

OC260010

13 February 2026

Tēnā koe

I refer to your email dated 9 January 2026, requesting the following under the Official Information Act 1982 (the Act):

“Information relating to the reform of tolling legislation.

- 1) Briefings, memos, and research documents prepared in 2024 or 2025 on the topic of:*
 - a. Reforming legislation to expand the government’s ability to toll existing roads; and/or*
 - b. Requiring heavy vehicles to use toll roads; and/or*
 - c. What specific existing roads (or sections of road) could be tolled in the event that corridor tolling reforms proceeded.”*

Ten documents are in scope of your request. Of these, three are released in full and seven are released with some information withheld.

The document schedule attached as Annex 1 outlines how the documents you requested have been treated under the Act. Certain information is withheld under the following provisions of the Act:

- | | |
|-------------|---|
| 9(2)(a) | to protect the privacy of natural persons |
| 9(2)(f)(iv) | to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials |
| 9(2)(g)(i) | to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty |
| 9(2)(h) | to maintain legal professional privilege |
| 9(2)(i) | to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities |

With regard to the information that has been withheld under section 9 of the Act, I am satisfied that the reasons for withholding the information at this time are not outweighed by public interest considerations that would make it desirable to make the information available.

Documents three and four are internal Ministry policy papers developed early in the policy process to test potential tolling reform options. They do not represent final Government policy or the Ministry's final recommendations. Document four also sets out a different Ministry-preferred option for the alternative route requirement than the option later preferred in the regulatory impact statement, reflecting the earlier stage of policy development at the time it was prepared. For context, the red text in the bodies of documents three and four indicate areas where the author of the document had requested feedback.

Several documents that we are releasing to you have a significant amount of information that is out-of-scope of your request, and as such, have been withheld, or only extracts of documents have been released. Some of this out-of-scope information has been released previously in past proactive releases, which we have linked to below, should you wish to view it.

You have the right to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman's website www.ombudsman.parliament.nz

The Ministry publishes our Official Information Act responses and the information contained in our reply to you may be published on the Ministry's website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Anna Wilson-Farrell', with a stylized flourish at the end.

Anna Wilson-Farrell
Director - Revenue

Annex 1: Document Schedule

Doc #	Reference number	Date	Title of Document	Decision on request
1	OC240422	2/05/2024	Opportunities for Tolling Reform	Released with some information withheld under section 9(2)(a). Some information has been marked out of scope. Past proactive release: https://www.transport.govt.nz/assets/Uploads/Further-redactions-Doc-1-OC240422-Opportunities-for-Tolling-Reform-Briefing-Policy-2-003-003-003_Redacted.pdf
2	OC240774	August 2024	Tolling Objectives and Principles Slideshow	Released in full. Some information has been marked out of scope. Past proactive release: https://www.transport.govt.nz/assets/Uploads/Further-redactions-Doc-4-OC240774-CURRENT-Tolling-Objectives-and-Principles-Slideshow-3.pptx-003-003_Redacted.pdf
3	Internal Policy Document	August 2024	Tolling Requirements – New Road Requirement	Released with some information withheld under section 9(2)(f)(iv).
4	Internal Policy Document	August 2024	Tolling Requirements – Heavy vehicle compulsory use of toll roads	Released in full.
5	OC240994	10/09/2024	Revenue Action Plan: Confirming Tolling Reform Legislative Policy Decisions	Released with some information withheld under sections 9(2)(a), 9(2)(f)(iv) and 9(2)(g)(i). Some information has been marked out of scope. Past proactive release: https://www.transport.govt.nz/assets/Uploads/Further-redactions-Doc-5-OC240994-Confirming-tolling-reform-legislative-policy-decisions-Briefing-Policy-1-003-003_Redacted.pdf
6	OC241078	19/09/2024	First Draft Cabinet Paper: Revenue – October Report Back (Note: This includes the first draft of the Cabinet paper as an attachment)	Released with some information withheld under section 9(2)(a). Some information has been marked out of scope. Past proactive release: https://www.transport.govt.nz/assets/Uploads/Further-redactions-Doc-6-OC241078-First-Draft-Cabinet-Paper-1-003-003_Redacted.pdf

Doc #	Reference number	Date	Title of Document	Decision on request
				ts/Uploads/Doc-6-OC241078-Revenue-Action-Plan-September-Report-back-Briefing-Policy_Redacted.pdf
7	N/A	19/09/2024	(Cabinet Paper) - Land Transport Revenue Action Plan: Report Back on Road User Charges and Tolling Reform	Released with some information withheld under section 9(2)(f)(iv). Some information has been marked out of scope. Past proactive release: https://www.transport.govt.nz/assets/Uploads/Additional-Redactions-Doc-7-Tolling-reform-Cabinet-paper-for-lodgement-marked-up-002_Redacted.pdf
8	N/A	19/09/2024	Regulatory Impact Statement: Tolling Legislative Reform	Released with some information withheld under sections 9(2)(f)(iv), 9(2)(h) and 9(2)(i). Some information has been marked out of scope. Past proactive release: https://www.transport.govt.nz/assets/Uploads/Further-redactions-Doc-8-Tolling-legislative-reform-regulatory-impact-statement-003-003-002_Redacted.pdf
9	N/A	25/08/2025	Creating an infringement offence to enforce heavy vehicle restrictions on toll road alternative routes	Released in full.
10	OC250759	1/09/2025	Tolling Reform Further Policy Decisions	Released with some information withheld under sections 9(2)(a) and 9(2)(f)(iv). Some information has been marked out of scope.

2 May 2024

OC240422

Hon Simeon Brown**Action required by:****Minister of Transport**

Monday, 13 May 2024

OPPORTUNITIES FOR TOLLING REFORM

Purpose

To provide you with options for tolling reform that support increasing the contribution tolling makes towards the land transport revenue system.

Key points

- Existing tolling arrangements sit across three pieces of legislation, though all three current toll roads (the Northern Gateway, Tauranga Eastern Link, and the Takitimu Drive Toll Road) rely solely on the Land Transport Management Act 2003 (the LTMA). For a road to be tolled, you as Minister of Transport must be satisfied the scheme meets several requirements under the LTMA, including that it must be a new road, there must be adequate community consultation and support for the scheme, there must be an untolled feasible alternative route, and the proposed tolling scheme must be efficient and effective.
- You have committed to tolling reform, which could include legislative reforms to change the requirements for toll roads, changes to tolling operations to support cost-effectiveness, and changes to institutional arrangements to support increased tolling.
- We propose to undertake a review over the next 6–9 months, which will consider:
 - options for legislative reform, including a review of the requirements a potential toll road must meet and options for wider use and uptake of tolling,

Out of Scope

- The June 2024 report back on the land transport system will outline the scope, potential options, and timeframes for this review.

Recommendations

We recommend you:

- 1 **note** that the June transport revenue Cabinet paper will outline work underway to reform tolling in line with your decision on 20 April 2024 (OC 240243 refers)
- 2 **agree** that the tolling reform workstream should include:

a) reforms of tolling legislation to change the requirements for toll roads

Yes/No

Out of Scope



David Wood
Deputy Chief Executive, Investment
and Monitoring

Hon Simeon Brown
Minister of Transport

..... / /

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

Comments

Contacts

Name	Telephone	First contact
David Wood, DCE, Investment and Monitoring	s 9(2)(a)	
Matt Skinner, Manager Revenue		✓
Hugo Beale, Adviser Revenue		

OPPORTUNITIES FOR TOLLING REFORM

- 1 The Government has committed to expand the use of tolling, with all new roads being tolled where possible, and reform of tolling legislation. Increased land transport revenue is required to support the investment required to deliver on the Government's strategic priorities in the Government Policy Statement on land transport 2024-34 (GPS 2024). Tolling provides a publicly accepted and user pays approach that can ensure capital and/or operating costs of new roads are covered directly by the people that use them, supporting the revenue system.
- 2 However, current tolling settings will likely not be sufficient to enable the cost-effective expansion of tolling to the degree required. Reform of legislative and operational settings will be required to enable greater expansion and cost-effectiveness.
- 3 We intend to report back on the place of tolling reform in the wider revenue system as part of your June 2024 Cabinet paper on land transport revenue reform. Your feedback to this paper will inform this work.

New Zealand's current tolling arrangements and examples

- 4 The Land Transport Management Act 2003 (the LTMA) permits the establishment of road tolling schemes. Road controlling authorities submit proposals to you as Minister of Transport and you must judge these proposals against the statutory criteria in the LTMA. An Order in Council mechanism is used to establish a road tolling scheme for or on behalf of a public road controlling authority (LTMA Section 46(1) refers).
- 5 The three current toll roads in New Zealand are enabled via the LTMA — the Northern Gateway north of Auckland, and the Tauranga Eastern Link and Takitimu Drive in Tauranga. For each of these roads, tolling has been utilised to accelerate construction compared to what would have been possible under regular transport funding and planning processes. When the debt the tolls cover is paid off, the roads will become toll free.
- 6 Tolling revenue is treated as land transport revenue under the LTMA. All tolling revenue in the three currently operational schemes is hypothecated to those projects. The Northern Gateway toll revenue is collected and passed on to the Crown to repay the debt the Crown holds. For the remaining two toll roads, tolling revenue is treated as an inflow to the national land transport fund (NLTF) for administrative ease.

Out of Scope

The statutory criteria for tolling under the LTMA

- 8 A road tolling scheme established using the LTMA must fund one or more of "the planning, design, supervision, construction, maintenance, or operation of a new road"

and meet “any conditions or requirements set out in the order [in Council]” (LTMA Section 46(1)(a) and (b) refers).

- 9 The LTMA limits the tolling of existing roads. Existing roads can only be tolled if the Minister is satisfied that the existing road, or part, is located near, or is operationally integral to, the new road that tolling revenue will be applied to (LTMA section 48(2) refers). The LTMA considers additional lanes added to an existing road to be a new road.
- 10 Additionally, the LTMA states that the Minister must not recommend the making of an Order in Council for a tolling scheme unless they are satisfied:
 - 10.1 that the relevant public road controlling authority or authorities have carried out adequate consultation on the proposed tolling scheme; and
 - 10.2 with the level of community support for the proposed tolling scheme in the relevant region or regions; and
 - 10.3 that a feasible, untolled, alternative route is available to road users; and
 - 10.4 that the proposed tolling scheme is efficient and effective (LTMA Section 48(1)(a)-(e) refers).

Out of Scope

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Out of Scope

Transmission Gully's unsuccessful proposal

- 17 The unsuccessful application for a tolling proposal for Transmission Gully provides a useful example of where modelled traffic diversion can reduce project benefits and limits opportunities for tolling. When NZTA considered tolling Transmission Gully in 2017, the proposal³ found tolling would:
- 17.1 “erode the original project benefits, particularly in relation to safety” with the toll incentivising drivers to use the free coastal route (35–50 percent diversion)
 - 17.2 result in negative social costs due to a reduction in safety outcomes from diversion
 - 17.3 not make a meaningful contribution to the costs of the project compared to existing toll roads (7–10 percent contribution to the original project costs)
- 18 NZTA considered whether tolling could be used to reduce congestion, however modelling indicated that this would be ineffective in encouraging other modes of transport. Ultimately, NZTA decided Transmission Gully was not suitable for tolling and no proposal was put to the Minister.

The Government has committed to reforming and expanding the existing tolling system

- 19 The Government has made several commitments and statements regarding tolling. The National-ACT coalition agreement committed to “Institute long-term city and regional infrastructure deals, allowing [public private partnerships] PPPs, tolling and value capture rating to fund infrastructure.”
- 20 The draft GPS 2024 outlines:
- 20.1 that the Government supports tolling as an additional revenue source to support the maintenance and/or construction of new roads,
 - 20.2 that there is a commitment to supporting all tolling proposals where NZTA has recommended to toll and reforming the legislation governing tolling, and
 - 20.3 that the Government expects NZTA to consider tolling all new roads, and that they will reduce the operational costs of tolling.

³ <https://www.nzta.govt.nz/assets/projects/transmission-gully-motorway/docs/Transmission-Gully-tolling-assessment-summary-redacted-version.pdf>

- 21 We understand from the draft GPS and our workshops with you that your overall objectives for the tolling system reform are to:
- 21.1 make tolling much more cost-effective,
 - 21.2 increase the use of tolling to further support the building and/or maintenance of new roading infrastructure, and
 - 21.3 ensure we have the right legislative settings for optimal revenue generation.
- 22 Based on the Government's commitments and intentions on tolling reform, as well our discussions with you, we understand that you wish to undertake the following steps:
- 22.1 **Reform legislation to enable the expansion of the tolling system,** Out of Scope

Out of Scope

We have identified three areas where we could reform tolling legislation to enable the expansion of the tolling system

- 23 The LTMA requires a series of criteria to be met to enable tolling new roads where there is a free alternate route available. Road controlling authorities can submit a tolling proposal for your agreement, and you must be satisfied that the statutory criteria in the LTMA have been met before establishing a toll.
- 24 Legislation could be amended to enable greater flexibility to allow for tolling on existing roads where substantial improvements have been made, or as part of a corridor approach to dissuade diversion onto untolled routes, especially for heavy vehicles. The current options for legislative reform that we have identified are set out below.

Tolling roads where major improvements have been made

- 25 The LTMA's requirement for a toll road to be a new road can potentially exclude some roads that have received investment to improve quality or capacity and limit the ability for an improvement project to raise revenue from users. However, the current exclusion is not exhaustive, and the LTMA specifically outlines that a new road "includes a lane that is added to an existing road⁴."
- 26 Enabling tolling for all major roading improvements could provide an option to raise additional revenue to take pressure off the NLTF and ensure that those who benefit from road improvements contribute to those improvements in a targeted way.

⁴ Land Transport Management Act 2003 Section 5: Interpretation

- 27 This approach could also allow for major road improvements to be brought forward, using the same debt strategy as used for the current toll roads. The effects of tolling existing roads could have unpredictable diversionary effects and will require further consideration.

Tolling as part of a corridor approach

- 28 The LTMA also does not explicitly allow for the tolling of an entire roading corridor that is made up of both new roads and existing roads, aside from where the Minister of Transport is satisfied “that the road or part is located near, and is physically or operationally integral to, the new road⁵.”
- 29 Experience with tolling new roads in New Zealand suggests that users are likely to respond by paying the charge or by diverting on to an alternative route (circa 30 percent on average). Generally, diversions off tolled corridors onto alternative routes will be on to slower and less safe roads.
- 30 Enabling the tolling of existing roads where they form part of a longer roading corridor containing a new road may remedy this issue. Any motorists diverting would face a more substantial time penalty than if they only used the untolled parts of the corridor. This reduces the incentive for motorists to divert from a corridor and recognises that the entire corridor benefits from a new road — not just those using the road itself.
- 31 As a hypothetical example, Transmission Gully was not tolled because even a small toll was likely to result in a high level of diversion to the free alternative, reducing the benefits of the new road. However, a toll from Transmission Gully to Ōtaki would likely see less diversion because users would receive a much greater benefit from the corridor as a whole.
- 32 Further analysis would be needed to determine the effects of tolling existing roads as part of a corridor. There would be several implications as to how a corridor could be tolled in practice (e.g. at what point a toll would be set and what it means for all exits and entrances into the corridor).

Requiring heavy vehicles to use toll roads

- 33 The diversionary effects of New Zealand’s toll roads reduce the overall economic and safety advantages of building these typically safer and faster roads. Heavy vehicles that divert from toll roads onto untolled routes will have greater impacts than light vehicle diversion (e.g. from road damage or noise).
- 34 Some local roads and state highways that would act as the viable, alternative route to a tolled road may not be suitable for substantial heavy vehicle traffic. Upgrading these alternate routes to make them suitable for heavy vehicle traffic would increase costs and encourage even more traffic to divert.
- 35 The LTMA could be amended to require heavy vehicles to use a new toll road where it is not suitable or desirable for heavy vehicles to be using the untolled, alternative route. Heavy vehicles that have business on the untolled area could be exempted.

⁵ Land Transport Management Act 2003 Section 48(2)

- 36 Such an amendment would place a compulsory financial burden on heavy vehicle operators. There are mitigations to this:
- 36.1 The additional financial burden on heavy vehicles would vary based on location but would not be as substantial as other countries, as New Zealand has low toll prices.
- 36.2 The LTMA allows setting different toll rates based on the time of the day. This could provide for a reduced rate for heavy vehicle operators if a trip could be delayed to off-peak times.

Revising the settings for alternative untolled routes

- 37 The LTMA, requires “that a feasible, untolled, alternative route is available to road users.”⁶ Relaxing this requirement could increase potential tolling opportunities
- 38 Our previous advice noted that we could change the requirement for an untolled, alternative route, “from a pre-requisite for tolling to something to be considered” as part of tolling proposals (OC230930 refers). This would provide greater flexibility for you to weigh the importance of providing a feasible, untolled alternative route with the economic and safety benefits that will likely come with a new toll road.
- 39 Removing the requirement for a feasible, untolled alternative route from the legislation entirely would provide maximum flexibility for you in weighing the benefits of a tolling proposal. In most cases, new roads are in addition to existing road corridors and would therefore have untolled alternative routes by default. However, not all roads would have this advantage, and could give users no choice but to use the toll road.
- 40 Expanding the flexibility of the untolled, alternative route requirement would also better enable the corridor approach to tolling explained above. For example, the alternative route requirement may necessitate changes to project design to conveniently facilitate vehicles exiting a corridor to access the untolled route. Allowing for legislative flexibility would give greater confidence to tolling operators and project designers on revenue certainty.

Out of Scope

⁶ Land Transport Management Act Section 48 (1)(a)

Out of Scope

Tolling reform work programme and approach to June 2024 report back

- 60 Subject to your decision to progress with tolling reform, the Ministry and NZTA will establish a workstream within the land transport revenue work programme for tolling reform.
- 61 We expect this work will take approximately 6–9 months, at the end of which we will provide you with policy decisions to take to Cabinet.
- 62 For the June 2024 report back to Cabinet on the land transport revenue system, we intend to include a section covering this work. Subject to your decisions on this paper, we propose to focus it at a relatively high level on:
- 62.1 the objectives for tolling reform
 - 62.2 the scope of the review and work programme
 - 62.3 some of the potential options currently under consideration
 - 62.4 timeframes and next steps

Annex 1 has been removed as it is out of scope of this request



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Tolling – initial analysis of legislative reform options

Comparing reform options against the objectives and principles of land transport revenue reform

August 2024

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Background

- We are reforming tolling legislative settings to support investment in the Government's strategic priorities, such as the RoNS.
- The revenue action plan indicated that tolling reform should focus on fully utilising existing legislative provisions and reforms to enhance effectiveness, as well as reframing tolling as a way to pay for a higher level of service.
- **We have identified several reform options to enhance the effectiveness of tolling schemes.**

Out of Scope



The Problem is...

- The **current requirements for which roads can be tolled**, including the new road and feasible, untolled alternative route requirements are inflexible. They may reduce the economic viability of future toll roads, constrain options for tolling models, or prevent tolling altogether.

Out of Scope

- Given the profile of the RoNS, with even the most enabling of tolling legislation, **traffic volumes will not be high enough to generate significant revenue** in most cases. Road user demand of tolling projects driven by time travel savings will have a much greater impact on financial viability than legislation. Notwithstanding this issue, **there is value in creating more flexible tolling provisions** to ensure legislation is an enabler to viable tolling schemes, rather than a barrier.



The objectives and principles behind tolling revenue reform

- Cabinet has agreed to the objectives and principles that will inform the redesign of the land transport revenue system. Given the purpose of tolling reform to enable motorists to pay for a higher level of service, the most relevant objectives and principles are:

Users and beneficiaries should cover the costs...

...because toll roads provide a direct link between the use of a road and contributing to its costs.

Revenue sufficiency...

...because toll roads provide a supplementary source of revenue to contribute to specific projects and protects NLTF revenue to be spent on other projects or maintenance.

User choice and competition...

...because motorists can choose to pay for a higher level of service on a toll road that provides reduced travel times.

The key opportunities for legislative reform that helps to reframe tolling as paying for a higher level of service are...

- Remove or alter the new road requirement
- Remove or alter the feasible, untolled, alternative route requirement

Out of Scope

-



Remove or alter the new road and feasible, untolled, alternative route requirement

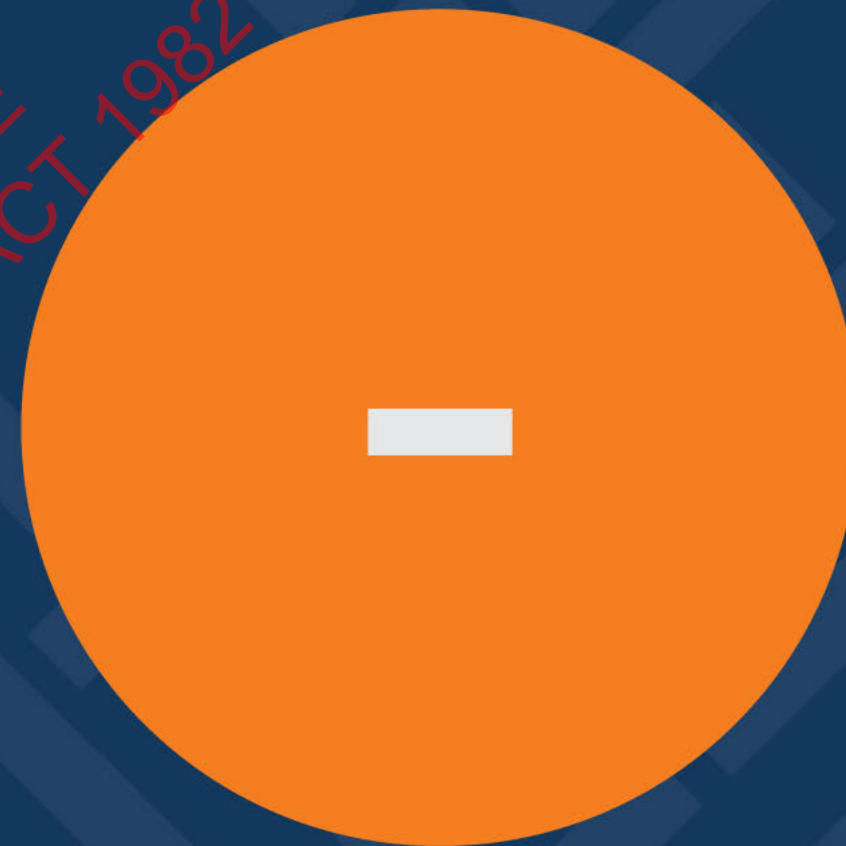
- The Land Transport Management Act 2003 (LTMA) restricts tolling proposals to new roads and those that have a feasible, untolled alternative route.

Purpose of requirement	Options
The new road requirement ensures users “do not perceive tolling as paying for roads a second time.” The feasible, untolled alternative route requirement exists because of equity and fairness considerations around providing an untolled route, so road users are not forced to pay a toll to get where they need to go. Both are hard legislative requirements that cannot be considered against other objectives, such as economic growth or efficiency.	Option 1: Remove both entirely. This would allow for Ministerial discretion as to what roads are tolled, including taking a corridor tolling approach. It would also enable the tolling of existing roads and those without an alternative route. Option 2: Remove just the new road requirement: This would allow for corridor tolling, while still maintaining assurance that an untolled alternative route is available. Option 3: Set more permissive legislative criteria, such as only allowing existing roads to be tolled if they make up part of a wider corridor or receive substantial benefit from a new road. Option 4: Turn requirements into considerations, where the Minister would weigh up whether the costs of tolling an existing road (economic or otherwise) and/or a road without an alternative route outweigh the benefits of a scheme. Option 5: No Change.

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Some limitations on the following options analysis

- The following slides provide an initial analysis of the options against the objectives and principles identified on slide 4. It does not constitute a full analysis of the costs and benefits of each option.



Analysing legislative and price setting reform options against the overarching objectives and principles of the land transport revenue reform

Key: ++ completely or largely aligns with the objective or principle it is being compared to

- mostly does not align with the objective or principle it is being compared to

+ partially aligns with the objective or principle it is being compared to

-- does not align with the objective or principle it is being compared to



Comparing legislative reform options for the new road and untolled, alternative route requirements

10

	Users and beneficiaries should cover the costs	Revenue sufficiency	User Choice and competition
Option 1: Remove new road and feasible, untolled, alternative route requirements entirely	++ provides maximum flexibility for tolling schemes to charge users for direct use of road infrastructure, however there would be limited circumstances where removing the untolled, alternative route requirement would make a scheme more viable.	+ provides more opportunities for sufficient revenue than status quo but limited by modesty of toll revenue.	+/- provides maximum flexibility for tolling schemes to offer roads with enhanced service levels when compared to existing routes. However, free alternatives may no longer be offered in competition to the tolled route in limited circumstances.
Option 2: Remove just the new road requirement	+ allows for corridor tolling which recognises users should pay for the enhanced efficiency of a corridor with a new road. However, user costs could not be recovered through tolls where there is not an untolled alternative route.	+ provides more opportunities for sufficient revenue than status quo but limited by modesty of toll revenue.	+ provides flexibility for corridor tolls, encouraging new toll roads that offer enhanced service levels. However, toll roads that provide a greater level of service and competition may not be allowed if they have no untolled alternative.
Option 3: Setting more permissive legislative criteria	+ would depend on the criteria, but legislative criteria developed could place a greater weighting to user-pays than the status quo.	+ would depend on the criteria, but if the legislative criteria enabled corridor tolling and enabled more viable toll roads than present, then it would align.	+ would depend on the criteria, but if the legislative criteria made more toll roads possible, then competition and user choice would increase, assuming they still had an alternative, untolled route.
Option 4: Turning the requirements into considerations	++ provides flexibility for tolling schemes to charge users for direct use of road infrastructure, subject to consideration of costs and benefits.	+ provides more opportunities for sufficient revenue than status quo but limited by modesty of toll revenue.	+ provides flexibility for the creation of corridor tolls and many other toll road configurations to provide enhanced service levels. However, free alternatives may no longer be offered in competition, but the Minister would have to consider this factor.
Option 5: Status quo	-- low number of viable future toll roads, users are unable to pay directly for the new infrastructure they use.	-- schemes tend to provide low levels of revenue contribution to project costs.	-- low number of toll roads, users cannot choose to pay for a higher level of service in most circumstances.

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Next steps

13

1. We will look to **analyse these legislative options** in more detail and provide a briefing to you for policy agreement in early September.

Out of Scope



Timeframes and where to next?

Date	Milestones
26 June 2024	Revenue action plan signed off by Cabinet
June-July	Work with NZTA to identify options for reform and begin initial analysis on compatibility with revenue action plan
Out of Scope	
14 August 2024	Workshop with Minister to discuss opportunities and choices for tolling reform Provide joint advice with NZTA to Minister on upcoming tolling proposals
Out of Scope	
4 September 2024	Advice regarding tolling legislative reform package
18 September 2024	Provide draft Cabinet paper to Minister seeking agreement on proposals for tolling reform
29 October 2024	Cabinet decisions to support drafting instructions



We are here

Ngā mihi
Thank you



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Te Kāwanatanga o Aotearoa
New Zealand Government

Tolling Requirements – New Road Requirement

Requirement name & ID	1 – New Road Requirement/Enabling corridor Tolling - Hugo
Objective	- To enable more projects to be brought forward through the extra funding provided by road tolling. - To enable more toll roads by legalising tolling across an entire corridor made up of existing roads and a new road(s), where a new road improves the efficiency of an entire corridor, and a tolling scheme would be economically viable.
Problem definition	- The Government has committed to building new roads as part of its Roads of National and Regional Significance programmes. They have indicated that tolling should play a part in the funding of these roads. Several of these roads will be extensions of a larger corridor of high quality, grade separated roads, for example Cambridge to Piarere will become part of the Waikato Expressway and Ōtaki to North of Levin will extend the Kāpiti Expressway. - In most cases, tolling just the new section of road on these long corridors will result in high levels of diversion onto the untolled, alternative route. This is due to limited time travel savings leading to lower willingness to pay, which results in lower revenue potential. - The economic viability of a tolling scheme could be improved by tolling the entire corridor if all motorists will receive efficiency benefits from the road being extended. Extending the distance of the tolled portion of the road to the entire corridor would increase the time travel benefits of using a toll road versus just tolling the extension and increase disbenefits of using the untolled, alternative route, thus disincentivising diversion. - However, corridor tolling is not able to be undertaken, as only new roads are able to be tolled under Section 46 (1)(a) of the Land Transport Management Act 2003. This is a hard legislative requirement that cannot be considered against other objectives, such as economic growth or efficiency.
Context & interdependencies	- The new road requirement stems from the principle of fairness, so users “do not perceive tolling as paying for roads a second time.” - The specific wording from the LTMA Section 46 (1)(a) is that a road tolling scheme can [only] be established for “1 or more of the following activities, namely, the planning, design, supervision, construction, maintenance, or operation of a new road.” - In the states in Australia with toll roads (NSW, QLD, and VIC), there are no requirements that tolling has to be on new roads, although no examples can be found of tolling a road that was previously free. - The Minister has signalled interest in tolling a whole road corridor, rather than just the new portion of this road to increase the viability of tolling schemes. Out of Scope

Options	1. Remove the new road requirement in its entirety 2. Set more permissive criteria – allow existing roads to be tolled where their efficiency has been enhanced by the construction of a new road on the same corridor 3. Turn the new road requirement into a consideration to be weighed up against competing factors (economic or otherwise)
Analysis of options	See Annex 1
Gaps	• Modelling to help compare the costs and benefits of corridor tolling for a couple corridor tolls that show: ○ the revenue potential of tolling longer corridors ○ the diversion caused by tolling longer road corridors ○ the costs generated by diversion in terms of safety ○ the overall viability of corridor tolling •
Recommendation	• Option 2: Expand exemption around operationally integral to something that is based on an assessment of the existing road's capacity or efficiency. This is expected to achieve the purpose of ensuring tolling can help bring forward projects in a way that does not open up the entire existing network up to tolling.
Risks or issues (including legal)	• Creating new statutory tests around the new road requirement may increase the chance of judicial review of tolling decisions.
Consultation or engagement requirements	• The key stakeholders to engage on this issue would be motorists and businesses that commonly use key road corridors that have planned projects to be added, s 9(2)(f)(iv) and Transmission Gully/Kāpiti Expressway. • The Minister will still need to be satisfied of the level of community support for tolling schemes, under an LTMA statutory test.
Legislation required	Yes – legislative amendment of the LTMA Section 46-48 will be required. Wider changes to replace all references to a “new road” to just “road” or “new and existing road” would probably be required if the new road requirement was to be lifted altogether
Decision maker	Minister of Transport
Next steps	• Outline the process that has been taken to reach the Ministry's preferred approach in the 4 September briefing.

Annex 1 – Analysis of Options

Option	Users and beneficiaries should cover the costs	Revenue Sufficiency	User Choice and Competition	Other Relevant Factors
Remove the new road requirement in its entirety	-Allows for more opportunities to create user-pays toll roads than the status quo through corridor tolling. -Toll road revenue is still expected to be modest, due to NZ traffic volumes which will decrease the ability for users to meet the costs of a project.	-Allows corridor tolling which may increase revenue potential for certain future toll roads versus the status quo. -Toll road revenue is still expected to be modest, due to NZ traffic volumes.	-Corridor tolling may make improve the viability of a tolling scheme versus the status quo, potentially allowing for acceleration of some projects that would bring further user choice.	-Policy-wise, this is the simplest option, which allows for the most flexibility for corridor tolls and any other tolling scheme where the new road requirement might be a barrier -Allows for a project-by-project analysis to be taken, rather than a one-rule-for-all which may not suit all tolling schemes. -Public acceptability challenges with tolling roads that have “already been paid for.” -Goes beyond the original policy intent of enabling corridor by enabling the tolling of existing roads that are not necessarily part of a wider corridor or have received any efficiency improvements, creating issues with the proportionality of the proposed policy response to the problem.
Set more permissive legislative criteria– allow existing roads to be tolled where their efficiency has been enhanced by the construction of a new road	-Allows for more opportunities to create user-pays toll roads than the status quo through corridor tolling. -Toll road revenue is still expected to be modest, due to NZ traffic volumes which will decrease the ability for users to meet the costs of a project.	-Allows corridor tolling which may increase revenue potential for certain future toll roads versus the status quo. -Toll road revenue is still expected to be modest, due to NZ traffic volumes. -Disallowing tolling schemes that sit outside corridors decreases overall revenue potential, but this may be	-Corridor tolling may make improve the viability of a tolling scheme versus the status quo, potentially allowing for acceleration of some projects that would bring further user choice. -Creates a clear requirement that there must be an efficiency benefit for motorists being tolled for using an existing road, incentivising users	-Provides public reassurance that the goal of this policy is increasing the potential quantity of viable toll roads through corridor tolling, rather than starting other tolling schemes on existing roads. -Requires a more complex statutory test to be met, as the new term (whether it be efficiency or otherwise) would have to be defined in the legislation and the RCA would have to create measures to show it has been met, increasing the complexity and potential cost in creating a tolling scheme. -Public acceptability challenges with tolling roads that have “already been paid for.”

on the same corridor	-Reduces the flexibility to create potentially viable tolling schemes that include existing roads and sit outside corridors	redundant if there is only an intention to toll existing roads in a corridor.	to choose to pay for the toll road.	
Turn the new road requirement into a consideration to be weighed up against competing factors by the Minister (economic or otherwise)	-Allows for more opportunities to create user-pays toll roads than the status quo through corridor tolling. -Toll road revenue is still expected to be modest, due to NZ traffic volumes which will decrease the ability for users to meet the costs of a project.	-Allows corridor tolling which may increase revenue potential for certain future toll roads versus the status quo. -Toll road revenue is still expected to be modest, due to NZ traffic volumes.	-Corridor tolling may make improve the viability of a tolling scheme versus the status quo, potentially allowing for acceleration of some projects that would bring further user choice. -Does not create a clear requirement that an existing road must gain efficiency to be tolled as part of a corridor toll, meaning some motorists may be charged for an existing road, without gaining any benefit from it, decreasing the incentive to create roads that have a competitive advantage.	-Allows for Ministerial discretion, which will allow projects to be considered on their overall costs and benefits, rather than through inflexible tests. -Provides less safeguards for public reassurance that existing roads won't be tolled than the status quo. -Alters, rather than removes a statutory test/condition, meaning that it would still have to be considered as part of a tolling scheme, adding complexity.

Tolling Requirements – Heavy vehicle compulsory use of toll roads

Requirement name & ID	4 – Heavy vehicle compulsory use of toll roads - Hugo
Objective	- To enable more projects to be brought forward through the extra funding provided by road tolling. - To mitigate the potential for an increase in disruption and wear and tear from heavy vehicles using untolled routes as the number of toll roads increase. This includes residential areas, key arterials and roads that may not be suitable for heavy vehicles.
Problem definition	- The Government has committed to building new roads as part of its Roads of National and Regional Significance programmes (RoNS/RoRS). They have indicated that tolling should play a part in the funding of these roads. If all or a significant portion of the RoNS and RoRS become toll roads, then this would markedly increase the number of toll roads in New Zealand. - As the number of toll roads increase and potentially include routes that have previously been free, economic incentives are created to avoid the toll road. The impact of more light vehicles on untolled routes would vary from route to route, but heavy vehicles could create significant issues if they shift in large numbers to unsuitable untolled routes. - Untolled routes are generally less efficient, slower, and may be damaged with the presence of substantial heavy vehicle traffic or go through residential neighbourhoods. These can create negative effects, such as increased noise, safety concerns, and traffic, depending on the untolled route.
Context & interdependencies	- Toll roads that have time savings compared to untolled routes tend to have a higher value to heavy vehicle operators than light vehicle motorists, due to improved productivity. - Heavy vehicles on New Zealand toll roads generally pay a toll that is double of light vehicles (except for Takitimu Drive where the rate for heavy vehicles is 2.5 times the light vehicle rates). There are only two toll rates on New Zealand toll roads presently, one for vehicles for less than 3.5 tonnes, and one for vehicles heavier than that. - The Land Transport Management Act 2003 (LTMA) requires that the Minister of Transport must be satisfied “that a feasible, untolled, alternative route is available to road users.” - The Minister has indicated an interest in requiring heavy vehicles to use toll roads, as he indicated this was used in Australia. Further investigation has indicated that this restriction is only utilised on two toll roads in Australia and planned for a third: - The Queensland Government mandates that all heavy vehicles over 4.5 tonnes (GVM) traversing the Toowoomba range must use the Toowoomba Bypass “unless the vehicle has a local destination in Toowoomba or is travelling north or south via the New England Highway.” The Toowoomba bypass road is a partial ring road that bypasses Toowoomba township. The mandate is <u>because</u> this route was designed primarily as a freight route, as well as “to improve freight efficiency and driver safety, relieve pressure on Toowoomba’s roads, and enhance liveability in the region.”

	○ The NSW Government requires all trucks and buses over 12.5 metres long or over 2.8 metres clearance height and travelling between M1 and M2 to use Northconnex tolled tunnels and not the untolled Pennant Hills Road, unless they have a genuine delivery or pickup destination “only accessible via Pennant Hills Road.” This is because a key goal of the Northconnex twin-tube motorway project was to remove trucks off of Pennant Hills Road. ○ The Victorian Government plans to ban trucks from six local roads when the West Gate Tunnel opens in 2025, which will require heavy vehicle operators to pay a toll to use the new tunnel. This is because a key objective of the project has been to move trucks off of residential streets. ● All of these projects had an express purpose of removing heavy vehicles from urban roads.
Options	1. Amend the feasible, untolled, alternative route requirement to allow for heavy vehicles to be required to use toll roads and banned from alternate routes if outlined in a tolling Order-in-Council. Exemptions would be made where heavy vehicles have business on the alternate routes. 2. Amend the feasible, untolled alternative route requirement to allow for heavy vehicles to be required to use toll roads only in cases where a key project objective has been to remove trucks from alternate routes if outlined in a tolling Order-in-Council. Exemptions would be made where heavy vehicles have business on the alternate routes. 3. Status quo – Heavy vehicles could choose to use a toll road, or a feasible, untolled alternative that must be provided.
Analysis of options	See annex 1
Gaps	● An examination of each of the RoNS and RoRS to determine if there is any utility in providing this option. ● Requiring heavy vehicles to use particular roads would affect overlapping existing responsibilities and legislation, for example where a council is the RCA for a feasible, alternative route. Legal advice will have to be sought for what amendments will need to be made to enable specific schemes. ● We are unsure about the extent of resources required for the enforcement of banning heavy vehicles from certain roads and where responsibility will lie (eg. Police, NZTA, local councils). Engagement with NZTA and potentially Police will need to inform this. ● Whether heavy vehicles should be defined under the current tolling rules (above 3.5t) or a more nuanced approach taken to recognise the difference between a 3.5t vehicle and a 20t vehicle for example.
Recommendation	● Our view is that altering the untolled, alternative route requirement in this circumstance would conflict with the user choice and competition principle of the revenue reforms. This would not be balanced by marginal extra revenue from heavy vehicles that are compelled to use toll roads in most circumstances due to the low expected traffic volumes of many RoNS. ● In addition, heavy vehicle operators are already incentivised to use toll roads. Heavy vehicle operators tend to receive a greater benefit from toll

	roads than the general public, due to increased productivity and travel time savings versus alternative routes. - Resources from Police or the NZTA would likely be required to adequately enforce this provision, adding expense that may not be balanced by fine revenue, depending on traffic volumes. Advice from Police and/or NZTA on enforcement implications would be needed to provide more advice on this point. - We therefore recommend keeping the status quo of maintaining the feasible, untolled, alternative route for all road users. - However, if the Minister is still interested in requiring heavy vehicles to use toll roads, we recommend this is constrained to limited and justifiable circumstances, such as where a project objective of a toll road is to remove heavy vehicle traffic from untolled routes. This would provide reassurance to the heavy vehicle industry and to the public at large that this provision would only be used in limited circumstances and for a clear principle.
Risks or issues (including legal)	- There is a public perception issue when forcing one group of people onto a toll road, but not forcing others - BORA implications for the freedom of movement.
Consultation or engagement requirements	Consultation with the heavy vehicle industry, local councils, Police, and NZTA enforcement would be required.
Legislation required	Yes – Amendment of the LTMA Section 48 may be required. This crosses over with the recommendation in document 2 to change the feasible, free, alternative route requirement to a factor for the Minister to consider in a tolling scheme, rather than a requirement. Legal advice will be needed to see if this change would allow for heavy vehicles to be required to use certain toll roads.
Decision maker	Minister of Transport
Next steps	Outline the process that has been taken to reach the Ministry's preferred approach in the 4 September briefing.

Annex 1 – Analysis of Options

Option	Users and beneficiaries should cover the costs	Revenue Sufficiency	User Choice and Competition	Other Relevant Factors
Amend the feasible, untolled, alternative route requirement to allow for heavy vehicles to be required to use toll roads and banned from alternate routes if outlined in a tolling Order-in-Council.	-The requirement to use a toll road for heavy vehicles would mean that heavy vehicles are required to pay for any efficiency benefits they gain from the new road. -The loss of user choice would mean that heavy vehicle owners could not choose to use a toll road where it makes economic sense and would instead have to pay for the road even if they do not benefit from it on a particular trip in a way that reflects the toll they pay.	-Requiring heavy vehicles to use toll roads would increase revenue potential of toll roads compared to the status quo where this restriction is in place, especially as heavy vehicles tend to pay more than double the light vehicle rate on New Zealand toll roads. -Overall revenue potential would still be limited by the attributes of the roads, such as traffic volumes.	-Forcing heavy vehicle operators to use toll roads and providing no route in competition does not align with this principle of the transport revenue reforms. -The loss of user choice would mean that heavy vehicle owners would have to pay for the road even if they do not benefit from it on a particular trip in a way that reflects the toll they pay. -As a mitigating factor, allowing for this requirement does not require it on all toll roads and it would not be suitable for all projects, so alternative routes would likely still be available for most RoNS/RoRS.	-If this option is pursued, it would require a level of enforcement to be an effective piece of regulation. In NSW, heavy vehicles that use Pennant Hills Road instead of Northconnex receive a \$215 fine which is enforced by gantry cameras. A new fine may also need to be legislated for in the relevant legislation. Further advice will need to be sought from NZTA or Police in order to outline the resource and operational implications of this change. -To pursue this option, engagement with local councils who do or will operate some of the feasible, untolled, alternative routes will be required in order to manage bans of heavy vehicles on these routes. -This option provides no legislative safeguards against heavy vehicles being forced to use toll roads where they may gain no benefit from it or there is no clear rationale for heavy vehicles to be barred from using alternate routes. -This option's flexibility would allow heavy vehicles to be banned from untolled alternative routes where such routes may not be suitable for heavy vehicles.
Amend the feasible, untolled, alternative	<i>As above, and:</i> -In instances where a key project requirement is to remove heavy vehicles	<i>As Above, but:</i> -The additional project objective requirement that would be required to	<i>As above, but:</i> -The additional project objective requirement will reduce the number	<i>As Above, but:</i> -This option provides a legislative safeguard in the project objective requirements against a more aggressive approach to requiring heavy

route requirement to allow for heavy vehicles to be required to use toll roads only in cases where a key project objective has been to remove heavy vehicles from alternate routes if outlined in a tolling Order-in-Council.	from alternate routes, new routes are generally more efficient and offer benefits which heavy vehicle operators would be required to pay for. -Often a key beneficiary of projects to remove heavy vehicles from local roads is those who live, work and often use those local roads. Forcing heavy vehicle operators to pay while others get this benefit for free may not align with this principle.	compel heavy vehicles to use a toll road will eliminate the possibility of bans for projects with other objectives, lowering overall revenue potential.	of projects that are eligible to require heavy vehicles to use them, meaning heavy vehicle operators may have more alternative route options than a more liberal option, therefore increasing competition between tolled and untolled routes. However, this benefit relies on a more liberal utilisation of the first option, where in reality it is only likely to be used on a small number of roads no matter what option is chosen.	vehicles to use toll roads. This will provide public reassurance that the use of this requirement will be limited.
Status quo – Heavy vehicles can choose to use a toll road, or a feasible, untolled alternative that must be provided.	-Heavy vehicles currently pay a level of road user charges to reflect the maintenance and upkeep requirements they impose on the network and can choose to pay a toll for a higher level of service if they believe they receive value from a toll road. Tolls do not pay for more than a small part of project costs but this is the case for all vehicles.	-This option would likely have a lower revenue potential than forcing heavy vehicle operators to use some toll roads. However, it would be limited by the overall expected modesty of tolling revenue.	-The status quo encourages competition and user choice to a greater extent than other options, as heavy vehicle operators can choose between lower and higher levels of service based on their needs, rather than being compelled.	

5 September 2024

OC240994

Hon Simeon Brown**Action required by:****Minister of Transport**

Tuesday, 10 September 2024

REVENUE ACTION PLAN: CONFIRMING TOLLING REFORM LEGISLATIVE POLICY DECISIONS

Purpose

Seek your agreement to policy changes necessary to enable an expanded role for tolling in the land transport revenue system.

Key points

- In line with the Revenue Action Plan, we have identified amendments to tolling legislation that will enable expanded use of tolling
- Existing legislation is not flexible enough to enable the range of tolling schemes that may support the Roads of National Significance. Legislative amendment is required to:
 - enable tolls on existing roads where users receive benefits from the construction of a new road on the same corridor
 - enable revenue gathered through a tolling scheme to be used for all roads within that tolling scheme, new and existing, and
 - enable tolls to be considered in certain circumstances on roads where there is no feasible untolled alternative.

Out of Scope

Out of Scope

- Subject to your decisions on this paper, you will receive a draft Cabinet paper for Ministerial and departmental consultation on 18 September 2024, with a view to take decisions to the Cabinet Economic Policy Committee on 23 October 2024.

Recommendations

We recommend you:

- | | | |
|---|---|--------|
| 1 | agree to expand the criteria of existing roads that can be tolled to roads where users receive benefits from the construction of a new road on the same corridor | Yes/No |
| 2 | agree to enable revenue gathered through a tolling scheme to be used for new and existing roads covered by that scheme | Yes/No |
| 3 | agree to turn the feasible, untolled, alternative route requirement into a consideration to be weighed up against competing factors | Yes/No |

Out of Scope

Out of Scope



12 **direct** the Ministry to draft a Cabinet paper giving effect to the decisions above Yes/No

Matt Skinner
Manager Revenue
5 / 9 / 2024

Hon Simeon Brown
Minister of Transport
..... / /

- Minister's office to complete:**
- ☐ Approved
- ☐ Declined
- ☐ Seen by Minister
- ☐ Not seen by Minister
- ☐ Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Brent Johnston, Chief of Staff	s 9(2)(a)	
Matt Skinner, Manager Revenue		✓
Hugo Beale, Adviser, Revenue		

REVENUE ACTION PLAN: CONFIRMING TOLLING REFORM LEGISLATIVE POLICY DECISIONS

Purpose

- 1 This briefing recommends changes to tolling legislation as part of the Revenue Action Plan, Out of Scope

Background

- 2 The Government has committed to expanding the use of tolling, with all new roads being considered for tolling to support construction and maintenance. You have committed to reviewing; the legislative settings that underpin tolling, Out of Scope

- 3 As part of the Revenue Action Plan, Cabinet agreed to consider reforming tolling legislation to allow for “corridor tolling, reconsidering the requirement for an untolled alternative route, and exploring adjusting toll rates after a road has opened” (CBC-24-MIN-0063 refers). You were invited to report back to the Cabinet Economic Policy Committee by October 2024 to seek policy approval for specific legislative changes.

Out of Scope

- 5 Tolling is likely to be a small source of revenue in the context of the broader land transport revenue system. Overseas, high-revenue toll roads tend to have much higher traffic volumes than those proposed to be tolled in New Zealand. However, legislative change to ensure more flexible tolling provisions will help enable potential viable tolling schemes in the future.

The reformed scope and purpose of tolling

- 6 You have confirmed a dual purpose for tolling, that tolling should:
 - 6.1 principally be a way of providing extra funding to bring transport infrastructure projects forward in time so benefits can be accrued sooner, and
 - 6.2 secondly, represent users paying to receive a higher level of service versus alternative routes.
- 7 These purposes reflect the differences between tolling and other tools, such as road user charges (RUC) and time of use charging. RUC is paid by users to reflect the costs they impose on the roading network, and time of use charging increases network productivity by reducing low-value trips on congested parts of the network.

Tolls represent a charge for a higher level of service, reflecting the benefits of high-quality new roads and the costs of building and/or maintaining them.

Options for tolling reform have been assessed against the relevant objectives of the revenue action plan

- 8 For each of the gaps and problems that we have identified with the current tolling legislation, we have developed several options that aim to maximise the benefits and opportunities of tolling legislative reform.
- 9 As part of the Revenue Action Plan, Cabinet agreed to several objectives and principles to inform the redesign and reform of the land transport revenue system (CBC-24-MIN-0063 refers). We have used the three most relevant objectives and principles to tolling as the criteria for assessing options:
 - 9.1 **user/beneficiary pays** because toll roads provide a direct link between the use of a road and contributing to its costs
 - 9.2 **revenue sufficiency** because tolls provide additional revenue to contribute to specific projects and enable National Land Transport Fund (NLTF) revenue to be spent on other activities
 - 9.3 **user choice and competition** because motorists can choose to pay for a higher level of service on a toll road that provides reduced travel times and is safer when compared to alternative routes.

Tolling legislation is inflexible, and changes should be made to get the most out of an expanded tolling system

- 10 The statutory criteria for tolling are outlined in the Land Transport Management Act 2003 (LTMA) sections 46 to 48. The key potential areas for reform are:
 - 10.1 the requirement that a toll road must be a new road (new road requirement)
 - 10.2 the requirement that the Minister must be satisfied each toll road has a feasible untolled alternative route (alternative route requirement).
- 11 The new road requirement ensures that users do not perceive that they are paying for a road for a second time, after the road was constructed using NLTF revenue. The alternative route requirement exists so users are not forced to pay a toll to get where they need to go and can choose not to pay if they wish to.
- 12 These requirements are inflexible, do not allow for any discretion, and may limit the revenue potential of tolling with regards to which roads can be tolled.
- 13 Similarly, the current policy for setting and adjusting toll prices encourages lower than optimal price setting and infrequent price increases, which has contributed to low tolls compared to overseas. s 9(2)(g)(i)
The value that motorists place on current toll roads may be low by international standards due to the location and profile of current toll roads, and because of perceptions that users have already paid for roads via the NLTF.

- 14 Improving the flexibility of key statutory tests and toll price setting practices could allow for greater use of tolling, which would help accelerate new projects by providing additional revenue.
- 15 Subsequent sections of this briefing will examine each of the legislative options against the relevant criteria and look to further enable concession arrangements.

The new road requirement provides a barrier to potentially viable projects and should be made more flexible in some circumstances

- 16 In New Zealand, tolling schemes can only be set up on new roads. Section 46(1)(a) of the LTMA indicates the Minister can establish a tolling scheme for the purpose of “planning, design, supervision, construction, maintenance, or operation of a new road.” Section 48(2) confirms that existing roads are only able to be tolled where the “existing road or part is located near, and is physically or operationally integral to, the new road.”
- 17 The Government has indicated tolling should play a part in funding the Roads of National and Regional Significance (RoNS/RoRS) programmes. Several of these roads will be extensions, duplications, or improvements of a larger corridor of existing roads, for example:
 - 17.1 Cambridge to Piarere will become part of the Waikato Expressway and Ōtaki to North of Levin will extend the Kāpiti Expressway
 - 17.2 the Hawke’s Bay Expressway will turn an existing two-way road into a one-way, two-lane road, following the construction of a new one-way, two-lane road in the opposite direction
 - 17.3 Mill Road Stage 1 will result in the existing road undergoing a substantive upgrade, with two lanes added.

s 9(2)(f)(iv)

- 19 We have identified two options in relation to this issue:
 - 19.1 **remove the new road requirement in its entirety** to enable corridor tolling, and all existing roads would be able to be tolled
 - 19.2 **expand the criteria of existing roads that can be tolled** to include those where their efficiency has been enhanced by, or they have accrued benefit from, the construction of a new road on the same corridor.

Table 1: Comparing options for the new road requirement

Option	Users and beneficiaries should cover the costs	Revenue Sufficiency	User Choice and Competition
Option 1: Remove the new road requirement in its entirety	+ Enables more toll roads through corridor tolling but limited by modest traffic volumes.	+ Increased revenue potential through corridor tolling but limited by modest traffic volumes.	+/- Enables more toll roads, thus more competition. This would allow tolling on a wider range of roads than necessary.
Option 2: Expand the criteria of existing roads that can be tolled to include those where their efficiency has been enhanced by the construction of a new road on the same corridor (recommended)	+ Reduces flexibility versus option 1. However, tolls are only put in place where there is a justification.	+ Reduces overall revenue potential versus option 1. This may not matter if only corridor tolls are considered.	+ Creates a clear requirement that there must be an efficiency benefit, which motorists can then consider against the untolled route.

++ Completely or largely aligns with the criterion | + Partially aligns with the criterion
 - Mostly does not align with the criterion | - Does not align with the criterion

- 20 We recommend enabling existing roads to be tolled where a new road on the same corridor will benefit the users of the existing road. This option brings a level of flexibility that is commensurate to the benefits of new projects, without enabling tolling on any road on the network.
- 21 This option maintains the general policy intent of the new road requirement while providing expanded flexibility. It would enable tolling where upgrades include additional lanes on a given corridor (whether that is through adding lanes to an existing road or adding an extension to a highway). A roading corridor will need to be defined clearly in legislative drafting to maintain the policy intent of this change. Lower-level upgrades to existing roads that do not add capacity, such as lane widening, would be ineligible.

Enabling tolling revenue to be used across the whole tolling scheme

- 22 We also recommend the legislation be amended to allow toll revenue to be applied on any road that forms part of a tolling scheme. Currently Section 46(1)(a) only allows revenue to be used on the new section of a road, which would be problematic where tolling schemes are made up of existing and new roads.

The alternative route requirement should be amended to allow more projects to proceed

- 23 Section 48(d) of the LTMA requires the Minister of Transport to be satisfied “that a feasible, untolled, alternative route is available to road users.” The term “feasible” is not defined in legislation, so the test usually considers the characteristics of the route.
- 24 Ensuring motorists do not have to pay a toll has strong fairness and equity grounds. However, it does have some downsides:
- 24.1 the concept of allowing a “feasible” untolled route encourages diversion away from toll roads, reducing their overall revenue potential

- 24.2 it is an inflexible requirement that cannot be weighed up against other factors
- 24.3 even where a community is in favour of tolling a road that has no alternative route (e.g. to bring forward investment in a project), there is no means to progress tolling it
- 24.4 if a person required access to a toll road to get to their property, the requirement would apply and could affect project design (as was the case with Penlink).
- 25 We have identified two options to help address the above issues:
- 25.1 **remove the alternative route requirement in its entirety** which would enable any projects without feasible, untolled, alternative routes to go ahead
- 25.2 **turn the feasible, untolled, alternative route requirement into a consideration** to be weighed up against competing factors.

Table 2: Comparing options for the alternative route requirement

Option	Users and beneficiaries should cover the costs	Revenue Sufficiency	User Choice and Competition
Option 1: Remove the alternative route requirement in its entirety	+ Provides maximum flexibility for viable user-pays tolling schemes, as users may have to use some toll roads.	+ Increased revenue versus status quo, but marginal extra revenue may not balance the negative effects of losing the alternative route.	- Forcing road users to use toll roads stifles user choice and is inconsistent with allowing users to pay for a higher level of service relative to alternatives, but a tolling scheme without an untolled alternative is only likely to happen in limited circumstances.
Option 2: Turn the feasible, untolled, alternative route requirement into a consideration to be weighed up against competing factors (recommended)	+ Allows projects to be considered on their overall costs and benefits, including the value received by users.	+ Increased revenue potential, but only likely in limited circumstances where a road is tolled despite the absence of untolled alternatives.	+ The importance of the untolled route acting as competition can be considered against other relevant factors for a project, such as efficiency and resilience benefits.

++ Completely or largely aligns with the criterion | + Partially aligns with the criterion
 - Mostly does not align with the criterion | - Does not align with the criterion

- 26 We recommend an amendment to turn the alternative route requirement into a consideration to be weighed up against competing factors. This provides flexibility for the Minister to toll and gather revenue from a road in circumstances where they are satisfied that a toll scheme will have public support. However, it still sets a high bar for tolling schemes without feasible alternatives.
- 27 The preferred option would also enable limiting the use of alternative routes by certain classes of vehicle (such as heavy vehicles) to effectively require the use of toll roads. The merits of such a step would best be decided on a case-by-case basis, depending on the design and maintenance costs of the toll road and alternative route, as well as the toll rates paid by the relevant classes of vehicle.

Out of Scope

Out of Scope

Next steps

49 Below are our proposed next steps to enable drafting of legislation later this year.

Date	Milestone
5 September 2024	Receive advice regarding tolling legislative reform decisions
18 September 2024	Provide draft Cabinet paper to Minister seeking agreement on proposals for tolling reform
September – October	Ministerial and departmental consultation
23 October 2024	ECO/Cabinet Committee on decisions
29 October 2024	Cabinet decisions to support drafting instructions
November 2024	Prepare and issue drafting instructions

19 September 2024

OC241078

Hon Simeon Brown
Minister of Transport

Action required by:
Monday, 23 September 2024

FIRST DRAFT CABINET PAPER: REVENUE – OCTOBER REPORT BACK

Purpose

Seek your feedback on the first draft of a Cabinet paper relating to tolling and the transition of the petrol fleet to road user charges (RUC).

Key points

- This draft Cabinet paper proposes changes to the legislative settings for tolling and the RUC system in New Zealand.
- The tolling proposals aim to enable wider use of tolls, including corridor tolling and **Out of Scope** while establishing some specific exemptions to the requirement for a feasible untolled alternative route with some specific exemptions.

Out of Scope

- Given this is a first draft that will be subject to iteration, we have included more detail in here than what is likely necessary for Cabinet's consideration. We will refine the level of detail based on your initial feedback.

Recommendations

We recommend you:

1 provide feedback to officials on the draft Cabinet paper

Yes / No



Matt Skinner
Manager, Revenue

Hon Simeon Brown
Minister of Transport

..... / /

Minister's office to complete:

☐ Approved☐ Declined☐ Seen by Minister☐ Not seen by Minister☐ Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Matt Skinner, Manager, Revenue	s 9(2)(a)	✓
Brent Johnston, Chief of Staff		

DRAFT CABINET PAPER: REVENUE – OCTOBER REPORT BACK

Draft Cabinet paper enclosed for your review

- 1 A draft Cabinet paper is attached for your review, seeking:
 - 1.1 policy decisions on potential changes to the legislative settings relating to tolling, to enable a Bill to be drafted by the Parliamentary Counsel Office

Out of Scope

- 2 This briefing provides further detail on these two matters and next steps. The immediate next step is for you to provide feedback to officials and agree to share the paper with your Ministerial colleagues. At the time of Ministerial consultation, we will consult other departments on the paper.

Tolling proposals

- 3 In the Revenue Action Plan Cabinet paper [CBC-24-MIN-0063 refers], you agreed to report back to Cabinet in October seeking policy decisions on the changes to the legislative settings relating to tolling. The attached draft Cabinet paper satisfies the report back requirement.

The alternative route requirement

- 4 The paper seeks to make several changes that were outlined in our recent advice to you regarding tolling reform (OC24094 refers). The paper's one major departure from that advice is in respect of the requirement for tolling schemes to have a feasible alternative route following a discussion with officials on Tuesday 17 September. Reflecting that discussion, the paper proposes to maintain the requirement in general but to allow exemptions in three cases:
 - 4.1 When the Minister is satisfied with the level of community support for the proposal to toll the road despite the absence of a feasible alternative untolled route.
 - 4.2 For the purposes of requiring heavy vehicles to use certain toll roads and consequently restricting their use of alternative routes.
 - 4.3 When the Minister is satisfied that only a small number of users would be required to use the toll roads.
- 5 There are two key risks with this approach. The first risk is that the first and third exemptions contain considerable discretion for the Minister which may detract from public perception that roads will only be tolled when there is a feasible untolled alternative. We considered prescribing specific thresholds in primary legislation to mitigate this risk but do not recommend doing so given the complexity it would cause. In the case of the first exemption (community support), setting a specific threshold

would also be inconsistent with the approach the Act currently takes to requiring the Minister be satisfied with community support for the overall proposal.

- 6 The second risk is that maintaining the untolled route requirement in general may foreclose the use of tolling in unanticipated scenarios where there is a strong public policy rationale to toll a road despite the absence of an untolled alternative route. However, given the relative maturity of New Zealand's road network, we consider there are likely to be very few scenarios where this risk eventuates.

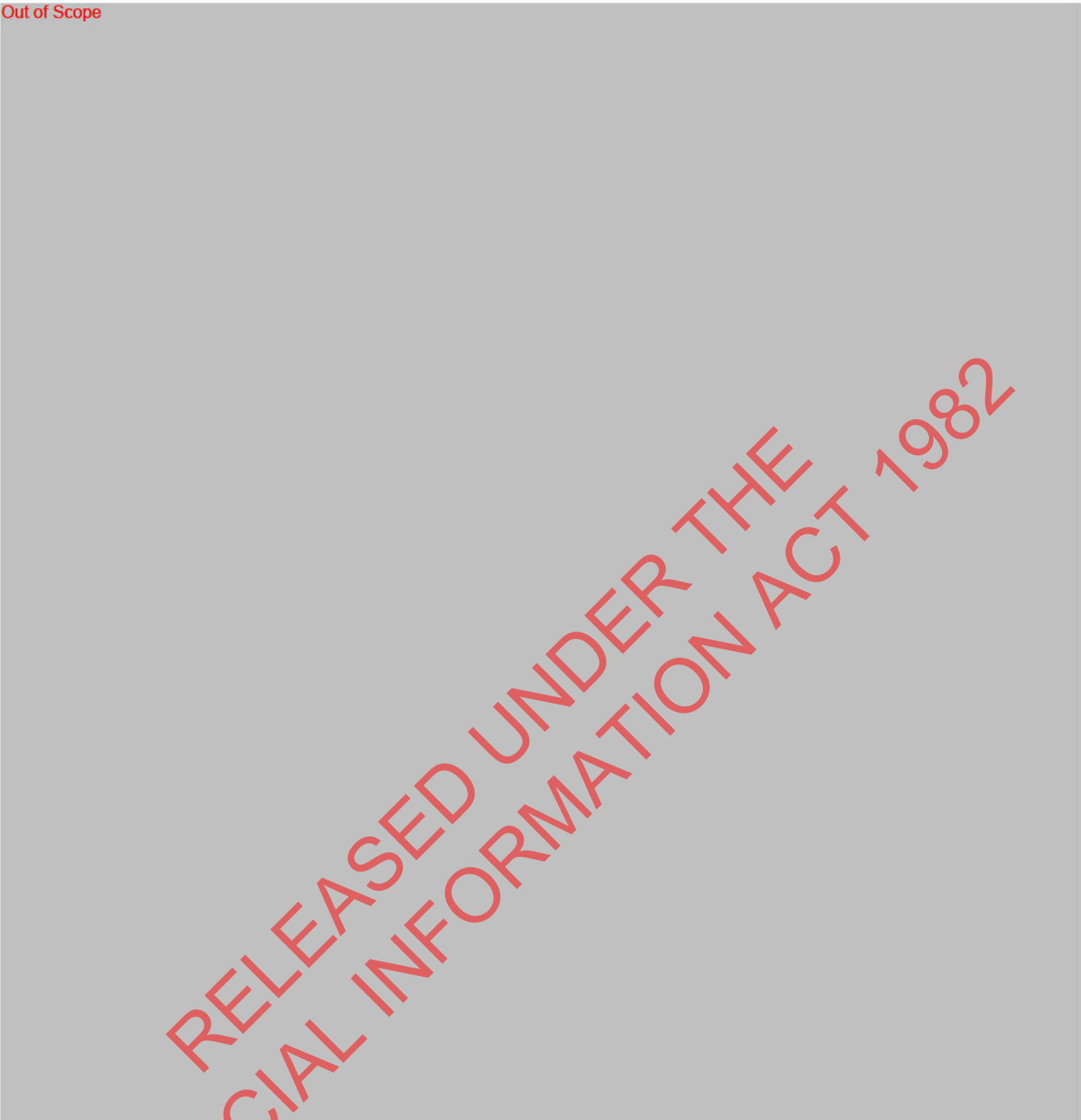
Out of Scope

Other matters

- 9 As requested, the Cabinet paper also clarifies other features of tolling schemes. We have clarified these factors below:

Out of Scope

Out of Scope



Timeline for Cabinet’s consideration of the paper

Date	Step
23 September 2024	Provide feedback on the draft paper
26 September to 10 October 2024	Ministerial & cross-party consultation Departmental consultation.
17 October 2024	Lodge the paper
23 October 2024	Cabinet Economic Policy Committee
28 October 2024	Cabinet

Sensitive

Office of the Minister of Transport

Cabinet Economic Policy Committee

Land Transport Revenue Action Plan: Report back on Tolling Reform

Out of Scope

Proposal

- 1 This paper seeks agreement to policy changes that will enable wider use of tolling to bring forward key projects in the Government's Roads of National Significance (RoNS) and Roads of Regional Significance (RoRS) programmes.

Out of Scope

Relation to government priorities

- 3 Tolling to fund infrastructure Out of Scope is a commitment in the Coalition Agreement between the National Party and the ACT Party. This Agreement also notes the importance of tolling as a potential revenue source to support our Regional Deals programme.

Executive Summary

- 4 Our transport revenue system is under significant pressure, with the Crown increasingly having to provide funding and debt capacity to build infrastructure. In July 2024, Cabinet agreed to the Revenue Action Plan, which set out a work programme to improve existing revenue tools and explore new ones.

Out of Scope

Out of Scope

Out of Scope

- 9 In the meantime, we can make progress on reforming tolling settings to ensure that tolls can be used to help fund the RoNS and RoRS. I have identified several changes to tolling legislative settings to enable more tolling. These include making sure that existing roads can be tolled where they form part of a broader corridor where new roads are being built or improvements are being made, ensuring that toll revenue can be used across a corridor of new and existing roads, and creating several exemptions to the requirement for a toll road to have an untolled alternative route.

Out of Scope

- 11 If Cabinet agrees to these changes, I intend to issue drafting instructions for the necessary Bill, with the aim of the new tolling provisions being in place by early 2026.

Background

- 12 Delivering infrastructure to increase productivity and economic growth is a key priority for the Government. With New Zealand facing a prolonged infrastructure deficit, we need to ensure we have the funding and financing tools needed to support this growth. Our Government Policy Statement on land transport (GPS) 2024 reintroduced the successful RoNS programme, introduced a new RoRS programme, and included major public transport projects to address the infrastructure deficit. It also outlines our plan to

implement major reforms to the way we plan for, fund, and finance infrastructure.

- 13 The GPS 2024 is funded for the first three years, but with the National Land Transport Fund (NLTF) under increasing pressure, this has required funding and debt capacity to be provided by the Crown. Recognising this, Cabinet agreed to the Land Transport Revenue Action Plan in July 2024 (CAB-24-MIN-0248 refers), which is intended to address funding shortfalls, inconsistent cost allocation and underutilised tools in our land transport revenue system. The plan includes:

13.1 Making better use of existing funding tools for the NLTF

13.2 Unlocking new funding tools, including value capture

13.3 Transitioning all light vehicles to RUC by as early as 2027

13.4 Reforming tolling legislation to support bringing forward infrastructure investment.

- 14 Cabinet invited me to report back in October 2024 seeking policy approval for specific changes to tolling legislative settings, Out of Scope 
 including decisions on a transition plan. This paper fulfils both report-back requests.

Out of Scope 

- 17 Cabinet agreed that our focus for tolling reform would include allowing for corridor tolling, reconsidering the requirement for a toll road to have a free alternative route, and exploring options for adjusting toll rates after a toll road has opened. Out of Scope 



- 18 Tolling can provide a key tool to support new projects, including to bring them forward, freeing up the NLTF for use on other priorities. I have already made my expectations clear to NZTA that it considers tolling for all new roads, and that the Government will support all recommendations from NZTA to toll roads. Out of Scope 


Pages 4 to 7 have been removed as those were out of scope of this request.

Tolling reform

46 The Land Transport Management Act 2003 (LTMA) enables the establishment of road tolling schemes. Road Controlling Authorities (RCAs) submit proposals to the Minister of Transport (the Minister), and they must judge these proposals against the statutory criteria in the LTMA. An Order in Council is used to establish a road tolling scheme for or on behalf of a public RCA. The Minister has wide discretion to accept, decline, or amend tolling schemes within the confines of the LTMA.

47 I am proposing a package of reforms involving five areas:

47.1 Enabling the tolling of an entire corridor that benefits from a new project, including existing roads in some circumstances

47.2 Adding principled exceptions to the requirement for an alternative untolled route

Out of Scope

Current settings do not enable tolling across an entire corridor

48 The LTMA mostly limits tolling schemes to 'new roads.' Existing roads can be tolled, but only in situations where the existing road is located near and is physically or operationally integral to the new road.

49 Cabinet has previously agreed that tolling should play a part in funding the RoNS programme, and the associated RoRS. Several of these projects involve substantial improvements to existing corridors, including:

49.1 Cambridge to Piarere will become part of the Waikato Expressway, and Ōtaki to North of Levin will extend the Kāpiti Expressway

49.2 Expanding the Hawke's Bay Expressway to two lanes in each direction

49.3 Two additional lanes on Mill Road.

50 Users of these corridors may benefit from the improvements, but only the new sections will be able to be tolled. To remedy this, and enable entire corridors to be tolled, I recommend amending the LTMA to expand the range of existing roads that can be tolled to include those where their efficiency has been enhanced by, or their users have accrued benefit from, the construction of a new road on the same corridor.

51 This change is likely to produce more revenue than the status quo, because tolling an entire corridor reduces the potential for people to divert on to other routes and s 9(2)(f)(iv)

It also fits well with ensuring that beneficiaries are paying for the costs of infrastructure investments they benefit from.

- 52 I also recommend that the LTMA be amended to enable toll revenue to be spent across all roads that form part of a tolling scheme. The current legislation only allows the revenue to be spent on the new sections, which is problematic in cases where a scheme is made up of new roads and existing roads that have been upgraded. Making this change ensures that toll revenue can be used across corridors.
- 53 I considered going further and completely removing the new road requirement, effectively allowing every road to be tolled. This would have a greater overall revenue potential but would go beyond using tolling to bring forward new projects. The idea of tolling existing roads where no major improvements are planned is likely to generate significant public resistance – users have already paid for the road through FED and RUC.
- 54 Retaining the new road requirement in an amended form also fits well with a beneficiary-pays principle – those using and benefitting from the new and improved road corridors are contributing to its costs.

The requirement to have a feasible, untolled alternative route is limiting

- 55 The LTMA also requires that the Minister must be satisfied that a feasible, untolled, alternative route is available to road users who do not wish to pay the toll. There is no specific definition of 'feasible' in the law, so the test usually considers the characteristics of the route.
- 56 This requirement ensures that nobody must pay a toll to access their property, work, or educational opportunities. However, the requirement is inflexible and can limit the use of tolling in areas where it would otherwise make sense.
- 57 I do not consider that it is necessary to completely remove this requirement. Maintaining it retains tolling as a tool for users to pay for a higher level of service, without forcing them to do so. Any revenue benefits are likely to be marginal and unlikely to justify the potential negative effects of limiting access. Removing this requirement is also likely to generate additional public opposition.
- 58 However, I do consider that the requirement is overly restrictive in some cases, and I propose three exemptions from the alternative route requirement:

Out of Scope

Out of Scope

- 58.2 Allowing the Minister to require heavy vehicles or certain classes of heavy vehicles to use a certain toll road. The alternative route requirement does not differentiate between different classes of vehicle and prevents the development of schemes that require certain vehicle types to use toll roads. I consider there is a stronger rationale for preserving an alternative route for the general public than there is for heavy vehicles.

Out of Scope

- 59 These exemptions strike a balance between giving the public confidence that they will not be forced to use toll roads in general, while providing flexibility in targeted cases. There are likely to be relatively few circumstances in which they apply, Out of Scope

Whether these exemptions are used in individual cases would be determined by the Minister through the Order in Council process.

Out of Scope

Out of Scope

Tolling legislative changes will also progress in 2025

- 76 My intention is for expanded tolling provisions to be available from early 2026, which will support delivery of the RoNS and RoRS programmes. In the meantime, we will continue to operate with current tolling provisions for new roads that are expected to open before the expanded provisions become available. Out of Scope

Cost-of-living Implications

- 77 There are no direct cost-of-living implications arising from this paper. In general, greater use of tolling provisions would be expected to increase the costs of motorists who use those roads. However, it does this by ensuring that users of a particular road pay a greater share of its cost, thereby freeing up the NLTF (which is funded by all road users) for other projects. Cost-of-living implications of tolling proposals will be considered on a case-by-case basis.

Out of Scope

Financial Implications

- 79 There are no direct financial implications arising from this paper.

Legislative Implications

- 80 A bill to give effect to the tolling proposals in this paper will be required. I intend to report back to Cabinet in early 2025 with a bill that would give effect to these decisions, Out of Scope I will be seeking approval to add this bill to the 2025 Legislation Programme in due course.

- 81 The Bill would bind the Crown.

Impact Analysis

Regulatory Impact Statement

- 82 As this paper proposes new legislation for tolling the regulatory impact analysis requirements apply. A Regulatory Impact Statement (RIS) has been prepared and is attached to the Cabinet paper. **Hold for something on CRIS standards if they do apply.**
- 83 This RIS has been reviewed by a panel of representatives from the Ministry of Transport. **It has been given a [RATING TO COME]**

Climate Implications of Policy Assessment

- 84 The Climate Implications of Policy Assessment (CIPA) team has been consulted on the tolling elements of this paper and confirms that the CIPA requirements do not apply to this proposal, as the emissions impact is indirect. This proposal concerns legislative changes to enable future tolling projects but does not propose any specific projects at this time. The tolling projects, which are expected to have an emissions impact, will be submitted to the Cabinet at a later date and will undergo their own CIPA assessments.

85 **Out of Scope**

Population Implications

- 86 There are no direct population implications arising from the proposals in this paper. However, decisions regarding individual tolling proposals could have an impact on specific population groups depending on the circumstances of the toll road (such as the toll rate, or the availability of an alternative route or alternative forms of transport). Specific population groups may also benefit from tolls if they enable new projects, which provide more travel choices, to be brought forward. These impacts will form part of the analysis that supports tolling proposals

Human Rights

- 87 Establishing toll roads without a feasible alternative untolled route may be considered inconsistent with the freedom of movement within New Zealand under the New Zealand Bill of Rights Act 1990. These issues will be considered in drafting the resulting legislation but are likely to be most relevant in the consideration of particular tolling schemes once it is enacted.

Use of external Resources

- 88 There were no external resources used in the development of these proposals.

Consultation

89 To come

Communications

90 I intend to announce these decisions in due course.

Proactive Release

91 This Cabinet paper (and associated minutes) will be released within 30 business days of final decisions being confirmed by Cabinet, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Transport recommends that the Committee:

- 1 **note** that in June 2024, Cabinet agreed to better use of existing transport revenue tools as part of decisions on the Revenue Action Plan [CAB-24-MIN-0248 refers];

Out of Scope

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Reforming tolling legislation

- 6 **note** that Cabinet agreed to expand the use of tolling to support the Roads of National Significance and the Roads of Regional Significance;

- 7 note that tolling schemes for individual roads are established via Order in Council on the recommendation of the Minister of Transport (the Minister), within broad parameters set by the Land Transport Management Act 2003 (LTMA);

Enabling corridor tolling

- 8 **note** that the LTMA limits tolling to new roads;
- 9 **note** that existing roads are currently only able to be tolled where they are physically or operationally integral to a new road;
- 10 **agree** to expand the criteria of roads that can be tolled to include existing roads where users receive benefits from the construction of a new road on the same corridor;
- 11 **note** that tolling revenue may only be used on a new road, even where an existing road is included in a tolling scheme;
- 12 **agree** to enable toll revenue gathered through a tolling scheme to be used for all new and existing roads covered by that scheme;

The alternative route requirement

- 13 **note** that before agreeing to a tolling proposal, the Minister of Transport must be satisfied that a feasible untolled alternative route is available to users;
- 14 **agree** to maintain the requirement described in recommendation 13 in general, but to create three exemptions that would enable the tolling of certain roads in the absence of a feasible untolled alternative route:

Out of Scope

- 14.2 for the purposes of requiring heavy vehicles or certain classes of heavy vehicles to use a certain toll road;

Out of Scope

Out of Scope

Out of Scope

Out of Scope

Next steps

- 24 **note** that the Minister of Transport will seek agreement to add the Bill to the 2025 Legislation Programme at the appropriate time;
- 25 **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give legislative effect to the above decisions (including for primary legislation and any associated regulations), including any necessary consequential amendments, savings, and transitional provisions;
- 26 **authorise** the Minister of Transport to make further decisions consistent with the overall policy, provided that any such decisions are confirmed by Cabinet when the Bill is considered for introduction.

Authorised for lodgement.

SENSITIVE

Hon Simeon Brown

Minister of Transport

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SENSITIVE

Sensitive

Office of the Minister of Transport
Cabinet Economic Policy Committee

Land Transport Revenue Action Plan: Report back on Tolling Reform

Proposal

- 1 This paper outlines a proposed approach to road tolling to support the delivery of key projects in the Government's Roads of National Significance (RoNS) and Roads of Regional Significance (RoRS) programmes. It also seeks agreement to policy changes that will enable wider use of tolling for future projects.

Relation to government priorities

- 2 Taking decisions to enable greater use of road tolling is in the Government's Quarter 4 Action Plan. Tolling to fund infrastructure is also a commitment in the Coalition Agreement between the National Party and the ACT Party.

Executive Summary

- 3 New Zealand has an infrastructure deficit and needs new ways to help fund and deliver this infrastructure. Tolling is one tool that can support the building and maintaining of roading infrastructure. It directly charges people who use the roading infrastructure in return for a higher level of service, faster journey times, and more efficient connections.
- 4 Tolling is underutilised in New Zealand. Other countries use tolling to help fund new or upgraded roading infrastructure more frequently. The Crown is increasingly providing funding and using debt to build the infrastructure we need to enhance our productivity. In July 2024, Cabinet agreed to the Revenue Action Plan, which sets out a work programme to ensure we have a suite of tools in place to pay for high quality transport infrastructure in a way that is sustainable and affordable. One of these areas was to review tolling legislation.
- 5 Tolling has an important role as part of the overall mix of revenue tools, in that it allows a 'customer pays' approach targeted to a specific road. Tolling creates an additional revenue source, funded by direct users of the road, which can help accelerate the delivery of the project. Despite this, only three toll roads are currently in operation in New Zealand. Tolling can be a challenging tool to use in practice because users can divert onto untolled alternative routes. However, on the Northern Gateway, the vast majority of users choose to pay rather than take the alternative route.
- 6 I have already set an expectation that the New Zealand Transport Agency (NZTA) consider tolling for every new road. I am seeking Cabinet decisions regarding additional tolling schemes in a separate paper that accompanies this one.
- 7 In this paper I propose a new approach to ensure tolling supports investment, a customer-pays approach, offers clear benefits for users, and that there is always a free alternative. The proposals include enabling tolls to be set across entire corridors (including enabling toll revenue to be used across those corridors); **Out of Scope** and allowing the Minister of Transport to require heavy vehicles to use tolled roads. I also consider that the

legislation should be Out of Scope

- 8 If Cabinet agrees to these changes, I intend to issue drafting instructions for the necessary Bill, with the aim of the new tolling provisions being in place by 2026.

Background

- 9 The key objectives of tolling are to:

- 9.1 provide revenue that brings forward the delivery of new projects such as new roads or additional lanes that are added to existing roads.
- 9.2 enable a 'customer pays' approach – customers of toll roads get an additional benefit relative to alternative routes including reduced travel times, and a more efficient and resilient route compared with the alternative. Tolling can allow those users to pay for these benefits.

- 10 My expectation is that future tolling proposals will meet these objectives as much as possible, noting this may not be entirely possible for every case.

- 11 Tolling is rarely used in New Zealand, with only three existing toll roads: the Northern Gateway (scheme established in 2009), Tauranga Eastern Link (2015), and Takitimu Drive (transferred to NZTA in 2015). Collectively these schemes raised \$41.3 million in gross revenue in the 23/24 financial year.¹ However, tolling has historically played a greater role in building New Zealand's transport network. For instance, the Auckland Harbour Bridge was originally a toll road when it opened in 1959, with light vehicles tolled two shillings and sixpence (approximately \$7.15 in 2024 dollars) to cover the initial construction cost. The same toll was initially applied to the Lyttelton Tunnel when it opened in 1964 (\$6.53 in 2024 dollars). Comparatively, New Zealand's current toll road rates are much lower, ranging from \$2.10 to \$2.60 for light vehicles.

- 12 Tolling also faces fundamental challenges that are not shared by other transport revenue tools. It can create broader inefficiencies in the network and erode the benefits of new projects by encouraging road users to divert to alternative routes. These alternative routes generally have increased travel times and inferior safety outcomes relative to the tolled route. The purpose and structure of tolling schemes can be unclear, in that users often perceive they are paying for a road twice (once through FED or RUC, and once through the toll) and there being no obvious link between the toll scheme and early delivery of project benefits.

- 13 Tolling has an important role to play in funding our transport system and have already taken key steps to ensure it is more widely used. In particular, I have set an expectation through the Government Policy Statement on land transport (GPS) 2024 that NZTA will consider tolling for the construction and maintenance of all new roads. In August this year I instructed NZTA to consult on tolling proposals for Takitimu North Link, Te Ahu a Turanga Manawatū Tararua Highway, and Ōtaki to north of Levin. I have submitted a separate paper regarding those proposals, and for Penlink.

- 14 I also consider a new approach is needed to ensure tolling is used in a principled way which supports the overall objective of enabling projects to be brought forward and

¹ NZTA Annual Report 2023-24: <https://www.nzta.govt.nz/assets/resources/annual-report-nzta/2023-24/nzta-annual-report-2024-section-d.pdf>.

preserves its social licence. I am therefore proposing a combination of legislative reform and non-legislative good practice regarding how schemes are developed.

Principles for tolling

- 15 I propose four key principles to underpin the way future tolling schemes meet their objectives, building on the principles in the revenue action plan:
 - 15.1 **Supporting Investment:** Tolling schemes need to meet the objectives of supporting the delivery of modern reliable infrastructure which helps to create a more efficient and productive roading network.
 - 15.2 **Customer-pays:** Tolling schemes should maximise revenue to support the investment needed. The people who use this infrastructure should contribute towards the infrastructure they are benefiting from. This means setting toll rates at a point which maximises revenue, while ensuring tolling system is operating efficiently.
 - 15.3 **Clear benefits for users:** It must be clear what toll road users are paying for, in terms of the benefits they receive from the project, and how the toll revenue supports those benefits. It is important that the earlier delivery of benefits to the public that the new transport projects provide, such as faster and more reliable travel time, improved safety and reduced vehicle operating costs, is clearly perceived by the public to be enabled by the toll.
 - 15.4 **Free Alternative:** The general public should always have a choice about whether to use toll roads. The Land Transport Management Act 2003 (LTMA) currently requires that a feasible, untolled, alternative route is available to road users. I do not propose this principle should always apply to heavy vehicles, particularly where the proposed toll road is being delivered to reduce congestion in built up or suburban areas.
- 16 I am proposing several steps to address these issues. Most significantly, I am seeking Cabinet's agreement to a set of changes to the tolling provisions in the LTMA that will be more enabling of future tolling schemes.
- 17 I am also taking steps to ensure tolling schemes are more administratively efficient. Through the GPS, I have set a clear expectation that expenditure on administration should reduce as a share of overall tolling revenue. ^{s 9(2)(f)(iv)}
- 18 However, I still consider there are further changes we need to make to how we do tolling consultations. Informed by the recent experience of consultation on tolling proposals, I will be expecting the following changes in the way NZTA undertakes consultation in future.
 - 18.1 **Consultation with the public regarding tolling schemes must be undertaken early, and enable the benefits of tolling to be clear.** These benefits include supporting the delivery of project benefits such as faster travel times, and

improved safety and vehicle operating cost outcomes. I expect consultation documents to clearly outline all the benefits the tolled road is expected to deliver.

18.2 **The wider impacts of tolling schemes must be factored into tolling assessments**, such as the additional congestion and wear and tear on alternative routes. For future schemes I will be expecting advice from NZTA about factors such as the impacts of diversion onto local roads and options for tolling revenue supporting the resulting maintenance.

18.3 **All relevant information being made available to the relevant territorial authorities and the general public at the start of the consultation process, including tolling assessments.** I expect these tolling assessments must be carried out in a structured, consistent manner that is easy for the public to understand.

Tolling legislative reform

19 The LTMA enables the establishment of road tolling schemes. Road Controlling Authorities (RCAs) submit proposals to the Minister, and the Minister must judge these proposals against the statutory criteria in the LTMA. An Order in Council is used to establish a road tolling scheme for or on behalf of a public RCA. The Minister has wide discretion to accept, decline, or amend tolling schemes within the LTMA.

20 To deliver on the principles set out in this paper, I am proposing a package of reforms involving five areas:

20.1 Enabling the tolling of an entire corridor, including existing roads that benefit in capacity or efficiency from a new project

Out of Scope

20.4 Allowing the Minister to require heavy vehicles to use toll roads where the toll road is built to deliver efficiencies for the freight network.

Out of Scope

Current settings do not enable tolling across an entire corridor

21 The LTMA mostly limits tolling schemes to 'new roads.' Existing roads can be tolled, but only in situations where the existing road is located near and is physically or operationally integral to the new road. Several of the RoNS and RoRS projects involve extending or improving existing corridors, including:

21.1 Cambridge to Piarere will become part of the Waikato Expressway, and Ōtaki to North of Levin will extend the Kāpiti Expressway

21.2 Expanding the Hawke's Bay Expressway to two lanes in each direction

22 Users of these corridors may benefit from the improvements, but only the new sections will be able to be tolled. For example, users of State Highway 1 north of Wellington benefitted from Transmission Gully, and similar benefits are likely for the Kāpiti Expressway once Ōtaki to north of Levin is completed. However, only the new stretches of road are currently eligible for tolling.

- 23 To remedy this, I recommend amending the LTMA to expand the range of existing roads that can be tolled to include those where their efficiency has been enhanced by, or their users accrue benefit from the construction of a new road on the same corridor

s 9(2)(f)(iv)

- 24 I also recommend the LTMA be amended to enable toll revenue to be spent across all roads that form part of a tolling scheme. The current legislation only allows the revenue to be spent on the new sections. Making this change ensures toll revenue can be used across corridors

s 9(2)(f)(iv)

- 25 I am recommending the LTMA be amended to enable toll revenue to be used to support the maintenance of local alternatives where the relevant RCA is unable to fund this itself.

Out of Scope

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Out of Scope

Allowing the Minister to require heavy vehicles to use toll roads

- 37 The LTMA also requires that the Minister must be satisfied that a feasible, untolled, alternative route is available to all road users who do not wish to pay the toll. There is no specific definition of 'feasible' in the law, so the test usually considers the characteristics of the route. This requirement ensures that nobody must pay a toll to access their property, work, or educational opportunities, and I consider that it should be maintained for most vehicles. This approach retains tolling as a tool for users to choose whether to pay for a higher level of service, without forcing them to do so.
- 38 While I consider that the general principle behind this requirement is sound, it should not extend to heavy vehicles, which not only gain significant benefits from toll roads,

but also impose significant costs on alternative routes.² I therefore propose allowing the Minister to require heavy vehicles or certain classes of heavy vehicles to use a certain toll road, except for where they have business on alternative routes. This is already done on several toll roads in Australia, mainly to remove heavy vehicles from local or residential streets. For example, most heavy vehicles are required to use the Northconnex tolled tunnels in Sydney and not the untolled Pennant Hills Road as a key goal of the tunnels was to remove trucks off local roads.

- 39 In practice this is unlikely to be used frequently, given that heavy vehicle operators tend to be less price-sensitive than other road users, and that the time savings and efficiency benefits of new roads is likely to significantly outweigh the cost of the toll. Given the costs that heavy vehicles can impose on local alternative routes I consider it prudent to create this power.

Out of Scope

Implementation

- 42 My intention is for expanded tolling provisions to be available from 2026, which will support delivery of the RoNS and RoRS programmes.

Cost-of-living Implications

- 43 There are no direct cost-of-living implications arising from this paper. In general, greater use of tolling provisions would be expected to increase the costs of motorists who use those roads. However, it does this by ensuring that users of a particular road pay a greater share of its cost, thereby freeing up the NLTF (which is funded by all road users) for other projects. There will also be a free alternative available for each road for those who choose not to pay. The cost-of-living implications of future tolling proposals will be considered on a case-by-case basis.

Financial Implications

- 44 There are no direct financial implications arising from this paper.

Legislative Implications

- 45 A bill to give effect to the policy changes in this paper will be required. I intend to report

² In New Zealand, a heavy vehicle has a gross vehicle mass (GVM) of more than 3500 kilograms.

back to Cabinet in 2025 with a bill that would give effect to these decisions, alongside decisions regarding the RUC transition. I will be seeking approval to add this bill to the 2025 Legislation Programme in due course. The Bill would bind the Crown.

Impact Analysis

Regulatory Impact Statement

- 46 As this paper proposes new legislation for tolling the regulatory impact analysis requirements apply. A Regulatory Impact Statement (RIS) has been prepared. This RIS has been reviewed by a panel of representatives from the Ministry of Transport which has given the following comment: "The Regulatory Impact Statement received a 'partially meets' rating against the quality assurance criteria for the purpose of informing Cabinet decisions. The panel considers that the RIS provides a sufficient basis for informed decisions on the current proposal. However, there is a lack of public consultation to gain more evidence on the options to support the RIS. The RIS could also be condensed. The scope is limited to the options directed by the Minister."

Climate Implications of Policy Assessment

- 47 The Climate Implications of Policy Assessment (CIPA) team has been consulted on the tolling elements of this paper and confirms that the CIPA requirements do not apply to this proposal, as the emissions impact is indirect. This proposal concerns legislative changes to enable future tolling projects but does not propose any specific projects right now. The tolling projects, which are expected to have an emissions impact, will be submitted to the Cabinet later and will undergo their own CIPA assessments.

Population Implications

- 48 There are no direct population implications arising from the proposals in this paper. However, decisions regarding individual tolling proposals could have an impact on specific population groups depending on the circumstances of the toll road (such as the toll rate, or the availability of an alternative route or alternative forms of transport). Specific population groups may also benefit from tolls if they bring forward projects.

Human Rights

- 49 The proposals are consistent at this stage with human rights issues contained within the relevant Acts, including the New Zealand Bill of Rights Act 1990, the Human Rights Act 1993, and the Privacy Act 2020.

Use of external Resources

- 50 There were no external resources used in the development of these proposals.

Consultation

- 51 The following agencies were consulted on this Cabinet paper: the Treasury, Department of Internal Affairs, Ministry of Housing and Urban Development, NZTA, and the Infrastructure Commission. The Department of the Prime Minister and Cabinet was informed.

Communications

- 52 I intend to announce these decisions in due course.

Proactive Release

- 53 This Cabinet paper (and associated minutes) will be released within 30 business days of final decisions being confirmed by Cabinet, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Transport recommends that the Committee:

- 1 **note** that in June 2024, Cabinet agreed to the greater use of tolling as part of decisions on the Revenue Action Plan [CAB-24-MIN-0248 refers];
- 2 **agree** that as part of using tolling more often, the principles of supporting investment, customer-pays, clear benefits for users, and the availability of a free alternative route should apply;
- 3 **note** that I expect NZTA to make the following changes to the way it undertakes tolling assessments to meet the principles described in recommendation 2:
 - 3.1 undertaking public consultation at a time that enables benefits associated with tolling schemes to be made clear to the public;
 - 3.2 considering the wider impacts of tolling schemes;
 - 3.3 making all relevant information, including tolling assessments, publicly available at the start of the consultation process;

Enabling corridor tolling

- 4 **note** that the LTMA limits tolling to new roads, with existing roads only able to be tolled where they are physically or operationally integral to a new road;
- 5 **agree** to expand the criteria of roads that can be tolled to include existing roads where users receive benefits from the construction of a new road on the same corridor;
- 6 **note** that tolling revenue may only be used on a new road, even where an existing road is included in a tolling scheme or a toll road induces traffic onto alternative routes;
- 7 **agree** to enable toll revenue gathered through a tolling scheme to be used for all new and existing roads covered by that scheme;
- 8 **agree** to enable toll revenue to be used for the maintenance of alternative routes where the local road controlling authority is unable to fund this themselves;

The alternative route requirement

- 9 **note** that before agreeing to a tolling proposal, the Minister of Transport must be satisfied that a feasible untolled alternative route is available to users;
- 10 **agree** to create an exception to this requirement for the purposes of requiring heavy vehicles or certain classes of heavy vehicles to use a certain toll road;

Out of Scope

Out of Scope

Out of Scope

Out of Scope

Next steps

- 21 **note** that the Minister of Transport will seek agreement to add the Bill to the 2025 Legislation Programme at the appropriate time;
- 22 **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to give legislative effect to the above decisions (including for primary legislation and any associated regulations), including any necessary consequential amendments, savings, and transitional provisions;
- 23 **authorise** the Minister of Transport to make further decisions consistent with the overall policy, provided that any such decisions are confirmed by Cabinet when the Bill is considered for introduction.

Authorised for lodgement.

Hon Simeon Brown
Minister of Transport

Annex 1 has been removed as it is out of scope of this request.

Regulatory Impact Statement: Tolling legislative reform

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the Cabinet decision to reform tolling legislation.
Advising agencies:	Ministry of Transport – Te Manatū Waka
Proposing Ministers:	Minister of Transport
Date finalised:	28 November 2024
Problem Definition	
Projections show that there is not enough transport revenue expected to meet the required investment levels to deliver on all investment priorities in the medium to long-term. In response the Government has initiated a revenue action plan, where officials were instructed to formulate tolling reform options to increase the use of tolling alongside several other revenue measures. The Government is seeking to implement reformed legislative criteria for tolling soon, so it can be utilized for new projects.	
Executive Summary	
In July 2024, Cabinet agreed to explore new revenue tools and make better use of existing ones through the revenue action plan, one of which was the reform of tolling legislative provisions. The Government has also indicated through the GPS 2024 that it expects an increased use of tolling on new roads. The statutory criteria for tolling are outlined in the Land Transport Management Act 2003 (LTMA) and contain two key parameters: a toll road must be a new road, and the Minister must be satisfied that a feasible, untolled, alternative route is available for each toll road. Toll rates and price adjustment over time are set in tolling Orders in Council. However, New Zealand has low toll rates relative to comparable countries, and increases to tolls are sporadic and do not maintain the real value of the toll as originally set, despite this being enabled. The key areas where change to statutory criteria have been considered are: • New Road requirement: allowing tolling and the resulting revenue to be applied on existing roads where their efficiency or capacity has been enhanced by the construction of a new road on the same corridor. • Alternative route requirement: turning the alternative route requirement into a consideration for the Minister to weigh against other factors, such as community support, the suitability of heavy vehicles on the alternative route, or the number of people that do not have access to an alternative route.	
Out of Scope	

If implemented, the changes outlined above would enable greater flexibility for using tolling schemes than are currently permitted under the LTMA. They would also set the groundwork for higher tolling rates and more regular CPI adjustments than the status quo. These changes will help to generate additional revenue that can be used to accelerate the delivery of more new roads. However, the changes would also enable scenarios where motorists must pay for roads they previously used for free under a corridor toll, as well as scenarios where certain motorists may not have access to an alternative route.

Out of Scope

Limitations and Constraints on Analysis

- We have not conducted public consultation on these proposals due to the Government's interest in adopting new provisions quickly to enable projects. However, we have included relevant public consultation from GPS 2024 which indicated a level of support for the use of tolls to fund transport infrastructure, though with caveats around the importance of public ownership and the provision of alternative routes and transport options for toll roads.
- The tolling reform assessment undertaken by officials was an assessment of specific parameters in legislation, rather than a first principles review. As such, proposals like making the tolling legislative framework broadly enabling, or requirements that do not limit expanding tolling (such as community support provisions) were not considered.
- The effects of tolling reform on specific schemes were not assessed or modelled due to time constraints. There are some examples given in this document of where the new provisions may enable more tolling projects to be viable. However, the absence of specific modelling means that there is a limited evidential basis for the costs and benefits of the recommended reforms to legislative settings.

s 9(2)(i)

Responsible Manager(s) (completed by relevant manager)

Daniel Cruden

Acting Manager

Revenue

Ministry of Transport



28 November 2024

Quality Assurance (completed by QA panel)

Reviewing Agency: Ministry of Transport

Panel Assessment & Comment:

The Regulatory Impact Statement (RIS) has been reviewed by a panel of representatives from the Ministry of Transport. It received a 'partially meets' rating against the quality assurance criteria for the purpose of informing Cabinet decisions. The panel considers that the RIS provides a sufficient basis for informed decisions on the current proposal. However, there is a lack of public consultation to gain more evidence on the options to support the RIS. The RIS could also be condensed. The scope is limited to the options directed by the Minister.

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Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The Government has initiated a significant transport investment programme. The Government Policy Statement on land transport 2024 (GPS) highlighted the 17 new Roads of National Significance (RoNS) and 11 Roads of Regional Significance (RoRS) as a strategic priority. However, current projections indicate that revenue will not be sufficient to meet expenditure intentions over a ten-year period.¹
2. Cabinet has also approved the Land Transport Revenue Action Plan (the plan) in July 2024 (CBC-24-MIN-0063 refers). The plan acknowledged the increased pressure on the land transport revenue system, including a funding shortfall and the subsequent reliance on Crown funding to meet investment ambitions over recent years. It then outlined a suite of actions to help address this shortfall. One of these actions was making more effective use of tolling.
3. Tolling is a widely used transport revenue tool around the world. It allows users to make a direct payment for the right to use a certain road and can play a crucial role in funding transport infrastructure, either directly or indirectly, supplementing other revenue sources such as petrol taxes and road user charges.

Current transport revenue projections will limit the ability to address New Zealand's infrastructure deficit

4. New Zealand has a widely publicised infrastructure deficit. An analysis in 2021 made for the Infrastructure Commission indicates that New Zealand's infrastructure deficit will be up to \$209 billion over the next 30 years.² Not meeting this deficit would have significant opportunity costs to the economy, as delays in New Zealand infrastructure projects leads to foregone economic benefits.³
5. Projected levels of transport revenue will not currently be able to meet expenditure intentions in the medium-to-long term. This could lead to delays in infrastructure delivery which results in foregone economic benefits. Tolling will not be able to fix this issue in and of itself due to its relatively small scale compared to other revenue tools. However, alongside additional revenue tools in the revenue action plan, such as increasing existing charges and exploring value capture, tolling provides a modest tool to help address the infrastructure deficit. It can provide additional funding that is significant at a project level because it allows infrastructure and its economic benefits to be delivered sooner.

The Government expects the role of toll roads to increase alongside other revenue measures

6. The next three years of the NLTP are fully funded. In the most recent National Land Transport Programme, NZTA indicated that delivery of major transport projects would put pressure on revenue in the medium to long-term.
7. The Government has indicated that tolling will play an important role in addressing this future funding gap through the revenue action plan that Cabinet approved in July.
8. In addition to making more effective use of tolling, the revenue action plan noted further

¹ [Revenue and Expenditure 2024/25 to 2033/34, NZ Transport Agency Waka Kotahi National Land Transport Programme 2024-27, page 35](#)

² *New Zealand's infrastructure challenge: Quantifying the gap and path to close it*, Infrastructure Commission – Te Waihangā, page 16

³ [Great decisions are timely. Benefits from more efficient infrastructure investment decision-making. Principal Economics, page 4](#)

additional actions to support investment ambitions including:

- a) increasing existing charges (increase MVR in 2025 and 2026 and increase FED and RUC starting in 2027)
 - b) exploring the full range of tools (value capture, PPPs, concessions etc.)
 - c) transition to road user charges
9. Tolling has a complementary role with these actions. Time of use charging increases network productivity by placing a charge on congested parts of the network which reduces the number of low-value trips, and RUC is a means of directly linking price with a user's impact on the network. By comparison, tolling is a charge that enables motorists to pay for a higher level of service versus alternative routes and provides extra funding to allow infrastructure investment to be brought forward.
10. The GPS 2024 includes an expectation that NZTA should consider tolling to construct and maintain all new roads, which could represent a substantial increase in the number of toll roads in New Zealand⁴. The GPS also signals reform of tolling legislation as part of wider work on land transport revenue, with the aim of enabling greater use of tolling.

Toll roads in New Zealand

11. Toll roads have been utilised through New Zealand's history to help pay for significant transport infrastructure. Examples include the Auckland and Tauranga Harbour Bridges, and the Lyttelton tunnel. However, tolling currently plays a small role in the context of the broader land transport revenue system.⁵
12. Tolling in New Zealand currently fulfils two purposes:
 - a) Tolls can provide additional revenue to accelerate the construction of a project through the repayment of a loan.
 - b) Toll roads can allow users to pay for a higher standard of service owing to the fact they tend to be of higher quality than alternative routes, with both better safety and time savings.
13. Whereas most transport revenue sources are raised for the National Land Transport Fund's (NLTF) general purposes, tolling is currently a project-specific revenue tool that is available to reduce the cost of new projects to the NLTF.
14. New Zealand currently has three toll roads:
 - a) Northern Gateway Toll Road (NGTR)
 - b) Tauranga Eastern Link (TEL)
 - c) Takitimu Drive Toll Road
15. All are operated by NZTA. Tolls on the NGTR and the TEL both go towards paying off a loan that was raised to cover a portion of the road's costs, whilst the Takitimu Drive toll repays the NLTF for the road's purchase. In recent times, tolls have funded a proportion of project costs, with the tolling loans of the NGTR and TEL funding 42% and 23% of cost recovery⁶. The tolls on NGTR and TEL were both designed to pay off the associated debt in approximately the first 35 years of each project's life.
16. Toll revenue can be treated as an inflow to the NLTF for administrative ease. However, it must be approved by the Minister in writing (usually in the tolling Order) and "the

⁴ [Government Policy Statement on Land Transport 2024, page 39](#)

⁵ [NZTA and NLTF Annual Reports 22/23 - New Zealand's total gross tolling revenue for the 2022/23 year was \\$35.5 million, versus approximately \\$5.2 billion of overall inflow to the National Land Transport Fund \(NLTF\)](#)

⁶ [Buying time: Toll roads, congestion charges, and transport investment, Infrastructure Commission – Te Waihangā, page 75](#)

activities to be funded by that toll revenue inflow [must be] specified” in the Order made as a part of a tolling scheme⁷. This specification is required to ensure revenue raised on a specific road stays with that road.⁸

17. Tolling revenue accounts for a small amount of overall transport revenue, with \$35.5 million in the 2022/23 year, versus approximately \$5.2 billion overall inflow to the NLTF.⁹
18. Tolling has faced mixed levels of public support depending on the project, and it can be unpopular in some circumstances. One of the factors that determine the popularity of tolling schemes is whether there is a clear benefit to the user paying the toll, such as bringing an infrastructure project forward.

The legislative framework for tolls in New Zealand sits largely in the Land Transport Management Act 2003

19. The Land Transport Management Act 2003 (LTMA) is New Zealand’s primary road tolling statute. There are separate sets of tolling provisions in the Land Transport Act 1998 (LTA) and the Local Government Act 1974 (LGA 74), but there are currently no toll roads operating under either set of provisions and these are out of scope of this review.
20. Any public road controlling authority can propose a toll under the LTMA, but only NZTA have done so. NZTA assesses all new roads for tolling and brings recommendations to the Minister of Transport (the Minister) to toll a specific road. There is no requirement for the Minister to accept an NZTA recommendation to toll a road, but the LTMA states that the Minister must not recommend the making of an Order in Council (Order) for a tolling scheme unless they are satisfied¹⁰:
 - a) that an existing road proposed to be tolled is located near, and is physically or operationally integral to, the new road (new road requirement)¹¹
 - b) that the relevant public road controlling authority or authorities have carried out adequate consultation on the proposed tolling scheme; and
 - c) with the level of community support for the proposed tolling scheme in the relevant region or regions; and
 - d) that a feasible, untolled, alternative route is available to road users¹² (alternative route requirement); and
 - e) that the proposed tolling scheme is efficient and effective.
21. All of the tests have an element of subjectivity; however, some allow for broader ministerial discretion than others. For example:
 - a) The LTMA does not prescribe a certain level of public consultation or community satisfaction, just that the Minister must be satisfied with the level of community support and that the consultation is “adequate.”
 - b) There are no criteria that indicate how the Minister is meant to judge if a particular

⁷ LTMA Section 10(2)(ba)(ii)

⁸ [Cabinet Paper: Land Transport Management Act 2003 Review: Tolling and Public Private Partnerships pg. 4](#)

⁹ [NZTA and NLTF Annual Reports 22/23](#)

¹⁰ [LTMA Section 48\(1\)\(a\)-\(e\)](#)

¹¹ s 9(2)(h)

tolling scheme is “efficient and effective,” however it is generally understood to refer to factors such as revenue, traffic diversion, and the impact of a toll on project costs and benefits.

22. Two of the tests, whilst still using the same subjective ministerial satisfaction threshold, are more prescriptive. They exist to maintain fairness in the tolling system:
- a) The alternative route requirement was initially put in place so that no one is forced to use a toll road¹³. The absence of an untolled alternative route on a particular journey would mean a motorist would be forced to pay a toll.
 - b) The new road requirement ensures that users do not perceive that they are paying for a road a second time¹⁴. Without this requirement, existing state highways could be tolled, despite them being paid for in full through FED and RUC.

Legislation is also prescriptive about the use of toll revenue

23. Section 46(1)(a) of the LTMA ring-fences tolling revenue to be used on the “planning, design, supervision, construction, maintenance, or operation” of a new section of road, even if it was collected on an existing road that was physically or operationally integral to the new road. The objective of this restriction is aligned with the new road requirement, in that tolling revenue can only be collected and used on a new road.

Out of Scope

¹³ *Land Transport Management Bill First Reading*, Hansard, Volume 605, 10th December 2002

¹⁴ The LTMA states that a new lane on an existing road may also be considered a new road ([Section\(5\)\(1\)](#)). ^{s 9(2)(h)}

¹⁵ [LTMA Section 46\(3\)\(a\)-\(b\)](#)

¹⁶ Land Transport Management (Road Tolling Scheme for Tauranga Eastern Link) Order 2015, Section 8(3)

¹⁷ https://australasiantransportresearchforum.org.au/wp-content/uploads/2022/05/ATRF2021_Resubmission_122-1.pdf

¹⁸ [Buying time: Toll roads, congestion charges, and transport investment](#), Infrastructure Commission – Te Waihangā, page 7

Out of Scope

Out of Scope

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What is the policy problem or opportunity?

34. LTMA tolling provisions currently lack the flexibility to enable and optimise revenue from a broad range of different roading projects and commercial arrangements. Alongside the other measures in the revenue action plan, changing several parameters in tolling legislation can provide opportunities for additional revenue. Regardless of which arrangements are enabled, tolling is likely to remain a small source of revenue in the broader land transport revenue system. However, there is still an opportunity to ensure that new roads can be tolled wherever possible.

The restrictions on which roads can be tolled are inflexible and may limit revenue potential and project viability

35. A new road that extends or adds lanes to an existing corridor may have efficiency benefits to motorists that are driving on an existing road on the same corridor. However, existing roads that benefit from a new road cannot be tolled due to the new road requirement. This means drivers who benefit from the upgrades while travelling on existing roads do not contribute extra for the benefits they receive. Additionally, a new road may have limited time savings compared to the wider corridor, and if only the new section was tolled, traffic would be diverted away from the new route, making it less worthwhile.
36. In most circumstances, an untolled alternative route would be available to road users due to the maturity of New Zealand's road network. However, the alternative route requirement creates some barriers to potentially viable tolling schemes by encouraging diversion away from toll roads, reducing overall revenue potential.

The alternative route requirement also restricts heavy vehicle arrangements that might be used to improve network operation

37. In some circumstances, heavy vehicles may not be suitable for toll road alternative routes. It would make sense to require them to use the toll road. Local roads often act as alternative routes and are of a lower quality than the toll road. Heavy vehicles may place a greater maintenance burden on the alternative route or may cause safety or noise concerns.
38. The LTMA requires that an untolled, alternative route is available for all vehicle types. For future toll roads, such as the RoNS, this requirement may prove increasingly financially burdensome, as alternative routes may need to be maintained so they can still handle a significant volume of heavy vehicles.

Restrictions on the use of toll revenue can make funding arrangements complex

39. Several of the RoNS will be made up of new and existing toll roads, such as Mill Road and the Hawke's Bay Expressway. Under current legislation, even where the existing road may be tolled, only the new sections of these roads can be paid for by toll revenue. This would lead to confusing arrangements where toll revenue would not be permitted for use on upgrades to the existing sections of road.

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What objectives are sought in relation to the policy problem?

46. As part of the revenue action plan, Cabinet agreed to expand and make better use of tolling to help relieve pressure on revenue over the medium to long term. The key objective is to enable a greater use of tolling to support the funding of new transport infrastructure.

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Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

47. As part of the revenue action plan, Cabinet agreed to several objectives and principles to inform the redesign and reform of the land transport revenue system. We have used the three most relevant objectives and principles to tolling as the criteria for assessing options:
- a) **User/beneficiary pays.** Those who use or benefit from the transport system should pay without passing costs to taxpayers where possible. The system should reduce cross-subsidisation between users but provide transparency where cross-subsidisation does exist. In general, tolling supports user pays by providing a direct link between the use of a road and contributing to its costs.
 - b) **Revenue sufficiency.** The transport revenue system needs to raise sufficient revenue to improve and maintain the transport network, noting revenue sufficiency also requires moderating expenditure based on anticipated revenue. Tolls can provide a significant source of revenue at the project level and enable National Land Transport Fund (NLTF) revenue to be spent on other activities. However, they are not sufficient on their own to resolve all funding difficulties.
 - c) **User choice and competition.** The transport system needs to foster competition and provide users with better options and choices. Tolling supports this by offering a higher level of service on a toll road through reduced travel times and increased safety when compared to alternative routes.
48. No weighting has been applied to each of these criteria, as no level of importance for any of these objectives or principles was noted in the revenue action plan Cabinet paper.

What scope will options be considered within?

49. This review has not been a first-principles review of tolling provisions in the LTMA. It has been conducted for the primary purpose of enabling tolling to support the Government's land transport investment programme. For instance, we have assumed:
- a) That there is a continued place for tolling in New Zealand, but that it will only be used in connection with particular new projects as opposed to being a widespread general revenue tool.
 - b) That the main roles and responsibilities of the Minister in agreeing to tolls, and of NZTA in recommending them, will continue.

We have only considered the tolling provisions in the Land Transport Management Act 2003

50. The review has not considered the Land Transport Act 1998 and Local Government Act 1974 tolling regimes. These have never been used and they are limited in scope to bridges, tunnels and ferries controlled by territorial authorities, whilst future tolling projects are more likely to be state highways.
51. The review has not focused on ways to reduce the implementation costs of tolling, as we do not consider tolling legislation to be the primary driver of those costs. NZTA is separately reviewing its back-office functions and considering alternative options to reduce expenditure on tolling infrastructure. We have considered feedback from NZTA about where legislation could support cost efficiency during this review.
52. Elements of this RIS consider legislative options to support concession arrangements regarding new and existing toll roads. We have not developed a preferred model or approach to any concession arrangements, as that work is progressing separately.

Timeframes have not allowed for public consultation or modelling on these proposals

53. We have not conducted public consultation on the proposals due to the Government's interest in adopting new provisions quickly to support the acceleration of new projects. The increased use of tolling and the reform of tolling legislation was signalled in the Government Policy Statement on Land Transport, which was publicly consulted on in March 2024. The GPS did not signal specific policy proposals at that stage.
54. Of the 122 organisations that commented on funding and financing in the GPS consultation, 69 percent were supportive of exploring funding and financing tools to respond to increasing funding pressures in the land transport system. Of the 82 individual submissions and 28 organisation submissions that specifically mentioned tolling in their submission, 73 percent and 60 percent respectively were broadly in favour of using tolls as a means of funding infrastructure. There were some reservations from many submitters about private ownership of toll roads, the availability of alternative public transport options, profits from toll roads going overseas, and the importance of maintaining a free, alternative route. Public consultation is a requirement for specific tolling proposals, a requirement that will be maintained.

What options are being considered?

55. We have considered options regarding several aspects of the existing legislation:
- a) The requirement that a toll road must be a new road (new road requirement).
 - b) The requirement that the Minister must be satisfied each toll road has a feasible untolled alternative route (alternative route requirement).

Out of Scope



56. This section discusses the options regarding each issue in turn. Unless signalled otherwise, the issues are largely independent of one another, meaning that the preferred option in any one aspect does not have a bearing on the preferred option for other aspects of the legislation.

Issue 1: the new road requirement

Option One – Status Quo

57. This option would retain the restriction on tolling schemes being implemented on existing roads, except for circumstances where the existing road is “located near and is physically or operationally integral to” a new road that is being tolled.
58. Several of the RoNS and RoRS will be extensions, duplications, or improvements of a larger corridor of existing roads, such as the Waikato Expressway. Under this option the existing section would not be able to be tolled even where users would benefit from improved levels of service from the construction of a new road.
59. Even in the rare circumstances where an existing road can be tolled as part of a scheme, the new road requirement determines that funds from that scheme may not be used on the existing road. This means that if a road has new lanes added to it (such as the Hawke's Bay Expressway) the existing lanes may be tolled, but the toll revenue may only be spent on the new lanes.
60. Tolling just the new section of road is also likely to result in high levels of diversion onto alternative routes, or untolled lanes, due to limited time travel savings from the new road compared to using the untolled section of the corridor and then diverting from the tolled section. It would also mean motorists that experience benefits on the existing

road from the construction of the new road do not pay towards the project, despite being a beneficiary.

Option Two – removing the new road requirement entirely and enabling revenue to be used on any road within a tolling scheme

61. Removing references to “new” roads in the tolling section of the LTMA would be the main requirement under this option. In effect this would allow tolling to be used on any road in the country, regardless of whether it is new or existing, improvements have been made or whether the toll will help get improvements made faster. This would be a substantial broadening of when tolls are applied, beyond what it has been previously (i.e. for bringing forward new infrastructure). Under this option, tolling could operate as a revenue tool that is disconnected from users paying for a higher level of service. While it may apply to any road, a toll could still only be implemented if the revenue was raised for “the planning, design, supervision, construction, maintenance, or operation” of the road, as it is under the current LTMA²⁸.
62. This option would allow tolling revenue to be spent on any road within the tolling scheme, including existing roads. Revenue could be used to bring the existing road up to a higher level of service. This would align with user/beneficiary pays, as motorists using the existing road would benefit from the toll revenue. However, if toll revenue was used to fund the maintenance of an existing road it would not align with the user/beneficiary pays criterion because users on existing roads already pay FED and RUC for the maintenance of those roads.

Option Three – expanding the criteria for tolling existing roads and enabling revenue to be used on any road within a tolling scheme (recommended)

63. This option allows for existing roads to be tolled where their capacity or efficiency has been enhanced by the construction of a new road on the same corridor. It would also allow for tolling revenue to be used on an existing road that is part of the same corridor but would only allow tolling to be used for “planning, design, supervision, construction, maintenance, or operations”, as outlined in option two.
64. This option would retain tolling’s fundamental purpose as a tool to support the construction of new roads. It also creates a clear requirement that there must be an efficiency benefit on existing roads, which motorists can then consider against the attributes of the untolled, alternative route, encouraging competition.
65. It would enable tolling on existing roads in scenarios where lanes are added to an existing road or an extension is made to an expressway, so long as capacity or efficiency has been enhanced. Lower-level upgrades to existing roads that do not add capacity, such as lane widening, would be ineligible. A roading corridor will need to be defined clearly in legislative drafting to maintain the policy intent of this change.

Option Four – expanding the criteria for tolling existing roads and enabling revenue to be used on any road within a tolling scheme, and for alternative routes where the local road controlling authority is unable to fund it themselves (recommended)

66. This option would allow everything that option three does, but also allow tolling revenue to be allocated towards the maintenance of alternative routes where the local road controlling authority is unable to fund it themselves. This aims to reduce the negative side-effects of tolling where diversion onto alternative routes increases maintenance costs for these routes and can put financial pressure on local authorities. Design of how this option would interact with specific funding arrangements such as local share would be dependent on the existing funding arrangements for the specific alternative

²⁸ [LTMA Section 46\(1\)\(a\)](#)

route.

67. This option would help users of alternative routes to have a better maintained route and help local authorities with funding their infrastructure. However, given that the users of the toll road would be contributing towards the maintenance of a road that they are not using, this would reduce this options' alignment with the user-pays criteria. If used, this option would also reduce the ability of toll revenue to cover the costs of new infrastructure, as revenue may have to be put aside for an alternative route.

How do the options compare to the status quo/counterfactual?

	Option One – Status quo	Option Two – remove new road requirement and expand revenue usage	Option Three - expand criteria for tolling existing roads and expand revenue usage to all roads in a tolling scheme(recommended)	Option Four – expand criteria for tolling existing roads and expand revenue usage, including to alternative routes
Users and beneficiaries should cover the costs	0	+/-	+	+/-
Revenue sufficiency	0	+	+	+/-
User choice and competition	0	+/-	+	+
Overall assessment	0	+	+	+/-

Key:

- ++ much better than doing nothing the status quo/counterfactual
- +
- 0 about the same as the status quo/counterfactual
- +/- some elements are better, and some are worse than the status quo/counterfactual
- worse than the status quo/counterfactual
- much worse than the status quo/counterfactual

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

68. Options two and three offer modest net improvements against the status quo, whilst option four has some elements that are better and some that are worse than the status quo. Option three performs better than option two when measured against the user choice and competition criterion because option two does not require an efficiency benefit for an existing road to be tolled.
69. We therefore recommend enabling existing roads to be tolled where a new road on the same corridor will benefit the users of the existing road (Option three). This option brings a level of flexibility that is proportionate to the benefits of new projects.

What are the marginal costs and benefits of the preferred option?

70. The marginal costs and benefits of the preferred option will vary for different groups:
- a) **Toll road users:** Motorists who regularly use existing roads that are then made into toll roads will face cost-of-living implications. Depending on their economic

capacity, regular users may also divert onto the untolled, alternative route, which will likely be slower and have a different safety profile. These costs will be especially pronounced in areas with a high concentration of toll routes. However, the preferred option does require an efficiency or capacity benefit from the building of a new road on the same corridor. Regular users of this corridor will be able to experience these benefits regularly, and sooner than under the status quo if a toll helps bring forward the infrastructure.

- b) **Freight/Heavy Vehicle operators:** Freight and heavy vehicle operators will face increased costs from the enabling of corridor tolling. They will have to pay for roads they previously had for free, which will be an added cost of business. This cost will likely be larger in absolute terms than for individual commuters, as heavy vehicles pay a higher toll. However, enabling more tolling schemes will allow freight operators to access the productivity benefits of toll roads sooner than they would under typical funding processes. Freight operators will typically get a higher benefit from a toll road than many other users, as time-travel savings will allow for increased productivity.
- c) **NZTA:** NZTA are planning to review and update their tolling policy for better alignment with the GPS, and do not anticipate significant additional costs relating to implementing this proposal regarding policy. However, if the preferred option enables more tolling schemes there will be additional infrastructure and maintenance costs to run those schemes that will need to be met within the toll. Additionally, the ability to toll existing roads as part of a corridor will likely increase the economic viability of certain toll roads that will be run by NZTA.
- d) **Local Government:** In most scenarios, tolling existing roads will mean a greater level of diversion onto alternative routes than currently, assuming there is no upgrade to the existing road. If alternative routes are run by local Government, diversion will increase traffic on alternative routes, and higher traffic generally means a higher maintenance cost that would need to be met partially by rates. However, greater use of tolling on existing routes will save NLTF funding for other projects, such as local projects.

Issue 2: the alternative route requirement

Option One – Status Quo

- 71. Section 48(1)(d) of the LTMA requires that before establishing a tolling scheme the Minister must be satisfied that a “feasible, untolled, alternative route is available to road users.” Despite it being a Ministerial satisfaction criterion, this requirement is generally understood to be a legislative requirement that cannot be considered against other important objectives in tolling, such as economic growth or efficiency. It provides a safeguard for motorists that they will not be forced to use a toll road.
- 72. A hard alternative route requirement limits the potential for tolling as a revenue source. We have identified three areas where this parameter may be excessive:
 - a) The requirement does not distinguish between road users, for example heavy vehicles are considered just as entitled to a feasible alternative as the public.
 - b) It creates issues with scheme design where a small number of persons require access to the toll road to get to their property, which resulted in scheme design changes in the case of Penlink that increased costs.
 - c) Even where a community is in favour of tolling a road that has no alternative route (e.g. to bring forward a project), there is no means to progress tolling it.

Option Two – remove the alternative route requirement in its entirety

- 73. This would be a legislatively simple option that would provide maximum flexibility for user-pays tolling schemes, which could generate marginal extra revenue. However, any extra revenue from more schemes may not balance the negative effects of losing

an alternative route. The Minister would still be able to consider the availability of alternatives at their discretion when considering tolling schemes and may also need to consider the New Zealand Bill of Rights Act 1990 which affirms the right to freedom of movement. The availability of untolled alternative routes is also likely to feature heavily in public consultation about a tolling scheme, which would continue to be required. Like the option of removing the new road requirement, it would be a significant change in approach to tolling legislation in New Zealand, particularly if both options were pursued together.

74. This option would also enable limiting the use of alternative routes by certain classes of vehicle (such as heavy vehicles) to effectively require the use of toll roads. The merits of such a step would best be decided on a case-by-case basis, depending on the design and maintenance costs of the toll road and alternative route, as well as the toll rates paid by the relevant classes of vehicle. However, forcing certain classes of vehicles to use toll roads stifles user choice and is inconsistent with allowing users to pay for a higher level of service.
75. This approach would require working with road controlling authorities (RCAs) to identify where local routes and state highways that act as alternative routes are not appropriate for heavy vehicles. Consideration of enforcement options to make sure heavy vehicles use the toll road would also be required. If the intention was to limit heavy vehicles use of the alternative routes this could be considered under the Land Transport Rule: Vehicle Dimensions and Mass 2016 to restrict or discourage the use of alternatives as and when it is required.

Option Three – turn the alternative route requirement into a formal consideration (recommended)

76. This option would replace the alternative route requirement with an obligation on the Minister to consider the availability of untolled alternative routes when deciding whether to recommend a scheme. The Minister would be able to weigh access to an alternative route with the benefits of a project (including the value received by users) but would be able to decide to toll a road without feasible untolled alternatives. Likely reasons for this could be that a community has indicated it supports the tolling scheme, that there are clear economic benefits to the scheme going ahead, that the untolled route is unsuitable for heavy vehicles, or that there are only a small number of people who do not have access to an untolled, alternative route.
77. Like option two, it would provide greater flexibility than the status quo for tolling schemes where some road users did not have access to a feasible untolled alternative (including for certain classes of vehicle). However, it would also set a clearer expectation than option two that requiring road users to use a toll road is generally not a preferred outcome.
78. This option has a marginally increased revenue potential over the status quo, but a road without an alternative route is only likely in limited circumstances due to the maturity of New Zealand's road network. Allowing the Minister to weight the importance of providing user choice against other relevant factors for a project, such as efficiency and resilience, provides flexibility. This flexibility will mean that the availability of alternatives is not necessarily a barrier to viable tolling schemes.

Option Four – maintain the alternative route requirement for light vehicles

79. This option would maintain the alternative route requirement for light vehicles. Like option one, it provides public reassurance that motorists would not be forced to use a toll road if they did not wish to do so. However, it would create a principled exception to this requirement, to allow the Minister to require heavy vehicles or certain classes of heavy vehicles to use a certain toll road on a case-by-case basis. This would acknowledge the greater maintenance requirements that heavy vehicles place on alternative routes and help reinforce project objectives, where they aim to reduce

heavy vehicle usage on local roads. Heavy vehicles would be exempted where they have business on alternative routes.

80. Revenue would likely increase from this option versus the status quo. However, as with previous options, requiring users to use a toll road on their journey to pay, stifles user choice and competition.

How do the options compare to the status quo/counterfactual?

	Option One – status quo	Option Two – remove the alternative route requirement	Option Three - turn the alternative route requirement into a consideration (recommended)	Option Four - maintain the alternative route requirement for light vehicles
Users and beneficiaries should cover the costs	0	+	+	0
Revenue sufficiency	0	+	+	+
User choice & competition	0	-	-	-
Overall assessment	0	+	+	+/-

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

81. We recommend option three, because it retains the alternative route requirement as a consideration (not requirement), which allows for a more holistic approach to tolling proposals. Under this option the need for an alternative route and its associated benefits must be considered and weighed against competing factors, ensuring transparency for the public while also enabling more flexible and effective tolling schemes.
82. Option three does still allow broad discretion and flexibility to the Minister, which may create issues of perception with the public that fair treatment by access to an alternative route is not guaranteed in the law. Additionally, this preferred option does not create specific scenarios or factors for the Minister to consider. However, this acknowledges that every tolling scheme is different.
83. Reassurance to motorists that they will have an alternative route is provided for under option four, where the only exemption to an alternative route is for heavy vehicles and only on a case-by-case basis. This provides less flexibility than option three but has been progressed in the Cabinet paper to provide a greater level of public reassurance that alternative routes will be available.

What are the marginal costs and benefits of the preferred option?

84. The marginal costs and benefits of the preferred option will vary for different groups:
 - a) **Toll road users:** Motorists who regularly use a toll road with no alternative route (including freight vehicles) will effectively be forced to pay a toll each time they wish to travel that route. However, the extent of this impact will depend on if there was free access on a similar route previously (higher costs) or if the toll road opens a completely new route (lower costs). Consequently, regular users will have to manage ongoing cost-of-living implications or an added cost of business that they may have limited options to mitigate. They may need to avoid trips, which has participation disbenefits for society (in relation to employment, social, cultural related travel), especially for low-income people. However, if a toll has been used to bring a road forward, despite the absence of an untolled, alternative route, regular users may be able to benefit from this new infrastructure sooner than otherwise.

For freight users, this will mean access to potential productivity benefits if the new infrastructure delivers time-travel savings.

- b) **Property owners/Residents who must use a toll road:** If certain users must use a toll road to access their property or to access employment, they will face ongoing and unavoidable cost-of-living implications, especially if they must use the road several times in a short period. The impact would be significant, as use of the toll road would be frequent and unavoidable for these users.
- c) **NZTA:** More flexible alternative route settings will enable NZTA to formulate tolling schemes without having to adjust them to provide an alternative route for a small number of people, which can drive up costs. However, the extent to which this will lower costs will likely be marginal versus the overall project costs.
- d) **Local Government:** Enabling toll roads without an untolled, alternative route will mean local government doesn't have to operate and pay for the increased maintenance and operations of the alternative route, as they do with current toll roads. Cost savings from this will vary from route to route but could be significant.

Out of Scope

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Section 3: Delivering an option

How will the new arrangements be implemented?

139. If Cabinet agrees to the recommendations, most changes will be implemented through an amendment to the LTMA. This is expected to be part of a wider transport Bill to be introduced in 2025, with a view to have a broadened legislative framework available for use by early 2026. Changes to price adjustment practices will not require legislative change and would be implemented on a case-by-case basis based on advice from NZTA and the Ministry.
140. Tolling proposals will continue to be made by NZTA as projects reach the stage where they can be assessed, but these will have to align with existing legislation until the new framework has passed. The lead time of over a year will enable NZTA to make initial assessments on roads that can utilise the new framework once it is in place.
141. After legislation is passed, NZTA will be able to assess and recommend new toll roads using the expanded legislative criteria on a scheme-by-scheme basis. The Ministry of Transport will continue to provide advice to the Minister as to whether proposed tolling schemes align with these criteria. NZTA will work with council RCA's that may manage alternative routes on certain tolling schemes to determine any implementation

Out of Scope

143. Consultation with the affected stakeholders of new tolling schemes **Out of Scope** will continue through the tolling consultation process, as required by the LTMA.³¹

How will the new arrangements be monitored, evaluated, and reviewed?

144. The Ministry of Transport will work with NZTA to ensure that the new legislative framework for tolling is fit for purpose for the tolling schemes it will be applied to. Tolling proposals arise irregularly as projects develop, so the monitoring and evaluation process will be done as part of business-as-usual work in:
 - a) collaborating with NZTA on ensuring emerging tolling proposals are compliant with legislation and providing initial views on its efficiency and effectiveness, and
 - b) developing advice for the Minister on compliance with tolling legislation when they assess new tolling proposals and recommendations from NZTA.
145. Maintaining public support and licence will be important for the successful implementation of new tolling schemes. Community support provisions will be retained in the LTMA. We expect that the utilisation of the reformed new road and alternative route provisions may generate public acceptability challenges. Therefore, future tolling schemes should provide clear benefits to users, as this is a key factor in whether a tolling scheme receives public support. A benefits-based approach to tolling schemes also supports user/beneficiary pays.

³¹ [LTMA Section 48\(1\)\(a\)](#)

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³² [CO \(19\) 5: Te Tiriti o Waitangi / Treaty of Waitangi Guidance, page 8](#)

Creating an infringement offence to enforce heavy vehicle restrictions on toll road alternative routes

25 August 2025

Purpose

- 1 To outline the policy rationale, options, and preferred approach for creating a new infringement offence for heavy vehicles that use toll road alternative routes where they are restricted.

Background

- 2 The Land Transport Management Act 2003 (LTMA) includes several statutory criteria for tolling schemes. This includes section 48(1)(d) which requires the Minister to be satisfied that a feasible untolled alternative route is available to road users before they recommend a tolling scheme.
- 3 In December 2024, Cabinet agreed to several reforms to tolling legislation to make greater use of tolling (ECO-24-MIN-0289 refers). One of these was that an exception should be made to the feasible untolled alternative route requirement for heavy vehicles (or certain classes of heavy vehicles) for certain toll roads because heavy vehicles can gain benefits from toll roads and can impose costs on alternative routes.
- 4 The exception would provide the Minister of Transport the ability to specify the relevant alternative routes that heavy vehicles (or certain classes of heavy vehicles) would be prohibited from using, and to specify exceptions to this requirement. This change reflects practices on several Australian toll roads, where heavy trucks are required to use a toll road, as these roads were built to divert heavy traffic away from local roads.
- 5 We have prepared a draft Bill to reflect Cabinet's decisions. This paper proposes an infringement offence be included in the Bill to ensure the new rules Cabinet agreed to can be enforced.
- 6 This paper has been informed by the [Legislation Design and Advisory Committee \(LDAC\) guidelines for creating infringement offences](#), the [Ministry of Justice framework for new infringement schemes](#) and the [Ministry of Transport's Effective Transport Financial Penalties Policy framework](#).

There is a risk of non-compliance with the draft Bill

- 7 The current draft Bill enables the Minister of Transport to restrict the use of alternative routes by certain classes of heavy vehicles where enabled by an Order in Council. However, it currently contains no mechanism to enforce this provision. Ideally, every toll road would provide enough benefits (eg. time savings) to encourage all relevant heavy vehicle operators to use it. However, this may not be the case where, for example, a road is built primarily to remove traffic from local roads.
- 8 In the absence of an enforcement provision, there may be financial incentives for heavy vehicle operators to ignore restrictions on alternative routes because they can avoid paying a toll without any consequences. This may lead to non-compliance which would make the transport system less effective due to economic losses for the toll road and continued noise and congestion on the alternative route, and it would not align with the policy intentions of Cabinet. Non-compliance will also result in more heavy vehicle traffic on alternative routes, which may also have an impact on safety, depending on the characteristics of the alternative route.

We have considered several enforcement options

- 9 We considered three enforcement options to enforce heavy vehicle restrictions on toll road alternative routes:
 - a. No action;
 - b. Creating a criminal offence; or
 - c. Creating an infringement offence.
- 10 Taking no action would result in there being no incentive, financial or otherwise, to comply with a heavy vehicle restriction on alternative routes. To the contrary, vehicles avoiding a toll by using an alternative route would potentially gain a financial advantage over those who choose to comply with the restriction and pay the toll. We considered this to be a perverse outcome and so have discounted this option.
- 11 There is a high bar for making conduct subject to criminal law. LDAC guidelines indicate that a criminal law response may be appropriate where conduct involves substantial damage to property rights or the economy, and would cause significant harm to individual or public interests, such that public opinion would support the use of the criminal law.¹ Whilst the economic viability of a toll road and the environment of the alternative route may be impacted by heavy vehicle operators choosing to ignore restrictions on an alternative route, this would not cause substantial harm to the economy. Similarly, the impact of congestion or added noise on alternative routes are matters of inefficiency, rather than significant harm, which means public opinion would not support the use of criminal law. Similarly, there is not likely to be significant additional safety harm on alternative routes, as many heavy vehicles use these roads already. For these reasons, we did not consider that the conduct reached the threshold for the creation of a criminal offence.

We consider an infringement offence to be the appropriate mechanism to enforce heavy vehicle restrictions on alternative routes

- 12 Similar offences are commonly enforced through infringement notices. For example, failing to pay a toll or breaching restrictions on heavy vehicle routes are managed through infringement notices. A heavy vehicle using an alternative, restricted route without paying a toll combines elements of both offences, making an infringement fee a proportionate and consistent enforcement response.
- 13 LDAC guidelines for the creation of infringement offences note that it may be appropriate where: *"the conduct represents a minor contravention of the law, large numbers of strict or absolute liability offences² are committed in high volumes on a regular basis, the conduct involves straightforward issues of fact, a fixed penalty can achieve a proportionate deterrent effect, and identifying actual offenders is not practicable."*³
- 14 An assessment of each of these in relation to the policy problem is outlined in Table One, below:

¹ <https://www.ldac.org.nz/guidelines/legislation-guidelines-2021-edition/compliance-and-enforcement-2/chapter-24>

² Strict liability offences are those where the prosecution must only prove that the offender committed the act of the offence. Whether the offender intended to offend or was negligent is not relevant to the offender being liable. For absolute liability offences, the option of proving a defence or absence of fault is not open to the defendant.

³ For instance, in relation to parking, speed cameras, or toll road offences, but liability may be attributed to the person who has prima facie responsibility for the item used in the offending (such as the owner of the vehicle that is found speeding or illegally parked).

Table One: Assessing the Appropriateness of an Infringement Offence

LDAC Guideline	Assessment
The conduct represents a minor contravention of the law	✓ - The conduct does not result in damage or harm to people or private property. The conduct is largely system-level harm⁴ because large level non-compliance could result in negative financial effects for a toll road and negative effects for an alternative route. ✓ - The relatively low financial cost of tolls (compared to other heavy vehicle expenses) result in a relatively minor financial impact.
Large numbers of strict or absolute liability offences are committed in high volumes on a regular basis	✓ - Officials consider it likely that the lack of any enforcement mechanisms would lead to a financial incentive to not comply with the law – potentially leading to large scale non-compliance.
The conduct involves straightforward issues of fact that can be easily identified by an enforcement officer	✓ - The legislation requires the Minister to specify the alternative routes (roads), meaning it would be straightforward to identify the geographic area the restriction applies to. ✓ / X - In instances where a restriction applies across all heavy vehicles, it would typically be easy for an enforcement officer to visually identify vehicles restricted on alternative routes, however it may be more difficult where the restriction only applies to certain classes (however, this can be mitigated with technology such as recognition of vehicle number plates). X – Where the Minister has specified exemptions to the restriction, for example, where vehicles that have business on alternative routes, it would not be as straightforward for an enforcement officer to identify those exempt vehicles, especially where they are exempt due to the purpose of their travel (rather than vehicle class etc.)
A fixed penalty can achieve a proportionate deterrent effect	✓ - A fixed penalty that is significantly larger than both the toll and the savings that an operator might get from regular offending could offset the perceived financial gains from offending, deterring offenders.
Identifying actual offenders is not practicable (for instance, in relation to parking, speed cameras, or toll road offences)	✓ - As is the case with speed camera or toll road offences, it may not be practicable to identify actual offenders where enforcement is completed through technology (as is the case in other jurisdictions like New South Wales).

- 15 From our assessment of the conduct against similar offences and the LDAC guidelines, we consider an infringement offence to be an appropriate tool in this circumstance.

Enforcement would primarily be carried out by cameras

- 16 A similar approach to enforcement should be taken for the creation of the new infringement offence as for the existing failure to pay a toll offence in the LTMA. The provisions related to tolling are set out in the LTMA, but the enforcement of a tolling offence falls under the Land Transport Act 1998.
- 17 Like the existing toll offence, enforcement for this new infringement offence will primarily be undertaken by approved vehicle surveillance equipment (cameras).
- 18 Under [section 2 of the Land Transport Act 1998](#), a moving vehicle offence means an offence detected by approved vehicle surveillance equipment that is a toll offence. A toll offence is an offence against [section 54\(1\) of the Land Transport Management Act 2003](#). There is one existing toll offence currently, for failing to pay a toll. These sections can be amended to insert the new provisions related to the new infringement offence.

⁴ [Ministry of Transport Effective Transport Financial Penalties – pg. 14](#)

- 19 Section 208(3)(iii) of the Land Transport Act 1998 provides that the Agency may appoint an employee of the Agency to be an enforcement officer for the purposes of enforcing Part 2 of the Land Transport Management Act 2003, which includes tolling provisions. This is reinforced under [section 65 of the Land Transport Management Act 2003](#), which states that enforcement officers can enforce the provisions related to tolls.
- 20 We will engage with NZTA and the Ministry of Justice to determine the details of the proposed enforcement arrangements, including whether there should be a role for the New Zealand Police.

Our assessment indicates a \$150 fee would be appropriate

- 21 The Ministry of Justice's policy framework for financial penalties notes that when setting penalties *"consideration must be given to the level of harm involved in the offending, the affordability and appropriateness of the penalty for the target group, and whether the proposed fee is commensurate with the infringement fees for other comparable infringement offences"*.⁵
- 22 The Ministry's effective transport financial penalties categorisation tool (the Ministry's categorisation tool) produces an initial penalty based on the type and level of harm from the offence. This assessment is completed below. Once the initial penalty is established, we have tested it against the remaining tests in the Ministry of Justice's framework for financial penalties, including the proportionality, affordability and appropriateness of the offending.

Setting the fee based on the level and type of harm

- 23 A heavy vehicle using a restricted alternative route is largely a system harm. System harms, rather than directly negatively impacting people, typically involve a party not adhering to requirements designed to ensure safety and effectiveness.⁶ If heavy vehicles breach restrictions on the alternative route, the transport system becomes less effective due to economic losses for the toll road and continued noise and congestion on the alternative route.
- 24 The Ministry's categorisation tool indicates that an offence of this nature would be of medium to high severity because the use of the alternative route indicates a de-facto failure to pay the toll and the risk of some economic loss. The tool's penalty scale indicates that this should result in a fee of between \$150 to \$250 for an individual and \$1,500 to \$2,500 for a business or undertaking.⁷
- 25 We consider that this offence would be on the lower end of the spectrum because a single heavy vehicle on an alternative route would not cause significant environmental harm or congestion, rather these factors compound from many heavy vehicles on the alternative route. Additionally, the failure to pay an individual toll causes only minor financial impacts, due to New Zealand's relatively low toll rates. Therefore, we propose an infringement fee of \$150 for both individuals and bodies corporate. We do not propose a differential infringement fee for bodies corporate for the reasons proposed in the proportionality section below.

Affordability and appropriateness of the penalty for the target group

- 26 New Zealand's toll rates are reasonably low by international standards, at between \$5.20 to \$5.60 for a heavy vehicle. While steps are being taken to ensure toll rates reach more optimal levels through the tolling reform process, it is not expected that future toll rates would be significantly higher than this level (accounting for inflation).

⁵ [Ministry of Justice Policy Framework for New Infringement Schemes – pg. 7](#)

⁶ [Ministry of Transport Effective Transport Financial Penalties Categorisation Tool – pg. 23](#)

⁷ [Ministry of Transport Effective Transport Financial Penalties Categorisation Tool – pg. 26](#)

- 27 We consider that a fee of \$150 is sufficiently high for the costs of the offending to outweigh the costs of compliance. Paying the relevant toll would result in a far lower financial impact than potentially facing a fine, even where there is a relatively low enforcement rate.
- 28 It is also important to note that the deterrent effect of financial penalties work best where parties are aware the penalties exist. As such, any restrictions on alternative routes should be clearly signalled as part of the respective tolling proposal from the beginning, with reference to the relevant penalties. We intend to engage with NZTA on this matter to ensure that communications around restrictions on alternative routes, where present, are included in tolling proposal communications.
- 29 As a significant portion of heavy vehicles are used for commercial purposes, the tool proposes a higher rate of fee for these groups to account for the potential financial advantage commercial operators can gain over competitors by not paying toll rates. It also accounts for the typically greater financial capacity of commercial entities over individual heavy vehicle users. However, as noted in the proportionality section below, a higher fee for commercial entities is not being recommended.

Proportionality

- 30 The Ministry's categorisation tool notes that "*offences should be consistently proportionate to other offences linked to similar levels of harm across the transport system and in wider legislation.*"⁸
- 31 Several similar offences to the one proposed (and their penalties) are noted in Schedule 1 of the Land Transport (Offences and Penalties) Regulations 1999:
- a. **Person fails or refuses to pay toll:** The infringement fee for this offence is \$40 for both an individual and body corporate.
 - b. **Unlawful use of a Class C Road:** Where a road is likely to suffer excessive damage from the use of a heavy motor vehicle it can be established as a Class C road. Heavy vehicles can only be operated on Class C roads to deliver or collect goods or passengers to, or from, locations along that road. The infringement fee for this offence is \$370 for an individual. A body corporate infringement fee is not listed.
 - c. **Failure to comply with provisions concerning prohibition on certain heavy vehicle traffic:** A road controlling authority has the power to temporarily restrict heavy vehicles from using any road provided it has reasonable grounds for imposing such a restriction. The infringement fee for this offence is \$370 for an individual. A body corporate infringement fee is not listed.
- 32 A \$40 infringement fee reflects the minor cost of failing to pay a toll. However, applying this to the current proposal would offer little deterrence for well-resourced businesses and ignores any impacts on the alternative route the restriction also may aim to address. The \$370 offences are higher than what the categorisation tool suggests because the offences also deal with safety and road damage impacts, as well as system harm. A fee of \$150 for individuals, as suggested by the categorisation tool, strikes a proportionate balance between these offences.
- 33 We also investigated the penalty level in Australia for similar offences. In New South Wales, certain trucks and buses which use the alternative route instead of the Northconnex tunnels receive a fine of A\$215, while in Queensland trucks face a A\$166 fine for driving past a no trucks sign. These penalties fit within the bounds of the categorisation tool.

⁸ [Ministry of Transport Effective Transport Financial Penalties Categorisation Tool – pg. 18](#)

- 34 While the Ministry's categorisation tool generally notes that there should be a differentiation for offender types between individuals and businesses or undertakings, in this case it would not be proportionate to charge body corporates \$1,500, as suggested by the tool.⁹ Not only would this be substantially higher than the comparable infringement fees listed above, but none of the similar offences listed have a differential fee for bodies corporate. While a higher fee for bodies corporate may have a stronger deterrent effect, this would result in an inconsistent system where similar offences are treated differently, which may risk the public perceiving the system to be arbitrary. We consider that the importance of maintaining system integrity outweighs the possibility of an increased deterrent effect from differential fee rates for individuals and bodies corporate, and therefore suggest that the fee be set at the same rate.

A vehicle's registered person should be liable

- 35 As part of tolling reform decisions, Cabinet agreed to change the person liable to pay tolls from the driver to the registered person for operational efficiency. The liable person would also be liable to pay this proposed infringement offense to align with Cabinet's decisions (ECO-24-MIN-0289 refers).

Next Steps

- 36 Our immediate next step will be to engage with NZTA to seek their views on their role in enforcing this proposed infringement offence. Once we have completed this engagement, we will consult with the Ministry of Justice on the proposed infringement offence.
- 37 The policy rationale for the infringement offence will then be laid out to the Minister of Transport in a briefing seeking agreement to implement the infringement offence in the Land Transport Management (Revenue) Amendment Bill under delegated authority.

⁹ The tool generally suggests a fee ten times the amount charged to an individual.



1 September 2025

OC250759

Hon Chris Bishop

Action required by:

Minister of Transport

Monday, 8 September 2025

TOLLING REFORM: FURTHER POLICY DECISIONS

Purpose

To seek decisions to complete the drafting of the tolling portion of the Land Transport (Revenue) Amendment Bill.

Key points

- On 9 December 2024, Cabinet agreed to reform the tolling provisions in the Land Transport Management Act 2003 to support road investment [CAB-24-MIN-0494 refers]. To continue drafting the Bill, we are seeking decisions under your delegated authority to:
 - **specify the threshold and decision making process for 'corridor tolling'** by determining when users of an existing road have received sufficient benefit from the construction of a new road to be tolled; and clarifying when new and existing roads are part of the same 'corridor';
 - specify the mechanism for the Minister to **restrict heavy vehicles on certain toll road alternative routes** and how appropriate enforcement would be implemented;

Out of Scope



- Your decisions on this briefing will inform updates to the Bill, **Out of Scope** 
 We are working towards having the Bill ready for Cabinet Legislation Committee consideration on 6 November 2025.

Recommendations

We recommend you:

Specifying the threshold and decision-making process for 'corridor tolling'

- | | | |
|---|--|--------|
| 1 | Agree that the Minister of Transport determines the level of benefits necessary to allow an existing road on the same 'corridor' be tolled; | Yes/No |
| 2 | Agree that the Bill should not prescribe a definition of 'corridor' to enable a flexible approach; | Yes/No |

Restricting heavy vehicles on alternative routes under certain circumstances

- | | | |
|---|--|--------|
| 3 | Agree that tolling Orders in Council (Orders) should empower the Minister to, by notice, specify alternative route(s) and type(s) of heavy vehicles that must not use them, and any exemptions; | Yes/No |
| 4 | Agree to enforce the restrictions described in recommendation 3, to introduce a new infringement offence into the Land Transport Management Act 2003 for heavy vehicles that use an alternative route where they have been restricted from the route, set at \$150; | Yes/No |
| 5 | Agree that the vehicle's registered person will be liable for any offence in line with the changes to toll liability provisions; | Yes/No |

Out of Scope

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Anna Wilson-Farrell
Director - Revenue

01 / September / 2025

Hon Chris Bishop
Minister of Transport

..... / /

Minister's office to complete:

☐ Approved

☐ Declined

☐ Seen by Minister

☐ Not seen by Minister

☐ Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Anna Wilson-Farrell, Director - Revenue	s 9(2)(a)	
Genevieve Woodall, Manager, Revenue		✓
Hugo Beale, Adviser, Revenue		

TOLLING REFORM: FURTHER POLICY DECISIONS

Officials are giving effect to the reform of the tolling legislative framework as agreed by Cabinet last year

- 1 The legislative framework for tolling is outlined in the Land Transport Management Act 2003 (LTMA). The framework is designed for tolling new roads, and the Minister of Transport (the Minister) is the final decision-maker for tolling schemes. Schemes are established via Orders in Council (Orders).
- 2 The New Zealand Transport Agency (NZTA) assesses all new roads for tolling opportunities, carries out public consultation, and then provides a recommendation to the Minister on whether to toll. Before agreeing to a tolling scheme, the Minister must be satisfied:
 - 2.1 that the road controlling authority has carried out adequate consultation;
 - 2.2 that a feasible, untolled, alternative route is available;
 - 2.3 with the level of community support for the scheme; and
 - 2.4 that the proposed tolling scheme is efficient and effective.
- 3 On 9 December 2024, Cabinet agreed to reform these provisions to support investment in the Roads of National and Regional Significance [CAB-24-MIN-0494 refers], by:
 - 3.1 allowing existing roads to be tolled where users receive benefits from the construction of a new road on the same corridor ('corridor tolling');
 - 3.2 allowing toll revenue to be used for all new and existing roads covered by a scheme, and the maintenance of alternative routes where the local road controlling authority is unable to fund this itself;
 - 3.3 allowing the Minister to restrict the use of toll road alternative routes for heavy vehicles;

Out of Scope


- 4 We have identified several detailed policy issues that require your decision under the delegated decision-making authority granted to you by Cabinet [ECO-24-MIN-0289 refers]. **Annex One and Two** respectively outline how the draft Bill implements Cabinet decisions, and how these decisions would influence the development of future tolling schemes.

Out of Scope



Specifying the threshold and decision-making process for 'corridor tolling'

The status quo and Cabinet's decisions

- 6 The LTMA mostly limits tolling schemes to 'new roads.' Existing roads can be tolled, but only in situations where they are located near and are physically or operationally integral to, the new road.¹ This definition is restrictive and means that users of other parts of the network that benefit from the new road cannot be charged. If tolls are only applied to the new section of road, the travel time savings compared to untolled routes may be small in some cases, encouraging drivers to divert onto alternative routes, reducing toll revenue.
- 7 Cabinet agreed to expand the range of existing roads that can be tolled to include those where "users receive benefits from the construction of a new road on the same corridor" [ECO-24-MIN-0289 refers]. In giving effect to this decision in the Bill's drafting, two issues emerged:
 - 7.1 determining when users of an existing road have received sufficient benefit from the construction of a new road to be tolled; and
 - 7.2 clarifying when new and existing roads are part of the same 'corridor.'

Establishing what benefits make an existing road eligible for tolling

- 8 There are a broad range of possible benefits that users of an existing road may receive from the construction of a new road, which will vary based on design considerations. Our advice to the Minister at the time, and the Cabinet paper, did not define a particular type or level of benefit for an existing road to be tolled.
- 9 Making a judgement on whether the type and level of benefits accrued by the users of an existing road are sufficient to justify tolling is a matter most appropriate to be determined by the Minister. This approach aligns with the existing framework for tolling which requires the Minister to be satisfied with certain matters as outlined in paragraph 2.
- 10 We recommend that to allow an existing road to be tolled the Minister must be satisfied that the efficiency of the road has been enhanced by, or road users accrue benefits from, the construction of a new toll road (subject to the 'corridor' consideration outlined in paragraphs 13 to 17). The Minister would receive advice from NZTA and the Ministry about the extent of benefits that existing road users receive to support the decision.
- 11 The proposed approach offers greater flexibility to align with the 'beneficiary-pays' principle than a more prescriptive approach to benefits which may exclude more beneficiaries of a new road from contributing to its cost.

Defining a 'tolling corridor'

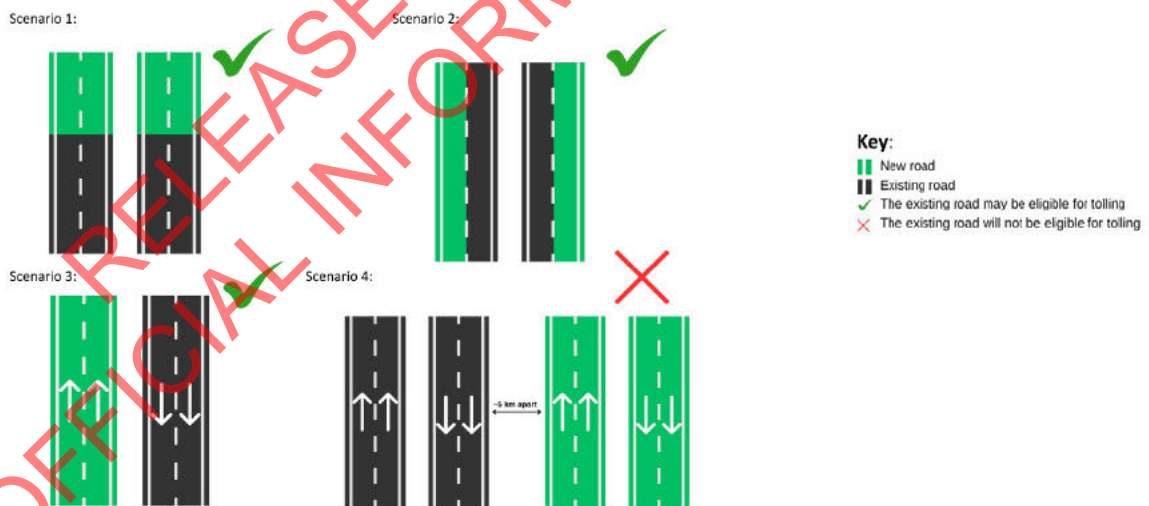
- 12 In advice to the previous Minister, we noted that a 'corridor' would need to be defined in legislation at the drafting stage to ensure it was consistently applied [OC240994 refers].

¹ [LTMA Section 48\(2\)](#). Additional lanes that are added to an existing road are included in the definition of 'new' road. The legislation does not define what physically or operationally integral means, but it has been operationally interpreted to relate to whether the new road is able to function without the existing section.

Cabinet agreed to toll corridors but left the term 'corridor' to be defined in the drafting process. The term is not currently defined elsewhere in statute.

- 13 Defining a tolling 'corridor' in legislation is practically challenging due to the range of scenarios that need to be covered, and because a legislative definition risks excluding roads that would be good candidates for corridor tolling in the future.
- 14 We propose that the Bill does not define 'corridor' and instead restricts corridor tolling to scenarios where the Minister is satisfied that the existing road and the new road are both in a corridor between parts of a region or between one region and another. This approach is consistent with the existing tolling regime which delegates a significant proportion of decision-making to the Minister.
- 15 The policy intent informing our previous advice on this matter is that corridor tolling would capture the following scenarios:
- 15.1 where an existing road has been extended through the construction of a new section, the existing section could be tolled (scenario 1);
- 15.2 where a two-lane road is expanded to four lanes, the existing lanes could be tolled (scenario 2); and
- 15.3 where two one-way roads, one new and one existing, are geographically separate but functionally operate as a single route ^{s.9(2)(f)(iv)} then the existing road could be tolled (scenario 3).

Figure 1: Scenarios where corridor tolling would or would not apply



- 16 We consider that there would be less of a case to claim that the existing road in scenario 4 is in the same 'corridor' as the new road because there would not be a clear operational link between trips on these two roads.

We recommend that you:		
1	Agree that the Minister of Transport determines the level of benefits necessary to allow an existing road on the same 'corridor' be tolled;	Yes/No
2	Agree that the Bill should not prescribe a definition of 'corridor' to enable a flexible approach;	Yes/No

Restricting heavy vehicles on alternative routes under certain circumstances

The status quo and Cabinet's decisions

- 17 One of the key criteria for tolling schemes currently in the LTMA is that the Minister must be satisfied that a feasible untolled alternative route is available to road users.
- 18 Cabinet agreed that the Minister should be able to restrict heavy vehicles (or certain classes of heavy vehicles) from using the untolled alternative routes because heavy vehicles receive benefits from toll roads and can place costs on alternative routes, such as noise, congestion, and maintenance demands. A heavy vehicle restriction is used on several toll road alternative routes in Australia. The proposed power would also enable the Minister to exempt certain classes of vehicle or vehicles with business on an alternative route from the restriction.

Empowering the Minister to restrict heavy vehicles through a Ministerial Notice

- 19 We are seeking your decision on how you would like the Bill to empower the Minister to restrict the use of toll road alternative routes by heavy vehicles.
- 20 We anticipate that over time the restriction will need to be amended to adjust which vehicle classes the restriction applies to or expand exemptions. A Ministerial Notice would enable these parameters to be adjusted without the Order itself being amended. Therefore, we recommend that the Minister be enabled to specify and amend the following by Ministerial Notice (where enabled in an Order):
 - 20.1 the alternative route;
 - 20.2 which classes of vehicle must not use that route; and
 - 20.3 any exemptions that apply

Enforcing the Minister's restriction of heavy vehicles through an infringement offence

- 21 Ensuring Cabinet's intent to restrict heavy vehicles on alternative routes is maintained requires an enforcement mechanism to encourage compliance with the requirement. We propose a new infringement offence in the LTMA for those who fail to comply with a restriction on an alternative route. In the absence of an infringement fee, there would be no consequences for heavy vehicle operators that ignore restrictions on alternative routes. The Cabinet paper noted that the use of several toll road alternative routes in Australia by heavy vehicles is restricted. These restrictions use financial penalties to support enforcement.
- 22 The Legislation Design and Advisory Committee (LDAC) guidelines for creating infringement offences include five criteria where infringement penalties may be appropriate. Our assessment against these guidelines (outlined in **Annex Three**) indicates that an infringement offence is an appropriate tool to enforce this restriction.²
- 23 Based on an assessment against the Ministry's Effective Transport Financial Penalties categorisation tool (which considers the type and severity of harm an offence causes), we recommend a penalty fee of \$150 for individuals and bodies corporate that fail to comply

² <https://www.ldac.org.nz/guidelines/legislation-guidelines-2021-edition/compliance-and-enforcement-2/chapter-25>

with restrictions on alternative routes.³ This penalty will provide a sufficient deterrent effect to heavy vehicle operators compared to the financial cost of the toll. The Ministry of Justice's Offence and Penalty Vetting team has also reviewed this proposal and is comfortable with the proposed infringement offence and penalty level.

- 24 Like the failure to pay a toll offence, enforcement of this new infringement offence will be undertaken by approved cameras. We recommend that liability for this offence sits with the registered person responsible for the vehicle, to align with the liability for paying tolls. We are currently working through the operational implications for NZTA and will ensure that enforcement activities can be funded through toll revenue.

We recommend that you:	
3 Agree that tolling Orders in Council (Orders) should empower the Minister to, by notice, specify alternative route(s) and type(s) of heavy vehicles that must not use them, and any exemptions;	Yes/No
4 Agree , to enforce the restrictions described in recommendation 3, to introduce a new infringement offence into the Land Transport Management Act 2003 for heavy vehicles that use an alternative route where they have been restricted from the route, set at \$150;	Yes/No
5 Agree that the vehicle's registered person will be liable for any offence in line with the changes to toll liability provisions;	Yes/No

Out of Scope

³ <https://www.transport.govt.nz/area-of-interest/strategy-and-direction/effective-transport-financial-penalties>

Out of Scope

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OFFICIAL INFORMATION ACT 1982

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Next steps

- 38 Tolling reform is one component of the Land Transport (Revenue) Amendment Bill, Out of Scope
- 39 We are working towards having the Bill ready for Cabinet Legislation Committee consideration on 6 November 2025.

Annex One: Cabinet's decisions and how the Bill implements them

Cabinet Decision	Proposed Approach	Decision required in this briefing (if any)
agree to expand the criteria of roads that can be tolled to include existing roads where users receive benefits from the construction of a new road on the same corridor;	To allow existing roads to be tolled where the Minister is satisfied that efficiency of the road has been enhanced by, or road users accrue benefits from, the construction of a new toll road on the same 'corridor. '	Agree that the Minister of Transport determines the level of benefits necessary to allow an existing road on the same 'corridor' be tolled; Agree that the Bill should not prescribe a definition of 'corridor' to enable a flexible approach;
agree to enable toll revenue gathered through a tolling scheme to be used for all new and existing roads covered by that scheme;	To expand the activities that a toll revenue can fund to include the planning, design, supervision, construction, maintenance, or operation of an existing road.	No decisions necessary.
agree to enable toll revenue to be used for the maintenance of alternative routes where the local road controlling authority is unable to fund this themselves	To expand the activities that toll revenue can fund to include the maintenance and/or operations of an alternative route, if the Minister is satisfied that the local road controlling authority is unable to fund this cost themselves, because of the toll being imposed.	No decisions necessary.
agree to create an exception to this requirement (that a feasible untolled route must be available to road users) for the purposes of requiring heavy vehicles or certain classes of heavy vehicles to use a certain toll road;	To enable the Minister, by notice, (where this is enabled in an Order) to specify the alternative route and the types of heavy vehicles that must not use that route, alongside any exemptions, for example, vehicles that have business on the alternative route. To establish an infringement offence of \$150 for failing to comply with a restriction on an alternative route.	Agree that tolling Orders in Council (Orders) should empower the Minister to, by notice, specify alternative route(s) and type(s) of heavy vehicles that must not use it, and any exemptions; Agree, to enforce the restrictions described above, to introduce a new infringement offence into the Land Transport Management Act 2003 for heavy vehicles that use an alternative route where they have been restricted from the route, set at \$150; Agree that the vehicle's registered person will be liable for any offence in line with the changes to toll liability provisions;

Out of Scope

Annex Two: Impacts of the New Tolling Provisions on Scheme Assessment

Consideration	How tolling schemes are treated under existing provisions	How tolling schemes would be treated under reformed provisions
What roads are eligible for tolling	- NZTA assesses all new roads for tolling. If NZTA recommends tolling, the Minister must be satisfied that: - the road is new (or is an existing road that is “located near, and is physically or operationally integral to, the new road.”); and - there is a feasible, untolled alternative route available to road users.	- NZTA would continue to assess all new roads for tolling. The Minister would have greater flexibility to toll existing roads if they were satisfied that: - the existing road is more efficient, or its road users accrue benefit from, the new toll road; and - the existing and the new road are in the same ‘corridor.’
How toll revenue is used	Revenue from the scheme must be spent on the new road being tolled.	Toll revenue could be spent on existing roads in the following circumstances: - where an existing road is being tolled; or - where the Minister agrees that a free alternative route should receive toll revenue to fund increased maintenance due to the imposition of a toll (must be a different RCA than is responsible for toll road, and the Minister must be satisfied that the RCA could not fund this themselves).
Decision-making	- The Minister is the final decision maker for whether a tolling scheme proceeds. Schemes are established via Orders in Council. - The process that a scheme goes through is typically: NZTA assesses a new road for tolling, carries out public consultation, and then provides a recommendation to the Minister on whether to toll. If the Minister wants to toll the road, they seek Cabinet agreement.	No change.
What does the decision-maker have to consider	- The Minister must assess whether the entire tolling proposal meets the statutory criteria. In addition to the new road and untolled alternative requirement above, the Minister must be satisfied: - that the road controlling authority has carried out adequate consultation on the proposed tolling scheme; - with the level of community support for the scheme in the relevant region(s); and - that the proposed tolling scheme is efficient and effective. - The Minister may also approve exemptions or discounts for certain road users, but this has not been used for any existing tolling schemes. Typically the toll operator is empowered to grant exemptions in the Order in Council for the tolling scheme.	The Minister will have to consider all existing criteria, with the following additions: - Whether to restrict certain classes of heavy vehicle from using specified alternative routes (and if so, what exemptions will apply); - Out of Scope - Any corridor tolling considerations, or whether to use toll revenue on alternative routes, as noted above.
Out of Scope		

Annex Three: Assessment of the appropriateness of an infringement offence against Legislation Design and Advisory Committee Guidelines

LDAC Guideline	Assessment
The conduct represents a minor contravention of the law	The conduct does not result in damage or harm to people or private property, but non-compliance could result in negative effects for an alternative route and negative financial effects for a toll road. However, the financial impact of offending on a toll road is expected to be relatively minor.
Large numbers of strict or absolute liability offences are committed in high volumes on a regular basis	We consider it likely that the lack of any enforcement mechanisms would lead to a financial incentive to not comply with the law.
The conduct involves straightforward issues of fact that can be easily identified by an enforcement officer	The legislation requires the Minister to specify the alternative routes, meaning it would be straightforward to identify the geographic area the restriction applies to. In addition, where a restriction applies across all heavy vehicles, it would typically be easy for an enforcement officer to visually identify vehicles restricted on alternative routes. This would be more complex with the addition of exemptions based on vehicle class or trip type; however this could likely be mitigated through technology.
A fixed penalty can achieve a proportionate deterrent effect	A fixed penalty that is significantly larger than the benefit of regular offending could offset the perceived financial gains from offending, deterring offenders.
Identifying actual offenders is not practicable (for instance, in relation to parking, speed cameras, or toll road offences)	As is the case with speed camera or toll road offences, it may not be practicable to identify actual offenders where enforcement is completed through technology (as is the case in other jurisdictions like NSW).

Alternative Options Assessed

We recommend an infringement fee of \$150 be established in the Land Transport Management Act 2003. We also considered an infringement fee of \$250, which was the higher end of what the Ministry's financial penalties tool indicated. However, the Ministry's categorisation tool notes that an effective financial penalty should be proportionate to similar offences, and a penalty of \$250 would be much higher than the existing \$40 penalty for 'failure to pay a toll.' We also considered whether to set a higher rate for bodies corporate, but this would also be disproportionate to similar offences, such as 'failure to pay a toll' and 'failure to comply with prohibition on certain heavy vehicle traffic,' which only have a single fee for both parties.