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 in 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.
- **Approach to price setting:** setting requirements in legislation for the Minister to consider when agreeing to toll prices, including the net revenue potential of the road, the value motorists receive from a toll road, and the effects of the toll on the wider network.
- **Approach to price adjustment:** considering automatic adjustments on a project-by-project basis, for example by Consumers Price Index (CPI).

- **Liability to pay toll:** changes to tolling liability provisions to increase cost-effectiveness.

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.

s 9(2)(i)

[redacted]

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) [redacted]

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.

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

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[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 Waihanga, 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, s 9(2)(i) [redacted]

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 Zealand[4]. 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 recovery[6]. 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 Waihanga, page 75

activities to be funded by that toll revenue inflow [must be] specified" in the Order made as a part of a tolling scheme[7]. 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 satisfied[10]:

    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 users[12] (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

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[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)

s 9(2)(h)

[redacted]

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 road[13]. 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 time[14]. 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.

Legislation is largely silent on price setting and adjustment

24. The LTMA is largely enabling of toll price setting and adjustments. It allows tolling orders to set and adjust tolls within a maximum limit, or according to a method as set out in the order.[15] However, the Minister must still be satisfied that the proposed tolling scheme is efficient and effective.

25. Toll road prices are set inside the Orders for individual toll roads. Price adjustment is limited to CPI increases, except in the case of the Tauranga Eastern Link, where the Order allows price increases beyond CPI with the written approval of the Minister.[16]

Low toll rates are a feature of New Zealand's tolling system

26. New Zealand has low toll rates by international standards. Research from 2021[17] compared toll rates between several toll roads in the United Kingdom, Australia, Canada, the United States, and New Zealand. It combined the data from 2020 toll rates and found that New Zealand tolls were well below international standards when comparing dollars per kilometre.

27. The most significant driver of New Zealand's low toll rates is the value that users place on tolling projects. The Infrastructure Commission's recent road pricing report indicates that tolling analysis can help to show that roads with "higher toll revenue potential are likely to be the roads with the highest value to users," and vice versa.[18] The value users receive from toll roads is mainly determined by the time travel savings they

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[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) [redacted]

[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 Waihanga, page 7

receive from the project.[19]

s 9(2)(i)

[redacted]

The operating margin for tolling is higher in New Zealand than in other jurisdictions

31. For all three of New Zealand's toll roads in 2022/23, approximately 32 percent of tolling revenue went towards the infrastructure and operating costs required to collect the toll,[22] which is high by international standards[23]. A review of the drivers of these costs is underway at NZTA.

32. A factor contributing to the high operational margins of toll roads is New Zealand's low tolling rates. New Zealand's average per-transition collection cost is $0.69 NZD (for the 22/23 year[24]). This is higher, but reasonably aligned with a global average of approximately $0.58 NZD[25] per transaction. NZTA charges $0.80 per transaction to meet these costs of the tolling business. The Government has indicated in the GPS that the level of tolling expenditure spent on operations is expected to reduce.

The legal liability for tolling

33. Currently, the driver of the vehicle is liable to pay a toll. If they do not pay the toll, the legislation shifts the liability to the registered person (usually the owner) of the vehicle that used the toll road. However, the registered person can choose to provide a sworn

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[19] Ibid, page 22

s 9(2)(i)

[redacted]

[22] NZTA Annual Report 2022/23, page 136

[23] A 2019 benchmark study of 65 global tolling operators found an equivalent figure of 14.6% for the average operator, Open Opportunity: A Global Benchmark of Toll Operator Efficiency, KPMG, page 12, 2019

[24] $0.69 reached by taking traffic volumes of all toll roads for 22/23 (16.5 million) and dividing into the tolling revenue cost to operate the business for the 22/23 year ($11.4 million). NZTA Annual Report 2022/23, page 136

[25] As at 13 September 2024

statement or statutory declaration with the details of the driver, or that their vehicle was stolen. The objective of making the driver liable is to ensure only those that use a toll road are liable for a toll payment.

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 s 9(2)(i) [redacted] 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. s 9(2)(ba)(ii) [redacted]

Current policies and practices for setting and adjusting toll rates incentivise low toll rates

40. The key driver behind New Zealand's low toll rates relative to the rest of the world is travel time savings being low, which influences the level of toll that NZTA can charge before traffic diverts. However, current practices for toll setting and adjustment also impacts on the toll rate set, and these is no clear guidance on price setting in legislation.

Toll Price Setting

41. As the Minister is the final decision maker for toll rates, there is often pressure to keep tolls low. While some communities have previously supported tolling to bring projects forward, there have also been cases where communities did not support tolling, especially where it does not accelerate a project. For example, sixty percent of respondents to Penlink's consultation (a future toll road north of Auckland) did not support tolling, and consultation resulted in tolls being lowered by 25 percent for peak end-to-end trips[26].

42. The LTMA is largely silent on price setting and adjustment, and so toll price setting is largely discretionary. This lack of guidance acknowledges that different projects will have different attributes that require different toll rates. However, it also creates uncertainty as to what weighting should be placed on public opinion, diversion, and revenue when setting toll rates, leading to lower tolls than is optimal.

Toll Price adjustment

43. Toll rates are also adjusted irregularly after they have been set. NZTA adjusts toll rates according to the Consumers Price Index (CPI) on each toll road, but this happens infrequently. This has the effect of reducing the real toll rate. Below is a comparison of current toll rates and their rate if their real rates had been maintained as set, using the Reserve Bank's CPI calculator and each toll road Order.

Toll Road	**Current light vehicle rate (September 2024)[27]**	**Light vehicle rate if adjusted to CPI to Q2 2024 (to the nearest 10 cents)**
Northern Gateway Toll Road	$2.60	$3.00 ($1.80 in June 2004)
Tauranga Eastern link Toll Road	$2.30	$2.90 ($2 in June 2008)
Takitimu Drive Toll Road	$2.10	$2.60 ($2 in June 2014)

s 9(2)(i)

[redacted]

[26] Penlink FAQ, Tolling Consultation, https://www.nzta.govt.nz/projects/penlink/faqs-on-tolling-penlink/

[27] https://www.nzta.govt.nz/roads-and-rail/toll-roads/toll-road-information/tolls-and-fees/

s 9(2)(i)

[redacted]

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.

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.

s 9(2)(i)

[redacted]

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 precent 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).
    c) The approach to setting toll prices, including the adjustment of those toll prices once they are set.

s 9(2)(i) [redacted]

    e) Who is liable to pay a toll.

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. s 9(2)(f)(iv), s 9(2)(ba)(ii) [redacted] 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 s 9(2)(ba)(ii) [redacted] 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 LTMA[28].

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

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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
+	marginal improvement on 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.

Issue 3: approach to price setting and price adjustment

85. Tolls are currently set in the Orders in Council for each road. Section 46(3)(a) of the LTMA indicates that a tolling order may set tolls or set a method by which they can be adjusted. Each of the options outlined below aim to keep the specific price setting and adjustment method within the Order in Council, rather than moving this to primary legislation.

Option One – Status Quo

86. NZTA assesses a range of toll rate options and takes a preferred option to the Minister that they believe strikes the appropriate balance between revenue and other outcomes like safety and potential diversion impacts. The Minister confirms these prices in a tolling Order. While some communities have previously supported tolling to bring projects forward, there is often pressure on the Minister to keep tolls lower than the optimal level.

87. There is no standard approach to adjusting toll rates. On most current toll roads, the relevant Orders allow for increases according to the Consumers Price Index (CPI). The approach to adjusting rates is also not automatic and must be completed manually each time by NZTA. Price adjustments are typically infrequent. There is an implementation cost to increase toll rates. This was $100,000 total for the three existing toll roads the last time prices were increased in July 2023.

Option Two – set factors in legislation that the Minister must consider when agreeing toll rates (recommended)

88. This option would involve setting a new requirement in legislation that the Minister must consider certain matters when setting toll rates. The proposed criteria for the Minister to consider when price setting are:

a) the overall net revenue potential of the toll road

b) the level of service and value a motorist receives from a toll road

c) the effects of the proposed toll on traffic diversion to other routes.

89. These considerations in setting the price would supplement the existing statutory criteria for tolling schemes overall. Public pressure is only one factor in low toll prices, traffic volumes and the value a motorist receives from a toll road influence revenue to a greater extent. Consequently, legislation may not fully resolve this issue but may be able to improve price setting on the margins versus the status quo.

90. The Minister would be free to weight these factors however they see fit and would receive advice on how toll rates align with these factors. The first two of these criteria

are designed to ensure that the benefits of higher tolls are captured (in terms of recovering a greater share of the road's costs and reflecting the beneficiary-pays principle). The third recognises the fact that the benefits of higher tolls need to be balanced against the impacts of traffic diversion onto other routes, which may negatively impact revenue. Competition is not a directly considered criterion, but higher prices may marginally increase project viability.

Option Three – locking in automatic price adjustments (recommended)

91. This option involves requiring automatic adjustments, for instance by CPI, to maintain the real toll rate as originally set. This ensures users do not pay less as time goes on when inflation is considered. The additional revenue results in alignment with the revenue sufficiency criterion. It may also marginally increase toll road viability and therefore user choice.

92. Legislation already allows for this to be set in each tolling scheme. As each toll road may have different attributes that require different price-setting arrangements, we recommend that if this option is taken it is implemented at the Order in Council level. This retains the current project-by-project approach but achieves greater transparency and certainty regardless of the approach taken. The frequency of automatic adjustments could also vary depending on the circumstances of the project.

93. Another way to implement this option would be through an amendment to the LTMA for automatic adjustments to toll rates. We consider that this option would provide the greatest level of certainty and regularity to toll rate increases but would be inflexible in circumstances where an increase in toll rates may not be desirable, such as in emergency situations. However, this inflexibility reduces the chance that toll rates will be kept low or increased sporadically.

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

	Option One – Status Quo	Option Two – set factors in legislation that Minister must consider (recommended)	Option Three – locking in automatic price adjustments (recommended)
Users and beneficiaries should cover the costs	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?

94. We recommend setting requirements in legislation for the Minister to consider certain factors when setting toll prices. While only marginally better than the status quo, this will help to optimise revenue while also factoring in user-pays considerations.

95. This option will not address the more fundamental driver of low toll prices, which is the value that users place on a particular toll road. However, that is not something easily influenced by legislation and is more related to investment decisions which is beyond the scope of these reforms.

96. On balance, we also recommend an approach that locks in automatic price adjustments, likely by CPI, as it will support predictability of revenue and be more likely to maintain original toll values. We recommend this approach is implemented on a case-by-case basis, so the most suitable price index can be selected, and flexibility can be maintained to account for the differences of every tolling scheme. We consider that

inserting automatic CPI adjustments toll toll rates the LTMA would be inflexible in instances where price increases may not be desirable, such as in emergencies. If no exceptions are provided for, then this would mean primary legislation would have to be amended if these unforeseen circumstances apply or where another price escalation index may be more suited to a particular toll road. Conversely, this inflexibility reduces the chance that toll rates will be kept low or increased sporadically. However, on balance we consider that setting automatic price adjustment in tolling orders provides enough certainty for price increases and more flexibility than setting price adjustment in primary legislation.

97. As with the previous option, we do not expect this to address the fundamental issue of low toll prices. However, in concert with more optimal price setting we expect that more regular and predictable price adjustments to toll rates will support revenue sufficiency compared to the status quo.

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

98. We consider that encouraging the setting of higher toll rates, as well as increasing the frequency of CPI adjustments to the toll price will have a marginal overall costs and benefits, as it cannot fundamentally shift the value users place on a toll road.

99. Toll road users will pay slightly more with automatic price adjustments and these proposed price setting criteria than with the status quo. While the imposition of a toll itself may have a substantial impact on users, this will likely occur despite any changes to price setting and adjustment, as the Government has indicated that it wants to make greater use of toll roads[29]. The additional revenue achieved from these changes to price setting will marginally improve the economic viability of toll roads, enabling benefits for users to be brought forward.

100. NZTA's implementation costs for increasing toll rates would be borne more frequently if toll rates were adjusted automatically, although more predictable adjustments may reduce the cost of this.

s 9(2)(i)

[redacted]

[29] Government Policy Statement on Land Transport 2024, page 39

s 9(2)(i)

[redacted]

s 9(2)(i)

[redacted]

s 9(2)(i)

[redacted]

s 9(2)(i)

[redacted]

s 9(2)(i)

[redacted]

Issue 5: liability to pay a toll

Option One – Status Quo

131. Section 52 of the LTMA makes the driver of a motor vehicle liable for the payment of a toll. If the driver fails to pay the toll, this liability transfers to the registered person for the vehicle (usually the owner). The registered person can avoid this liability by providing a sworn statement or statutory declaration with the name and address of the driver of the vehicle at the time of the toll (or a statement that the vehicle was stolen).

132. NZTA has indicated there can be issues collecting tolls in these scenarios, particularly regarding overseas drivers using rental cars on toll roads, given that this set of provisions is challenging to enforce in scenarios where the driver cannot be reached to pay the toll.

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s 9(2)(i)

[redacted]

Option Two – Make the vehicle's registered person liable (recommended)

133. We have identified one option regarding this problem, which is to make the registered person liable for paying tolls by default. This will improve the cost efficiency, and therefore revenue sufficiency of tolling schemes if it reduces the resources needed to administer schemes. However, the driver is the user of the toll road, so applying liability to the registered person will not directly align with the user pays criterion. However, we intend to maintain an option for the registered person to provide a statutory declaration if their vehicle was stolen at the time of the toll charge.

134. s 9(2)(f)(iv) [redacted]

135. [redacted]

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

	Option One – Status Quo	Option Two – Make the vehicle's registered owner liable
Users and beneficiaries should cover the costs	0	-
Revenue sufficiency	0	+
User choice & competition	0	0
Overall assessment	0	+/-

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

136. We recommend making the vehicle's registered owner liable as it reduces administrative costs, thereby ensuring a greater share of toll revenue is used for projects. s 9(2)(f)(iv) [redacted]

137. There is an argument that it is fairer for the driver to be liable as they are the user of the toll road. However, vehicle owners generally have control over who use their vehicle, and this option does not prevent the registered person from recovering the toll from the driver informally.

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

138. It is expected that shifting the liability of tolls will have a marginal overall costs and benefits, as it only plays a minor role in the costs of tolling administration. NZTA will be the main beneficiary, as placing the liability on the registered person is more straightforward and will streamline administration of toll collection.

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. s 9(2)(f)(iv) [redacted] 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 implications.

s 9(2)(i) [redacted]

143. Consultation with the affected stakeholders of new tolling schemes s 9(2)(i) [redacted] 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.

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[31] LTMA Section 48(1)(a)

Treaty of Waitangi/Te Tiriti o Waitangi Considerations

146. As with general consultation, there has not been any specific consultation with Māori on this proposal due to time constraints. However, the consultation requirements in the LTMA for each tolling proposal will be maintained, enabling consultation and engagement with different Māori groups. For consultation to be meaningful it must take place with those Māori groups that expect to be consulted.

147. We have considered the Treaty/Tiriti implications of our recommendation in relation to the alternative route requirement, as use of the road network is important for Māori access to taonga under Article Two of the Treaty/Tiriti[32]. We expect that any interaction between a tolling scheme without an alternative route and Article two will be considered on a case-by-case basis.

s 9(2)(i)

[redacted]

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