



2 May 2024

OC240422

Hon Simeon Brown
Minister of Transport

Action required by:
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,
 - reducing operating costs (currently 32 percent of tolling revenue) through legislative changes or improving tolling operations,
 - streamlining how toll prices are set and reviewed, including via automatic increases tied to inflation or independent processes,
 - s 9(2)(i)
- 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
 - b) improvements to the cost-effectiveness of NZTA's tolling operations, including a possible review of NZTA's tolling operations Yes/No
 - c) the regulation of toll prices, including options such as automatic increases tagged to inflation and the establishment of an independent pricing authority Yes/No

s 9(2)(i) [Redacted]



David Wood
Deputy Chief Executive, Investment and Monitoring

Hon Simeon Brown
Minister of Transport

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

Comments

Contacts

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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.
- 7 Approximately 32 percent of tolling revenue is spent on administering tolls, including toll collection costs and admin fees. This is a significantly larger proportion of revenue used for administrative purposes than for collection of fuel excise duty (about 0.05%) or road user charges (less than 2%). However, it reflects that tolling provides more direct cost recovery, requires physical infrastructure (gantries), and entails a large magnitude of small transactions.

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).

Tolling in a local government context

- 11 There are other legislative mechanisms for the setting of tolls. The Local Government Act 1974 (LGA)¹ allows councils to make a bylaw to toll a road bridge, tunnel, or ferry via approval of the Minister of Local Government. Similarly, the Land Transport Act 1998² (LTA) allows road controlling authorities to make a bylaw that sets a toll for heavy vehicles in line with the LGA provisions.
- 12 If a local authority sought to impose a toll through the LGA or LTA, decision making rights would sit with the territorial authority responsible for the road using their bylaw powers. Unlike under the LTMA, tolling revenues on these roads are not expressly tied to the costs of these projects. This means tolling revenue could be used for other purposes or general revenue gathering.
- 13 The LGA and LTA are silent on the need for a feasible, alternate route, compared to the LTMA which restricts tolling to new roads with a feasible untolled alternative route. The LGA allows the Minister to grant authority to a council to establish a toll scheme “subject to such terms and conditions as the Minister thinks fit.”
- 14 Tolling under the LGA or LTA is untested, as no scheme under these statutes has been considered since the introduction of the LTMA. There could be a question as to whether the Minister should apply the same tests to a local road toll as would be applied under the LTMA.
- 15 A constraint to tolling in a local government context is a lack of volume on many local roads, which acts as a barrier to the cost-effectiveness of schemes.

¹ Section 361 of the Local Government Act 1974

² Section 22AB(l) of the Land Transport Act 1998

- 16 The most recent example of a council-run toll road is Takitimu Drive (originally Route K) which opened in 2003. It was built by the Tauranga District Council and was originally subject to tolling under a Local Act, the Tauranga District Council (Route K Toll) Empowering Act 2000. Due to the Council's high debt costs, in 2015 NZTA purchased the road from Tauranga District Council using NLTF revenue. The ongoing tolling revenue is used to reimburse the NLTF for the purchase.

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**, as well as to streamline settings relating to toll collection by PPP operators and assess methods by which tolls could be sensibly increased over time.
 - 22.2 **Use legislative reform and system changes to increase the cost-efficiency of the tolling revenue system** through the increased scale of the system, operational changes at NZTA and exploring an expanded role for the private sector in tolling administration.

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 s 9(2)(f)(iv)

- 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.

s 9(2)(f)(iv)

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

s 9(2)(f)(iv)



s 9(2)(i)



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s 9(2)(i)

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Setting of toll prices

54 In 2021, Budget Direct Insurance compiled a list of toll rates across countries using tolling and identified New Zealand as having amongst the lowest tolls in the world. New Zealand's average toll rate was less than half that of Australia's. As part of the review, there is merit in considering how the settings can enable more regular or certain price increases.

Increasing tolls over time with Consumer Price Index (CPI) rises built-in

55 By global standards, our toll road prices were set low, and have remained low. The Orders in Council permitting tolling on New Zealand's three toll roads all allow for NZTA to increase tolls by CPI. However, this increase happens infrequently. The toll rate changes that came into effect on 1 July 2023 were the first increases to tolls in more than four years, with the last adjustments made in March 2019.

56 In Australia, toll rate setting differs between roading projects. However, prices generally increase in line with changes in the Capital Cities CPI, a specified percentage, or annual wage increases, whichever is the greatest.

s 9(2)(f)(iv)

There is potential crossover with tolling reform and with time of use charging

- 59 Time of use charging may have some crossover with tolling. Time of use charging will allow for charges on existing roads to improve network performance, which while not technically a toll, has some similar features to tolling. Points to note include:
- 59.1 time of use charging schemes may provide useful real-world insights in the public reaction to charges, which can then be applied to tolling decision making
 - 59.2 an extensive tolling network can crowd out the potential for time of use charging, as motorists are not willing to pay for another charge (this has been an issue in cities like Sydney with a high level of tolling but is unlikely in New Zealand unless we begin to introduce extensive tolling in our main cities).
 - 59.3 NZTA's tolling back-office system will include functionality for time of use charging should this be provided for in the future (which could reduce the impact of the administrative costs of tolls and increase economies of scale).

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

s 9(2)(i)

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