

Departmental Disclosure Statement

Land Transport Management (Time of Use Charging) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Transport.

The Ministry of Transport certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

6 December 2024

Contents

Part One: General Policy Statement.....3

Part Two: Background Material and Policy Information5

Part Three: Testing of Legislative Content.....7

Part Four: Significant Legislative Features 10

Part One: General Policy Statement

New Zealand's largest cities face significant traffic congestion compared to cities with similar population densities. This congestion hampers access to work, education, health services, and social activities while increasing costs for businesses, which in turn impacts economic productivity and quality of life. Time of use charging is proposed as a solution to improve traffic flow and optimise the use of the road network.

By charging motorists for using specific parts of the network at certain times, the system encourages behaviour changes, such as altering travel times, routes, destinations, or modes of transport. A small reduction in vehicles on congested routes can significantly improve traffic flow, enhancing overall network productivity and delivering greater economic benefits (*The Congestion Question, Technical Report*, Ministry of Transport, 2020).

The Bill establishes a framework for implementing time of use charging schemes in New Zealand. It enables local authorities to identify areas of problematic congestion, propose indicative scheme areas, and outline potential charging zones. Other local authorities within the region may opt into the scheme before it is formally approved by the Minister. A scheme board will be responsible for developing and operating the scheme, with the New Zealand Transport Agency (NZTA) chairing the board and holding a casting vote in cases of disagreement.

Proposed schemes require public consultation and an impact assessment before they can be submitted to the Minister of Transport. The Minister, in consultation with the Minister of Finance, will assess whether the proposal meets statutory criteria. If the criteria are satisfied, the Minister may recommend that Cabinet authorise the scheme via an Order in Council. This order will define the scheme area, maximum charges, and how the maximum charge will be raised over time. Once a scheme is operational, charges within approved areas may be adjusted by a notice issued by NZTA and registered as a land transport record with 28 days' notice. Changes to charging areas within a scheme area require public consultation before a notice and land transport record changing them can be issued by NZTA. Revenues collected from these schemes will be reinvested in land transport activities within the scheme region, guided by a framework that ensures alignment with the investment principles of a scheme.

The Bill also amends the Land Transport Management Act 2003 to establish statutory roles and responsibilities for the scheme board, NZTA, the Secretary for Transport, and the Minister of Transport. It provides processes for establishing, varying, and

managing time of use charging schemes. Scheme boards are required to set measurable traffic flow targets and report annually on performance, including progress against those targets. The Minister of Transport may make direct adjustments to charges, appoint a scheme commissioner to oversee a failing scheme, or terminate schemes that fail to meet their objectives.

Additional provisions address privacy, data security, and exemptions for emergency vehicles. The NZTA is expected to provide non-statutory guidance to streamline scheme design and operation, supporting consistent implementation across regions.

Economic assessments of potential schemes suggest varied cost-benefit outcomes depending on the scope of the scheme. For example, studies of Auckland congestion pricing indicate returns ranging from \$0.70 to \$1.80 per dollar spent (*Congestion Question*, Cost benefit analysis, 2019). Potential risks, such as impacts on small businesses within inner-city zones, will be assessed through public consultation to ensure informed decision making and mitigation of adverse effects. Past reviews have identified no substantial income losses for other groups, and the Bill's requirements for impact assessments and public engagement will support equitable implementation.

The framework proposed in this Bill reflects findings from the Congestion Question study, which evaluated congestion pricing options in Auckland (*Inquiry into congestion pricing in Auckland*, Report of the Transport and Infrastructure Committee, 2021). The study underscores the need for well-informed public engagement and robust impact assessments to ensure the schemes are both effective and equitable.

Time of use charging represents a critical step toward improving New Zealand's transport system by addressing congestion and enhancing network productivity.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
On 27 August 2021 the Transport and Infrastructure committee presented its final report on its inquiry into congestion pricing in Auckland (Titled 'Inquiry into congestion pricing in Auckland'). The report of the committee can be found here https://selectcommittees.parliament.nz/v/2/ca2c1be1-a18f-4e72-8815-ece44573a4a7 .	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
A regulatory impact statement was provided at the time that Cabinet made the policy decisions leading to this Bill. The RIS can be found here: https://www.transport.govt.nz/assets/Uploads/Time-of-Use-Charging-Cabinet-Material-Proactive-Release.pdf	
2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
<p>This Regulatory Impact Statement (RIS) has been reviewed by a panel of representatives from the Ministry of Transport. It has been given a 'partially meets' rating against the quality assurance criteria for the purpose of informing Cabinet decisions. The RIS is relatively clear and concise but lacks depth of analysis for addressing the problem identified beyond the preferred time of use option. The panel considers that this RIS provides a sufficient basis for informed decisions on the preferred proposal, but not the alternative options.</p> <p>Legislative timeframes have limited the amount of research and consultation able to be undertaken and the RIS lacks analysis of Treaty of Waitangi implications, which the panel considers could be significant and should be explored further prior to legislation being progressed.</p>	
2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>(a) The Congestion Question reports looked at the costs and benefits of four different schemes in Auckland. The results were summarised in the RIS for the Bill as follows: Cost benefit analysis of a selection of Auckland congestion charging schemes suggests that returns ranging from \$1.70 per \$1 spent (central cordon) through \$1.80 per \$1 spent (Strategic Corridors) and \$0.70 per \$1 (Regional Network) could be anticipated in 2019 dollars (Congestion Question, Cost benefit analysis, 2019 (https://www.transport.govt.nz/area-of-interest/auckland/the-congestion-question)).</p> <p>(b) No groups have been identified to date as experiencing a substantial unavoidable loss of income. The group at most risk of such impacts would be small businesses within an inner-city cordon scheme that materially reduces the number of people travelling to the inner city. The Bill includes duties to prepare impact assessments and undertake public consultation that should enable well-informed public engagement and decision making about these potential business impacts on a case-by-case basis.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>Information on the potential costs and benefits, including in relation to compliance, is scheme dependent. This will be developed and assessed as part of the approval process and will be critical to the on-going oversight of schemes.</p> <p>The Bill allows Police, NZTA, and designated local authorities to enforce time of use charging schemes, compliance is unlikely to be an issue if enforcement of a scheme is upheld by one or more of these enforcement authorities.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

There are no international obligations relevant to this Bill. The Ministry of Foreign Affairs and Trade register of international treaties that have been agreed or are being negotiated has been searched, with a particular focus on multilateral agreements on taxation. No agreements that relate to time of use charging have been identified.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The Bill is consistent with the principles of the Treaty of Waitangi. The potential impacts of time of use like charging on Mana Whenua interests in Auckland were examined in 2020 as part of the Congestion Question work (Mana Whenua Analysis, a report for The Congestion Question, Nā Kristy Hill, 2020). That report identifies potential impacts on access to places of importance that vary by time and location. A Select Committee inquiry into congestion pricing in Auckland identified no Treaty issues (Inquiry into congestion pricing in Auckland, Report of the Transport and Infrastructure Committee, 2021). The Bill includes duties to prepare impact assessments and undertake public consultation that will enable well-informed public engagement and decision making about these impacts on a case-by-case basis.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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The Ministry of Justice provided BORA advice to the Attorney-General on 28 November 2024.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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The Bill at clause 65R creates a new type of moving vehicle offence for failing to pay a time of use charge. The penalty for this will be later set by amendment to the Land Transport (Offences and Penalties) Regulations 1999.

If someone's vehicle is stolen when a time of use charge is incurred, they may make a statutory declaration that the vehicle was stolen at the relevant time under clause 65O of the Bill, accordingly the Bill under 65R makes making a false statutory declaration in regard to clause 65O of the Bill an offence, and to be consistent with similar offences in the Act the fine for this false statutory declaration is set at \$500.

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
Yes, the offence and penalty vetting team at the Ministry of Justice did not raise any concerns, but wish to be consulted again when the infringement penalty for failing to pay a time of use charge is set in regulations.	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
The Bill creates section 65ZF which covers personal information stored or held for the purposes of a time of use charging scheme.	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
<p>Yes, the Office of the Privacy Commissioner was provided the draft Bill, along with the RIS and Cabinet policy paper for the Bill [CBC-24-MIN-0072]. Key comments from the Office of the Privacy Commissioner follow:</p> <ul style="list-style-type: none"> • Despite the RIS identifying privacy as a key issue in this policy process, we were not included in earlier policy development or in departmental consultation on the Cabinet paper as required in the Cabinet Manual. We are now responding to a draft Bill which reflects earlier policy decisions on a short timeframe. While we aim to provide helpful comments below, we will likely have further issues to engage on at the Select Committee stage. • Overall, we think the policy approach would benefit from further analysis of potential privacy risks and specific steps that could be taken to mitigate these risks. We think there is still an opportunity to address these privacy risks in the development of the Bill, and that investing in privacy analysis would help to support the intended outcomes and uphold social licence for the approach ultimately adopted. • We welcome the explicit limit on the purpose for which personal information can be used under new s 65ZG. • The Bill proposes new legal powers to allow for road pricing schemes. In our view, the very serious privacy impacts which could result should be considered and reflected in the scope of these powers. We strongly encourage MoT and decisionmakers to consider how privacy might be built into this framework. • We recommend that a statutory consultation with the Privacy Commissioner be included as a requirement in the Bill. <p>We at the Ministry of Transport will consider adding in this requirement to consult with the Privacy Commissioner in the development of schemes at the select committee stage, this may fit in well as part of the existing impact assessment requirements in the development of schemes.</p>	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
The framework proposed in this Bill reflects findings from the Congestion Question study, which evaluated congestion pricing options in Auckland.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
Drafts of the Bill have been provided to NZTA and they have been regularly consulted throughout the development of this Bill, as NZTA will lead all time of use charging schemes, and be involved in enforcement, collection and billing across schemes.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
<p>Yes. The Bill creates a power for scheme boards to charge road users to drive their vehicles on defined parts of the road network at certain times.</p> <p>Before a scheme can come into effect it must be established by an Order in Council, after developing a proposal for a scheme which is considered by the Minister of Transport and the Minister of Finance. Public consultation and an impact assessment must be completed as part of a scheme proposal. This Order in Council which creates the power for a scheme to charge people, including setting maximum charges payable in respect of each charging class of vehicle, is disallowable and must be confirmed by an Act of Parliament. The Minister of Transport has powers to intervene in (or terminate) failing schemes, or schemes that are not contributing to an effective, efficient and safe land transport system in the public interest (see 65M and 65N of the Bill).</p>	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
<p>The Bill makes a failure to pay a time of use charge a moving vehicle offence under the Land Transport Act 1998.</p>	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>The Bill enables the Governor General to make an Order in Council establishing a time of use charging scheme, made on the recommendation of the Minister of Transport and the Minister of Finance (see 65H). Appropriate safeguards on this delegated power include that the Order in Council that establishes the scheme sets the parameters that scheme boards can make decisions within (through setting the authorised scheme area and maximum charge limit permitted), and is secondary legislation and therefore subject to review by the Regulations Review Committee, and is disallowable and confirmable by Parliament, along with any Orders in Council that vary or terminate a scheme.</p> <p>The Bill allows for the NZTA to make notices (registered as a land transport record under the Land Transport Act 1998) to make changes within the parameters of an approved scheme. Charges may be changed within the maximum charge limit by notice (see 65I and 65J). A change in the areas where charges apply within the wider approved scheme area may also be changed by notice, subject to public consultation. These notices will be disallowable secondary legislation, and they must be published, in accordance with the Legislation Act 2019, at least 28 days before they come into force.</p> <p>It is appropriate for the NZTA to make these notices on behalf of scheme boards as the central agency involved in each time of use charging scheme, and as the registrar for the land transport record register. Notices of these nature support the day-to-day management of time of use charge schemes and only make changes within the parameters approved by the Executive in the relevant Order in Council for a scheme. More significant changes to a scheme such as raising the maximum charge limit will require a formal variance to a scheme made by Order in Council.</p> <p>The Bill also enables the making of regulations to specify classes of vehicle for the purpose of setting time of use charges, to be standardised across all time of use charging schemes (65ZH).</p>	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO