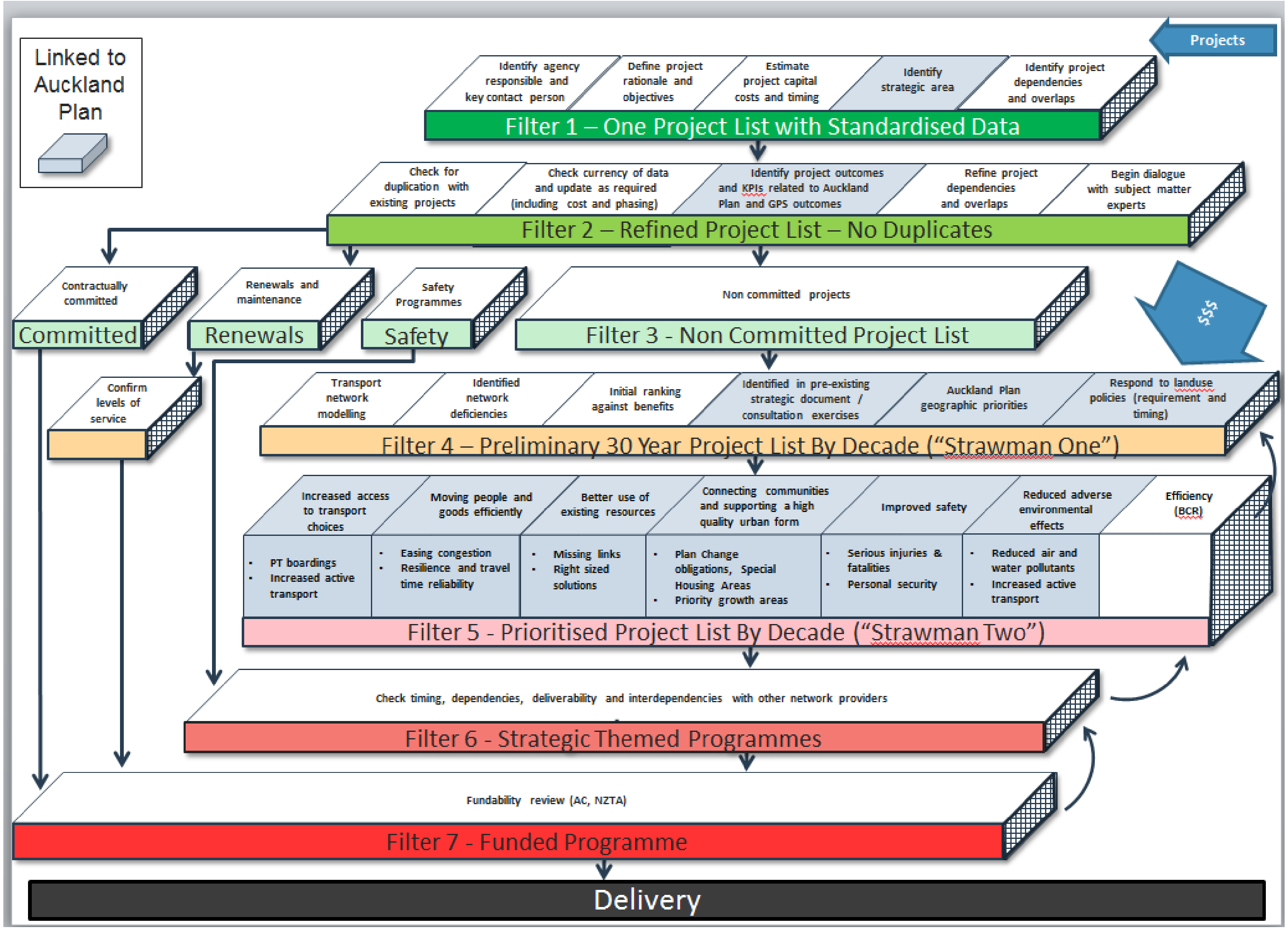
Attachment 1: Auckland Transport's ITP prioritisation process

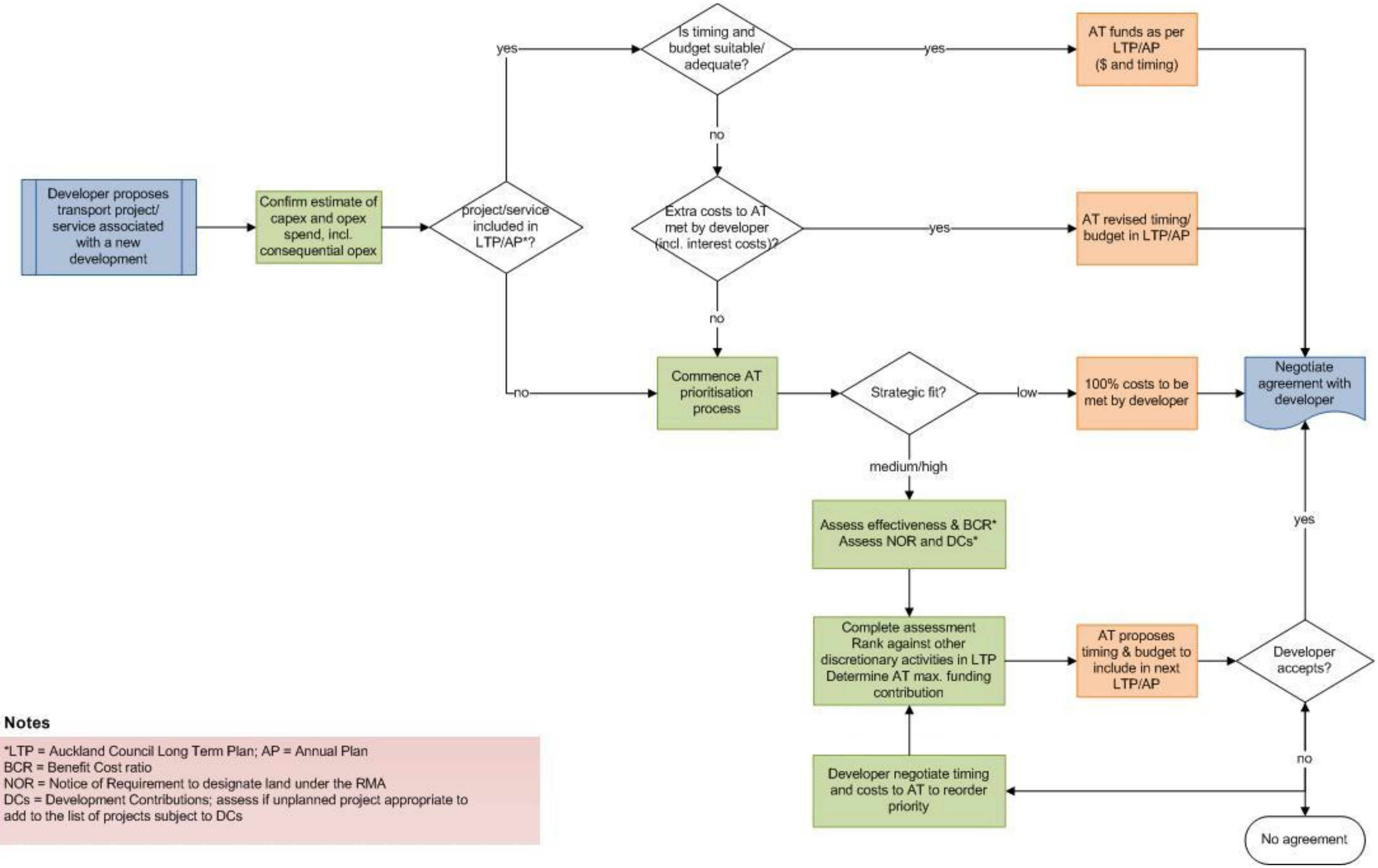


Attachment 2: Priority Criteria to establish Timing of Transport Projects

PRIORITY LEVEL	CRITERIA
PRIORITY 1	PROJECT WITH COMMITMENT New information has become available which confirms project as a pre-existing commitment. Commitment to be confirmed by AT legal where unclear.
PRIORITY 2	MINIMAL ANNUAL SPEND ON A PROGRAMME Change establishes the minimal annual spend on a programme of work which has as direct link to AT's strategic priorities (e.g. safety).
PRIORITY 3	CRITICAL DEPENDENCY Project identified as an essential requirement for the New PT Network. Requires AT PT Ops confirmation that a key aspect of the new network cannot be delivered without this initiative.
	CRITICAL DEPENDENCY Project identified as an essential requirement for an SHA to develop. Requires AT S&P confirmation that the project is an AT (not developer) obligation and that growth in the SHA will be stopped or significantly stifled unless project is delivered.
	CRITICAL DEPENDENCY Project proven to be essential for unlocking the benefits of a larger initiative (eg Western Ring Route or CRL) included within the BTN.
PRIORITY 4	SIGNIFICANT IMPACT ON A KPI Evidence provided that the project/initiative has a significant, measurable impact on one of the following KPIs: - PT Boardings - Asset Condition - Fatal/Serious injuries - Travel times along strategic freight routes (as defined in the AT SOI)

	SIGNIFICANT RISK OF PROJECT COST ESCALATION Deferring project incurs significant risk of cost escalation over $10m (excluding inflation). e.g. the land required will almost certainly be developed in the interim OR delay will result in siginificant rework duplicating current activity. Note – only funding required to reduce risk of cost escalation should be brought forward (e.g. route protection).
PRIORITY 5	SPECIAL FUNDING Project attracts additional targeted funding that amounts to at least 50% of total capex.
	NZTA FUNDING CONFIRMED Project has current approved NZTA NLTF funding (for design and/or construction).
PROIRITY 6	VERY HIGH ECONOMIC EFFICIENCY Project has very high economic benefits evidenced by a pre-existing BCR >=7.0. BCR to be peer reviewed / verified as required.
	REDUCES OPERATING COSTS Capital investment in the project has been shown to reduce AT operating costs in the future (e.g. LED streetlighting)
PRIORITY 7	OTHER REASON Clearly specify reason in the background/notes section.

Attachment 3: Overview of Auckland Transport 'Transport Funding Agreements' Process



Notes

*LTP = Auckland Council Long Term Plan; AP = Annual Plan
BCR = Benefit Cost ratio
NOR = Notice of Requirement to designate land under the RMA
DCs = Development Contributions; assess if unplanned project appropriate to add to the list of projects subject to DCs