TE MANATŪ WAKA
MINISTRY OF TRANSPORT

31 May 2022 OC220197

Hon Michael Wood

Minister of Transport

PENLINK ROAD TOLLING SCHEME - ASSESSMENT OF THE TOLLING PROPOSAL

Purpose

This briefing provides advice to help you assess the Penlink Road Tolling Scheme (Tolling Scheme) against the statutory criteria for tolling under Section 48 of the Land Transport Management Act 2003 (LTMA).

All costs, benefits and values in this paper relate to the 2028 year and present values (Penlink Implementation Business Case refers).

Key points

- Waka Kotahi NZ Transport Agency (Waka Kotahi) has proposed tolling of Penlink to recover maintenance and tolling infrastructure costs. Penlink is a seven-kilometre $800-900 million road link between the Whangaparāoa Peninsula and State Highway 1 (SH1) at Dairy Flat.
- Penlink's construction is funded under the NZ Upgrade Programme (NZUP), while maintenance costs would be covered from the National Land Transport Fund. Ministry officials have recommended that you consider this tolling scheme application before joint Ministers review the Penlink Implementation Business Case (Business Case).
- Two tolling points are proposed, as shown in the map to the right.
- The Tolling Scheme application is based on the Scheme raising $5 million a year toward project costs, reducing CO_2 emissions by 6,000 tonnes/year in 2028, and increasing public transport trips by 150 trips a day.
- Public consultation suggests a majority are opposed to tolling (60%), with the balance split between support (20%) and those seeking lower tolls (17%).

- You need to be satisfied that the tests under Section 48(1) of the LTMA have been met. The main tests relate to alterative routes, the efficiency and effectiveness of the Scheme and the adequacy and outcome of public consultation. You also have broad discretion under Section 48(4) of the LTMA to recommend, modify or decline a tolling scheme that meets the statutory tests in Section 48(1).

- In our view Penlink is a new road with alternative routes. Property owners in the Penlink catchment will be able to use existing routes or untolled interchanges on Penlink without being tolled.

- However, tolling would reduce Penlink's benefits to society by 42 percent, or $151 million in forgone welfare benefits (Table 1 refers). Tolling would materially reduce safety while increasing vehicle and road operating costs. Any change in emissions, public transport use and congestion would be nominal.

- We consider that the Tolling Business Case has not demonstrated that the statutory tests have been met. While you have a broad discretion on tolling decisions, the Business Case suggests that tolling Penlink is not in the public interest.

Recommendations

We recommend you:

1 **note** that Waka Kotahi recommends Penlink be delivered as a tolled road on the basis that:

A. a funding contribution to the ongoing costs of the road from those who use the road is appropriate as Penlink will be more expensive over its life compared to most local-arterial roads
B. increased public transport uptake and negating induced demand will produce additional carbon savings in these areas compared to the untolled form of Penlink
C. tolling will improve the operation of Penlink, but not at the expense of existing routes compared to not building Penlink

2 **note** that in response to your questions Waka Kotahi advised

A. With respect to the ability to consider demand management benefits, while S46 does not expressly contemplate demand management, this does not prevent the Minister from taking traffic demand management into account
B. With respect to higher toll rates for heavy vehicles, heavy vehicles create move damage than light vehicles, so tolling schemes appropriately change higher toll rates
C. With respect to the adequacy of consultation, that a report on the effects of traffic volumes for untolled and tolled scenarios was referenced in Waka Kotahi's FAQ page and raised at public meetings
D. With respect to the difference in benefit cost ratios between tolling and untolled options, the main reason for the difference is the way in which the costs of operating the tolling scheme and the toll revenues are treated in the calculations

3 **note** that before recommending the Penlink Tolling Scheme under Section 46 of the LTMA, the Ministry of Transport advises that you need to be satisfied:

A. the scheme relates to a new road with feasible, untolled, alternative routes
B. with the adequacy of public consultation on the proposed scheme
C. with the level of community support for the proposed tolling scheme
D. the proposed scheme is effective and efficient

4 **note** that the Ministry of Transport advises that the test in section 48 of the LTMA requires you to be satisfied but does not specify a minimum threshold for satisfaction, so if you would like to assess each part of the test on balance and are satisfied on that basis, we consider you would be complying with the statutory decision-making requirement

5 **note** that the Ministry of Transport advises that Penlink is a new road with feasible, untolled alternative routes

6 **note** that the Ministry of Transport observes that the evidence in Waka Kotahi's Tolling Scheme and Business Case benefit cost ratios suggest that society would be worse off if Penlink were tolled due to

A. traffic diversion reducing benefits elsewhere in the network more than service levels improve within the Penlink corridor, including reduced road safety gains (ie an extra death or serious injury every five years) and increased emissions associated with increased vehicle operating costs (ie increased fuel use)

B. the marginal nature of gains with tolling, including the emission savings due to suppression of induced travel and the increases in public transport use (eg 150 extra public transport trips a day)
C. net toll revenues recovering less than the additional costs incurred by tolling (ie paying for $69m in maintenance, but increasing project costs by a net $111m)

7 **note** that the Ministry of Transport considers that public consultation was incomplete, lacking clear and adequate information on traffic diversion

8 **note** that the Ministry of Transport observes that support for Penlink is more limited than for most other tolling schemes

9 **note** that the Ministry of Transport considers that tolling high-value projects (like the 1959 Auckland Harbour Bridge toll) is more likely to be in the public interest than tolling to bring forward projects (like the 2005 Northern Gateway toll), or tolling for revenue purpose (like this Penlink toll)

Either

10 **agree** that you are satisfied that each of the tolling tests under section 48 of the Land Transport Management Act 2003 have been met, and that you want to recommend tolling under section 46(1), and **direct** Ministry of Transport officials to prepare a Cabinet paper seeking Cabinet approval for an Order in Council enabling the Penlink Road Tolling Scheme (subject to the tolled form of Penlink being approved under the Penlink Business Case) Yes / No

Or

11 **direct** Ministry of Transport officials to work with Waka Kotahi to prepare an amended tolling scheme Yes / No

Or

12 **agree** that you are not satisfied under Section 48 of the Land Transport Management Act 2003 and **decline** to recommend a Penlink Road Tolling Scheme Order in Council. Yes / No

s 9(2)(a)

Marian Willberg
Manager, Demand Management and Revenue
31/05/2022.

Hon Michael Wood
Minister of Transport
..... / ..... / .....

Minister's office to complete: ☐ Approved ☐ Declined

☐ Seen by Minister ☐ Not seen by Minister

☐ Overtaken by events

Comments

Contacts

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Marian Willberg, Manager, Demand Management and Revenue		

PENLINK ROAD TOLLING SCHEME - ASSESSMENT OF THE TOLLING PROPOSAL

You need to make decisions on Penlink tolling and funding

1 The tolling decision is not about whether Penlink should be built. The decision to build Penlink is a separate decision you will make jointly with the Minister of Finance. The tolling decision is about whether Penlink should be tolled if it is built.

2 As part of our advice on the Business Case, Ministry of Transport officials have recommended that you consider the Tolling Scheme application before joint Ministers review the Business Case.

Penlink is potentially being funded through NZUP

3 Penlink is a seven kilometre, $800-900 million, road link between the Whangaparāoa Peninsula and State Highway 1 (SH1) at Dairy Flat, funded under the New Zealand Upgrade Programme (NZUP). Funding of Penlink has been reserved as a Ministerial decision in view of the potential emission implications.

4 Penlink as proposed is a project to improve Peninsular access and relieve congestion at Silverdale to support housing and urban development around Orewa.

5 It is forecast to carry 18,000 (tolled) to 25,500 (untolled) vehicle trips a day. Using Waka Kotahi's One Network Framework, Penlink can be classified as a "Rural Connector" road, as it provides a link between rural roads and interregional connectors.

It makes sense to consider the Tolling Scheme then the Business Case

6 You have received a Tolling Scheme application and a Business Case for Penlink from Waka Kotahi.

6.1 The Tolling Scheme seeks your approval as Minister of Transport under statutory tests set out under Section 48 of the LTMA.

6.2 The Business Case seeks funding approval from you and the Minister of Finance for the tolled and/or untolled forms of Penlink.

7 While the decisions could be made in any order, it makes sense to assess the Tolling Scheme first. This would avoid any suggestion that the funding decision has pre-determined the tolling decision, and it could simplify the funding decision.

Tolling Penlink could be controversial

8 Under the LTMA you have a broad discretion under Section 48(4) to recommend, amend or decline road tolling schemes. This discretion is subject to a requirement that you must be satisfied that the specific statutory tests in Section 48(1) will be met.

9 As we noted in our advice on tolling Pūhoi to Warkworth [OC210330 refers], we think it is important that your ultimate decision can withstand public scrutiny, including any potential legal challenge. The focus of any challenge is most likely to be on the Ministerial statutory decision. If you are satisfied that all the mandatory criteria are met, we consider that this will mean your decision complies with the requirements in the LTMA.

10 There are several novel aspects of the Penlink tolling scheme, including: the proposal to fund maintenance from tolls while allowing trips to be made on Penlink without paying a toll, using a part of Penlink to provide the required untolled alternative route, and; the incorporation of part of an existing road into Penlink.

11 This briefing is designed to support you in making a well-informed decision that takes all the relevant characteristics of the Penlink Tolling Scheme into account.

The Penlink tolling proposal

The Penlink tolling scheme has two tolling points and four untolled interchanges

12 Two tolling points are proposed to raise a net $5m a year after toll back-office collection costs. The $5m would be used to repay the $20m borrowing cost of the tolling infrastructure and for Penlink maintenance.

13 The tolling point at the Whangaparāoa end would have a $2 toll at peak and a $1 toll off-peak. The tolling point on the SH1 interchange would have a flat $1 toll. There would be four un-tolled interchanges between these tolling points, serving Stillwater, Waitī, and planned development at Dairy Flat - East.

14 Each tolled trip would cost 70 cents in back-office costs. The most common toll transaction would be $1. A trip to and from the Peninsular at peak times would cost $3 with two toll transactions. Toll collection adds $120m to the cost of the project (Table 1 refers).

The rationale for tolling is based on addressing revenue pressures and supporting emission reduction and public transport priorities

15 The tolling scheme application suggests that:

15.1 tolling will relieve revenue pressures by raising $5m a year toward Penlink's maintenance, after the $20m capital cost of tolling infrastructure has been covered

15.2 tolling will support climate change priorities by reducing carbon emissions, starting at 6,000 tonnes/year CO_2 in 2028

15.3 tolling will support better travel options, with public transport trips increasing by 150 trips per day with tolling

15.4 tolling will improve the operation of Penlink without adversely affecting existing routes as they will have sufficient existing capacity once Penlink is constructed

15.5 tolling negates induced trips created by Penlink

15.6 tolling supports the Penlink project objectives relating to public transport, journey reliability and resilience.

Public consultation had an additional tolling point at Stillwater, with charges of $4 peak and $3 off-peak for Peninsular trips

16 Public consultation on the tolling scheme was based on $3 peak and $2 off-peak tolls at Whangaparāoa, rather than the $2 peak and $1 off-peak tolls now proposed. The proposed toll at the SH1 interchange has remained unchanged at $1 for both peak and off-peak periods. A $2 peak and $1 off-peak toll was proposed at the now dropped Stillwater interchange tolling point.

17 Of the submissions made, 60 percent opposed tolling, 20 percent supported the proposal, 17 percent sought changes to the tolls, and 3 percent were undecided.

Waka Kotahi response to Ministerial questions

18 Waka Kotahi responded to the questions of clarification that you asked as follows:

18.1 With respect to the ability to consider demand management benefits, while Section 46 does not expressly contemplate demand management, this does not prevent the Minister from taking traffic demand management into account

18.2 With respect to higher toll rates for heavy vehicles, heavy vehicles create move damage than light vehicles, so tolling schemes appropriately change higher toll rates

18.3 With respect to the adequacy of consultation, that a report on the effects of traffic volumes for untolled and tolled scenarios was referenced in Waka Kotahi's FAQ page and raised at public meetings

18.4 With respect to the difference in benefit cost ratios between tolling and untolled options, the main reason for the difference is the way in which the costs of operating the tolling scheme and the toll revenues are treated in the calculations

You need to be satisfied that the statutory test for tolling has been met

19 There are three main clusters of tests under the LTMA.

20 Firstly, section 46 requires that the Scheme relates to the planning, design, supervision, construction, maintenance, or operation of a new road.

21 Secondly, under Section 48(1) you need to be satisfied:

21.1 there is a feasible, untolled, alternative route

21.2 the scheme is efficient and effective

21.3 that adequate consultation has been carried out

21.4 you are satisfied with the level of community support.

22 Thirdly, under section 48(4) you have a broad discretion to recommend or decline the Scheme. You also have the option of modifying the Scheme after consultation with Waka Kotahi.

23 If you recommend the Scheme, and approve funding for the tolled form of Penlink, Ministry of Transport officials will prepare a Cabinet paper recommending an Order in Council.

Does the proposal relate to the planning, design, supervision, construction, maintenance or operation of a new road?

24 Section 46(1) of the LTMA requires a road tolling scheme to be applied for one or more of the planning, design, supervision, construction, maintenance or operation of a new road. Section 48(2) allows an existing road or part to be tolled if it is located near, and is physically or operationally integral to, the new road in respect of which the tolling revenue will be applied.

25 All but a short section of Penlink between the Waitī and Flatbush interchanges is new road corridor. The new Waitī-Flatbush section will replace the current road connection to the Waitī Precinct. The existing section of road will be physically and operationally integral to the new road, so can be including within the tolling scheme.

26 The proposed toll revenue would be used for to repay the $20m borrowing cost of the tolling infrastructure and for Penlink maintenance. This relates to the maintenance and operation of the new toll road.

27 In our assessment Penlink will be a combination of new roads and existing road integral to the tolling scheme. We consider it meets the new road test. The funds collected will be used to pay for the maintenance and operation of this new road.

Will a feasible untolled alternative route be available?

28 Section 48(1)(d) of the LTMA requires that a feasible, untolled, alternative route be available to road users.

29 Whangaparāoa Road will be available as an alterative route on the Peninsula. The four untolled interchanges along Penlink's length will enable people living along Penlink to access their properties without paying tolls.

30 This includes the properties at Waiti where the existing road would be replaced by Penlink, and future development at Flatbush-East, where subdivisions could be laid-out without any road link to East Coast Road. Residents or visitors to these developments would still need to travel on Penlink but would be able to do so without passing through a tolling point.

31 The policy intent in requiring an untolled route was to ensure that people could make trips without being subject to a toll. While the Penlink design means that people will need to use part of Penlink in their 'route', they can use the 'road' without being subject to a toll. This meets the policy intent.

32 Our legal advice also supports this view. We consider that the requirement for an untolled alternative 'route' does not require an alternative 'road', even though tolling schemes traditionally take this approach. Route is not defined in the LTMA, but in the LTMA definition of State Highway there is an implication that the "route" of a State Highway can be made up of multiple different roads or intersections. Our assessment is that route and road do not have interchangeable meanings, and a route can be a different way to travel on a road (i.e., without paying a toll).

33 These alternative routes provide reasonable alternatives. For example, it would take about six minutes longer to get to the SH1 Penlink interchanges via Whangaparāoa Road than via Penlink. The Flatbush to Albany trip, along East Coast Road would take about nine minutes, rather than the three minutes it would take if people used the tolled SH1 Penlink interchange.

34 In our assessment the four untolled interchanges, in combination with the Whangaparāoa Road and East Coast Road routes, enable the Tolling Scheme to meet the untolled alternative routes test.

Will the Tolling Scheme be effective and efficient?

35 The Business Case, on which the Tolling Scheme relies, reveals a complex mix of effects. The Business Case summarises the net impact on society, in the form of a benefit/cost table, as follows:

Table 1 - Net impact on society (Source - Table 18 - Penlink Business Case)

Penlink	Untolled	Tolled	Share	Impact of tolling
Benefits				
Travel time and congestion reduction	$897m	$911m	78%/82%	1.8% more if tolled
Vehicle operating cost reduction and trip reliability	$217m	$172m	18%/15%	20% less if tolled
Crash reduction	$31m	$18m	3%/2%	42% less if tolled
Alternative mode increase	$10m	$10m	1%	No difference
CO_2 reduction	$0m	$6m	0%/0.5%	6x more if tolled
Total Benefits	$1,156m	$1,116m		4% less if tolled
Costs				

Construction costs	$712m	$703m	92%/79%	1% less if tolled
Maintenance costs	$69m	$69m	8%	No difference
Toll collection costs	$0m	$120m	0%/13%	120x more if tolled
Total Costs	$781m	$892m		14% more if tolled
Benefits over costs				
National welfare benefits (BCR)	1.5	1.3		15% less if tolled
Return on investment	50c in the dollar	30c in the dollar		42% less if tolled

36 Based on the impacts reported in the Business Case, tolling Penlink would materially reduce safety and increase vehicle operating costs, while also increasing road operating costs. Any change in emissions, public transport use, congestion, and travel time would be nominal.

37 Spending an extra $111m on tolling would, for example, achieve $6m in emission reductions and save $14m in congestion costs. However, it would also reduce safety benefits by $13m (ie an additional death or serious injury every five years) and increase the cost of running vehicles by $45m (i.e., depreciation, maintenance, and fuel use/emissions).

38 The return to society on the Penlink investment would drop from 50c per dollar spend to 30c per dollar, a 42 percent reduction. The main reason for this outcome revealed in the benefit cost ration is that toll collection would increase the cost of the project by more than $120m and divert 44 percent of all traffic, including 30 percent of peak traffic, onto the longer Silverdale route.

39 We agree with the evidence in the Business Case that tolling Penlink would materially reduce the value of Penlink to society.

Has adequate consultation been undertaken?

40 The public consultation material Ministry of Transport officials have seen concentrated on the travel time savings for those paying the toll. It did not disclose the congestion effects at Silverdale due to traffic diversion. We advised Waka Kotahi of the needs to cover impacts on all road users (Emails on 18 October 2021 refers) and information on traffic diversion for the public and the Minister (Email of 31 January 2022 refer) before and after the public consultation.

41 Waka Kotahi consider the information on traffic diversion disclosed to the public was adequate. The Beca traffic report provided with the Business Case covers traffic diversion. The Beca report used in public consultation that the Ministry of Transport has seen did not cover traffic diversion. In the Ministry of Transport's view, clear disclosure of the traffic diversion information included in the Business Case is likely to have resulted in more and better-informed public submissions.

42 In our view the lack of adequate information on traffic diversion means that the public consultation on the Penlink Tolling Scheme has not been adequate. Ultimately you need to determine whether you are satisfied with the adequacy of the consultation.

Can you be satisfied with the level of public support?

43 You have a broad discretion when considering the level of community support. You do not have to be satisfied there is majority support, you simply have to consider that the level of support is satisfactory for the project to continue, in your opinion.

44 The public submissions reveal a broad 60/20/20 split in the community between opponents, supporters and those seeking modifications. This is more support than for tolling Puhoi to Warkworth (a 75/10/15 split), but less support than for earlier tolling schemes (typically 30/30/30).

45 The changes made to the tolling scheme following consultation would somewhat change the distribution of results, but the overall community view evident in the consultation probably remains valid.

46 Consultation based on a reduced Whangaparāoa peak toll and with the Stillwater tolling point removed, would probably have reduced the 17 percent share of submissions that sought changes to the tolls, and increased the 20 percent share of submissions that supported tolling. It is not clear if it would have materially altered the views of the 60 percent of submissions that opposed tolling.

47 Disclosure of the diversion effects of tolling is likely to have increased the level of opposition to tolling.

48 This is the most subjective of the tests in Section 48(1). Generally, willingness to pay is a useful indication of the value to users. The relatively weak public support for the tolled form of Penlink is consistent with our overall assessment that tolling Penlink would materially reducing its value to society. Ultimately you need to determine whether you are satisfied with the level of community support.

You have discretion to recommend or decline a tolling scheme application if you are satisfied the statutory tests are met

49 An overarching test in the LTMA purpose is that decisions under the Act should be “in the public interest” (Section 3 of the LTMA refers). This is also an opportunity to turn your mind to the wider policy implications of project tolling.

50 The tolling decision is not about whether Penlink should be built. The decision to build Penlink is a separate decision you will make jointly with the Minister of Finance. The tolling decision is about whether Penlink should be tolled if it is built.

Is tolling to cover maintenance in the public interest?

51 While maintenance was included in the bundle of expenditure that could be paid for by a tolling scheme, tolling just for maintenance was not anticipated when the tolling legislation was framed. This was for four reasons.

51.1 Tolls that give people access to all the benefits of the project while only recover maintenance costs suggests a project is only of marginal value to users.

51.2 Tolling projects with marginal value to users are likely to result in significant levels of traffic diversion. Traffic division tends to forgo access and prosperity benefits to users, and wider environmental and safety benefits to society.

51.3 Maintenance tends to be most efficiently delivered on a network basis, rather than locked into small sections of road.

51.4 Tolling tends to be an expensive way to raise revenue compared to the other tools available to government.

52 Those issues with tolling for maintenance alone play out in the case of Penlink. Tolling would cover 8 percent of project costs ($69m) while increasing total costs by 14 percent ($111m) and reducing the return on investment to society by 42 percent ($151m).

53 Waka Kotahi's interest in raising maintenance funding through tolling is understandable. However, tolling involves forgoing welfare benefits to society that exceed the value of the revenue raised for Waka Kotahi. In our assessment this type of tolling is unlikely to be in the public interest.

So, what form of tolling is in the public interest?

54 To date tolling schemes have fallen into three broad categories - tolling to cover the cost of projects with the highest value to society, tolling to bring-forward projects at the margins of the investment programme and tolling to generate revenue.

'High-value' tolling

55 The policy intent of tolling under the LTMA was to enable charges on new roading projects with the highest value to society. These projects tend to have higher-than-average value to users of those roads. Tolls would reflect some of that extra value and potentially cover 100 percent of the construction costs. Examples of this form of tolling which predate the LTMA are the Auckland Harbour Bridge toll and the Tauranga Harbour Bridge toll.

56 In those cases, tolls were removed when the capital costs had been met. If tolls had been retained, they could have been used to manage traffic flows to optimise capacity, deferring the need for further capital spending on new crossings.

'Bring-forward' tolling

57 In practice tolling scheme applications under the LTMA have sought to bring forward projects at the margins of the investment programme. The Northern Gateway, Tauranga Eastern Link and the Takitimu Drive toll roads are all examples of this form of tolling under the LTMA.

58 Users are less willing to pay for use of these marginal projects. About 30 percent of traffic has diverted onto existing routes. Tolling revenues typically cover about 50 percent of the construction costs. The relatively modest traffic volumes on these toll

roads and limited economies of scale in collection, mean that collection costs tend to account for a substantial share of a toll.

'Revenue-generation' tolling

59 Penlink and Puhoi to Warkworth are a new form of tolling scheme focussed on revenue rather than expenditure. It is clear from the Penlink Business Case that building Penlink then tolling it would make society worse off. Tolling would not materially advance the Government's climate or safety priorities or have an obvious impact on the emerging revenue deficit.

Tolling the higher-value projects is most likely to meet the public interest test

60 In our view, tolling schemes for the highest value projects in the investment programme are most likely to add value. However, there are few if any roads in the current construction programme likely to have the traffic volumes needed to make tolling work.

61 Tolling projects at the margins of the programme tends to further reduce their welfare value due to traffic diversion and tolling costs.

62 While tolling schemes for revenue purposes, as with Penlink, are least likely to meet the public interest test, with their rates of traffic diversion on top of tolling costs.

TE MANATŪ WAKA
MINISTRY OF TRANSPORT

2 November 2022 OC220940

Hon Michael Wood **Action required by:**

Minister of Transport Wednesday, 16 November 2022

DRAFT CABINET PAPER TO TOLL PENLINK

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Purpose

To provide you with a draft paper seeking Cabinet agreement to toll Penlink.

Key points

- Penlink is a New Zealand Upgrade Programme funded road connecting the Whangaparāoa Peninsula and State highway 1. Waka Kotahi New Zealand Transport Agency (Waka Kotahi) proposed tolling Penlink to recover tolling infrastructure and road maintenance costs.
- In June this year, you decided that the Penlink tolling proposal met the statutory criteria in section 48(1) the Land Transport Management Act 2003 (LTMA). You directed Te Manatū Waka Ministry of Transport (the Ministry) to prepare a paper to seek Cabinet's agreement to an Order in Council for the proposed tolling scheme under section 46(1) of the LTMA (OC220197 refers).
- The decision on whether the statutory tests have been met and to recommend the making of an Order is ultimately a matter of judgement for you as the Minister of Transport. The attached Cabinet paper explains your assessment of the tolling proposal to your Cabinet colleagues and why you think an Order in Council should be drafted. Once an Order in Council has been drafted you will take a paper to the Cabinet Legislation Committee to seek authorisation to submit the Order to Executive Council.
- In the Ministry's judgement, the evidence provided by Waka Kotahi to support tolling Penlink is weak. This view is reflected in the Regulatory Impact Assessment that accompanies the Cabinet paper.
- Departmental comments on a consultation draft of the paper suggested that the case for tolling is not compelling. We have revised the draft paper to better explain your position. However, some of the issues are inherent in the proposal and are likely to be raised by your Cabinet colleagues.

Recommendations

We recommend you:

1 **note** that the Ministry has prepared a draft Cabinet paper for you to take the Economic Development Cabinet Committee to confirm your decision to toll Penlink (refer OC220197)

2 **confirm** that you want to begin ministerial consultation on the draft Cabinet paper Yes / No

s 9(2)(a)

Marian Willberg
Manager, Demand Management & Revenue
....2/11/2022....

Hon Michael Wood
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
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James McDevitt, Senior Adviser, Demand Management and Revenue		

DRAFT CABINET PAPER TO TOLL PENLINK

Waka Kotahi has proposed tolling Penlink to recover tolling infrastructure and road maintenance costs

1 A road linking the Whangaparāoa Peninsula and State highway 1 (known as Penlink) has been on Auckland transport schedules since, at least, 1981. The history of the Penlink is inextricably linked to tolling. Prior attempts to progress the project have needed tolling to provide additional funded to enable the project to be brought forward in the planned schedule of work.

2 After several failed attempts to progress the road as a local road and then a state highway, it was adopted into the $8.7 billion NZ Upgrade Programme. In June 2022, the alliance agreement was signed. Construction is expected to be completed by late 2026.

3 Waka Kotahi will be the Road Controlling Authority for the road, if it is confirmed as a state highway, and it has proposed tolling Penlink to recover maintenance and tolling infrastructure costs. It has requested a decision on tolling is confirmed as soon as possible so that it has sufficient time to procure the tolling infrastructure.

4 Key details of the final form of the road and tolling scheme are presented below:

Road details	
Length	7km
Projected cost	$830 million[1]
Road Classification[2]	Rural Connector
Daily traffic volumes	25,500 - un-tolled 18,100 - tolled
Toll rates per trip	$3 light vehicles $6 heavy vehicles
Tolling revenue	$12.4 million / year
Maintenance costs	$3.1 million / year

Route

[1] As at June 2022 https://www.nzta.govt.nz/projects/penlink/

[2] Using NZTA's One Network Road Classification framework (see: https://www.nzta.govt.nz/roads-and-rail/road-efficiency-group/projects/onrc)

You directed Officials to prepare a Cabinet paper seeking agreement to Toll Penlink

5 In June this year, you assessed Waka Kotahi's application against the statutory criteria set out in section 48(1) of the Land Transport Management Act 2003 (LTMA) and decided that it meets the statutory tests for tolling (refer OC220197).

6 You requested the Ministry prepare the appropriate documentation for a Cabinet decision for an Order in Council enabling tolling.

7 Attached to this briefing is a:

7.1 draft Cabinet paper for your review, feedback, and lodgement to the Economic Development Cabinet committee

7.2 a copy of our Regulatory Impact Statement which will be published on the Ministry and Treasury websites once final Cabinet decisions have been made.

8 We shared a copy of the draft paper with the Department for Internal Affairs (DIA), Ministry of Housing and Urban Development (MHUD), the Ministry for the Environment (MfE), and the Treasury. Feedback included:

8.1 clarifying the rationale for tolling.

8.2 the potential impacts on Auckland Council/Auckland Transport and inequities caused by tolling.

8.3 concerns that tolling erodes the benefits of improved access for urban development.

8.4 that the greenhouse gas emissions modelling appears to be inconsistent with other modelled impacts of tolling.

9 We revised the draft paper to explain your position, however, some of the issues are inherent to the tolling proposal and the evidence provided to support it.

10 Treasury noted the pressures on the NLTF and that tolling revenue could be used to offset future maintenance expenditure.

The drafting instructions are consistent with previous tolling Order in Councils

11 We have worked with Waka Kotahi to develop suitable preconditions and ongoing conditions for the Order in Council. These are set out in the recommendations in the attached Cabinet paper.

12 The only significant departure from previous tolling Order in Councils is recommendation 45.2 allowing the Waka Kotahi board to set maximum toll rates in the future. This is permitted under section 46(3)(a) of the LTMA and was requested by the agency to ensure that tolls match the operation and maintenance revenue needs.

13 The Parliamentary Counsel Office is aware an Order in Council for tolling is incoming and has confirmed it is on its schedule of work, pending confirmation of Cabinet's decision.

Next Steps

14 Once you are satisfied with the Cabinet paper, you can proceed with ministerial consultation. A rough timeline is provided below.

Key next steps for you and your Office

Next steps-	Indicative dates
Ministerial consultation	2nd-16th Nov
Cabinet paper lodged for consideration at DEV Cabinet Committee	17th Nov
DEV Cabinet Committee meeting	**23rd Nov**
Cabinet consideration of DEV minute	28th Nov
PCO drafts the OIC	Dec '22- Feb '23
LEG paper and OIC submitted to the office of the Minister of Transport and sent out for Ministerial consultation	Feb/Mar '23
Paper and OIC lodged for consideration at LEG Cabinet Committee	**Mar '23**
Submission of paper for final Cabinet approval. Royal assent by the Governor-General	Mar '23
OIC gazetted with 28 days before it comes into effect	**Apr '23**

15 Officials are available to discuss the paper with you or your Office and we have started to prepare supporting material for you to present this as an item at Cabinet Economic Development Committee.

s 9(2)(f)(iv)

ANNEX 2: REGULATORY IMPACT STATEMENT: TOLLING PENLINK

In Confidence

Office of the Minister of Transport

Cabinet Economic Development Committee

Tolling Penlink

Proposal

1. This paper seeks Cabinet agreement to toll Penlink using the Land Transport Management Act 2003 (LTMA).

Relation to government priorities

2. Placing a toll on Penlink contributes to making the land transport revenue system fair and equitable. As the road will only serve specific communities and function as a connecting road, rather than a part of the national network, users of the road should contribute to its ongoing costs through tolls.

3. Tolling will help to reduce the greenhouse emissions associated with the construction of Penlink by suppressing induced demand. Using differential tolling rates to encourage behaviour change and promote mode shift. Both support this Government's aspiration for a net zero carbon transport system by 2050.

Executive summary

4. Waka Kotahi New Zealand Transport Agency (Waka Kotahi) proposes tolling the new road link between the Whangaparāoa Peninsula and State highway 1 at Dairy Flat in Auckland (Penlink).

5. Penlink will be built over challenging terrain and includes a significant bridge crossing the Weiti River. The ongoing costs of maintaining the road and operating it are expected to be higher than the standard costs for a road of this type. Without tolling, these operation and maintenance costs would have to be funded from the National Land Transport Fund (NLTF) over time.

6. The NLTF is under significant revenue pressures to deliver against the increasing expectations to maintain and improve the network. If Penlink is untolled there is an opportunity cost that will be paid for by all road users. I am therefore keen to raise maintenance funding directly from roading projects wherever that is feasible.

7. In addition to providing the ability to fund maintenance and operations costs, tolling Penlink:

    7.1. reduces journey time variability for public transport, making it a more attractive option and encouraging mode shift (GPS 2021 strategic priority regarding better travel options).

    7.2. produces additional carbon savings compared to an untolled Penlink through increased public transport uptake and negating induced demand (GPS 2021 strategic priority regarding climate change).

7.3. improves the operation of Penlink (e.g., travel time savings and trip reliability), and not at the expense of existing routes.

7.4. better supports the achievement of Penlink project objectives through improved public transport services between Whangaparāoa-Silverdale and Whangaparāoa-Albany with more reliable journey times.

8. Under the LTMA, a road tolling scheme for a new road requires an Order in Council, made by the Governor-General, on the recommendation of the Minister of Transport.

9. I have reviewed the Waka Kotahi tolling proposal. It meets the statutory criteria in Section 48 of the LTMA and I wish to progress with tolling the road. Therefore, I am seeking Cabinet's agreement that Penlink is a toll road.

Background

10. Currently, there are three tolling schemes in place on State highways – the Northern Gateway, Tauranga Eastern Link, and Takitimu Drive in Tauranga (also known as Route K). While the revenue from these tolling schemes is modest, it accelerates the repayment of loans taken out to finance the construction of these roads and so has enabled construction to be brought forward.

11. All three tolling schemes were established under the LTMA. The LTMA was used because it applies to both light and heavy vehicles and provides a framework for establishing and operating a tolling scheme. Currently toll rates imposed on these roads are a flat fee throughout the day and range from $1.90 to $2.40 for light vehicles and $4.80 to $5.20 for heavy vehicles for a one-way trip.

12. The tolling provisions in the LTMA were last reviewed and amended in 2012. That review aimed to simplify and streamline the requirements to implement a tolling scheme. A critical part of the LTMA framework for tolling is that it can only be applied to a new road. Once a road is operational, it is necessary to consider alternative methods of generating revenue.

Penlink is a new road connecting the Whangaparāoa Peninsula and State highway 1

13. Penlink is a new seven-kilometre link road between the Whangaparāoa Peninsula and State highway 1 at Dairy Flat. Waka Kotahi's traffic modelling indicates that Penlink will reduce travel times between Whangaparāoa Peninsula and North Auckland by up to 20 minutes.

14. Capital costs of $830 million for the road have been allocated from New Zealand Upgrade Programme (NZUP), but there are no special provisions for Penlink's maintenance, which will ultimately fall on the NLTF.

15. Penlink will be built over challenging terrain and includes a significant 540m long bridge crossing the Weiti River. It will connect to main arterial routes at each end and have a number of grade separated interchanges along its length. Consequently, the ongoing costs of maintaining the road and operating it, to optimise public transport and general traffic, are expected to be higher than the standard costs for a connector road of this type.

16. Waka Kotahi proposes tolling Penlink using the LTMA to recover operations, maintenance, and tolling infrastructure costs. Tolling would be established under Section 46 of the LTMA.

17. Toll camera points will be installed at two locations, one near State Highway 1 and the other just east of the Weiti Bridge. Travel between four other access points on Penlink would remain untolled to ensure there is a free route for vehicles that have no alternative but to use Penlink. A map of the road, showing its key features, is in Appendix 1.

18. The initial toll for a light vehicle that passes through both tolling points will be $3 during peak congestion periods[1] and $2 during interpeak periods. Heavy vehicles will pay double this rate.

19. Tolling will utilise a free-flow electronic toll collection. Automatic number plate recognition technology identifies vehicles as they pass a tolling point. This system provides the greatest time savings, ease of use, and convenience for motorists. Using this system also makes use of the existing centrally managed electronic toll collection system in Waka Kotahi and would contribute to meeting its overheads.

Waka Kotahi consulted on tolling Penlink

20. Waka Kotahi sought public feedback on its proposal from 17 January to 13 February 2022. It received 3,337 unique responses from the community and a range of stakeholders.

    20.1. 37 percent (1,235 people) supported tolling Penlink. With 20.5 percent (686 people) supporting it as proposed and 16.5 percent (551 people) supported tolling but with changes to the proposal.

    20.2. 60 percent (2,002 people) of respondents didn't support tolling.

21. Following the consultation, Waka Kotahi reduced the tolls by 25 percent for end-to-end peak trips which helps to address concerns from some submitters that the toll rates were too high. Waka Kotahi also did not pursue a third toll point which was originally considered at the Stillwater interchange which helped to improve the efficiency of the tolling scheme.

22. When presented with a number of options about how submitters would use Penlink, 866 submitters (26 percent) indicated that they would refuse to travel on a tolled Penlink. This suggests that although 60 percent of submitters were opposed to the proposed toll scheme, a large proportion of submitters would use Penlink even if it was tolled.

Waka Kotahi's proposal to toll Penlink meets the statutory threshold for tolling

23. Under the LTMA, the tolling of a new road may be authorised by an Order in Council made on the recommendation of the Minister of Transport.

24. Section 48 of the LTMA sets out the procedure for recommending the making of an Order in Council. It specifies the matters that I as Minister of Transport must take into account, or be satisfied about, before recommending an Order in Council.

25. Under the LTMA, to toll a new road, the Minister of Transport must be satisfied:

    25.1. that there has been adequate public consultation on the proposed tolling scheme;

[1] e.g., weekdays 6am to 9am and 4pm to 7pm

25.2. with the level of community support for the proposed tolling scheme;

25.3. that a feasible, untolled, alternative route is available to road users;

25.4. that the proposed tolling is efficient and effective.

26. Having satisfied myself that these statutory tests are met, I have a broad discretion to recommend approval, modification, or rejection of the tolling scheme.

27. I have carefully considered the case put forward by Waka Kotahi and received independent advice from the Ministry of Transport on the tolling scheme proposal.

I consider the benefits of tolling Penlink outweigh the costs and risks

28. Penlink will serve a very specific set of communities and it will perform a local/arterial road function rather than a national network function, which indicates that a funding contribution to the ongoing costs of the road from those who use the road is appropriate.

29. This contribution of funding can supplement land transport revenue and thereby help to reduce pressure on the NLTF. Projects like Penlink, funded from the $8.7 billion of capital investment from NZUP, increase network operating costs and further limit the discretionary funding available in out-years. If Penlink is untolled there is an opportunity cost that will be paid for by all road users.

30. The use of differential toll rates to encourage behaviour change to achieve mode shift is consistent with ongoing work to review the land transport revenue system and projects involving transport pricing. Utilising differential toll rates encourages mode shift and supports other key transport priorities, including reducing carbon emissions.

The Ministry of Transport has expressed reservations about the tolling proposal

31. The Ministry considers the evidence provided by Waka Kotahi to support the case for tolling Penlink to be insufficient. This view is reflected in the Regulatory Impact Assessment that accompanies this Cabinet paper (Appendix 2).

32. In the Ministry's view, the case for tolling Penlink is not strong. The Ministry is concerned that:

32.1. there was no analysis of the alternative funding sources;

32.2. compared to other land transport revenue streams tolling Penlink is inefficient - with 56 percent of the revenue collected over the first 10 years of the scheme spent on its collection (i.e., infrastructure and back-office costs). This compares unfavourably with potential increases in fuel excise duty and road user charges to recover equivalent amounts of revenue.

32.3. the proposal determined the benefit cost ratio of Penlink as a toll road as 1.4, compared to 1.7 if it remains untolled; It also indicated that tolling results in an increase in vehicle kilometres travelled and negative road safety outcomes.

32.4. mode shift is overstated in the justification for tolling. Public transport uptake is modelled to change by 150 passengers per day and walking and cycling is "largely unaffected"[2].

33. I acknowledge the Ministry's advice, but I consider the evidence provided to me supports a decision to toll Penlink. Tolling is a legitimate funding option to ensure that the ongoing operating and maintenance costs associated with this road are fully met, which helps reduce pressure on the NLTF. While tolling may not be the most efficient method of raising revenue, it represents a fairer way to recover operating and maintenance costs associated with this particular road as it is a direct user charge (i.e. those who benefit/impose costs pay). It is also the only tool available to raise revenue for state highways in this manner. Separate from the funding benefits of tolling, it is important to continue to encourage mode shift and reduce carbon emissions and tolling Penlink achieves this.

34. Furthermore, noting the Ministry's advice above about the efficiency of tolling over a ten year life span, it is noteworthy that the life span of the physical tolling capital infrastructure is more than 25 years, and its replacement will be covered by the administration charge included in the toll operating costs, and so the costs within this initial 10-year window is not representative of the costs over time.

35. While the benefit cost ratio is higher if the road is untolled, it is still positive under a tolled scenario. Both the tolled and untolled scenarios provide significant improvements for safety outcomes and VKT reduction from the status quo, with the untolled option providing higher safety benefits and greater VKT reduction because it induces more trips to be taken on Penlink which has a higher safety standard and is shorter than the alternative free routes.

36. Tolling Penlink makes driving private vehicles less attractive compared to public transport. While the modelling may only indicate relatively a small increase in the number of public transport trips, the full benefits of mode shift would be realised through Auckland Transport Metro network initiatives (e.g., the planned Whangaparāoa bus interchange). It is also proposed that public transport buses would be exempt from the tolls.

A toll on Penlink will be brought into effect through an Order in Council

37. The Ministry has negotiated a set of conditions and preconditions with Waka Kotahi for the tolling order, including provisions that:

- establish and confirm a road tolling scheme;
- identify Waka Kotahi as the public road controlling authority, the toll operator, and the enforcement agency for the road tolling scheme;
- set the initial base toll and how this can subsequently be altered;
- state that Penlink will utilise a fully electronic free-flow tolling system; and
- set out the information that Waka Kotahi must make available to the Minister in relation to the performance of Penlink.

[2] Refer page 44-45 of the Penlink: Business Case report

38. The tolling conditions and preconditions are set out in specific detail in the recommendations section of this paper.

39. I am seeking Cabinet's agreement now so that Waka Kotahi can finalise the design of the road (which is currently at 50 percent design progress) and initiate a procurement process for the tolling infrastructure before the road opens in late 2026. A decision to not toll Penlink would require a review of the design of Penlink, delays to the project and additional costs.

Financial implications

40. Tolling revenue will offset Penlink's operating expenses (circa. $3 million p.a.) that would otherwise be paid through the NLTF.

Legislative implications

41. An Order in Council under section 46 of the LTMA is required to implement the proposal to advance Penlink as a tolled road. The Order in Council needs to be in place before the road opens, which is currently estimated to be by the end of 2026.

Impact analysis

Regulatory Impact Analysis

42. The Ministry of Transport confirms that the principles of the Code of Good Regulatory Practice and the RIA requirements, including the consultation requirements, have been complied with. A regulatory impact statement (RIS) has been completed and is attached in Appendix 2.

43. The Ministry of Transport's internal RIA panel reviewed the RIS and provides the following comment: "*This Regulatory Impact Statement (RIS) has been reviewed by a panel of representatives from Te Manatū Waka Ministry of Transport and Waka Kotahi New Zealand Transport Agency. It has been given a 'meets' rating against the quality assurance criteria for the purpose of informing final Cabinet decisions. The RIS is complete and convincing, and the panel has suggested some improvements to clarity and conciseness. This review was subject to some agreed-upon additions to the alternative options, and context for some of the deaths and serious injuries modelling.*"

Climate implications of policy assessment

44. The climate implications of policy assessment (CIPA) team in the Ministry for the Environment has been consulted and confirms that the CIPA requirement applies as an objective of the proposal is to reduce emissions. However, while emissions modelling has been completed and considered in the detailed business case, a quantitative CIPA disclosure has not been developed as the likely emissions impact of tolling Penlink is much less than the CIPA threshold for significance and is also subject to a high degree of uncertainty.

45. The proposal to toll the planned Penlink project once complete has been modelled to result in a small emissions benefit when compared to not tolling largely due to less individual trips taken relative to an untolled option.

46. However, the CIPA team notes that this result does not align with our expectations and appears to be inconsistent with other modelling outputs. Penlink (untolled) has been modelled to reduce overall travel emissions (compared to no Penlink project) through avoiding travel

distance and time of the longer existing route. Our expectation is that tolling would effectively reduce this effect and therefore would result in more emissions compared to the untolled option. Tolling is also not expected to have a significant impact on mode shift.

Population Implications

47. This paper has no direct population implications.

Human Rights

48. None.

Consultation

49. The Treasury, Department of Internal Affairs, Ministry of Housing and Urban Development, the Ministry for the Environment and Waka Kotahi have been consulted on this paper. The Department of Prime Minister and Cabinet has been informed of the contents of this paper.

Communications

50. In anticipation of the public interest regarding the Government's decision to toll Penlink, I propose issuing a brief media release outlining Cabinet's decision.

Proactive Release

51. This paper will be proactively released by the Office of the Minister of Transport within 30 business days of decisions being confirmed by Cabinet.

Recommendations

The Minister of Transport recommends that the Committee:

Penlink tolling proposal

1. **note** that Penlink is aimed at improving access between Whangaparāoa Peninsula and State Highway 1 at Dairy Flat, is 7km long and estimated to cost $830 million; and involves the construction of a 540m long bridge across the Weiti River;

2. **note** that Waka Kotahi New Zealand Transport Agency has sought an Order in Council under the Land Transport Management Act 2003 for a tolling scheme to contribute to road operations and maintenance, and tolling infrastructure costs;

3. **note** that 37 percent of the stakeholder response on the tolling scheme supported the tolling scheme and that the Penlink Implementation Business Case indicates the Benefit Cost Ratio is 1.4 if tolled, and 1.7 if untolled;

Statutory requirements and process

4. **note** that the Minister of Transport is satisfied that the statutory requirements for tolling set out in section 48 of the Land Transport Management Act 2003 have been met;

5. **note** that the Minister of Transport considers the revenue benefits of tolling Penlink, combined with the emission and mode shifts reported by Waka Kotahi New Zealand Transport Agency, to outweigh the welfare costs;

6. **agree** that the Minister of Transport recommend to the Governor-General that an Order in Council be made allowing the new Penlink road to be tolled;

7. **agree** that Parliamentary Counsel Office be instructed to draft an Order in Council under section 46(1) of the Land Transport Management Act 2003, which:

    7.1. establishes a road tolling scheme to provide funds for the purposes of the maintenance and operation of Penlink and paying for the tolling infrastructure;

    7.2. identifies Waka Kotahi New Zealand Transport Agency as the public road controlling authority, the toll operator and the enforcement agency for the road tolling scheme;

Details to be included in the Order in Council

8. **agree** that the Order in Council specifies that Waka Kotahi New Zealand Transport Agency provides a report to the Minister of Transport at least 10 weeks prior to tolling commencing with details on the following matters:

    8.1. the service standard obligation to road users;

    8.2. the method of publicising the toll in advance of the road opening;

    8.3. the signage and other information that will be used to inform drivers approaching the road, of the toll and options for paying;

    8.4. a technical description of the proposed components of the toll collection system and key performance indicators, inclusive of error rates, revenue levels and health and safety issues;

    8.5. the structure of the administration fees for all payment methods and all penalty fees;

    8.6. the continued existence of a feasible alternative route;

9. **agree** that the Order in Council should be drafted to:

    9.1. empower the toll operator to set toll tariffs within the maximum limit of $6 at the commencement of the scheme;

    9.2. empower Waka Kotahi New Zealand Transport Agency to adjust the maximum toll rates following a review of revenue needs for the operation and maintenance of Penlink;

    9.3. below the maximum toll, provide that the toll operator may levy different levels of tolls in respect of:

        9.3.1. different classes of person / motor vehicles;

        9.3.2. travel at different times of day or days;

9.3.3. travel in different directions;

9.4. in addition to the exemptions set out in s 52(5)(a)-(c) of the Land Transport Management Act 2003, empower the toll operator to:

9.4.1. declare toll free days - i.e., days or periods on which all classes of vehicle are exempt, either for promotional or sponsorship reasons or for traffic management reasons;

9.4.2. grant exemptions to public transport and other classes of vehicle or person;

10. **require** the toll operator to establish an electronic system for collection tolls that:

10.1. does not hinder the free flow of traffic;

10.2. enables a user of the toll road to pay a toll automatically (for example, by automatic deduction from a toll account held by the toll operator);

10.3. enables a user of the toll road to pay within five working days after using the toll road;

11. **require** the toll operator to ensure that the details of the tolls that are payable, and the payment methods offered by the toll operator, are published on an Internet site maintained by or on behalf of the toll operator for the duration of the road tolling scheme;

12. **require** the toll operator to supply the following information to the Minister of Transport every 12 months from the date that tolling begins:

12.1. actual traffic volumes compared to forecast traffic volumes for each class of vehicle;

12.2. actual toll revenue compared to forecast toll revenues;

12.3. the ongoing status of the alternative route;

12.4. a network utilisation performance report to include an analysis of the response of traffic to tolling, any traffic management method used to vary the response, and other steps taken to implement the demand management plan (if any); and

12.5. if there has been a significant change to that method of payment since the previous annual report to the Minister, a description of the new method;

13. **require** the toll operator to make a summary of the information listed in recommendations 8 and 12 above available to the public generally by including it in its annual report and on its website;

14. **authorise** the enforcement authority to have access to law enforcement information held by a holder agency under the Privacy Act 1993 for the purposes of enforcing toll payments, so long as the enforcement authority complies with the security system agreed between the toll operator and the Minister of Transport;

15. **require** the toll operator to publicly notify the toll level or levels, exemptions and proposed date on which tolling will begin at least once in each of the four weeks preceding the proposed toll commencement date;

Unforeseen matters

16. **authorise** the Minister of Transport to determine on any matters of policy or legislative detail that arise in the development of the Order in Council.

Authorised for lodgement

Hon Michael Wood

Minister of Transport

Appendix 1: Map of the proposed O Mahurangi, Penlink

Appendix 2: Regulatory Impact Statement: Tolling Penlink

Regulatory Impact Statement: Tolling Penlink

Purpose of Document	
Decision sought:	*To place a toll on Penlink under section 46 of the Land Transport Management Act 2003*
Advising agencies:	*Te Manatū Waka - Ministry of Transport*
Proposing Ministers:	*Hon. Michael Wood*
Date finalised:	*14th October 2022*

Problem Definition

Penlink's construction will be funded by the New Zealand Upgrade Programme. In the absence of any alternative, maintenance of Penlink would be funded from the National Land Transport Fund. Tolling has been proposed by Waka Kotahi – New Zealand Transport Agency (Waka Kotahi) to cover future maintenance costs.

Executive Summary

Penlink is a new 7km road that provides a link between State Highway 1 and the Whangaparāoa Peninsula, in the Auckland region. Its construction costs are being funded through the New Zealand Upgrade Programme and it's estimated to cost $830 million to complete. On completion the road will save about 20 minutes of travel time between the North Shore and the Whangaparāoa Peninsula.

Waka Kotahi is seeking a tolling order on Penlink to recover maintenance and tolling infrastructure costs. Tolling orders are legislated for under Section 46 of the Land Transport Management Act 2003. The Minister of Transport assessed the application against the statutory criteria set out in section 46 of the Land Transport Management Act 2003 and indicated he considers it to meet the threshold for tolling and requested the Ministry of Transport prepare the appropriate documentation for Cabinet decision for an Order in Council enabling the Tolling Scheme.

Traffic modelling for the road indicates a toll would collect approximately $12 million/year. If the road is tolled, 56% of the revenue collected would be used for back-office costs and tolling infrastructure. Without tolling Waka Kotahi estimate the road will be used 42% more, vehicle operating costs savings increase by 26% and monetised crash reduction benefits increase by 72%. However, Waka Kotahi also report that despite increased vehicle operating costs (i.e., fuel use) tolling results in fewer carbon emissions. and reduces congestion costs by 19%.

Overall, there are fewer benefits to society when Penlink is tolled compared to leaving the road untolled. A summation of the of the monetised costs and benefits of tolling results in a Benefit Cost Ratio of 1.3 for Penlink compared to 1.5 for untolled, a 13% difference. If Wider Economic Benefits are included in the Benefit Cost Ratio of Penlink as a toll road is 1.4 compared to 1.7 if left untolled.

Stakeholder engagement for the tolling proposal was undertaken as part of the Business Case. It received 3,337 unique responses from the community and a range of key

stakeholders. The majority were opposed to tolling, with 60% (2,002 people) stating that costs for maintenance and operations should be met in other ways.

Measured against the purpose of the Land Transport Management Act 2003 we assess the Penlink tolling application to be an effective policy but inefficient and with negative road safety implications.

Limitations and Constraints on Analysis

There are known limitations on the analysis we have been able to undertake:

- The scope of the options being investigated to satisfy the objective was constrained by the ministerial decision directing the Ministry of Transport to prepare a Cabinet paper for a Cabinet decision enabling tolling.
- The evidence contained in this RIS is primarily derived from the Implementation Business Case prepared by for the tolling order and therefore the proposal outlined in the Business case is the *de facto* scope.
- The operational policy decision to seek to recover the NLTF costs associated with this Penlink Crown Contribution to land transport has been treated as out of scope as there is insufficient relevant information.
- The Business Case, on which we have had to rely in assessing the welfare impacts of the options, has material inconsistencies and limitations:
    - The long evaluation period (sixty years) and low discount rate (4%) used in the net welfare assessment (cost to benefit analysis) puts considerable weight on uncertain benefits in out-years. A cautious approach has therefore been taken where there is modest difference between options (mode change) and/or the values are small (climate emissions).
    - It reports that tolling will encourage "more sustainable speed profiles" on Penlink and reduce carbon emissions (i.e., reduce fuel consumption), while increasing the distance travelled and vehicle operating costs at a network level (i.e., increase fuel consumption). These propositions appear inconsistent.
    - It does not investigate alternative options to raise maintenance revenue. Instead, it focused on tolling. There are several potential sources, such as Infrastructure Funding and Financing Levies or Targeted Rates, that we have not had opportunity to assess.
    - Only three parameters (capital cost, discount rate and appraisal period) modelled in the Benefit Cost Ratio calculations were subject to sensitivity analysis. Extending this analysis to other modelling parameters would provide greater insight into what were the influential assumptions and vulnerabilities in the modelling.
- The stakeholder engagement focused on eliciting feedback on a single tolling proposal and the impact of that proposal on those using the new road. It noted the traffic suppression effect of tolling but didn't clearly consider the larger effects of diverted traffic on the transport catchment.

Responsible Manager

Marian Willberg
Manager
Demand Management and Revenue
Te Manatū Waka - Ministry of Transport

s 9(2)(a)

14th October 2022

Quality Assurance (completed by QA panel)	
Reviewing Agency:	Te Manatū Waka Ministry of Transport
Panel Assessment & Comment:	This Regulatory Impact Statement (RIS) has been reviewed by a panel of representatives from Te Manatū Waka Ministry of Transport and Waka Kotahi New Zealand Transport Agency. It has been given a 'meets' rating against the quality assurance criteria for the purpose of informing final Cabinet decisions. The RIS is complete and convincing, and the panel has suggested some improvements to clarity and conciseness. This review was subject to some agreed-upon additions to the alternative options, and context for some of the deaths and serious injuries modelling.

Section 1: Diagnosing the policy problem

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

Waka Kotahi has proposed tolling Penlink to recover costs

1. A road linking the Whangaparāoa Peninsula and State Highway 1 (SH1) has been on Auckland transport schedules since, at least, 1981.
2. A direct link to the Whangaparāoa Peninsula (also known as Penlink) has the potential to reduce travel times between the Peninsula and the northern corridor of SH1 by approximately 20 minutes as well as addressing congestion in Silverdale and opening new areas of land for urban development.
3. The history of the Penlink proposal is inextricably linked to tolling. Prior attempts to progress the project have needed tolling to improve the Cost Benefit Ratio of the road and to provide additional funded to justify bringing the project forward in the planned schedule of work.
4. After several failed attempts to progress the road as a local road and then a State Highway, it was adopted into the $8.7 billion New Zealand Upgrade Project (NZUP).
5. In June 2022, the final contracting arrangements for construction were completed and the project was gifted the name Ō Mahurangi by Mana Whenua.
6. Once completed, without tolling the operational and maintenance costs for the road would be drawn down from the National Land Transport Fund (NLTF).
7. Key details of the final form of the road are presented below:

Road details	
Length	7km
Projected cost	$830 million[1]
Road Classification[2]	Rural Connector
Projected usage	25,500 daily trips (average)
Flyover video	https://www.youtube.com/watch?v=CV6tfChuxg0

Route

[1] As at June 2022 https://www.nzta.govt.nz/projects/penlink/

[2] Using NZTA's One Network Road Classification framework (see: https://www.nzta.govt.nz/roads-and-rail/road-efficiency-group/projects/onrc)

8. Waka Kotahi New Zealand Transport Agency (Waka Kotahi) has proposed tolling Penlink to recover maintenance and tolling infrastructure costs. The tolling scheme design they proposed is summarised in the above route map.

9. The Minister of Transport (the Minister) assessed the application against the statutory criteria set out in section 46 of the Land Transport Management Act 2003 (LTMA) and has indicated he considers it meets the threshold for tolling. He requested Te Manatu Waka the Ministry of Transport (the Ministry) prepare the appropriate documentation for Cabinet decision for an Order in Council enabling Tolling.

Tolls are an established way of raising additional transport revenue under existing settings

10. Under the LTMA, to toll a new road, the Minister must be satisfied:

    - that there has been adequate public consultation on the proposed tolling scheme
    - with the level of community support for the proposed tolling scheme
    - that a feasible, untolled, alternative route is available to road users
    - that the proposed tolling is efficient and effective.

11. The statutory criteria provides the Minister with broad discretion in recommending an Order in Council for tolling. Although toll revenue can only be applied to the toll road – for its construction, operation, and maintenance.

12. There are also tolling provisions in other legislation, including:

    - the Local Government Act 1974 allows the Minister of Local Government (by notice in the Gazette) to authorise a council to establish toll gates on any bridge, tunnel or ferry
    - the Land Transport Act 1998 provides a road controlling authority to make bylaws, including the power to toll any class of heavy vehicles.

Work is underway to shape the future revenue system

13. Our dedicated (hypothecated) land transport revenue system raises revenue from road users. The three major levers are:

    - Distance and weight-based Road User Charges (RUC) system for diesel and heavy vehicles. RUC raises about 44% of the NLTF and costs about 5% of the revenue collected for its administration.
    - Fuel Excise Duty (FED) applied on the importation of vehicle fuels. FED raises about 51% of the NLTF and costs less than 0.04% of revenue raised to administer.
    - Motor Vehicle Registrations (MVR) and licensing applied at the point of sale and annually to every vehicle on the road. MVR raises about 5% of the NLTF.

14. Tolling makes a relatively minor (0.4%) revenue contribution to the NLTF. Approximately $17 million p.a. is raised from the three tool routes in the State Highway network: Tauranga Eastern Link; the Northern Gateway; and Takitimu Drive in Tauranga. Tolling proposals often meet resistance because of the modest revenue raising ability, the relatively high administrative costs, and the traffic diversion tolls cause.

15. These previous tolling schemes are aiming to repay capital funding provided by the Crown that meets about half of their construction cost. Maintenance costs on these tolling schemes are being met by the NLTF. So, what changed?

16. There are developing issues around the long-term sustainability of the NLTF. The transition to a lower emissions transport system, and the desire to make major investments, are presenting challenges for the way we fund land transport. To address these, and other challenges in the revenue system, the Ministry is undertaking a broad programme of work to develop a replacement revenue system.

17. Notably, work is at an advanced stage to amend the LTMA to enable road pricing in our cities to alleviate traffic congestion. This would empower Ministers to approve congestion charging proposals made by local Governments seeking to implement it. Congestion charging shares characteristics to road tolling insofar as it applies a price lever for the use of a road; the key difference is that congestion charging applies this charge differently depending on the level of congestion.

What is the policy problem or opportunity?

18. The NLTF is under pressure to deliver against the increasing expectations to maintain and expand the network. Currently, the NLTF collects approximately $4.3 billion p.a.[3]. The majority is used to maintain existing levels of service. Increasing expectations for the NLTF (e.g., decarbonisation), rising procurement costs and funding reprioritisation (e.g., due to COVID-19) means that there is limited headroom for additional maintenance load.

19. Prior to the NZUP programme Penlink was a high priority State Highway project under the Auckland Transport Alignment Project (ATAP) and was to be funded from the NLTF and delivered from 2026. The NZUP programme replaces the nominal NLTF capital funding for Penlink and therefore releases this for other uses.

20. Generally, it is prudent to give maintaining existing assets priority over investment in new assets. In effect, fit for purpose maintenance and public transport services have first-call on available funds. Any increase in maintenance or service costs reduces the discretionary funding available for improving the network.

21. Only new roads can be tolled under the Land Transport Management Act 2003. Without tolling, Penlink's maintenance costs will impact on new capital projects able to be funded from the NLTF.

What objectives are sought in relation to the policy problem?

22. The primary objective of the tolling scheme is to collect an additional source of revenue, within the current legislative settings, that can contribute to the cost of tolling infrastructure and maintenance of the road.

23. There are additional and subordinate objectives including: mitigating carbon emissions; diversifying the back-office costs for Waka Kotahi's tolling system; incentivising public transport use and suppressing induced traffic.

[3] actuals, from the 2021 Half-Yearly Economic and Fiscal Update

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

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

24. The following criteria is from the purpose of the LTMA (set out in section 3) and will be used to evaluate options for resolving the primary problem:

    - **Effective**: the extent to which the option is likely to contribute to meeting the objective, as well as broader Government priorities such as Hīkina te Kohupara pathway to decarbonising transport.
    - **Efficient**: the scale of cost and equity impacts associated with implementing and operating the option. The degree to which the option results in increased costs and/or impacts on transport access for different groups, and to what extent are additional costs focused on those who benefit.
    - **Safe**: the impact on road safety and health.

What scope will options be considered within?

25. The Minister directed the Ministry to progress work on the statutory implementation of a toll order for Penlink. The proposal relating to the toll scheme is explored further in the next section. For the purposes of this section a comparison is made between Penlink in its tolled and untolled (status quo) forms.

26. The particulars of the tolling option (e.g., camera placement and toll rates etc) are limited to what was described in the tolling proposal in the Penlink: Business Case report (ImBC) and which was considered by the Minister.

What options are being considered?

Public consultation was limited to one proposal

27. From 17 January to 13 February 2022, Waka Kotahi undertook a public consultation on the tolling proposal outlined in the ImBC.

28. The public consultation included details of the tolling infrastructures, the roading details and the different toll prices for peak and off-peak hours. It received 3,337 unique responses from the community and a range of key stakeholders. The following points are a high-level summary of the feedback received:

    - 37% (1,235 people) support tolling Penlink. With 20.5% (686 people) supporting it as it is proposed in the ImBC and 16.5% (551 people) support tolling but with changes to the proposal.
    - 60% (2,002 people) of respondents think costs for maintenance and operations should be met in other ways to tolling.

29. Suggestions were made by respondents about what kind of tolling they would support. 16.5% of all submissions (551 responses) expressed conditional support if changes were made that include:

    - Lower and/or flat toll prices
    - Fewer tolling points
    - Peak and off-peak toll prices changes
    - Concession rates for residents and frequent users of Penlink.

Our analysis is limited to tolling Penlink

30. This Regulatory Impact Statement (RIS) is constrained to analysing one option (tolling) because:

- Waka Kotahi consulted on a single proposal and the only information supplied to the Ministry relates to that proposal.
- The Minister directed the Ministry to prepare the necessary documents for a Cabinet decision on the tolling proposal. This RIS is a component part of the requisite documentation for that decision.

31. The following sections describe the options analysed:

Option One – Untolled (status quo)

- The construction of Penlink will go ahead as planned, using NZUP funding.
- On completion future maintenance costs (c. $3.1M/p.a., see annex 3) will be drawn down from the NLTF using existing levers to raise additional revenue, or making trade-offs between activity classes, if needed.
- The additional revenue load on the NLTF equates to approximately 0.062 cent/l p.a., increase in FED and an equivalent increase in RUC.

Option Two – Tolled

- The construction of Penlink will go ahead as planned, using NZUP funding.
- Tolling infrastructure and camera points are installed at interchanges between Penlink and SH1, Duck Creek Road and at the proposed Ara Weiti (bridge) road entrance. The estimated capital cost of this would be approximately $18.7M.
- The toll rates for light vehicles will be a $3 end-to-end during peak periods and $2 during interpeak periods. Heavy vehicles will pay double. Motorists entering Penlink via one of the four interchanges between the tolling points and passing through tolling point at the western end of Penlink they would be subject to a $1 toll. If motorists pass through the tolling point at the eastern end of Penlink they would be subject to a $2 toll at peak times and a $1 toll at off-peak times.
- Once established, the operating costs would require approximately $2.8M p.a. This is to meet the Waka Kotahi standard for tolling and to delver an “end-to-end” technology solution for toll processing. This would support the delivery of a back-office verification, processing and issuance of toll charges, and associated customer interface.
- Travel between interchanges at the proposed Link roads and the East Coast Road would remain untolled to ensure there is a free route for vehicles that have no alternative.
- Revenue raised through tolling, estimated to be approximately $12M p.a., is ring-fenced for the maintenance of the road and operation of the tolling scheme. If maintenance requirements exceed the amount collected from tolling, then funds from the NLTF will be drawn down.
- Toll rates would be periodically reviewed by the Waka Kotahi board every five years. The review will forecast operation and maintenance costs for Penlink, and toll rates will be adjusted depending on revenue requirement and forecast usage.

32. A range of alternative options to satisfy the primary objective are not included in this RIS. They were not included in the ImBC and were not considered by the Minister prior to directing the Ministry. These options are described in Annex 1 and include: value capture; rating adjustments; betterment levies; and changes to taxation and spending.

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

	Untolled	Tolled	Supporting evidence
Effective the extent to which the option is likely to contribute to meeting the policy objective, as well as broader Government priorities	0	+	✓ Tolling is expected to raise c. $12.4M p.a. in 2026/27, rising to $18.7M p.a. by 2035/36 ✗ Major or unexpected renewals would be funded through the NLTF and prioritised against other projects – Peak and off-peak charges could influence travel behaviour and reduce congestion on the Penlink corridor, although the position of the toll cameras could divert congestion to other parts of the network ✓ The ImBC indicates tolling creates $6M in monetised Greenhouse Gas reduction (corresponding to between 6,000 TCO_2 in 2028 to 2,500 TCO_2 in 2038) ✓ Tolling might contribute to a small increase in public transport use
Efficient the scale of cost and equity impacts associated with implementing and operating the option	0	-	✓ Potential travel time savings offers good value for money for the toll. Some beneficiaries of the road will pay for it, others won't ✗ Benefit Cost Ratio (BCR) of the road is 13% lower when tolled (1.3) compared to untolled (1.5). If wider economic benefits are included, then the BCR for the road is 18% lower when tolled (1.4) compared to untolled (1.7) ✗ Auckland's congestion charging model could see motorists pay between $1.50-3.50 per trip to access all of Auckland's the motorway network whereas the Penlink toll would be between $2-3 per trip for a 7km road ✗ Without tolling the road would be used 42% more - with corresponding savings in travel distance, travel time, and vehicle operating costs ✗ Induced travel caused by an untolled route is more than offset by the extra travel caused by traffic being diverted off Penlink by tolling ✗ 56% of revenue collected in the first 10 years of the scheme will be used for tolling infrastructure and administration
Safe the impact on road safety and health	0	-	✗ Traffic modelling indicates a 72% increase in the monetised disbenefits associated with road traffic crashes when tolled ✗ An additional death or serious injury is forecast every five years with tolling
Overall assessment	✗	The status quo delivers the highest net benefits to society for the investment	

Key:
+ better than the status quo
0 about the same as the status quo
- worse than the status quo

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

33. After considering the tolling proposal against the statutory tests, we understand the Minister directed the Ministry to progress the tolling application because:

- the revenue from tolling can alleviate maintenance pressures on the NLTF;
- its contribution to demand management; and
- a desire to make the costs of roading infrastructure more transparent.

The Ministry's preferred option is Option One – untolled (status quo)

The status quo is preferred as it:

- **Provides the highest net benefit to society for the $830M NZUP investment**. Calculating the total monetised costs and benefits of tolling results in a Benefit Cost Ratio of 1.3 for Penlink compared to 1.5 for untolled, a 13% difference. If Wider Economic Benefits are included in the Benefit Cost Ratio of Penlink as a toll road is 1.4 compared to 1.7 if left untolled (refer Annex 2).
- **Reduces network impacts**. A toll may mitigate some of the induced demand created by Penlink but at a network level the toll has a negative effect. Without tolling the road would be used 42% more, with corresponding savings in travel distance, travel time, vehicle operating costs, and emissions across the network. The travel induced by an untolled route is more than offset by the extra travel caused because of traffic being diverted off Penlink by tolling onto a longer existing route. Mode shift to walking and cycling is "largely unaffected" by tolling and public transport uptake is modelled to change by approximately 150 passengers per day[4].
- **Better supports the Government's commitment to the Road to Zero strategy**. The ImBC calculated a 72% increase in the monetised disbenefits associated with road traffic crashes when Penlink is tolled. Including an additional death or serious injury every five years when tolling is in place.
- **Is fairer to the Whangaparāoa Peninsula residents**. It is inequitable to single out Whangaparāoa motorists to pay twice for the costs of maintaining and operating a road that services the community. The design of the tolling scheme creates further inequities when future residents along the corridor will be able to use the road without paying a toll.
- **Incurs fewer collection costs.** Compared to other land transport revenue streams tolling Penlink is inefficient - with 56% the revenue collected over the first 10 years of the scheme spent on its collection (i.e., infrastructure and back-office costs). This compares unfavourably with potential increases in FED and RUC to recover equivalent amounts of revenue.

[4] Refer page 44-45 of the ImBC.

What are the marginal costs and benefits of the option?

34. The table below sets out an analysis of the Option 2 – Tolled.

Affected groups	Comment.	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Whangaparāoa Peninsula residents	*Construction ($11m) and collection costs ($120m).* *Additional network impacts:* – *reduction in travel time ($5m);* – *Trip reliability ($1m);* – *Crashes ($13m); and* – *Vehicle operating costs ($44m).* *Wider economic disbenefits associated with reduced agglomeration ($14m)*	*Medium*	High
Ministry of Transport	*Costs associated with the Ministry's stewardship role*	*Low*	High
Total monetised costs	*$208 million*		
Non-monetised costs	***Privacy*** *- tolling required automated numberplate recognition which impinges on people's right to travel without surveillance.* ***Business disruption*** *- creating a diversion could reduce foot traffic and incidental visits*	*High*	*Low*
Additional benefits of the preferred option compared to taking no action			
Local residents (Current and future)	Improving congestion ($19m) and reduced carbon emissions ($6m)	*Low*	*High*
Total monetised benefits	*$25 million*		
Non-monetised benefits	*None*		

Section 3: Delivering an option

How will the new arrangements be implemented?

35. If a tolling order is imposed on Penlink it needs to be in place before the road is opened. Currently, project completion is estimated to be by the fourth quarter of 2025.

36. The toll order will be brought into effect via an Order in Council given assent to by the Governor General. The toll order will contain some preconditions that need to be satisfied prior to the commencement of tolling on Penlink.

37. The Ministry is working with Waka Kotahi on the form of these preconditions and the mechanism by which they will be satisfied. Although, at the time of writing, this work isn't finalised, we envisage the preconditions will stipulate that Waka Kotahi sets out in a report to the Minister details of the following matters at least 10 weeks prior to tolling commencing:

    - The service standard obligation to road users;
    - The method of publicising the toll in advance of the road opening;
    - The signage and other information that will be used to inform drivers approaching the road, of the toll and options for paying;
    - A technical description of the proposed components of the toll collection system and key performance indicators, inclusive of error rates, revenue levels and health and safety issues;
    - The structure of the administration fees for all payment methods and all penalty fees;
    - The continued existence of a feasible alternative route

38. Preconditions will also include clauses relating to the ongoing function of the toll road, including

    - setting toll tariffs within the maximum limit of $6 and with adjustments being made on the basis of five-yearly forecast of costs and revenue;
    - the ability to set different rates for different vehicles and travel during different times of day. The ability to provide exemptions and toll-free days; and
    - toll collection mechanisms.

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

39. The Toll Order will also contain on-going conditions to ensure the intent of the tolling remains and that the public aren't disadvantaged by the toll. As with the preconditions, this is a work in progress, but we envisage it will include regular public disclosure and reporting to the Minister of:

    - actual traffic volumes compared to forecast traffic volumes for each class of vehicle:
    - actual toll revenue compared to forecast toll revenues:
    - the ongoing status of the alternative route:
    - a network utilisation performance report to include an analysis of the response of traffic to tolling, any traffic management method used to vary the response, and other steps taken to implement the demand management plan;
    - confirmation that the toll operator continues to offer at least one method of paying the toll that does not record personal information in relation to the person paying the toll; and

- if there has been a significant change to that method of payment since the previous annual report to the Minister, a description of the new method.

40. These reports will be closely monitored by the Ministry as part of our regulatory and system stewardship function.

Annex 1: Alternative maintenance revenue sources

Mechanism	Act	Comment
An adjustment to the rate of PED and RUC	LTMA	Available to the Crown only. A 0.062c/l p.a. increase in PED and a corresponding increase in RUC
Windfall gains tax	Income Tax Act 2007	Available to the Crown only. Section CB 14 of the Income Tax Act provides that a capital gain on land sold within 10 years of acquiring it is taxable as income tax, if at least 20% of the capital gain is attributable to a change in planning rules or the granting of a consent
Crown contribution	Budget	Available to the Crown. An ongoing appropriation toward the maintenance costs of Penlink
National Land Transport Fund	LTMA	Waka Kotahi use some of the $830M that was taken off its capital expenditure pipeline to help fund the circa. $3.1M/p.a. maintenance needs
Special purpose vehicle	Infrastructure Funding and Financing Act 2020	Section 10(1) enables all crown entities to enter a special purpose vehicle. Authorises the imposition of a levy on all properties that benefits from an infrastructure investment, with the levy payable to the special purpose vehicle as a debt
Tolling a bridge tunnel or ferry	Local Government Act 1974	Available to Councils only. Applicable to the bridge at the western end of Penlink
General Rating adjustment	Local Government (Rating) Act 2002	Available to Councils only. An increase in general rates to reflect costs faced by a Council
Targeted rates	Local Government (Rating) Act 2002	Available to Councils only. A rate to recover the Council costs from the are served by an investment. Typically, targeted rates apply to shopping centres to fund amenity improvements in the streets within the centre or to the properties served by a package sewerage plant. In Auckland a targeted rate applies to the urban area to help fund public transport
Development contributions	Local Government Act 2002	Available to Councils only. Councils can recover costs imposed on the network by development. The contributions are made in accordance with a policy established by Councils.
Financial contributions	Resource Management Act 1991	Available to Councils only. Councils can set conditions on any development that needs a planning consent requiring a contribution toward the costs of public infrastructure required to services the development covered by the consent
Betterment levy	Local Government Act 1974	Available to Councils only. Provision is made for Councils to charge betterment where a change in zoning results in a property value increase.
Road tolling bylaw on heavy vehicles	Land Transport Act 1998	Available to all Road Controlling Authorities except Waka Kotahi. Limited to heavy vehicles

Note: Presented in order from central to local availability.

Annex 2: Monetised impact of tolling

	Untolled	Tolled
Benefits		
Travel time	$797m	$792m
Congestion reduction	$100m	$119m
Vehicle operating cost reduction	$165m	$121m
Trip reliability	$52m	$51m
Crash reduction	$31m	$18m
Alternative mode increase	$10m	$10m
CO_2 reduction	$0m	$6m[5]
Total Benefits	**$1,156m**	**$1,116m**
Wider Economic Benefits		
Agglomeration	$124m	$110m
Other Wider Economic Benefits	$47m	$47m
Total Wider Economic Benefits	**$171m**	**$157m**
Costs		
Construction costs	$712m	$703m
Maintenance costs	$69m	$69m
Toll collection costs	$0m	$120m
Total Costs	**$781m**	**$892m**
Benefits over costs		
National welfare benefits (BCR)	1.5	1.3
BCR + Wider Economic Benefits	1.7	1.4

Note: Source - Table 18 - ImBC

[5] MoT observation – appears to be inconsistent with calculated benefits to vehicle operating cost reduction

Annex 3 Estimated Maintenance Costs

Regardless of whether Penlink is tolled or not it will require maintenance in the future. Waka Kotahi have advised that a road of Penlink's loading will require the following maintenance activities.

Activity	Cost	unit	Frequency
Regular maintenance	$25	\m^2	Annually
Periodic maintenance	$20	\m^2	Every 5 years
Bridge inspection	$100,000		Inspect biannually
Resealing	$35	\m^2	Every 8 years

Refer Table 16 - ImBC[6]

We expect the Penlink to be 13m wide and 7km in length meaning that the gross area is 91,000 m2. Using the data presented above we can estimate maintenance funding requirements using the equation below.

$$Maintenance\ revenue\ required = \sum (Road\ Area\ x\ Cost\ of\ Activity)/Frequency$$

Which results in the following revenue requirements.

Activity	Funding
Regular maintenance	$2,275,000
Periodic maintenance	$364,000
Bridge inspection	$50,000
Resealing	$398,125
Annual Maintenance Revenue Requirements	$3,087,125

6 "Bridge -heavy maintenance repair" in Table 16 of the ImBC is incidental and not included in our maintenance calculations

Cabinet Economic Development Committee

Minute of Decision

Tolling Penlink

Portfolio **Transport**

On 15 March 2023, the Cabinet Economic Development Committee (DEV):

Penlink tolling proposal

1 **noted** that Penlink is aimed at improving access between Whangaparāoa Peninsula and State Highway 1 at Dairy Flat, is 7 kilometers long and estimated to cost $830 million, and involves the construction of a 540 metre long bridge across the Weiti River;

2 **noted** that Waka Kotahi New Zealand Transport Agency (Waka Kotahi) has sought an Order in Council under the Land Transport Management Act 2003 for a tolling scheme to contribute to road operations and maintenance, and tolling infrastructure costs;

3 **noted** that 37 percent of the stakeholder response on the tolling scheme supported the tolling scheme and that the Penlink Implementation Business Case indicates the Benefit Cost Ratio is 1.4 if tolled, and 1.7 if untolled;

4 **noted** that the regulatory impact statement attached to the submission under DEV-23-SUB-0024 states that the Penlink road would be used 42 percent more if it wasn't tolled, which DEV considers to be unlikely;

Statutory requirements and process

5 **noted** that the Minister of Transport (the Minister) is satisfied that the statutory requirements for tolling set out in section 48 of the Land Transport Management Act 2003 have been met;

6 **noted** that the Minister considers the revenue benefits of tolling Penlink, combined with the emission and mode shifts reported by Waka Kotahi, to outweigh the welfare costs;

7 **agreed** that the Minister recommend to the Governor-General that an Order in Council be made allowing the new Penlink road to be tolled;

8 **invited** the Minister to issue drafting instructions to the Parliamentary Counsel Office to draft an Order in Council under section 46(1) of the Land Transport Management Act 2003, which:

8.1 establishes a road tolling scheme to provide funds for the purposes of the maintenance and operation of Penlink and paying for the tolling infrastructure;

8.2 identifies Waka Kotahi as the public road controlling authority, the toll operator and the enforcement agency for the road tolling scheme;

Details to be included in the Order in Council

9 **agreed** that the Order in Council specifies that Waka Kotahi provides a report to the Minister at least 10 weeks prior to tolling commencing with details on the following matters:

9.1 the service standard obligation to road users;

9.2 the method of publicising the toll in advance of the road opening;

9.3 the signage and other information that will be used to inform drivers approaching the road of the toll and options for paying;

9.4 a technical description of the proposed components of the toll collection system and key performance indicators, inclusive of error rates, revenue levels, and health and safety issues;

9.5 the structure of the administration fees for all payment methods and all penalty fees;

9.6 the continued existence of a feasible alternative route;

10 **agreed** that the Order in Council should be drafted to:

10.1 empower the toll operator to set toll tariffs within the maximum limit of $6 at the commencement of the scheme;

10.2 empower Waka Kotahi to adjust the maximum toll rates following a review of revenue needs for the operation and maintenance of Penlink;

10.3 below the maximum toll, provide that the toll operator may levy different levels of tolls in respect of:

10.3.1 different classes of person / motor vehicles;

10.3.2 travel at different times of day or days;

10.3.3 travel in different directions;

10.4 in addition to the exemptions set out in s 52(5)(a)-(c) of the Land Transport Management Act 2003, empower the toll operator to:

10.4.1 declare toll free days - i.e., days or periods on which all classes of vehicle are exempt, either for promotional or sponsorship reasons or for traffic management reasons;

10.4.2 grant exemptions to public transport and other classes of vehicle or person;

11 **agreed** that the toll operator be required to establish an electronic system for collection tolls that:

11.1 does not hinder the free flow of traffic;

11.2 enables a user of the toll road to pay a toll automatically (for example, by automatic deduction from a toll account held by the toll operator);

11.3 enables a user of the toll road to pay within five working days after using the toll road;

12 **agreed** that the toll operator be required to ensure that the details of the tolls that are payable, and the payment methods offered by the toll operator, are published on a website maintained by or on behalf of the toll operator for the duration of the road tolling scheme;

13 **agreed** that the toll operator be required to supply the following information to the Minister every 12 months from the date that tolling begins:

13.1 actual traffic volumes compared to forecast traffic volumes for each class of vehicle;

13.2 actual toll revenue compared to forecast toll revenues;

13.3 the ongoing status of the alternative route;

13.4 a network utilisation performance report to include an analysis of the response of traffic to tolling, any traffic management method used to vary the response, and other steps taken to implement the demand management plan (if any); and

13.5 if there has been a significant change to that method of payment since the previous annual report to the Minister, a description of the new method;

14 **agreed** that the toll operator be required to make a summary of the information listed in paragraphs 9 and 13 above available to the public generally by including it in its annual report and on its website;

15 **authorised** the enforcement authority to have access to law enforcement information held by a holder agency under the Privacy Act 1993 for the purposes of enforcing toll payments, so long as the enforcement authority complies with the security system agreed between the toll operator and the Minister;

16 **agreed** that the toll operator be required to publicly notify the toll level or levels, exemptions and proposed date on which tolling will begin at least once in each of the four weeks preceding the proposed toll commencement date;

Unforeseen matters

17 **authorised** the Minister to determine on any matters of policy or legislative detail that arise in the development of the Order in Council, in line with the decisions under DEV-23-SUB-0024.

Jenny Vickers
Committee Secretary

Attendance: (see over)

Present:
Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Michael Wood
Hon Dr Ayesha Verrall
Hon Damien O'Connor
Hon David Parker
Hon Priyanca Radhakrishnan
Hon Kieran McAnulty
Hon Ginny Andersen
Hon Meka Whaitiri
Hon Rino Tirikatene
Hon Dr Deborah Russell
Jo Luxton MP

Officials present from:
Office of the Prime Minister
Officials Committee for DEV

Cabinet

Minute of Decision

Report of the Cabinet Economic Development Committee: Period Ended 17 March 2023

On 20 March 2023, Cabinet made the following decisions on the work of the Cabinet Economic Development Committee for the period ended 17 March 2023:

Out of Scope

Out of Scope

CONFIRMED

DEV-23-MIN-0024 **Tolling Penlink**
Portfolio: Transport

CONFIRMED

Out of Scope

Out of Scope

Rachel Hayward
Secretary of the Cabinet