

Tauranga District Council (Route K Toll) Empowering Bill

Local Bill

As reported from the Local Government and
Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Tauranga District Council (Route K Toll) Empowering Bill and recommends that it be passed with the amendments shown.

This is a local bill. We have determined that the Standing Orders have been complied with and that the rights and prerogatives of the Crown are affected.

The rights and prerogatives of the Crown are affected as—

- The bill relates, among other things, to a State highway and thus affects Crown land; and
- Clause 14 deals with the Crown Bank Account and the entitlement to money received by way of fines for offences.

However, clause 14 has, with the agreement of the promoter of the bill (Tauranga District Council), now been struck out.

This report sets out the issues that arose throughout the committee's consideration of evidence and advice received on the bill.

Summary

We have concerns about the way in which this bill has been brought to the House of Representatives. This is the third piece of legislation relating to tolls in Tauranga. It would have been preferable for overall legislation to have been introduced to consolidate Tauranga District Council's tolling legislation. The time frame expected by the council for the passage of the bill has been somewhat ambitious.

We consider that neither extended rail-freight, nor public transport options have been seriously explored. Some of us are concerned that there has been a lack of overall strategic planning for one of the country's fastest growing populations.

While we have some concerns about the way in which the council has been administering tolls in Tauranga, we understand that this road will not proceed in the near future without the further tolling authority set out in this bill. The local community is clearly in favour of the road.

We therefore recommend that the bill be passed, but we also recommend a number of amendments detailing ways in which the council must act transparently and be held accountable for the levying of tolls for Route K and the PJK Junction.

Background

Route K intended to meet the growth needs within Tauranga region

Tauranga is one of the fastest growing regions in the country, with a rapidly developing export port that attracts heavy traffic, and a high population growth rate. The Tauranga District Council (the council) has stated that existing roading in Tauranga is not sufficiently developed for residential, business and population growth needs. The council and other submitters consider that two local roads (Cameron and Cambridge Roads) are unsuitable to service the heavy traffic travelling to and from the Port of Tauranga, as these roads also service schools, hospitals and residential properties.

To alleviate this situation, the council, through the Tauranga District Council (Route K Toll) Empowering Bill (the bill), seeks Parliament's authority to impose tolls for the purpose of funding a new road known as Route K. This road is being built as part of a project that includes an extension to the Waikareao Expressway (Route P), and a junction connecting Route K, the expressway and a new

section of a State highway (Route J) (otherwise known as the PJK Junction).

The need for the bill

The bill has arisen out of the council's wish to proceed with Route K well in advance of the time when this road will meet the required benefit to cost ratio for Transfund New Zealand funding. We note that Transfund New Zealand provides a subsidy of an average of only 50 percent, so even if that money were available the council would still have to find the balance.

Toll the preferred funding method

The council submitted that a toll is the most equitable funding method. A significant proportion of the Tauranga population is elderly on fixed incomes, and a significant proportion of the traffic on the new route is likely to originate from out of the Tauranga region. For these reasons, the council favours the use of tolls instead of rates as the best funding method. The council also prefers to apply a user-pays approach to funding such projects.

General support for Route K

There is general support for Route K, as reflected in submissions from local businesses and residents. The main issue of contention is the proposed use of tolls to fund Route K because of the way in which the council has managed the existing Tauranga Harbour Bridge tolls. We note that while Route K is to be a tolled road, two alternative non-tolled routes are to remain available. These are Cameron and Cambridge Roads.

Council's previous use of tolls—Tauranga Harbour Bridge toll

The council already administers two other local Acts enabling tolls in Tauranga. The Tauranga City Council and Mount Maunganui Borough Council (Tauranga Harbour Bridge) Empowering Act 1972 enabled the council to use tolls to finance the construction of the bridge. The Tauranga District Council (Waikareao Estuary Expressway) Empowering Act 1989 enables the council to use tolls on any road in Tauranga to fund the Waikareao Estuary Expressway

(Route P). The current tolls are those determined by a 1992 bylaw made by the council after the passing of the 1989 Act.

Original purpose of bridge tolls

Toll revenue from the bridge tolls was originally intended for the repayment of bridge construction and maintenance costs. The outstanding bridge debt currently totals \$5.8 million. The council estimates that \$14.7 million in bridge toll revenue will be collected in the year ending 30 June 2001.

Application of tolls collected at harbour bridge toll plaza

The council has undertaken a light repayment programme for its debt on the bridge, to enable investment of bridge toll revenue in the Waikareao Expressway and the Route PJK interchange road projects. This has angered some local residents, particularly a group known as the Tolls Action Group, because the total amount of toll revenue already collected far exceeds the cost of the bridge itself. It is the group's view that bridge costs should have been repaid in full and the toll removed before the consideration of other road projects. The group is concerned that the council will use the Route K toll revenue in the same manner. Its concerns are compounded by the council's proposal to introduce a new toll to the Tauranga region before actually fully repaying costs of the bridge, the Waikareao Expressway and Route PJK interchange.

Tolls Action Group sought legal advice on whether the council has acted outside of the legal powers conferred by the legislation relating to the levying, collecting, and application of the tolls. The council stated that it had acted upon its own legal advice throughout all its decisions in relation to the tolls, and had sought independent legal advice in relation to the group's claim.

The Office of the Controller and Auditor General in its capacity as advisers to the committee, noted that both legal opinions appeared to be soundly based, but that they took different approaches to the issues and were irreconcilable. That office pointed out that it is for the courts to interpret the law in order to ascertain Parliament's original intentions when it made the 1972 legislation.

Should the bill contain a sunset clause?

Aside from the question of whether it has acted legally, it appears to us that the council has made unusual or unexpected use of the powers conferred by the 1972 and 1989 legislation. We have therefore considered how to be more definitive in setting out the council's powers and obligations in respect of the proposed toll. In particular, we considered the inclusion of a sunset clause. Such a clause would require the removal of the toll either upon a given date, or upon a certain event (for example, when enough toll revenue has been collected to repay construction costs). We have found that, unless we set an arbitrary date, it would be difficult to draft a suitably precise sunset clause.

Increased transparency and accountability

Instead of a sunset clause, we propose that the bill be amended to increase the council's transparency and accountability in relation to its management of Route K toll revenue.

Consistent with giving focus to increased transparency and accountability, we propose the inclusion of two new provisions. Both of the new provisions would require the council to use the special consultative procedure provided for in section 716A of the Local Government Act 1974. These two provisions are discussed below.

Special consultative procedure

In acknowledging the right of Tauranga residents to participate in the making of bylaws relating to the levying, collection, and setting of Route K tolls, we consider that the council should be required to adopt the special consultative procedure in relation to any proposal to make bylaws under the bill. The new clause 11A provides accordingly.

Adoption of the special consultative procedure will ensure that the council gives public notice of all its toll levying and collection proposals, including notice of the time frame within which submissions on proposals are to be made. Also, submitters would be given a reasonable opportunity to be heard by the council in respect of their submissions at an open public meeting, except as otherwise provided by Part VII of the Local Government Official Information and Meetings Act 1987.

Annual public financial reporting on toll revenue application

Our proposed annual reporting clauses (new clauses 4B and 4C) require the council to prepare and adopt annual financial reports on its allocation and application of Route K toll monies. The council will need to follow the special consultative procedure when preparing and adopting one of these annual reports.

In summary, these clauses provide that the council must, within specified timeframes, provide financial statements in respect of tolls levied and collected on Route K. The reports must also include other relevant information for each financial year, including the toll rates, the total amount collected, the balance of toll revenue, and the purpose for which such revenue was used.

Most significantly, clause 4B(3)(b) will, in each year, require the council to give its estimate of the date on which tolls in respect of the use of Route K will cease to be levied.

Application of toll revenue

As introduced, the bill provides that Route K toll revenue must be used, among other things, to pay for the construction and maintenance of Route K as the council sees fit. Some submissions stated that Route K should be given the status of a State highway, and that toll revenue should be used solely for construction costs and not maintenance costs. They consider it unfair to expect road users to pay twice for maintenance—once through the proposed toll and again through the existing petrol excise taxes and road user charges. Other submitters were concerned about the uncertainty of the timeframe throughout which the Route K toll will be charged if it is also used to provide for ongoing maintenance costs.

Maintenance fund

The council intends to use toll revenue to establish a fund that will generate enough income to pay for maintenance on the road. The council estimates that the toll would need to be collected on Route K for approximately four months after the date upon which construction costs are repaid, in order to build up such a fund.

Definition of K Route

Breadth of definition

We are concerned about the broad scope of the term “Route K” in the bill as introduced:

Route K means the road and adjacent land described in Schedule 1 and includes all necessary approaches, links, buildings, erections, structures and other works connected with the road.

Schedule 1 of the bill lists more land than the actual land area upon which Route K is to be constructed. However, the toll is only for the road and not for extraneous activities on “adjacent land”. The council has signalled its intention to convert the lands surrounding Route K into a reserve, including restoration of wetland areas.

Most other legislation relating to tolls limit quite severely the project that can be funded by a toll, for example, legislation for the Auckland Harbour Bridge, the Christchurch-Lyttleton Road Tunnel and the Tauranga Harbour Bridge.

We propose that the definition of Route K be amended to mean the land upon which the road itself is constructed as described in Schedule 2 of the bill. We recommend the deletion of the words “connected with the road”. We also recommend that the length of the road be specified in the bill.

Non-qualification for Transfund New Zealand funding

Transfund New Zealand is a Crown entity that allocates capital funding to local roading projects. Due to funding constraints, Transfund New Zealand aims to apply its funding policies with consistency to all local road projects throughout New Zealand.

Transfund New Zealand explained that in order for a local road project to qualify for funding, the relevant local authority must first undertake its own analysis of the project’s benefit to cost ratio subject to the prescribed funding criteria. The benefit to cost ratio analysis determines whether or not the road qualifies for immediate funding.

Council’s analysis of Route K’s benefit to cost ratio

Based on its own analysis, the council concluded that Route K would not qualify for immediate funding as it has an estimated

current benefit to cost ratio of between 1.6 and 2.0 to 1. Consequently the council did not lodge a funding application with Transfund New Zealand.

The council and other submitters hold the view that Transfund New Zealand's funding criteria do not take into account certain circumstances considered unique to the Tauranga region. They felt that Transfund New Zealand's funding methodology is potentially too slow to respond to Tauranga's rapid population growth and road transport requirements. It was also submitted that Transfund New Zealand's funding priorities do not recognise the higher present value impact of a deferred decision when compared with projects in other places that are not subject to growth and increasing pressures to the same degree.

Costs of a one year delay in the construction of Route K

The council explained that it had sought approval for a Route K tolling bill from the last Government, but was told to await the Government's decisions on its wider road reform policy. It proceeded with the project, nevertheless, and has already spent approximately \$18 million—via a loan—on land and other preparatory costs associated with Route K.

The council has stated that if the bill is not passed by 31 December 2000 it will not be able to commence with construction of the route over the summer. The council claims it would then incur additional construction costs of \$2.5 million in the following year, plus interest costs of around \$1.7 million per annum. Motorists would miss out on annual benefits, primarily from travel time savings, estimated to be worth \$2.2 million. The Office of the Controller and Auditor-General examined these costings at our request. That Office concluded that there would be significant additional costs and the project life would be extended if the project were deferred, although they formed a different view from the council on the extent of these figures.

The council has placed pressure on Parliament to pass the bill this year, citing extra costs that will arise if this does not happen. Some of us are not totally convinced that the estimated costs are so high that Parliament should be forced into passing hasty law. However, while we consider that the council may have been somewhat presumptuous in its view of the parliamentary process, we have decided

on balance to facilitate the passage of this bill. We are interested in avoiding unnecessary costs being placed upon the people of Tauranga.

Alternative options to Route K

The council's position on the urgency of Route K was contested by one submission, which stated that Route K is not needed now based on the claim that the project is being expedited at the expense of other more rational projects.

In light of Route K costing an estimated \$40 million, there is a view that the Tauranga and wider Bay of Plenty region is yet to address its limited public transport strategy. Less than 1 percent of Tauranga commuters travel by public transport. Some of us consider this unusual for a city with such a high level of growth. The council appears not to recognise that it has a role in fostering public transport, even if the primary responsibility lies with the regional council. It is not satisfactory just to dismiss public transport on the ground that people prefer to travel in private vehicles, particularly when no real choices have yet been offered to them.

There is a view that proper analysis has not been undertaken to identify other alternative ways in which this money could be better spent. The basis of this concern is that there is no guarantee that traffic congestion and safety risks in Tauranga, specifically on Cameron and Cambridge Roads, will reduce as a result of Route K. Secondly, predicted traffic volumes over Route K can only be projected, which raises an additional concern that the toll may not recoup the costs of the road should this be the case. This in turn raises a third concern relating to inter-generational debt. The council itself claims that the responsibility to ensure that future generations do not carry the debt created by earlier generations resides with local government authorities. Some of us are not convinced that Route K is the best way in which this responsibility can be executed.

Consultation with iwi

The council informed us that Ngāi Tamarawaho, a major hapū within the Tauranga region, supports the bill. Ngāi Tamarawaho is concerned about the safety of traffic on Cambridge Road. Ngāi Tamarawaho consider that the reserve management plan for the Kopurererua Valley (the location of Route K) will assist them in

meeting their future aspirations with regard to waahi tapu and archaeological sites in the area.

Ngāti Ranginui iwi also supports the bill.

Appendix

Committee process

The Tauranga District Council (Route K Toll) Empowering Bill was referred to the committee on 7 July 2000. The closing date for submissions was 1 September 2000. We received and considered 26 submissions from interested groups and individuals. We heard 19 submissions orally, which included holding hearings in Tauranga. Hearing evidence took five hours and 54 minutes. Consideration took 6 hours and 37 minutes.

We received advice from the Ministry of Transport, the Office of the Controller and Auditor-General, the Office of the Clerk of the House of Representatives, and the Parliamentary Counsel Office.

Committee membership

Jeanette Fitzsimons (Chairperson)
Martin Gallagher (Deputy Chairperson)
David Benson-Pope
Georgina Beyer
Ann Hartley
Joe Hawke
Owen Jennings
Hon Murray McCully
Eric Roy
Richard Worth

Hon Tony Ryall attended as a temporary replacement member.

Rt Hon Winston Peters attended meetings as the member in charge of the bill.

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act.)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Rt Hon Winston Peters

Tauranga District Council (Route K Toll) Empowering Bill

Local Bill

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Schedule 1
PJK Junction

Schedule 2
Land on which Route K is to be constructed

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Tauranga District Council (Route K Toll) Empowering Act **2000**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Interpretation**
In this Act, unless the context otherwise requires,—
authorised officer means a person authorised by the Council 10
to collect tolls
Council means the Tauranga District Council

New (unanimous)

PJK Junction means the junction that—

New (unanimous)

- (a) is shown on the plan in **Schedule 1**; and
- (b) is the junction between Route K, the Waikareao Expressway (Route P), and Route J; and
- (c) is to be constructed on a piece of land containing 49.9236 hectares, more or less, situated in the Tauranga Survey District, and being part of Allotment 523, Te Papa Parish (which Allotment is shown on SO Plan 1826A)

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Struck out (unanimous)

Route K means the road and adjacent land described in Schedule 1 and includes all necessary approaches, links, buildings, erections, structures, and other works connected with the road

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New (unanimous)

Route K means the road (approximately 4.5 kilometres in length) between State Highway 29 and the beginning of the PJK Junction to be constructed on the land described in **Schedule 2**; and includes all necessary approaches, links, buildings, erections, structures, and other works

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Struck out (unanimous)

PJK Junction means the junction between Route K, the Waikareao Expressway (Route P) and Route J as described in Schedule 2.

New (unanimous)

special consultative procedure means, in relation to a proposal, the procedure prescribed by section 716A of the Local Government Act 1974

working day means any day of the week other than— 5

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year. 10

Struck out (unanimous)

4 Power to levy tolls

For the purpose of paying costs, charges, and expenses incurred by the Council in the construction and maintenance of Route K, the interchange between Route K and State Highway 29, and the PJK Junction, the Council may levy and collect tolls for the use of Route K in accordance with the provisions of this Act. 15

New (unanimous)

4 Levying and collection of tolls 20

- (1) The Council may, in accordance with this Act, levy and collect tolls in respect of the use of Route K by vehicles.
- (2) Tolls may be levied and collected in respect of 1 or both directions of travel.

4A Application of tolls payable under this Act 25

The Council may use the tolls levied and collected under this Act only for the purposes of paying costs, charges, and expenses incurred by the Council—

- (a) in constructing and maintaining Route K, the interchange between Route K and State Highway 29, and the PJK Junction; and 30

New (unanimous)

- (b) in constructing and maintaining toll barriers, toll houses, and other works on Route K; and
- (c) in operating toll facilities that are located on Route K and relate to the levying and collection of the tolls. 5

4B Annual estimates concerning tolls

- (1) The Council must, in accordance with the special consultative procedure, prepare and adopt, for the financial year beginning on 1 July 2001 and for each subsequent financial year, a report setting out a set of estimates in relation to the tolls to be collected and applied under this Act. 10
- (2) The report prepared and adopted under **subsection (1)** (which must be prepared and adopted by the Council at the same time as it prepares and adopts its annual plan under section 223D of the Local Government Act 1974) must be separate from that annual plan. 15
- (3) The estimates to be set out in the report required by **subsection (1)** are the Council's estimates of—
 - (a) the total amount that, in the financial year to which the report relates, the Council expects to receive by way of tolls levied and collected under this Act; and 20
 - (b) the date on which tolls in respect of the use of Route K will cease to be levied and collected and the use of Route K will become toll-free to the public.
- (4) The Council must, not later than 5 working days after giving public notice under section 716A(1)(b) of the Local Government Act 1974 of a proposal to adopt a report under **subsection (1)** of this section, send a copy of the proposal to the Secretary (within the meaning of the Land Transport Act 1998). 25
- (5) A report under **subsection (1)** of this section must be adopted, before the end of the third month of the financial year to which the report relates, at a meeting of the Council. 30
- (6) Where the Council adopts a report under this section, it—
 - (a) must make that report available for public inspection at its offices and libraries; and 35

New (unanimous)

- (b) must, as soon as practicable after its adoption, publish the report in at least 2 daily newspapers circulating in the City of Tauranga; and
- (c) must make copies of the report available to the public— 5
 - (i) free of charge; or
 - (ii) at a reasonable charge; and
- (d) must, within 20 working days after its adoption, send copies of that report to—
 - (i) the Secretary (within the meaning of the Land Transport Act 1998); and 10
 - (ii) the Controller and Auditor-General; and
 - (iii) the Parliamentary Library.
- (7) Nothing in this section—
 - (a) limits the Council's obligations in respect of its annual plan; or 15
 - (b) prevents the Council including the estimates referred to in **subsection (3)** of this section both in its annual plan and in the separate report required by **subsection (1)** of this section. 20

4C Annual report about tolls

- (1) The Council must prepare and adopt in respect of the financial year beginning on 1 July 2001 and in respect of each subsequent year a report containing, for the financial year to which the report relates, the following audited financial statements: 25
 - (a) a statement setting out the rates of the tolls payable under this Act at any time in that financial year: 25
 - (b) a statement of the total amount collected by way of tolls under this Act in that financial year, which statement must include the total amount collected in that financial year in respect of each type of vehicle in respect of which a toll was payable: 30
 - (c) a statement of the total amount of any money (other than tolls) paid to the Council under this Act in that financial year: 35
 - (d) a statement of the way in which the total amount collected by way of tolls under this Act in that financial

New (unanimous)

year has been applied, which statement must specify, in relation to that financial year,—

- (i) the amount used in meeting costs, charges, and expenses of constructing Route K: 5
- (ii) the amount used in meeting costs, charges, and expenses of maintaining Route K:
- (iii) the amount used in meeting costs, charges, and expenses of constructing the interchange between Route K and State Highway 29: 10
- (iv) the amount used in meeting costs, charges, and expenses of maintaining the interchange between Route K and State Highway 29:
- (v) the amount used in meeting costs, charges, and expenses of constructing the PJK Junction: 15
- (vi) the amount used in meeting costs, charges, and expenses of maintaining the PJK Junction:
- (vii) the amount used in meeting costs, charges, and expenses of constructing toll barriers, toll houses, and other works on Route K: 20
- (viii) the amount used in meeting costs, charges, and expenses of maintaining toll barriers, toll houses, and other works on Route K:
- (ix) the amount used in meeting costs, charges, and expenses of operating toll facilities that are located on Route K and relate to the levying and collection of the tolls: 25
- (x) particulars of the manner in which the balance of that total amount has been applied, which particulars must include, where any part of that balance has been paid into an account, the name of that account and the amount paid into it in that financial year: 30
- (xi) any amounts, being tolls collected under this Act in earlier financial years or amounts derived from tolls collected under this Act in earlier financial years, that have been used in that financial year to meet costs, charges, and expenses of the kind listed in **subparagraphs (i) to (ix)**. 35

New (unanimous)

- (2) The report prepared and adopted under **subsection (1)** of this section (which must be prepared and adopted by the Council at the same time as it prepares and adopts its annual report under section 223E of the Local Government Act 1974) must be separate from that annual report. 5
- (3) The report adopted under **subsection (1)** of this section must be adopted before the end of the fifth month after the close of the financial year to which the report relates.
- (4) Where the Council adopts a report under this section, it— 10
- (a) must make that report available for public inspection at its offices and libraries; and
 - (b) must, as soon as practicable after its adoption, publish the report in at least 2 daily newspapers circulating in the City of Tauranga; and 15
 - (c) must make copies of the report available to the public—
 - (i) free of charge; or
 - (ii) at a reasonable charge; and
 - (d) must, within 20 working days after its adoption, send copies of that report to— 20
 - (i) the Secretary (within the meaning of the Land Transport Act 1998); and
 - (ii) the Controller and Auditor-General; and
 - (iii) the Parliamentary Library.
- (5) Nothing in this section— 25
- (a) limits the Council's obligations in respect of its annual report; or
 - (b) prevents the Council including the audited statements referred to in **subsection (1)** of this section both in its annual report and in the separate report required by that subsection. 30

Struck out (unanimous)

5 Rates of tolls

- (1) The tolls payable under this Act are at such rate or rates and are payable in respect of such vehicles as may from time to time be prescribed by bylaws under this Act. 35

Struck out (unanimous)

- (2) Different provision may be made in the bylaws for different types of vehicle or different types of toll, or for particular vehicles or particular tolls.
- (3) The rates of tolls for the time being in force must be clearly displayed at the place on or near where the toll is payable. 5

New (unanimous)**5 Rates of tolls**

- (1) The tolls payable under this Act (which are to be payable only in respect of vehicles that use Route K) are to be payable at such rate or rates as are prescribed by bylaws made under this Act. 10
- (2) Different provision may be made in the bylaws—
- (a) for different types of vehicle or different types of toll, or for particular vehicles or particular tolls; or 15
 - (b) for different times of the day or for different days or for different days of the year.

5A Publication of rates of tolls

- (1) The Council must publish in at least 2 daily newspapers circulating in the City of Tauranga every bylaw prescribing or amending the rate of any toll payable under this Act. 20
- (2) Publication under **subsection (1)** must take place at least 28 days before the toll or the amended toll, as the case may require, becomes payable.

5B Display of rates of tolls 25

The rates of tolls for the time being in force under this Act must be clearly displayed in a conspicuous place on Route K at or near the place at which the tolls are payable.

**Tauranga District Council (Route K
Toll) Empowering**

Struck out (unanimous)

- 6 Facilities for collection of tolls**
For the purpose of collecting tolls on Route K, the Council may construct such toll barriers, toll houses and other works on Route K and on the connections to Route K as the Council considers necessary. 5

New (unanimous)

- 6 Facilities for collection of tolls**
For the purpose of collecting tolls payable under this Act, the Council may construct on Route K such toll barriers, toll houses, and other works as the Council considers necessary. 10

Struck out (unanimous)

- 7 Person in charge or control of motor vehicle to pay toll**
The person who is in charge or control of any vehicle in respect of which a toll is payable under this Act is liable for the payment of the toll. 15

New (unanimous)

- 7 Liability for payment of tolls**
- (1) Subject to **subsections (2) and (3)**, the person who is in charge or control of any vehicle in respect of which a toll is payable under this Act is liable for the payment of that toll. 20
- (2) If the registered owner of a vehicle has paid, or has undertaken to pay, to the Council the amount of any toll payable under this Act in respect of that vehicle, any other person in charge or control of that vehicle who, in accordance with **section 8(c)**, delivers to an authorised officer at the toll barrier a voucher to that effect is not liable for the payment of the toll. 25
- (3) If the registered owner of a vehicle has, under **section 12**, entered into a contract with the Council for the payment of

New (unanimous)

any toll payable under this Act in respect of that vehicle, that registered owner is liable for the payment of the toll.

Struck out (unanimous)

- | | | |
|----------|---|----|
| 8 | Manner of payment of toll | 5 |
| (1) | A toll must be paid— | |
| | (a) by the payment to an authorised officer at the toll barrier of a sum of money equivalent to the amount of the toll; or | |
| | (b) by the placement in the coin receptacle of an automatic toll collecting machine at the toll barrier of 1 or more coins totalling the amount of the toll; or | 10 |
| | (c) by the delivery to an authorised officer at the toll barrier of a voucher (in or to the effect of the form approved by the Council) that indicates that the owner of the vehicle has paid to the Council, or has undertaken to pay to the Council, an amount equivalent to the amount of the toll; or | 15 |
| | (d) by monthly account, pursuant to a contract with the Council under this Act; or | 20 |
| | (e) by any form of stored value card, whether magnetic, digital or otherwise; or | |
| | (f) by such other method as may from time to time be prescribed by bylaws under this Act. | |
| (2) | Where any toll incurred under this Act remains unpaid after it has become due for payment, the Council may— | 25 |
| | (a) refuse to allow the person liable to pay the toll to proceed along Route K; or | |
| | (b) recover as a debt from the person liable to pay the toll the amount of the toll together with all expenses involved in the collection of the toll. | 30 |

New (unanimous)

- 8 Payment of toll**
A toll must be paid—
- (a) by the payment to an authorised officer at the toll barrier of the amount of the toll; or 5
 - (b) by the placement in the coin receptacle of an automatic toll collecting machine of 1 or more coins totalling the amount of the toll; or
 - (c) by the delivery to an authorised officer at the toll barrier of a voucher (in a form approved by the Council) that indicates that the registered owner of the vehicle has paid to the Council, or has undertaken to pay to the Council, the amount of the toll; or 10
 - (d) by account, pursuant to a contract with the Council under this Act; or 15
 - (e) by any form of stored value card.

- 8A Powers in respect of non-payment**
If any toll payable under this Act remains unpaid after it has become due for payment, the Council may—
- (a) refuse to allow the vehicle in respect of which the toll is payable to proceed along Route K; or 20
 - (b) recover as a debt from the person liable to pay the toll the amount of the toll, together with all expenses involved in the collection of the toll.

Struck out (unanimous)

25

- 9 Application of toll revenue**
The toll revenue collected for Route K must be used solely for the construction and maintenance of Route K, of the interchange between Route K and State Highway 29, and of the PJK Junction, as the Council sees fit. 30

- 10 Exemption from payment of tolls**
(1) *(Tolls are not)* No toll under this Act is payable in respect of any vehicle engaged in carrying any of the following persons:

- (a) the Governor-General and every person in attendance on the Governor-General:
- (b) every member of any of the armed forces of Her Majesty when on duty or going to or returning from duty and in the uniform of that member's corps: 5
- (c) every constable on duty, and every prisoner in the custody of a constable:
- (d) any Minister of the Crown or any employee of the Crown or any employee or member of Transit New Zealand whilst engaged on business connected with Route K or with the administration of this Act: 10

New (unanimous)

- | |
|---|
| <ul style="list-style-type: none"> (e) such other persons or vehicles or classes of persons or vehicles as may be prescribed in bylaws made under this Act. 15 |
|---|

- (2) Tolls are not payable in respect of fire engines and vehicles used for extinguishing fires, or in respect of ambulances.
- (3) Tolls are not payable in respect of licensed public passenger service vehicles on defined and scheduled runs, not being small passenger service vehicles as defined by the Transport Services Licensing Act 1989. 20

Struck out (unanimous)

11 Bylaws

- | |
|---|
| <ul style="list-style-type: none"> (1) The Council may from time to time make such bylaws not inconsistent with this Act or with any other Act as it thinks fit fixing the amounts of, and levying and collecting, tolls in respect of the use of Route K in respect of one or both directions of travel. 25 (2) Any bylaw fixing the rate of any toll is to be published in at least 2 daily newspapers circulating in the City of Tauranga at least 14 days before the toll becomes payable. 30 |
|---|

**Tauranga District Council (Route K
Toll) Empowering**

New (unanimous)

11 Bylaws

The Council may make such bylaws not inconsistent with this Act or with any other Act as it thinks fit for all or any of the following purposes:

- (a) levying and collecting tolls under this Act, and prescribing the rates of those tolls: 5
- (b) exempting any persons or vehicles or classes of persons or vehicles from payment of tolls levied under this Act:
- (c) providing for the issue, upon payment of a fee, of vouchers or stored value cards for the payment of tolls levied under this Act. 10

11A Special consultative procedure and bylaws

- (1) The Council must adopt the special consultative procedure in relation to any proposal to make bylaws under this Act. 15
- (2) **Subsection (1)**—
 - (a) does not apply in respect of the confirmation of a resolution to make bylaws under this Act; or
 - (b) limit the provisions of sections 681 and 716B of the Local Government Act 1974 that relate to the confirmation of a special order making bylaws. 20

Struck out (unanimous)

12 Power for Council to enter into arrangements for payment of tolls

- (1) The Council may enter into private contracts with the owner of any vehicle for the purpose of the payment of tolls incurred for the use of Route K. 25
- (2) The Council may, upon payment of a fee as prescribed from time to time by bylaws under this Act, issue vouchers or stored value cards, whether magnetic, digital or otherwise, for the payment of tolls on Route K. 30

New (unanimous)**12 Power of Council to enter into contracts for payment of tolls**

The Council may enter into a contract with the registered owner of any vehicle for the purpose of providing for the payment by that owner of any tolls payable under this Act in respect of that vehicle. 5

13 Offences**Struck out (unanimous)**

- (1) Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$500 who without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Act or any bylaws for the time being in force under this Act. 10
- (2) In order to be clear, and without limiting the scope of paragraph (1) of this section, every person commits an offence against this Act who— 15

New (unanimous)

A person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who— 20

- (a) evades the payment of any toll payable by that person; or
 (b) resists or obstructs any authorised officer in the execution of his or her duty; or
 (c) falsely claims exemption from any toll. 25

Struck out (unanimous)

14 Entitlement to fines

All fines received under **section 13** must be paid into the Crown Bank Account, except that the Council may retain such portion of the fine so received as the Minister of Finance from time to time approves as being the expenses incidental to their collection. 5

Struck out (unanimous)

s 3

**Schedule 1
Route K**

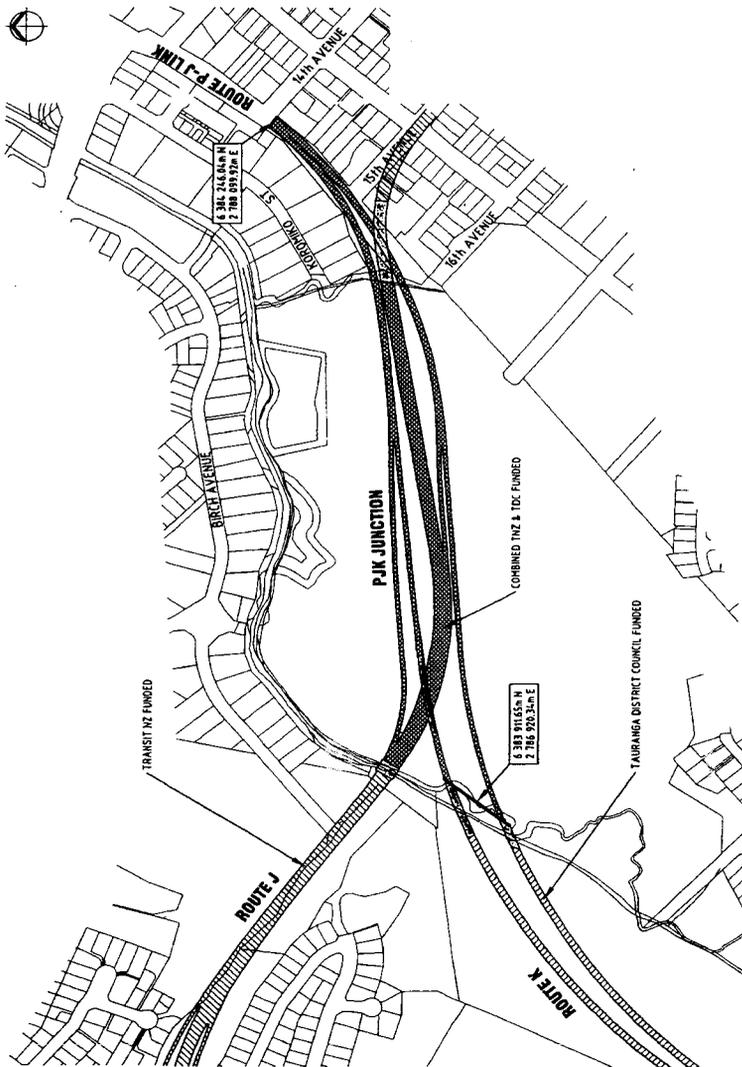
All that piece of road and adjacent land situated in:

Lot No	Plan No	Description
Lot 32	DPS 71310	Blk XIII Tauranga SD, NZMS 261 series Sht 14 No 3.3
Lot 2	DP 24262	Pt Allot 528 Te Papa Parish, City of Tauranga
Lot 3	DPS 60348	Blk XIII Tauranga SD, NZMS 261 series Sht U14 No 3.3
Lot 5	DPS 47965	Blk XIII Tauranga SD, NZMS 261 series Sht U14 No 3.3
Lot 6	DPS 47965	Blk XIII Tauranga SD, NZMS 261 series Sht U14 No 3.3
Lot 2	DPS 81539	Blk XIII Tauranga SD
Area A on SO 60907 being Pt Lot 4	DPS 13011	Blk XIII Tauranga SD, NZMS 261 series Sht U14 No 3.3
Area A on SO 60865 being Pt Lot 7	DPS 53732	Blk XIII & XIV Tauranga SD, NZMS 261 series Sht U14 No 3.3 & 4.3
Pt Lot 16	DPS 53732	Blk XIII & XIV Tauranga SD, NZMS 261 series Sht U14 No 3.3 & 4.3
Lot 32	DPS 58592	Blk XIII Tauranga SD, NZMS 261 series Sht U14 No 3.3 & 4.3
Lot 33	DPS 58592	Blk XIII Tauranga SD, NZMS 261 series Sht U14 No 3.3 & 4.3
Lot 2	DPS 80270	Blk IX, X, XIII, & XIV Tauranga SD
Lot 1	DPS 30422	Blk IX, X, XIII, & XIV Tauranga SD
Pt Allot 524 Te Papa Parish	SO 1826	Tauranga SD
Pt Lot 2	DPS 100	Blk IX, X, & XIV Tauranga SD
Lot 1	DP 15388	Allotment 525 Te Papa Parish, City of Tauranga
Lot 1	DP 15388	Allotment 525 Te Papa Parish, City of Tauranga

New (unanimous)

Schedule 1
PJK Junction

s 3



NOTE
COORDINATES ARE TO NZMG ORIGIN

Struck out (unanimous)

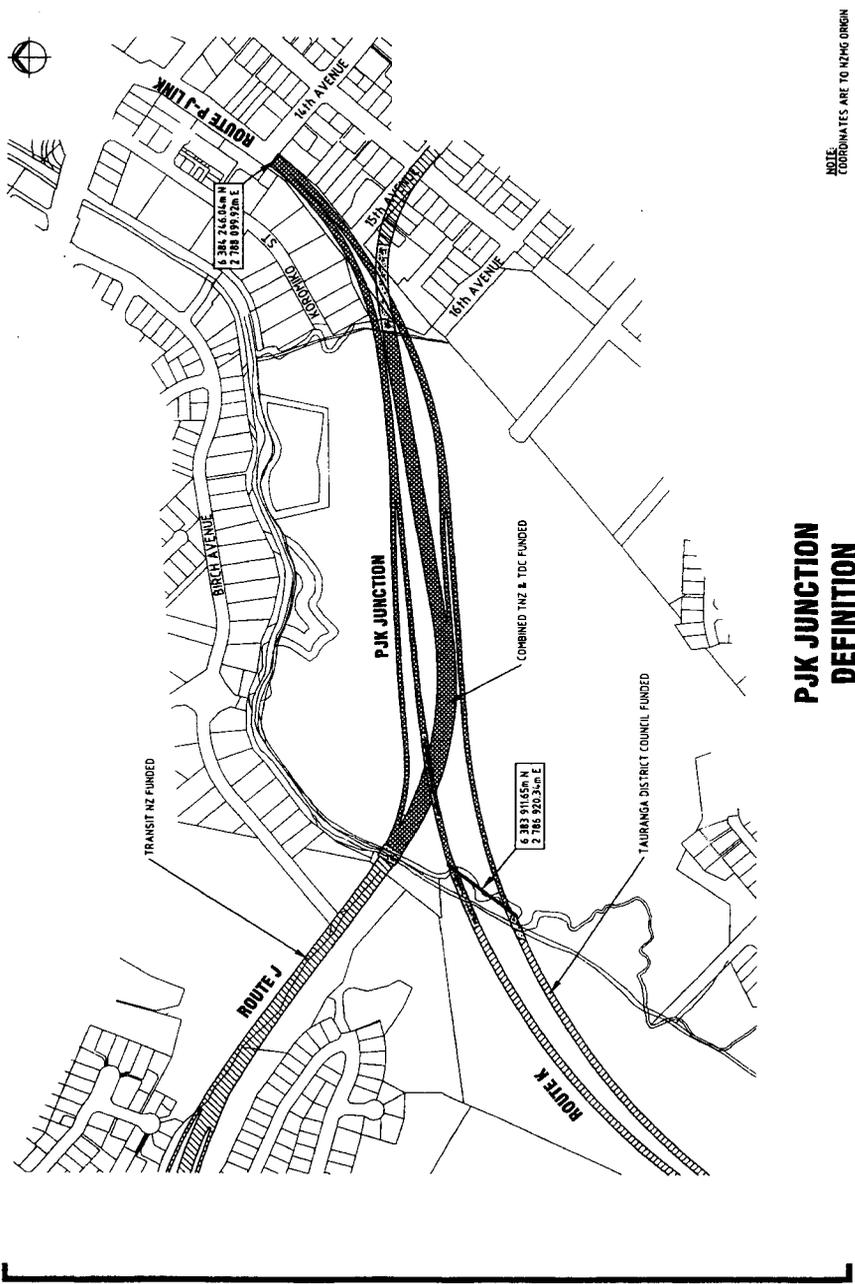
s 3

**Schedule 2
PJK Junction**

All that piece of road described as PJK Junction in the attached plan and situated in:

Lot No	Plan No	Description
Part Allotment 523 Te Papa Parish	SO 1826A	Tauranga Survey District

Struck out (unanimous)



NOTE:
COORDINATES ARE TO NZMG ORIGIN

**PJK JUNCTION
DEFINITION**

New (unanimous)

s 3

Schedule 2

Land on which Route K is to be constructed

All those pieces of land situated in the City of Tauranga and being—

Lot No	Plan No	Description	Area
Lot 32	DPS 71310	Block XIII, Tauranga Survey District, NZMS 261 series, Sheet U14 No 3.3	58 232 m ²
Lot 2	DP 24262	Part Allotment 528, Te Papa Parish, City of Tauranga	8 801 m ²
Lot 3	DPS 60348	Block XIII, Tauranga Survey District, NZMS 261 series, Sheet U14 No 3.3	16 875 m ²
Lot 5	DPS 47965	Block XIII, Tauranga Survey District, NZMS 261 series, Sheet U14 No 3.3	22 105 m ²
Lot 6	DPS 47965	Block XIII, Tauranga Survey District, NZMS 261 series, Sheet U14 No 3.3	18 782 m ²
Lot 2	DPS 81539	Block XIII, Tauranga Survey District	76 568 m ²
Area A on SO 60907, being part Lot 4	DPS 13011	Block XIII, Tauranga Survey District, NZMS 261 series, Sheet U14 No 3.3	4 391 m ²
Area A on SO 60865, being part Lot 7	DPS 53732	Blocks XIII and XIV, Tauranga Survey District, NZMS 261 series, Sheet U14 Nos 3.3 and 4.3	15 169 m ²
Part Lot 16	DPS 53732	Blocks XIII and XIV, Tauranga Survey District, NZMS 261 series, Sheet U14 Nos 3.3 and 4.3	58 397 m ²
Lot 32	DPS 58592	Block XIII, Tauranga Survey District, NZMS 261 series, Sheet U14 Nos 3.3 and 4.3	10 703 m ²
Lot 33	DPS 58592	Block XIII, Tauranga Survey District, NZMS 261 series, Sheet U14 Nos 3.3 and 4.3	13 467 m ²
Lot 2	DPS 80270	Blocks IX, X, XIII, and XIV, Tauranga Survey District	120 040 m ²
Lot 1	DPS 30422	Blocks IX, X, XIII, and XIV, Tauranga Survey District	37 697 m ²
Part Allotment 524, Te Papa Parish	SO 1826	Tauranga Survey District	44 231 m ²
Part Lot 2	DPS 100	Blocks IX, X, and XIV, Tauranga Survey District	2 812 m ²
Lot 1	DP 15388	Allotment 525, Te Papa Parish, City of Tauranga	186 708 m ²

**Tauranga District Council (Route K
Toll) Empowering**

Legislative history

7 July 2000

Introduction, first and second reading and referral to
the Local Government and Environment Committee
(Bill 43-1)
