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Submission on Land Transport (Revenue) Amendment Bill

Summary

1. The AA supports the Land Transport (Revenue) Amendment Bill's focus on increasing the amount of tolling revenue to provide additional investment for new roads.
2. We are open to tolling an existing road where its users clearly benefit from quicker travel times because a new road has been built on the same corridor. We have proposed amendments to make clear an existing road cannot be tolled unless users of that road receive those benefits.
3. The primary benefits of building our new roads are economic growth and productivity and these benefits can be affected by tolling. We have proposed an amendment to require that when setting toll prices, the Minister must consider the economically optimal toll for the road, alongside the revenue maximising toll.
4. In line with the purpose of New Zealand's tolling legislative framework, toll revenue should primarily be used to help fund new roads. We have proposed an amendment restricting the use of toll revenue to existing roads that are being upgraded or connected into new roads.
5. Consistent with the principles of our land transport funding system, all other costs relating to existing roads¹ should be paid for by motorists through Fuel Excise Duty (FED) and Road User Charges (RUC) – and the first call on that revenue should be maintaining the road network. Charging motorists a toll to maintain an existing road means they would be effectively paying twice – once via the toll and once via FED and RUC for the kilometres they travel on the road.
6. The AA supports using toll revenue to help fund the maintenance and operational costs of alternative routes but propose three changes to the Bill: funding should be limited to situations where an existing road (or a road replacing an existing road) is tolled, funding assistance should be limited to costs attributable to the tolling scheme, and funding should not be restricted to situations where a road controlling authority (RCA) is unable to meet the costs itself.
7. We strongly oppose allowing RCAs to use any funds provided under agreement with a private company for any road. Private companies will be entirely reliant on toll revenue to recoup those funds, which effectively means motorists will be paying tolls to fund other roads. This completely undermines the tolling principle that those who pay should benefit.

¹ We have excluded rates here because all current and proposed toll roads are State highways.

8. We recommend amendments to require consultation on tolling proposals to include not only the proposed base toll but any proposed maximum toll as well, and that Orders establishing road tolling schemes specify the criteria that need to be met for the toll to be removed.
9. We support the proposed amendments to the Road User Charges (RUC) Act 2012. We expect these changes will make it easier for motorists to monitor and meet their obligations to pay RUC and remove barriers to the future transition of light vehicles paying fuel excise duty to RUC, when the time is right.

Introduction

10. The New Zealand Automobile Association (AA) is pleased to provide this submission on the Land Transport (Revenue) Amendment Bill (the Bill).
11. The AA has advocated for the transport interests of our Members throughout our more than 120-year history. Today we represent more than 1.1 million personal Members and provide support to a further one million vehicles that are owned by businesses.
12. The Bill proposes significant changes to tolling and road user charges legislation.
13. The AA supports the Bill's focus on increasing the amount of tolling revenue to provide additional investment for new roads. We also support the focus on modernising RUC collection both for existing RUC payers and to lay the groundwork for the transition of all light vehicles from fuel excise duty to RUC, when the time is right.
14. Our submission follows the structure of the Bill. The first and main section sets out our position on the proposed amendments to road tolling schemes under the Land Transport Management Act 2003 (LTMA). The second section records our support for the proposed changes to the Road User Charges Act (RUC Act) and sets out some key things we think will need to be addressed in subsequent legislation before moving light petrol vehicles on to RUC.

Proposed tolling amendments

15. The AA supports the use of tolling to bring forward the construction of new roads. Our position recognises not just the benefits of getting the road early but also that tolling new roads is consistent with the user-pays principle that underpins the land transport revenue system. When applying that principle to toll roads, that means road users who directly benefit from a new road should contribute towards its costs.
16. This principle has guided our thinking on the proposed amendments to the LTMA's tolling provisions.

Tolling existing roads

17. Section 48(2) of the LTMA allows existing roads to be tolled as part of a tolling scheme for a new road. However, this is only permitted in very limited circumstances – broadly where doing so is necessary for a tolling scheme for a new road to operate effectively. To date, this provision has not been used and all tolling has been entirely on new roads².

² NZTA has recently consulted on a proposal to a toll on an existing section of State Highway 1, which is being upgraded, in Canterbury. The Minister of Transport is yet to announce a decision on this proposal.

18. Clause 8 section 48(2)b of the Bill expands the grounds for tolling existing roads as follows (emphasis added):

48(2) *The Minister must not recommend that an existing road or part of a road be tolled unless the Minister is satisfied that –*

...

(b) *the efficiency of the road or part of the road has been, or will be, enhanced by, or users of the road or part of the road accrue benefits from, the construction of a new road that will also be part of the road tolling scheme...*

19. Tolling of existing roads is a significant change in New Zealand's approach to tolling, and it's yet to be seen whether motorists will be willing to support it in practice. In a recent AA Member survey, just 25 percent of respondents felt it is fair to toll an existing road, even if motorists using it benefit from a new road.

20. The AA has carefully considered the case for tolling of existing roads and have concluded we are open to supporting tolling where users of an existing road benefit from a new road. However, we have several objections to this clause, as drafted.

21. In practice, we envisage that if a road's efficiency is enhanced, users of the road will benefit. This should mean the first part of section 48(2)(b) (in bold, above) is redundant. However, if the efficiency of a road is improved but users do not benefit from that improvement, our position is that it would be inappropriate to toll the existing road. For these reasons, we do not support 'enhancing the efficiency of an existing road' as a standalone reason for tolling it.

22. Our position is consistent with Cabinet policy decisions on the Bill (ECO-24-MIN-0289 refers), the Bill's explanatory note, the Departmental Disclosure Statement and the Regulatory Impact Statement – all of which focus solely on tolling existing roads "where users receive benefits from the construction of a new road on the same corridor".

23. We also strongly oppose the inclusion of the words 'or will be' immediately after the proposed 'efficiency' ground. That would enable an existing road to be tolled before – potentially many years before – that road is improved by the new road.

24. Finally, we are concerned that the term "benefits" to users of an existing road is undefined in section 48(2)(b). As drafted, this gives the Minister complete discretion to decide what constitutes user benefits.

25. The primary benefit motorists receive from using new roads are travel time savings. When deciding whether to use a new toll road or an alternative route, motorists weigh the time they'll save from using a new toll road against the cost of the toll.

26. The AA's position therefore is that an existing road should not be able to be tolled unless its users gain travel time benefits from the new road that forms part of the tolling scheme. In the absence of travel time benefits, it is unreasonable and inconsistent with user-pays principles, to charge motorists a toll to use a road they have previously used 'for free'. Section 48(2)(b) needs to be amended to define 'benefits' as 'travel time savings'.

Recommendation 1: The AA recommends section 48(2)(b) in clause 8 of the Bill be amended as follows:

48(2) *The Minister must not recommend that an existing road or part of a road be tolled unless the Minister is satisfied that –*
...
(b) ~~*the efficiency of the road or part of the road has been, or will be, enhanced by, or users of the road or part of the road accrue benefits – in the form of travel time savings – from, the construction of a new road that will also be part of the road tolling scheme...*~~

Setting toll prices

27. Section 48(4), in clause 8 of the Bill, proposes the Minister must take the following matters into account when setting base toll amounts:

- the maximum potential revenue likely to be gained from a proposed tolling scheme; and
- the benefits a road user may receive from the tolling scheme, including time savings, safety, and reliability of route; and
- the effects of the proposed toll on the road network.

28. The AA supports these requirements but also considers the Minister should be required to consider the effect of the proposed toll on the new road's economic and safety benefits.

29. New roads are built to deliver benefits to society. While tolling generates revenue to help fund a road's construction, it nearly always provides fewer benefits than building the same road without tolling because a proportion of vehicles avoid the road and either take longer, less safe routes or do not travel at all.

30. When determining the base toll price, it is therefore important for the Minister to consider the economically optimal toll for the road alongside the revenue maximizing toll.

Recommendation 2: The AA recommends a new sub-section (d) be added to section 48(4) in clause 8 of the Bill, as follows:

- the effects of the proposed toll on the road network.; and*
- the economic and safety benefits of the new road with and without the proposed toll.*

Use of toll revenue

31. Section 46(1) of the LTMA requires that revenue raised by a tolling scheme must be used for the planning, design, supervision, construction, maintenance and/or operation of the new road, including reimbursement of the cost of these activities.

32. The Bill provides for toll revenue to also fund activities on certain existing roads.

Existing roads in the tolling scheme

33. Section 46(2)(b) of the Bill authorises the use of toll revenue to fund the planning, design, supervision, construction, maintenance, and/or operation of existing roads. Section 46A(2)(e) specifies that toll revenue can also be used for reimbursement of these costs. Section 48(3) states that toll revenue may only be allocated for these purposes where an existing road is tolled as part of a tolling scheme for a new road.
34. These clauses undermine the core purpose of our tolling legislative framework - to provide an additional revenue stream to enable a new road to be delivered earlier than it would without tolling. Toll revenue should primarily – if not entirely – be used to support the construction of the new road.
35. The AA strongly opposes toll revenue being used to reimburse costs associated with an existing road's planning, design, construction and supervision. These are all activities that have already been paid for, and typically, in the case of State highways, have been paid for by motorists via Fuel Excise Duty (FED) and Road User Charges (RUC).
36. We also oppose toll revenue being used to fund maintenance and/or operational costs on existing roads. Motorists pay FED and RUC based on their road use, and the first call on this funding should be maintenance and operation of the road network. Charging a toll for these activities effectively means motorists will be paying for them twice.
37. The AA's position is that toll revenue should only be invested in an existing road in a tolling scheme for the purposes of upgrading that road and/or connecting it into the new toll road.

Recommendation 3: The AA recommends the following amendments be made to section 46(2)(b) and section 46A(2)(e) in clause 6 of the Bill:

46(2) The activities referred to in subsection (1)(a) are –

...

(b) subject to section 48(2) and (3), ~~1 or more of the following activities for improvements to a specified existing road (other than a road referred to in paragraph (c)), namely the planning, design, supervision, construction, maintenance, or operation of the existing road:~~

46A(2) The order may –

...

(e) specify the purposes under section 46(1) for which toll revenue inflow may be used (including reimbursement of the costs related to ~~the new road a road that is part of the tolling scheme~~):

Alternative routes

38. Section 46(2)(c) in clause 6 of the Bill provides for toll revenue to be used to fund the maintenance and operational costs of specified feasible alternative route(s). However, this is subject to Section 48(5), which requires the Minister to be satisfied that the relevant road controlling authority (RCA) is unable to fund these costs itself.

39. The AA supports section 46(2)(c) but considers that toll revenue should only be used to assist with maintenance and operational costs of alternative routes when a toll is placed on an existing road (or a road that is replacing an existing road). That's because when a new link in the road network is built, even if it is tolled, it will attract a proportion of traffic off existing routes and result in reduced costs for the RCA. By contrast, when an existing road is tolled, traffic on the alternative route will presumably increase – resulting in increased costs for the RCA responsible for that road.
40. We also think that funding assistance should be limited to the maintenance and operational costs on the alternative route that are attributable to the tolling scheme – we do not support toll revenue being used to fund costs that would have existed if the tolling scheme wasn't in place.
41. We also oppose section 48(5). Where an RCA incurs costs due to a tolling scheme, it is appropriate for the scheme to meet these costs, irrespective of the RCA's financial position.

Recommendation 4: The AA recommends the following amendments be made to sections 46(2)(c) and 48(5) in clauses 6 and 8 of the Bill:

46(2)(c) *subject to section 48(5), the maintenance or operation (or both) of a specified road that is, or specified roads that are, an alternative route (as referred to in section 48(1)(d)) in respect of any existing road, or any road that is replacing an existing road, that will be tolled under the tolling scheme*

48(5) *The Minister must not recommend that a road tolling scheme be established to provide funds for an activity described in section 46(2)(c) unless the Minister is satisfied that the funds to be provided are to cover costs which are attributable to the tolling scheme ~~the road controlling authority is unable to fund the maintenance or operation of the road or roads itself.~~*

Private toll operators

42. The AA's policy position on private sector tolling is that proposals should be considered on the same basis as public RCA proposals, and we note public RCAs will remain responsible for consultation on private proposals.
43. We are aware the government has been actively exploring market interest in operating our existing toll roads. The AA has no objection to this in principle, nor to the proposed new 46B(7) in Clause 6 of the Bill, which allows a private toll operator to set tolls at a level sufficient to recover money it has advanced to the Crown and to earn a commercial return on its investment.
44. As for public proposals, a key proviso for the AA is that net toll revenue is allocated to roads within the tolling scheme in accordance with the requirements, intent and spirit of section 46 of the Bill.
45. As noted, this is consistent with the user-pays principle that underpins the land transport revenue system – for tolling this means road users who directly benefit from a new road should contribute towards its costs.
46. Section 61A in clause 14 of the Bill, which covers the use of funds provided under an agreement between a RCA and a private company, is not just inconsistent with this principle but completely undermines it.

47. Section 61A authorises an RCA³ to apply any funds it has received as part of an agreement with a private toll operator to any road. In NZTA's case, at least in theory, it could apply funds it receives from a toll road operator for a state highway at one end of the country to a state highway at the other end of the country.
48. We acknowledge such funds will likely be provided up front (and therefore could not technically be considered toll revenue) but the toll operator is entirely reliant on toll revenue to recoup those funds.
49. All three current tolling schemes were premised on the basis that tolling would be removed once toll revenue has funded a defined share of construction costs. Replacing them with new or amended schemes that could authorise tolling for up to 49-years primarily to fund other roads, is closer to asset-recycling than the purpose of tolling set out in section 46 of the Bill.
50. We think tolling road users to help fund other roads they may seldom or never use will inevitably undermine public support for tolling.

Recommendation 5: The AA recommends section 61A(2) be amended so that it is consistent with spirit and intent of the purpose of tolling schemes in section 46(2) of the Bill and the amendments we have proposed for the allocation of toll revenue to existing roads above:

61A(2) *The Road Controlling Authority may apply the funds to the planning, design, supervision, construction, maintenance, or operation of a new road or improvements to an existing road that is even if it is not part of a the road tolling scheme established under section 46.*

Other matters

Toll adjustments

51. Section 46B(3) in clause 6 of the Bill requires toll operators to adjust tolls annually by the CPI.
52. The AA is comfortable with this requirement but observes that NZTA currently adjusts toll road charges by CPI, albeit infrequently. We understand this is for two reasons. First, annual CPI movements are generally reasonably small and would typically only result in adjustments of a few cents in toll rates⁴. Second, any extra revenue needs to be offset against the administrative costs of increasing toll rates (which is \$100,000 for New Zealand's existing three toll roads⁵). We question whether annual increases are optimal.

Recommendation 6: The AA recommends the Committee considers whether an annual increase to toll charges, proposed in section 46B(3), is optimal, taking into account the additional revenue that an annual increase by the CPI would likely generate alongside the administrative costs of changing toll charges.

³ Note this is inconsistent with s46B(7) which refers to funds advanced by the toll operator to the Crown.

⁴ We note that section 46B(4)(a) in clause 6 of the Bill provides for toll operators to round toll rates up to the nearest 10 cents, which will enable toll operators to collect marginally more revenue.

⁵ Paragraph 32 of Ministry of Transport briefing ['Revenue Action Plan: Confirming Tolling Reform Legislative Policy Decisions'](#), 5 September 2024

Maximum tolls

53. Section 46B(1)(a) in clause 6 of the Bill requires an Order in Council establishing a toll road to set base toll amounts. Section 46B(2)(b) allows for the order to specify a maximum limit (or method of calculating a maximum limit) for toll charges, and section 46B(3)(b) enables toll operators to increase toll charges up to that maximum limit.
54. The base toll may be very different from the 'maximum limit'. For transparency, consultation on tolling proposals should be required to specify both the proposed base toll and any proposed maximum limit or method for calculating the maximum limit.

Recommendation 7: The AA recommends that Section 48(1)(a) in clause 8 of the Bill be amended as follows:

48(1) Before recommending the making of an Order in Council under section 46, the Minister must be satisfied -

(a) that the relevant public road controlling authority or authorities have carried out adequate consultation on the proposed tolling scheme including on any proposed maximum charge or method for calculating a maximum toll charge; and

Liability for the payment of tolls

55. Section 52 of the LTMA provides that the driver of a vehicle is liable for the payment of tolls. Clause 10 of the Bill amends section 52, making vehicle owners responsible for toll payment, and limits the ability to transfer liability to cases where a vehicle has been stolen.
56. The AA supports this amendment. Our view is that the current arrangements are inefficient; it is prohibitively expensive - relative to the cost of a toll - for the toll operator to seek payment from the driver of a vehicle when that person is not the vehicle's registered owner. We consider it appropriate that vehicle owners are responsible for toll payment, noting they can always seek reimbursement from anyone they allow to use their vehicle.

Restricting use of alternative route

57. Feasible alternative routes are a prerequisite for road tolling schemes under the LTMA and under section 48(1)(d) in Clause 8 of the Bill. Section 46D in clause 6 of the Bill enables the Minister to restrict heavy vehicles from using these routes, while allowing for some practical exceptions.
58. The AA supports these provisions. If an alternative route has not been designed for significant heavy vehicle use or could not accommodate that use without substantial ongoing maintenance spending, we agree it makes sense to require heavy vehicles to use the new road, even if it is tolled. In most cases, we expect the benefit heavy vehicle operators will receive from using the new road should outweigh the cost of the toll.
59. We expect that any proposal to require heavy vehicles to use a new (toll) road will be made clear during public consultation, and any concerns with the proposal can be raised by submitters and assessed on their merits by the road controlling authority.

Duration of tolling schemes

60. Consistent with tolling's core purpose to bring forward the construction of a new road, tolls should only be in place for as long as it takes to cover the road's construction costs (or specified proportion of these costs). For transparency, we think Orders in Council establishing toll roads should be required to specify the criteria which need to be met – such as the proportion of a road's construction cost that needs to be collected or debt that needs to be repaid – in order for the toll to be removed.

Recommendation 8: The AA recommends section 46A(1) in clause 6 of the Bill be amended to require an Order establishing a road tolling scheme to specify the criteria that need to be met for the toll to be removed, and consequential amendments be made to section 47 of the LTMA.

Proposed road user charging amendments

61. The AA agrees that diesel, EV and PHEV light vehicle owners face unnecessary administrative costs and inconvenience in complying with their obligations under the current RUC legislative framework.
62. The absence of automated invoicing and payment options means owners must remember to check their odometers to ensure their RUC remains up to date and log into the NZTA website or visit an agent before they run out. Failure to do so risks incurring fines and penalties.
63. Many light vehicle owners find this process straightforward, particularly those who can avoid the need for regular RUC purchases by buying their RUC kilometres in bulk. However, it is much more of a challenge, and with a transaction fee of \$12.44 or \$13.71 each time RUC is purchased, more expensive for people who can't buy in large volumes.
64. We support the proposed amendments to the Road User Charges Act 2012 to address most of these problems by enabling the market to provide a range of more convenient options to pay RUC. We agree that collectively they should both make it easier for motorists to monitor and meet their obligations to pay RUC and remove barriers to the future transition of light vehicles paying fuel excise duty to RUC.
65. However, we note that achieving these outcomes is wholly dependent on the emergence of a competitive market for RUC collection services from light vehicles. We are pleased to see the Bill proposes retaining NZTA as a RUC collector because that will be needed at least until it becomes clear that that market is in place. It is also not yet clear how private sector fees for RUC services will compare with NZTA's current transaction fee. This fee is already an irritant for many current RUC payers and will be a new cost for petrol vehicle owners when they switch to RUC.
66. A significant proportion of the fee covers costs NZTA incurs in administering and enforcing RUC so can be expected to be included in private providers' charges but providers will also have to recoup their own costs and make a margin on their services.
67. We are concerned that a full market model risks adding extra costs to purchasing RUC for some motorists and could also impact on public acceptability for the transition. While no change is needed to the current Bill, the AA's position is that NZTA should be retained as a fallback option for anyone to purchase RUC until when and if it has been established that the market can offer these services for a price that is at least comparable with NZTA's fees.

68. We also note the Bill does not include any provisions to improve RUC compliance. Poor compliance is one of the reasons a number of the AA's District Councillors oppose moving our petrol fleet on to RUC. Addressing this will be essential to a successful transition both in terms of revenue security and public acceptability.
69. We are pleased to see NZTA will be working with the Police to improve compliance using digital enforcement, in line with the Bill's proposed amendments to remove the requirements to display or carry a RUC licence. We expect legislative change to improve compliance will also be needed before transition of the petrol fleet.

Final comment

70. The AA thanks the committee for considering our submission. Annex A provides a table containing all the AA's recommendations.
71. We request the opportunity to present the key points in person and answer any questions the committee has on our recommendations when hearings are held on the Bill.
72. The NZAA will be pleased to provide any further comment as appropriate. Please contact Martin Glynn (contact details below).

Yours sincerely



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Annex A – Section-by-section recommendations

Section	Rec #	Recommendation
46(2)(b)	3	<p>Amend as follows:</p> <p>46(2) <i>The activities referred to in subsection (1)(a) are –</i></p> <p style="text-align: center;">...</p> <p style="text-align: center;">(b) <i>Subject to section 48(2) and (3), 1 or more of the following activities for improvements to a specified existing road (other than a road referred to in paragraph (c)), namely the planning, design, supervision, construction, maintenance, or operation of the existing road:</i></p>
46(2)(c)	4	<p>Amend as follows:</p> <p>46(2)(c) <i>subject to section 48(5), the maintenance or operation (or both) of a specified road that is, or specified roads that are, an alternative route (as referred to in section 48(1)(d)) in respect of any existing road, or any road that is replacing an existing road, that will be tolled under the tolling scheme</i></p>
46A(1)	6	<p>Section 46A(1) be amended to require an Order establishing a road tolling scheme to specify the criteria that need to be met for the toll to be removed, and consequential amendments be made to section 47 of the LTMA.</p>
46A(2)(e)	3	<p>Amend as follows:</p> <p>46A(2) <i>The order may –</i></p> <p style="text-align: center;">...</p> <p style="text-align: center;">(d) <i>Specify the purposes under which section 46(1) for which toll revenue inflow may be used (including reimbursement of the costs related to the new road a road that is part of the tolling scheme):</i></p>
46B(3)	7	<p>That the Committee considers whether an annual increase to toll charges is optimal, taking into account the additional revenue that an annual increase by the CPI would likely generate alongside the administrative costs of changing toll charges.</p>
48(1)(a)	8	<p>Amend as follows:</p> <p>48(1) <i>Before recommending the making of an Order in Council under section 46, the Minister must be satisfied -</i></p> <p style="text-align: center;">(a) <i>That the relevant public road controlling authority or authorities have carried out adequate consultation on the proposed tolling scheme including on any proposed maximum charge or method for calculating a maximum toll charge; and</i></p>
48(2)(b)	1	<p>Amend as follows:</p> <p>48(2) <i>The Minister must not recommend that an existing road or part of a road be tolled unless the Minister is satisfied that –</i></p> <p style="text-align: center;">...</p> <p style="text-align: center;">(c) <i>the efficiency of the road or part of the road has been, or will be, enhanced by, or users of the road or part of the road accrue benefits – in the form of travel time savings – from, the construction of a new road that will also be part of the road tolling scheme...</i></p>

48(4)	2	<p>Add a new sub-section (d) as follows:</p> <p>(d) <i>the effects of the proposed toll on the road network; and</i> (e) <i>the economic and safety benefits of the new road with and without the proposed toll.</i></p>
48(5)	4	<p>Amend as follows:</p> <p>48(5) <i>The Minister must not recommend that a road tolling scheme be established to provide funds for an activity described in section 46(2)(c) unless the Minister is satisfied that the funds to be provided are to cover costs which are attributable to the tolling scheme the road controlling authority is unable to fund the maintenance or operation of the road or roads itself.</i></p>
61A(2)	5	<p>Amend as follows:</p> <p>61A(2) <i>The Road Controlling Authority may apply the funds to the planning, design, supervision, construction, maintenance, or operation of a new road or improvements to an existing road that is even if it is not part of a the road tolling scheme established under section 46</i></p>