

Chair  
Cabinet Business Committee

## **TAURANGA EASTERN LINK: TOLLING AND BORROWING PROPOSAL**

### **Proposal**

1. This paper seeks Cabinet agreement for:
  - the Minister of Transport to recommend that the Governor-General make an Order in Council, allowing the proposed Tauranga Eastern Link project to be tolled pursuant to the Land Transport Management Act 2003, subject to certain conditions; and,
  - the establishment of a new capital expense appropriation within Vote Transport titled 'Tauranga Eastern Link Loan'.

### **Executive summary**

2. The New Zealand Transport Agency (NZTA) has submitted a proposal for approval of tolling on the Tauranga Eastern Link (TEL). The NZTA proposes that the TEL be partially funded through borrowing from the Crown, with the associated debt to be repaid through toll revenue.
3. TEL is a 23km four-lane median barrier divided State highway, linking Te Maunga with Paengaroa. TEL will include the construction of a new 16km four-lane divided motorway, which represents the tolled portion of the road. In May 2009, I identified TEL as one of the seven Roads of National Significance (RoNS).
4. TEL has been specifically developed to generate economic growth within the Bay of Plenty region. The Western Bay of Plenty continues to be one of the fastest growing areas in New Zealand. The NZTA advises that TEL will contribute to economic growth by providing convenient, reliable access to areas of employment, and by improving access for freight to the Port of Tauranga and to new urban and industrial developments.
5. Currently, TEL is prioritised 45<sup>th</sup> in the NZTA's 2009/2010 State Highway Plan. Based on this programming, construction would not begin for an estimated 5–7 years if it were funded entirely from the National Land Transport Fund (NLTF). The NZTA's view is that borrowing, supported by tolling, would allow construction to commence in 2010/11. This approach requires Cabinet approval. A similar approach has previously been used in relation to the Northern Gateway Toll Road (NGTR).
6. Under the Land Transport Management Act 2003 (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.

7. The cost of the project is estimated as \$545 million (in 2015 dollars). If the project proceeds as a toll road it will be subject to an additional \$22 million in associated tolling costs that will bring the total cost of the project to \$567 million.
8. The NZTA Board has approved funding, whereby tolls are used to repay \$137 million of borrowing, with the NLTF covering the remaining costs (estimated at \$430 million).
9. The NZTA has sought and obtained joint Ministerial approval to borrow a principal amount of \$137 million to contribute towards the construction costs of the TEL project, under sections 160(1)(b) and 162 of the Crown Entities Act 2004.
10. The amount of tolling revenue generated cannot be precisely determined as it will depend on the number of road users on the TEL. Actual toll revenue will determine the repayment period for the loan; the NZTA forecast a toll operating period of 35 years. It is proposed that tolls would be removed once the debt has been repaid.
11. The total amount of debt to be repaid will be made up of the principal (\$137 million) and capitalised interest. Thus, total debt will vary according to the interest rates prevailing over the term of the loan. Under the NZTA's Toll Proposal, capitalised interest is forecast at \$78 million, but the range of scenarios modelled by the NZTA indicate a potential range of between \$59 million and \$151 million.

### ***Why advance the TEL project?***

12. I am keen to assist the NZTA to advance this project because I consider TEL to be sufficiently important to be advanced ahead of its current priority on the basis that:
  - it has been identified as one of the seven Roads of National Significance;
  - it will contribute to economic growth by providing convenient, reliable access to areas of employment and by improving access for freight;
  - the NZTA advises that TEL has been identified as a key element of the Bay of Plenty's regional SmartGrowth strategy<sup>1</sup>;
  - the NZTA advises that it will help to reduce the crash rate on one of New Zealand's most dangerous stretches of State highway; and
  - there is a high level of public support for tolling, as demonstrated through the NZTA's public consultation process.

## **Background**

### ***Project description***

13. The proposed TEL is a 23km four-lane median barrier divided State highway, linking Te Maunga (near the Baypark Stadium) with Paengaroa. TEL will include the widening of 7km of existing highway to a four-lane divided motorway standard road,

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<sup>1</sup>This is a long-term (50 year) growth management strategy developed by Environment Bay of Plenty, Tauranga City Council and the Western Bay of Plenty. The strategy is the western Bay of Plenty sub-regional growth strategy and is aimed at sustainably managing growth in the region.

plus the construction of a new 16km four-lane divided motorway, the latter of which represents the tolled portion of the road.

14. TEL is one of the seven RoNS projects that were chosen because they represent essential routes that require priority treatment. The construction of TEL will support the advancement of the RoNS and will help to support the continued economic growth and prosperity of the Bay of Plenty region.
15. The NZTA advises that TEL is also the key infrastructure element of the Bay of Plenty's SmartGrowth Eastern Corridor, the integrated land-use and transport strategy for the major growth area in the region. It will contribute to economic growth by providing convenient, reliable access to areas of employment, and by improving access for freight to the Port of Tauranga and to new urban and industrial developments.
16. The NZTA's analysis concludes that not only will TEL improve access to the Eastern Bay of Plenty, but that it will also help to vastly improve the traffic safety characteristics of the present route which has been ranked the second worst stretch of State highway in the country in terms of fatal and serious injury crashes. A map of the project and a description of its key features are given in Annex 1.

### ***Prioritisation and programming of projects***

17. Prioritisation provides an indication of the importance an activity has relative to other activities within the National Land Transport Programme (NLTP). All proposed activities are assessed against the criteria of 'strategic fit', 'effectiveness' and 'economic efficiency' to determine their relative priority for funding. Projects with a high rating in each proceed first in the programme.
18. In terms of its prioritisation process, the NZTA rated TEL high for strategic fit, medium for effectiveness and low for economic efficiency. The high rating for strategic fit reflects, in part, TEL's designation as a RoNS; while the economic efficiency rating reflects the relatively low benefit cost ratio. As a result it was prioritised 45<sup>th</sup> in the NLTP prior to considering tolling.
19. Programming (determining the sequence in which projects are developed and constructed) by the NZTA takes account of the project's priority, where the activity is in its life-cycle (is it 'ready'), the resource requirements, the risk profile and competing activities, as well as total available funding.
20. TEL will be ready for construction at a time where the NLTF is fully committed to higher priority or other committed projects. In the absence of additional or alternative funding, this results in a need to defer construction until there are sufficient funds. The NZTA advises that this would be at least 5 years after the project is ready to proceed.
21. The NZTA's view is that borrowing, supported by tolling, would allow the NZTA to commence construction of the project in 2010/11. This approach, referred to as advancement, has previously been used in relation to the NGTR. The NZTA has considered TEL for advancement because of the priority placed on the project by the

region and the government, and because it is the only road suitable for tolling that is at a stage where it is ready to proceed quickly. While there are other projects that have a higher priority within the NLTP, I agree with the NZTA's proposed advancement of TEL.

### **Costs of the project**

22. The overall costs of TEL and the proposed funding arrangement as per the NZTA base case are outlined in the table below. All monetary values given are in 2015 dollars.

<b>Costs</b>	<b>\$ million</b>
Construction costs	\$490m
Property costs	\$55m
<i>Total cost of construction</i>	<i>\$545m</i>
Tolling infrastructure costs	\$18m
TEL contribution to toll system depreciation costs	\$4m
<i>Associated tolling costs</i>	<i>\$22m</i>
<b>Total cost</b>	<b>\$567m<sup>2</sup></b>
<b>NLTF Funding</b>	
Construction costs	\$375m
Property costs	\$55m
<b>NLTF funding</b>	<b>\$430m</b>
<b>Borrowing</b>	
Contribution to construction costs	\$115m
Tolling infrastructure costs	\$18m
TEL's contribution to toll system depreciation costs	\$4m
<b>Total borrowing</b>	<b>\$137m</b>
Forecast capitalised interest in base case	\$78m
<b>Total debt to be repaid in base case</b>	<b>\$215m</b>

23. The NZTA estimates that the level of debt proposed in its Toll Proposal could be covered by toll revenues collected over a period of approximately 35 years<sup>3</sup>. It is proposed that the tolls would then be removed.

### **Proposal description**

#### **Toll proposal**

24. The NZTA proposes that the new 16km four-lane section from Domain Road to Paengaroa be tolled in both directions at a single gantry. The tolling systems that were considered included electronic tolling, manual tolling, or a mixture of manual and electronic tolling.

<sup>2</sup> Excluding capitalised interest. The NZTA estimates that peak debt, including capitalised interest, would be \$215 million but could be somewhere between \$196 million and \$288 million, depending on toll revenue.

<sup>3</sup> The base case scenario is for debt borrowed in 2013, with the road opening and tolling to start in 2015 for a period of 35 years. Therefore the total debt period will be for 37 years.

25. The proposal is for free-flow electronic toll collection similar to that used on the NGTR. The NGTR uses automatic number plate recognition technology to identify vehicles as they pass under the tolling point. This system provides the greatest time savings, ease of use and convenience for motorists. Note that, unlike NGTR, the NZTA currently does not intend to provide for cash payment of tolls through kiosks on TEL.
26. The NZTA estimates that the tolls will be set up to a maximum of \$2 for light vehicles (including motorcycles) and \$5 for heavy vehicles in 2008 dollars, with provision for consumer price index adjustment. Net tolling revenue, net of collection costs and GST will be used to repay the associated borrowing.
27. The tolling system would make use of the existing centrally managed electronic toll collection system that was put in place following the decision to toll the NGTR, and would contribute to the costs of this system.
28. The Minister of Finance and I have queried whether the longer term management of the tolling operations system might be suitable for market testing, with a view to potential outsourcing of any toll system functions. As such procurement decisions are the responsibility of the NZTA Board, I intend to request that the Board provide me and the Minister of Finance with information that indicates the cost-effectiveness of the present toll operations prior to their extension to the TEL project, and to test whether there are efficiency gains to be made by contracting out any of the functions.

### ***Benefits of advancement***

29. The economic analysis undertaken by the NZTA identified the primary benefits of the TEL as travel time savings, congestion reduction, improved access for freight to the Port of Tauranga, improved wider network capacity to support land use development in the region, vehicle operating savings, and reduced CO<sub>2</sub> emissions.
30. If TEL were funded entirely from the NLTF and construction not advanced, the benefit cost ratio of the project would be 1.9 (excluding agglomeration benefits<sup>4</sup>). With advancement through borrowing to be repaid by tolling, one of the biggest risks is that some potential users will continue to take the alternative route to avoid paying the toll. As a result of this traffic diversion, the potential benefits of the TEL will be reduced, so the project's benefit cost ratio is lowered to 1.4 as a consequence of being tolled.

### ***Risks of the proposal***

31. The NZTA modelled various toll revenue scenarios to test how sensitive the financial viability of the proposal is to changes in the assumptions.
32. The realisation of the downside scenarios would lengthen the debt repayment period and possibly the tolling period. The table overleaf sets out the downside revenue consequences in selected years for the sensitivities the NZTA has modelled, along with the peak debt and debt repayment date associated with each scenario.

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<sup>4</sup> These are the benefits that firms obtain when locating near each other ('agglomerating'). As more firms in related industries cluster together, costs of production may decline significantly (firms have competing multiple suppliers, greater specialisation and division of labour result).

	Revenue Effect \$m				Peak debt (Toll proposal is \$215 million)	Debt repayment date (Toll proposal is June 2046)
	2016	2026	2036	2046		
Toll collection costs \$0.69 (toll proposal \$0.65)	-0.2	-0.4	-0.7	-1.0	\$221 m	June 2047
Papamoa East low growth	-0.1	-1.2	-2.3	-3.6	\$224 m	June 2049
Lower traffic volumes due to external user growth (minus 1%)	-0.3	-1.2	-2.4	-3.8	\$229 m	June 2049
Revenue leakage 9.7% (toll proposal 5%)	-0.3	-1.0	-1.6	-2.6	\$232 m	June 2049
CPI 1.8% (toll proposal 2.3%)	-0.3	-1.6	-4.3	-9.0	\$234 m	June 2051
Willingness to pay (minus 25%)	-0.9	-2.4	-4.2	-6.6	\$251 m	June 2052
Interest 8.5% (toll proposal 7.5%)	-1.7	-2.5	-2.8	-2.0	\$288 m	June 2054
Lower traffic volume due to no business park	-1.9	-5.1	-8.8	-13.9	\$284 m	June 2057

33. One of the risks of any tolling proposal is that deviations from the traffic volumes forecast would have implications for revenue, and consequently on the ability of the project to repay the debt. To generate the traffic forecasts for this project the NZTA sought input from a third party, Beca Consultants.
34. In the event that there is a shortfall in debt repayment on TEL due to lower than expected toll revenue, the NZTA will be responsible for meeting this debt through planned risk mitigation measures.
35. The NZTA advises that these measures could include remodelling of the toll strategy, revisiting the toll collection strategy, identifying potential cost savings within the processing system, and potentially reconsidering the approach to managing the alternative route (while ensuring that this route remains a feasible option). If all of these measures are unsuccessful, the NZTA would then look to review the financing options (for example extending the tolling period).
36. Only after all of these options had been exhausted would the NZTA look to meet the shortfall through additional funding from the NLTF. Were this eventuality to arise, it could potentially compromise the programming and prioritisation of the NZTA's other projects and, in turn, impact on the government's transport objectives.
37. Should the need arise, repayments of debt for TEL from the NLTF could fit within the 'New and improved infrastructure for State highways' activity class in the Government Policy Statement (GPS).
38. This approach differs to that taken for NGTR in that the NLTF, rather than the Crown, bears the risk of the revenue being insufficient to repay the debt. In the case of the NGTR, the Crown decided that it would cover the shortfall rather than use the NLTF, because it was not considered appropriate that interest repayments impact on the prioritisation and programming of other projects.

39. In this instance, I believe that the benefits of allowing the NZTA to manage the revenue risk, and thereby incentivising them to make every effort to mitigate risk before relying on the NLTF to cover shortfalls in repayments, outweigh any potential impacts on the prioritisation of projects in the NLTF.

### ***Other toll roads in New Zealand***

40. To fully understand the risks associated with this project, it is useful to consider the performance of the NGTR to date. In its first 11 months of operation, the total number of trips taken on the NGTR was 4.3 million. This means the road is 3 percent ahead of the forecasted number of trips. As a result, total toll revenue was 4 percent ahead of the yearly budget at 31 December 2009.

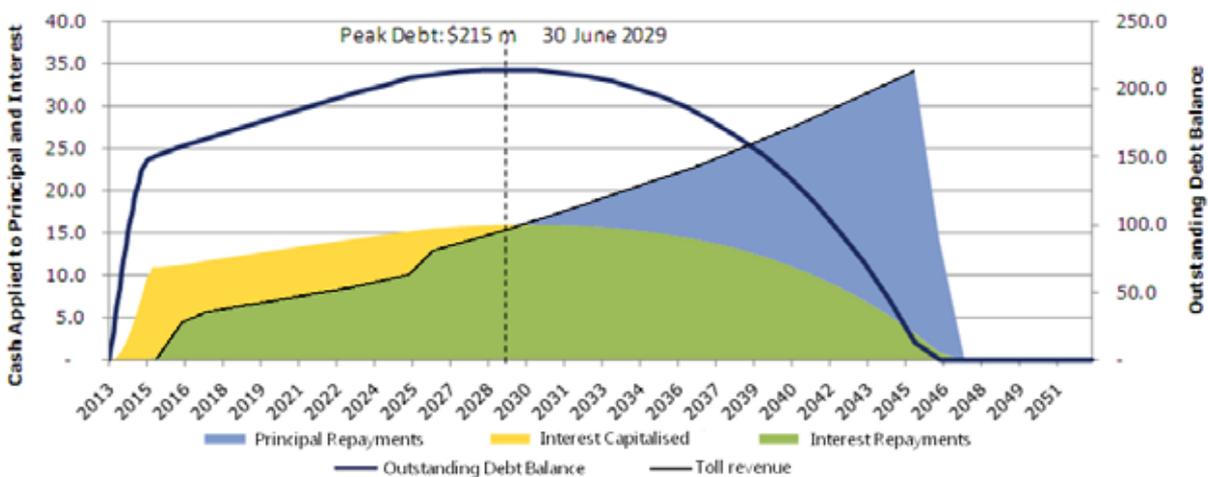
### ***Land Transport Management Act 2003***

41. The LTMA provides the NZTA with statutory independence to determine which projects will be funded through the NLTF. The NZTA generates a prioritised programme of projects (the NLTP) to inform this decision.
42. Under the LTMA, the tolling of a new road may be authorised by an Order in Council (OIC) made on the recommendation of the Minister of Transport. The first road that was considered for tolling under the LTMA was the NGTR.
43. Section 48 of the LTMA sets out the procedure for recommending the making of an OIC. It specifies the matters that the Minister of Transport must take into account, or be satisfied about, before recommending an OIC.
44. Where the NZTA has assessed a project for funding from the NLTF against its criteria, the LTMA allows the Minister of Transport to rely on this analysis. However, there is an inherent conflict of interest in relying on the NZTA's analysis of its own tolling proposal. Ministry of Transport officials have therefore reviewed the analysis provided by the NZTA, and advise that it is robust and that they agree with it. Having considered that advice and the NZTA's analysis, I am satisfied that the NZTA's toll proposal meets the criteria set out in section 48 of the LTMA. Further detail of this analysis is provided in Annex 2.

### ***Approval to borrow and debt financing***

45. Sections 160(1)(b) and 162 of the Crown Entities Act 2004 require that the Minister of Finance and the Minister responsible for the Crown entity jointly approve any borrowing by the Crown entity.
46. The NZTA is seeking to borrow the \$137 million directly from the Crown. Under section 65L of the Public Finance Act 1989, only the Minister of Finance may lend money on behalf of the Crown. The Minister of Finance is proposing that the New Zealand Debt Management Office (DMO) will administer this loan on his behalf. The exact details of the loan will be agreed between the parties if Cabinet approves the recommendation in this paper.

47. The principal debt required to advance the construction of TEL is \$137 million. The NZTA has sought and obtained joint Ministerial approval to allow it to borrow this amount to contribute towards the construction costs of the TEL project.
48. The NZTA proposes that the NLTF contribution to the project costs be drawn down first, with the debt portion being drawn down later in the construction period to minimise interest capitalisation, as there will be a lag between the interest being accrued and the toll revenue being received. The debt repayment profile for borrowing to support \$137 million of construction and associated tolling costs is set out below, with peak debt being in 2029 and all debt repaid by 2046.



49. At this stage, the NZTA anticipates that the project would be funded with a loan from the Crown via the DMO, which will increase the amount of the DMO's borrowing programme. The proposal that the Crown, through the DMO, makes a loan to the NZTA will require an appropriation for the principal in Vote Transport. The principal drawdown will be treated as a new spending initiative that counts as a pre-commitment against the 2011 Capital allowance (which is \$1.39 billion).
50. I recommend that the loan agreement contain all the standard commercial terms and conditions, as well as any additional conditions that the Minister of Finance considers necessary to manage risk.
51. While the advancement of TEL follows the precedent of the NGTR, both the Minister of Finance and I wish to review policy in this area before any future tolling decisions are made. This will mean drawing a line under any decisions on TEL and informing the NZTA Board that the role of tolling and borrowing in relation to the funding of the land transport programme will be subject to review. No further toll proposals will be considered until officials have provided joint Ministers with a report on these issues.

### **Approval to lend**

52. To fund the additional \$137 million required for this project, the NZTA is seeking a loan from the Crown which will be administered by the DMO. Section 65L of the Public Finance Act 1989 provides that the Minister of Finance, on behalf of the Crown, may lend money to a person or organisation if it appears to be necessary or expedient in the public interest to do so, on terms and conditions that the Minister thinks fit.

53. In the case of TEL, the loan is in the public interest in that it will support the advancement of the RoNS, and as the loan will be granted on a commercial basis, the cost of capital to the Crown will be recovered.

### **Contents of the Order in Council**

54. It is envisaged that the Order in Council for TEL will include provisions that:
- establish a road tolling scheme for TEL;
  - identify the NZTA 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 the TEL will utilise a fully electronic free-flow tolling system; and
  - set out the information that the NZTA must make available to the Minister in relation to the performance of TEL.
55. The Order in Council for TEL will differ from that of the NGTR in that it will set out different toll collection methods, and it will be less prescriptive in the reporting that the NZTA will be subject to.

### **Consultation**

56. The Treasury and the NZTA have been consulted on this paper. The Department of Prime Minister and Cabinet has been informed of the contents of this paper.

### **Financial implications**

57. The NZTA has been given approval by the Ministers of Finance and Transport to borrow for the proportion of the costs of TEL not covered by NLTF funding (\$137 million), with initial drawdown of debt anticipated to happen in 2013. The total or peak debt, including capitalised interest, is expected to be \$215 million.
58. The proposal to borrow funds through the DMO will require an appropriation in Vote Transport. This initial appropriation, entitled 'Tauranga Eastern Link Loan' will be for the principal amount (\$137 million). It will be treated as a new spending initiative that will count against the capital allocation in the year in Budget 2011.
59. The scope of the appropriation will be as follows "*This appropriation is limited to the Government provision of a loan to the New Zealand Transport Agency to contribute towards the costs of the construction and tolling operations for the Tauranga Eastern Link Roading Project*".
60. I also propose that the Ministers of Finance and Transport will have the authority to increase the amount of the appropriation to the NZTA for TEL by the amount of interest due at each interest payment date, up to a total amount of capitalised interest of \$105.4 million (being the base case estimate of \$78 million plus 20 percent of the original principal (\$27.4 million)).

## Gender and human rights implications

61. None.

## Legislative implications

62. An Order in Council under section 46 of the LTMA is required to implement the proposal to advance TEL as a tolled road. The Order in Council needs to be in place before the road opens in 2015.

## Regulatory Impact Analysis

63. The Ministry of Transport confirms that the principles of the Code of Good Regulatory Practice and the Regulatory Impact Analysis requirements, including the consultation requirements, have been complied with. A Regulatory Impact Statement has been prepared and is attached to this paper.

## Disability perspective

64. None.

## Publicity

65. In light of the high level of public interest regarding the government's decision on TEL, I propose issuing a brief media release outlining Cabinet's decision.

## Recommendations

66. I recommend that the Committee:

1. **note** that the Tauranga Eastern Link (TEL) project is a proposed 23km four-lane, median-barrier divided State highway, linking Te Maunga (near the Baypark Stadium in Tauranga) with Paengaroa;
2. **note** that the TEL is one of the Roads of National Significance (RoNS) but that its current position within the New Zealand Transport Agency's (NZTA) State Highway Plan means that construction will not begin for an estimated 5–7 years if it is funded entirely from the National Land Transport Fund (NLTF);
3. **note** that the NZTA has requested an Order in Council be made under the Land Transport Management Act 2003 (LTMA) to establish a tolling scheme for TEL to advance its construction;
4. **note** that the cost of the project (excluding capitalised interest) is estimated as \$567 million (in \$2015);

5. **note** that, under the NZTA proposal:
  - a. a loan from the Crown to the NZTA, to be repaid by tolling, would contribute \$137 million to the costs of the project, with the balance to be funded from the NLTF;
  - b. peak debt is forecast to be \$215 million, including capitalised interest; and
  - c. the following timeline would apply:

2011–2015	Construction of TEL
2013	Drawdown of Crown Loan
2015	Opening of TEL/Part payment of interest on Crown loan begins
2029	Debt peaks
2030	Principal repayment begins
2046	Repayment complete

6. **note** that the NZTA estimates that toll revenue will be capable of repaying the debt within a 35 year timeframe;

*Approval to NZTA borrowing and Crown making the loan*

7. **note** that the Ministers of Finance and Transport have agreed (under sections 160(1)(b) and 162 of the Crown Entities Act 2004) that the NZTA may borrow \$137 million toward the costs of the project;
8. **note** that under section 65L of the Public Finance Act 1989, the Minister of Finance may, on behalf of the Crown, lend money to the NZTA, if it appears to the Minister to be necessary or expedient in the public interest to do so, and that such loans are on any terms and conditions that the Minister thinks fit;
9. **note** that the Minister of Transport will seek approval from the Minister of Finance for the Crown to provide a loan to the NZTA;
10. **agree** to establish a new capital expense appropriation within Vote Transport titled 'Tauranga Eastern Link Loan' and having the following scope:

*“This appropriation is limited to the Government provision of a loan to the New Zealand Transport Agency to contribute towards the costs of the construction and tolling operations for the Tauranga Eastern Link Roading Project”;*

11. **approve** the following changes to appropriations to provide for the borrowing with a corresponding impact on debt;

Vote Transport Minister of Transport	\$m – increase/(decrease)					
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16 and out years
Non-Departmental Capital Expense – ‘Tauranga Eastern Link Loan’	0.000	0.000	20.000	100.000	17.000	0.000

12. **note** that this amounts to \$137 million across the forecast period and will be a charge on the Budget 2010 Between Budget Contingency which, as at 18 June 2010, had a total balance across the forecast period of \$380 million;
13. **note** that the intention is that the interest costs of the loan be capitalised during the early years of the loan until toll revenue fully meets the interest payments;
14. **note** that the base case estimates that capitalised interest will accumulate to \$78 million over time, but that these estimates are subject to forecasting variability;
15. **authorise** the Ministers of Finance and Transport to increase the amount of the appropriation to the NZTA for TEL by the amount of interest due at each interest payment date, up to a total amount of capitalised interest of \$105.4 million;
16. **note** that increases in the appropriation approved under recommendation 15 will be charged against the capital allowance for the year in which the interest is capitalised;
17. **note** that the NZTA, through risk mitigation measures or additional funding from the NLTF, will be responsible for meeting any shortfall in debt repayment but that, if the NLTF is used in this way, subsequent increased cost pressures on the NLTF may mean the Crown ultimately bears the consequences in terms of a potential impact on the government’s broader transport objectives;
18. **note** that although the Ministers of Transport and Finance support this proposal, they do not wish to consider further toll proposals until after the completion of a review of the role of tolling and borrowing in the overall funding of the land transport programme;

*Order in Council*

19. **note** that I am satisfied that the NZTA’s proposal to toll TEL meets the criteria in section 48 of the LTMA for making an Order in Council under section 46;
20. **agree** that a road tolling scheme should be established to provide funds for the purposes of the planning, design, supervision, construction, maintenance or operation of the proposed TEL;

21. **agree** that:
  - a. tolls will apply to the part of the TEL that runs from the proposed Domain Road Interchange to the connection with State Highway 2 and State Highway 33 at Paengaroa;
  - b. the NZTA will be the public road controlling authority; and
  - c. the NZTA will be responsible for the toll operation;
22. **agree** that the NZTA should be required to report to the Minister of Transport details of the readiness of the road to be tolled at least 6 months prior to opening;
23. **agree** that the toll operator may not collect tolls from TEL until the date set out in a notice in the *New Zealand Gazette*, specifying the Minister of Transport's satisfaction with the material set out in the recommendation 22;
24. **agree** that, until such time as tolls are removed, there will be an ongoing requirement that:
  - a. the NZTA ensures the continued existence of a feasible alternative route; and
  - b. signage and other information be used to inform drivers approaching the road of the toll and options for paying;
25. **agree** that:
  - a. the initial base toll can be set at a maximum of \$2.00 for light vehicles (including motorcycles) and \$5.00 for heavy vehicles (in 2008 dollars indexed to the consumer price index ) on the first day of operation of the road; and
  - b. subsequent to this, the toll operator will be able to adjust the level of tolls at the rate of consumer price index (as published by the Government Statistician);
26. **agree** that the toll operator may levy different levels of tolls in respect of:
  - a. different classes of person/motor vehicles;
  - b. travel at different times or days;
  - c. travel in different directions; and
  - d. different methods of payment;
27. **agree** that in addition to the exemptions set out in section 52(5)(a)-(c) of the LTMA, the toll operator should be empowered to:
  - a. declare toll free days, that is, days or periods during which all classes of vehicle are exempt, either for promotional or sponsorship reasons or for traffic management reasons; and,

- b. grant exemptions to other classes of vehicle or person with the written approval of the Minister of Transport;
- 28. **agree** that the toll operator should 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 4 weeks preceding the proposed toll commencement date;
- 29. **agree** that the TEL will utilise a fully electronic free-flow tolling system whereby road users will have two options for paying tolls by:
  - a. establishing an account for the automatic payment of tolls; or
  - b. using the road on a casual basis and subsequently paying for individual trips as they are made;
- 30. **agree** that, as with Northern Gateway Toll Road, the enforcement authority (the NZTA) should 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;
- 31. **agree** that tolls will be payable for the period necessary to repay the debt associated with the project;
- 32. **authorise** the Minister of Transport to determine any matters of policy detail, including the level and type of information to be reported by the NZTA and the frequency of such reporting, that arise in the development of the Order in Council;
- 33. **invite** the Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to prepare an Order in Council that will give effect to recommendations 19 to 32 above;
- 34. **note** that the NZTA will be asked to report to the Ministers of Transport and Finance on whether the tolling operations system could provide more cost-effective service if any of its functions were contracted out.

Hon Steven Joyce  
**Minister of Transport**

Dated: \_\_\_\_\_

Annex 1: Map of the proposed TEL



## **Annex 2: Matters to be taken into account before recommending an Order in Council**

### Overview:

1. Section 48(1) and (2) of the Land Transport Management Act 2003 (LTMA) set out the procedure for the making of an Order in Council. Those subsections read:
  - (1) The Minister must not recommend the making of an Order in Council under section 46(1) unless—
    - (a) he or she is satisfied that the activity contributes to the purpose of this Act; and
    - (b) he or she has taken into account how the activity—
      - (i) assists economic development; and
      - (ii) assists safety and personal security; and
      - (iii) improves access and mobility; and
      - (iv) protects and promotes public health; and
      - (v) ensures environmental sustainability; and
    - (c) he or she has taken into account—
      - (i) any current national land transport strategy, relevant regional land transport strategies, [relevant regional public transport plans], [any relevant GPS], and National Energy Efficiency and Conservation Strategy; and
      - (ii) the availability of alternative land transport options and the impact of the activity on those options; and
      - (iii) the land transport options and alternatives that have been considered by the public road controlling authority; and
      - (iv) whether the activity is consistent with current priorities for land transport expenditure; and
      - (v) the outcome of consultation undertaken by the public road controlling authority; and
    - (d) either—
      - (i) the activity is included in the current national land transport programme; or
      - (ii) the Minister is satisfied that there is a high degree of support from affected communities; and
    - (e) he or she is satisfied that—
      - (i) the requirement in subsection (2) (if applicable) is met; and
      - (ii) there is available to road users a feasible, untolled, alternative route.
  - (2) The Minister must not recommend that an existing road or part of it be tolled unless he or she is satisfied that the existing road or part is located near, and is physically or operationally integral to, the new road in respect of which the tolling revenue will be applied.
2. Section 20 of the LTMA gives the New Zealand Transport Agency (NZTA) the function of approving activities such as road construction for funding from the National Land Transport Fund (NLTF). It sets out the criteria the NZTA must apply to any funding decisions. They are largely the same as the criteria in s48 of the Act.
3. Section 48 of the LTMA lets the Minister rely on the NZTA's assessment of an activity against the criteria, if this is done when performing its functions under s20.

4. The NZTA Board considered two papers on the Tauranga Eastern Link (TEL). One related to the decision to fund TEL from the NLTF. The second paper related to the NZTA's decision to apply for approval to toll TEL and included the draft toll proposal report, which contained an assessment of the criteria in s48(1).
5. The board read these two papers together. The NZTA has advised that the Board assessed TEL against the criteria for tolling in conjunction with its decision to fund TEL from the NLTF. Ministry of Transport officials have reviewed the analysis provided by the NZTA, and advise that it is robust and that they agree with it. The Minister can therefore rely on NZTA's assessment.

#### Discussion of the criteria:

6. The NZTA's draft toll proposal report covers the matters under s48 of the LTMA. The information below is a summary of this document.
7. The LTMA does not provide clear guidance as to how the various criteria should be weighed against each other, or when comparing the same project on a tolled and un-tolled basis. These are matters for your judgement.

#### ***The Minister is satisfied that the activity contributes to the purpose of the LTMA***

8. The purpose of the LTMA is to contribute to the aim of achieving an affordable, integrated, safe, responsive, and sustainable land transport system.
9. **Affordable:** The debt that the NZTA proposes will contribute \$115 million towards the capital cost of the project, thus allowing other projects to be funded. Extra transaction volumes will also contribute to the affordability of a national tolling system. However, tolling does involve additional capital and operational costs for the toll system itself.
10. **Integrated:** The development of TEL will enable upwards of 40,000 additional people to make their homes and businesses in the Papamoa area, along with the development of approximately 300 hectares of business land in Rangiora. One of the primary purposes of the *Tauranga SmartGrowth* strategy is to integrate long-term land use planning needs to a sufficiently large scale to help identify and then support long-term infrastructure investment. TEL is a key component of the *SmartGrowth Eastern Corridor Strategy*, which directs the Bay of Plenty's modelled population growth towards the most appropriate area in the Bay of Plenty.
11. **Safe:** The Te Maunga to Paengaroa section of State Highway (SH) 2 has New Zealand's second-worst rate of fatal and serious industry crashes per-km for State highways. Between the intersection of SH2 and SH33 at Paengaroa and Domain Road there were 12 fatal crashes, 24 serious injury crashes, 56 minor injury crashes and 255 non-injury crashes recorded over the 5 years to 2009.
12. TEL will move significant volumes of this traffic to a four-lane median barrier divided motorway that can be expected to have a lower crash rate.
13. Lower volumes of traffic through Te Puke and other communities along the existing alignment will also improve safety for pedestrians and cyclists using SH2.
14. **Responsive:** The Bay of Plenty Regional Land Transport Strategy identifies the contribution that TEL makes to the responsiveness objective of the strategy because it will separate local and arterial traffic, reducing the traffic impacts on, and environmental degradation of, growing urban communities.
15. Advancing TEL through tolling responds to the need identified for new infrastructure in a range of regional plans and strategies.

16. **Sustainable:** The NZTA states that the use of a toll contributes to the financial, economic and environmental sustainability of TEL and the wider eastern transport corridor. The Ministry of Transport agrees with this assessment.

***The Minister has taken into account how the activity assists economic development***

17. TEL has been specifically developed to generate economic growth within the Bay of Plenty region. The Western Bay of Plenty continues to be one of the fastest growing areas in New Zealand. New residential developments are planned for Papamoa at greater densities than previous greenfield developments, as part of the growth that the SmartGrowth Eastern Corridor strategy was designed to accommodate. TEL is an essential component of the infrastructure necessary to enable this growth to occur in a planned manner. Papamoa East is the last remaining large greenfield development area in Tauranga and there are limited options for development in other areas.
18. The planning conditions for the Rangiuru Business Park require TEL to be constructed if more than 25 hectares of the 152-hectare park is to be built (traffic volumes along SH2 would otherwise become unmanageable).
19. The current route is congested. Congestion increases delay and reduces the reliability of journey times. It also increases vehicle operating costs. The project provides a key link to the Port of Tauranga. TEL will increase the certainty of journey times and in some circumstances, including the transport of logs to the port, allow trucks to perform an extra journey a day within driver hours.
20. The value of time for a heavy vehicle travelling on TEL is estimated at \$9.63, so there are still benefits at the proposed toll of \$5.

***The Minister has taken into account how the activity assists safety and personal security***

21. The Te Maunga to Paengaroa section of SH2 has New Zealand's second worst rate of fatal and serious injury crashes per kilometre for State highways. Between the intersection of SH2 and SH33 at Paengaroa and Domain Road there were 12 fatal crashes, 24 serious injury crashes, 56 minor injury crashes and 255 non-injury crashes recorded over the 5 years to 2009.
22. TEL will move significant volumes of this traffic to a four-lane median barrier divided motorway, which can be expected to have a lower crash rate.
23. Lower volumes of traffic through Te Puke and other communities along the existing alignment will improve safety for pedestrians and cyclists using SH2.

***The Minister has taken into account how the activity improves access and mobility***

24. Public transport and travel demand management measures combined are insufficient to meet the expected traffic growth in the Bay of Plenty. The TEL will reduce congestion which hampers arterial traffic travelling between Whakatāne, Te Puke, Papamoa and Tauranga.
25. TEL and associated network changes will assist in developing a balanced network hierarchy with different transport users having appropriate and safe facilities.
26. New local arterial roads will provide public transport services from new residential areas. A shared cycle/pedestrian path will be constructed from the future Papamoa Interchange to the Rangiuru Business Park and on the local road network at Te Tumu Road, providing

off-road access from the Papamoa residential area to one of the future employment areas.

***The Minister has taken into account how the activity protects and promotes public health***

27. Reduction in traffic volumes on the existing routes will enable provision of facilities for active modes (walking and cycling) in communities along the existing route.

***The Minister has taken into account how the activity ensures environmental sustainability***

28. A number of environmental mitigation measures have been included in the design for TEL. Six possible alignment options were considered in the 1990s with evaluation including noise impact, visual effects and other community issues before the current alignment was chosen. The proposed alignment also avoids impacting directly on the Kaituna Wildlife Management Reserve (the Reserve).
29. The NZTA has begun monitoring ground water levels near the Reserve to check that the motorway does not adversely affect wetland water levels.
30. TEL also includes a planted noise mitigation bund to reduce impact on the ecology and recreational values of the reserve.
31. The Kaituna River Bridge will be constructed outside the fish spawning season, with piers located outside the main river channel.
32. The NZTA models carbon savings as a function of vehicle operating costs. The carbon savings estimated on this basis are 1,260 tonnes in 2016 and 5,721 tonnes in 2026. (If un-tolled the carbon savings would be 7,168 tonnes in 2026.)

***The Minister has taken into account any current national land transport strategy, relevant regional land transport strategies, relevant regional public transport plans, any relevant GPS, and National Energy Efficiency and Conservation Strategy***

33. TEL aligns with and supports the regions objectives as outlined in the *Regional Land Transport Strategy (RLTS)* and a range of associated documents including the *Regional Policy Statement* and the *Regional Economic Development Strategy*, to the extent that much of the growth outlined in these documents cannot occur without the TEL.
34. The *Regional Passenger Transport Plan* forms part of the RLTS. Prior to 2004 the role of public transport in the Bay of Plenty was heavily focussed on providing transport to the transport disadvantaged.
35. The current RLTS now has an objective that the role of passenger transport in the Bay of Plenty is to:
- improve access and mobility,
  - provide transport options,
  - contribute to sustainability and manage demand.
36. As set out elsewhere, TEL is seen as part of a hierarchy of roads, seeking to channel various trip and vehicle types, including public transport, onto the appropriate parts of the roading network.
37. The revised Government Policy Statement issued in May 2009 sets out the government's priority for land transport investment to support national economic growth and

productivity. It places an increased emphasis on investing in the State highway network, as a key to the efficient movement of freight and people.

38. The NZTA submits that the proposal to advance the opening of TEL is consistent with the New Zealand Energy and Efficiency Conservation Strategy – particularly in the action areas seeking to manage demand for travel and seeking to promote more efficient transport modes. TEL creates the roading hierarchy necessary for the development of passenger transport services in the new communities of Papamoa East, while removing traffic from local roads improving conditions for cyclists and pedestrians. The Ministry of Transport agrees with this assessment.
39. There is no current national land transport strategy.

***The Minister has taken into account the availability of alternative land transport options and the impact of the activity on those options***

40. As it is a motorway, cycling and walking will not be permitted on the route itself. The reduction in traffic volumes on the existing route, including through Te Puke, will make cycling and walking on that route more attractive.
41. Public transport usage is low compared to other centres. Bus services were discontinued in 1986 and reinstated in 2001. Between 2001 and 2006, bus patronage increased from 130,000 trips per year to 680,000 trips per year. Service frequency between Papamoa and Tauranga was doubled in 2006/07 to hourly services. Future improvements planned include park and ride facilities, bus shelters, real time information and bus priority measures.
42. SmartTransport partners are seeking to develop an integrated approach. The challenge for passenger transport is to ensure that services operate early, as land is developed. Walking and cycling are also being targeted within development planning.
43. The TEL will be part of a hierarchy of roads which will filter local roads to be used for local journeys including pedestrians, cyclists, cars and passenger transport services.
44. TEL will in part cater for heavy vehicle movements to the port, which alternative modes of transport cannot cater for.

***The Minister has taken into account the land transport options and alternatives that have been considered by the public road controlling authority***

45. A number of options were considered over the course of the development of the TEL. Six options were considered in 1992/93, with three alignments being considered in 1998 as part of the Tauranga Eastern Arterial Scheme Assessment. These options included:
- Sandhills routes: Options A, A1, A2, and A3 all took an alignment along the sandhills north of Bell Road prior to crossing the Kaituna River, where the options varied in the way that they passed through or around the Kaituna Wildlife Reserve, before traversing rural land towards Paengaroa
  - Swamp route: Option B which took a more direct route from Domain Road to Paengaroa, traversing more of the difficult, peat land
  - Upgrading the existing SH2 along with a new alignment to the north of the current route in places.
46. Option A3 (the current, proposed route) was preferred following this assessment. The alignment chosen was preferred because it:
- maximises the uses of the sandhill country reducing construction costs

- avoids the Kōpua Pā Site
- avoids the Kaituna Wildlife Reserve and maintains the reserve's ecological values
- impacts comparatively less on rural properties and rural production than the other options.

47. Papamoa East is the last remaining large greenfield development area in Tauranga City and there are limited options for development in other areas.

48. The NZTA also investigated constructing the road in a two + one configuration, rather than four lanes. If the project were to be constructed as a two + one, an upgrade to four lanes is expected to be needed in 2026. The upgrade to four lanes in the future would cost in the order of \$25 million, compared with an additional cost of \$17 million for a four-lane option now. A four-lane road is more in keeping with user expectations of a toll road. The Benefit-Cost Ratio of the extra lane is 1.0.

***The Minister has taken into account whether the activity is consistent with current priorities for land transport expenditure***

49. As set out in the body of this report, TEL currently ranks 45<sup>th</sup> in the NZTA's prioritisation. However, the project is one of the seven Roads of National Significance – projects the government has signalled to the NZTA as significant to the country as a whole – and has asked the NZTA to substantially advance. Un-tolled, the project would not be funded for a period of 5–7 years. If it is tolled, the NZTA considers that it qualifies for construction to begin as soon as possible.

50. The Bay of Plenty Regional Land Transport Committee has prioritised the project within the Regional Land Transport Strategy as the most important project start for 2009/10–2011/12. It views TEL as critical to integrated growth management and economic strategies for the Tauranga Eastern Corridor.

51. The prioritisation criteria should also be seen in the context of the approach to tolling that has been adopted under the legislation to date. The approach of using tolling as a means of bringing forward projects sooner than they would otherwise be funded means that it is inevitable that it will be medium, rather than priority projects tolled.

***The Minister has taken into account the outcome of consultation undertaken by the public road controlling authority***

52. Consultation was undertaken through public and targeted mail-outs, media advertising, public information, manned and unmanned displays, stakeholder presentations and meetings with local iwi.

53. During the public consultation process, the public were asked the following question: “Do you support the Tauranga Eastern Link being a toll road so construction can start next year?”

54. A total of 3,539 submissions were received. Of these, 3,311 (93.56 percent) expressed support or conditional support, while 211 (5.96 percent) did not support the proposal. Seventeen either did not state a preference, or stated preferences both for and against.

55. Listed below are some of the main reasons given by submitters who did not support the tolling of TEL in order to advance its construction:

- The TEL should be 100 percent funded by the National Land Transport Fund.

- Spending this level of money is inappropriate when the country is in a recession.
- We are already taxed too much by central and local government. A road toll is just another tax.
- “Bureaucratic blackmail” to say supporting the tolling proposal will enable construction to start early.
- Huge costs which are not justified in terms of benefits.
- There are cheaper improvement options to the transportation network which should be considered and pursued.
- Rail should be utilized instead of building more roads.

56. A series of specific consultation exercises were undertaken with local government and local iwi. Some iwi raised environmental issues that can be addressed through the Resource Management Act process, but local iwi are largely supportive of the economic benefits that TEL will bring to the area. Regional and territorial authorities in the region are supportive of the proposal, strongly so in some case.

***Either the activity is included in the current national land transport programme or the Minister is satisfied that there is a high degree of support from affected communities***

57. The Tauranga Eastern Link is in the *National Land Transport Programme*. Nevertheless, the NZTA commissioned a survey of affected communities.
58. The LTMA defines affected community as: *‘affected community, in relation to a proposed activity, means a group of people who are affected by the proposed activity because of living, studying or working in close geographic proximity to the proposed activity’*.
59. Face to face interviews were undertaken with residents living in the affected community, and those who work but do not reside in the community; as well as a telephone survey across nearby regions that will have a propensity for trips through the link.
60. Among people who live in close geographic proximity to the toll road, support was approximately 79 percent, with a range of just under 60 percent in Paengaroa/Rangiuru to 90 percent in Te Puke East. Among people who study or work in close geographic proximity the level of support was approximately 83 percent.
61. For potential TEL road users who live in the seven surrounding regions and who travel in the affected area there is 72–90 percent support among those who had a view.

***The Minister must be satisfied that there is available to road users a feasible, un-tolled, alternative route***

62. The existing SH2 route between Te Maunga and Paengaroa, via Te Puke, will remain available as a free, feasible alternative route. Not only will the TEL help to reduce the amount of traffic using the existing route, and thereby reduce the crash rate on one of New Zealand’s most dangerous stretches of State highway, but the lower volumes of traffic on this road will create further opportunities for upgrades. This will help to improve safety for users of the current route and the surrounding communities.

***The Minister must not recommend that an existing road or part of it be tolled unless he or she is satisfied that the existing road or part is located near, and is physically or operationally integral to, the new road in respect of which the tolling revenue will be applied***

63. The toll gantry will be on the new section of the road between Domain Road and Paengaroa. Drivers will be able to use the existing portion of the route without paying a toll (it will be upgraded, funded from the NLTF). The amount of revenue supported by tolling is less than the cost of the new section of road from Domain Road to Paengaroa.