

# INVESTMENT PRINCIPLES

A technical paper prepared for the Investment Decision-Making Framework Review

8 JUNE 2020

Investment principles have been reviewed and rewritten to clarify their role in investment decision-making to both internal and external customers and to better reflect current investment priorities and practice.

Five new investment principles have been created, to sit alongside operating principles set out in the Land Transport Management Act. These new principles are high level, holistic and enduring. They are supported by investment policies that guide investment decision-making.

These investment principles will guide new investment policies, the application of existing investment policies, and the development of transport solutions to be funded by the National Land Transport Fund.

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# EXECUTIVE SUMMARY

The Land Transport Management Act 2003 (LTMA) outlines operating principles for Waka Kotahi NZ Transport Agency. These include exhibiting a sense of social and environmental responsibility, using its revenue in a manner that seeks value for money, acting in a transparent manner in its decision-making and applying the same level of scrutiny to its own activities as it would give to those proposed by Approved Organisations.

Waka Kotahi previously applied ten planning and investment principles, which provide a foundation for Waka Kotahi and its partners to work toward developing and implementing transport solutions. As part of the Investment Decision-Making Framework (IDMF) review, Waka Kotahi, together with the Ministry of Transport, developed a shorter set of enduring investment principles to guide Waka Kotahi in the application of its investment policies and development of new policies.

In December 2019, Waka Kotahi consulted on draft investment principles as part of its external engagement with local government. Feedback from consultation resulted in amendment of the principles.

These are the final investment principles that Waka Kotahi will use from 1 July 2020 to guide the development and update of investment policies, and to guide their interpretation.

## **1. Invest in the transport system to achieve multiple outcomes**

We invest to deliver key land transport outcomes and Government Policy Statement on Land Transport (GPS) priorities. We encourage activities and packages of solutions that are deliberately designed to deliver multiple outcomes, including contributing to wider government priorities and wellbeing where transport has a role to play.

## **2. Take a robust approach to delivering best value for money**

To ensure the most effective and efficient solutions are implemented, we require an appropriate assessment of options and the application of our intervention hierarchy. When assessing 'value', we consider social, environmental, safety, cultural and economic impacts, whole-of-life costs and benefits. We ensure an equitable sharing of costs to reflect both public and private benefits.

## **3. Ensure solutions are future-focused and adaptable**

We ensure intergenerational impacts and land-use integration opportunities are considered, so that immediate decisions support long-term system outcomes. Recognising future uncertainty, activities should also be able to adapt to changing technology and be resilient to unexpected events.

## **4. Collaborate and engage with the local government sector to understand and reflect local, regional and national perspectives**

We work together with local government and other investment partners and agencies to undertake planning work, seek aligned priorities and coordinate activities. Māori, stakeholder and community engagement informs decision-making and helps tailor solutions to local conditions.

## **5. Make decisions following a transparent, risk-based process informed by a strong evidence base**

We are open, clear and impartial when making investment decisions. We use timely, agile, right-sized and fit-for-purpose processes that are easy to understand and scaled to the appropriate level of risk. We will continue to improve future investment decision-making through the ongoing evaluation of results to ensure evidence remains robust.

# BACKGROUND

A principle is defined as a high-level value statement that is the foundation for an approach, behaviour or for a chain of reasoning.

The review process has included the following components in order to identify principles relating to investment of the National Land Transport Fund (NLTF):

- a) desktop stocktake of the existing planning and investment principles and policies located on the Planning and Investment Knowledge Base (PIKB)
- b) design workshop with representatives from across Waka Kotahi and the Ministry of Transport
- c) literature review of other organisations' overarching investment principles
- d) legal opinion regarding the status of previous principles.

Draft investment principles were subsequently developed and consulted on with the transport sector. The final investment principles reflect the feedback on those draft principles and analysis of final wording.

# OUTCOMES OF THE REVIEW

## PIKB stocktake results

### Current principles

Waka Kotahi (referred to as the Transport Agency) previously had 10 planning and investment principles:

#### 1. A partnership approach to planning and investment

The Transport Agency adopts a partnership approach, founded on trust, clarity and accountability, in its planning and investment decision making.

#### 2. Development of a robust, evidence-based investment case

The Transport Agency applies the Business Case Approach to support planning and investing for outcomes, achieve value for money and ensure early stakeholder collaboration. This means to develop a robust, evidence investment case.

#### 3. An integrated approach to land use and transport planning

An integrated approach to land use and transport planning will be used to optimise existing and new investments in the transport network, support access to social and economic opportunities and to foster liveable cities and thriving regions.

#### 4. Optimising the maintenance, use and provision of the land transport network

Transport Agency investment at a whole-of-network level is to achieve an optimised, integrated transport network that targets the areas of greatest need, is fit for purpose and provides best value for money.

#### 5. Right outcomes, at the right time and at the right cost

The Transport Agency invests funds to land transport activities to deliver the right outcomes, at the right time and at the right cost.

#### 6. Risk-based approach

The Transport Agency applies a risk-based approach to ensure risks are considered and managed through the planning to delivery process, including financing.

#### 7. A safe system approach

The safe system approach will be applied to planning, improving, maintaining, renewing and operating components of the land transport system.

#### 8. Working in a socially and environmentally responsible manner

The Transport Agency aims to make land transport investments that improve community wellbeing overall and avoid or mitigate the adverse environmental effects of transport by working in a socially and environmentally responsible manner.

#### 9. Those who pay should benefit from land transport investment

The Transport Agency intends that the land transport system users that provide the revenue into the National Land Transport Fund will benefit from its investments and that other beneficiaries, as a general principle, should pay for the benefits they receive.

#### 10. Scrutiny principle

Legislation requires that for certain land transport planning and funding decisions, the Transport Agency must give the same level of scrutiny to its own activities as it would give to those of approved organisations. The Transport Agency calls this requirement the 'scrutiny principle'.

The main issues identified with those principles can be categorised as:

- the principles relate to planning and investment, rather than just investment
- these contain a mix of high-level strategic intent, operational policy, legislative requirements, and funding conditions/rules and business case requirements
- it is inappropriate for Waka Kotahi to rephrase legislative requirements as principles.

#### Design workshop

A workshop was held over two half-days in October 2018, with participants from Waka Kotahi and the Ministry of Transport. The format included:

- a) discussing the role and purpose of principles vs policies vs process vs guidance
- b) 'user stories' to identify how stakeholders may use investment principles in practical settings
- c) review of each of the 10 current principles to determine relevance of structure and content
- d) identification of any gaps in the current principles.

Key conclusions from the workshop were:

- While the current principles are for 'planning and investment', the new version should be reframed as investment decision-making principles.
- Principles and policies provide the bridge between 'strategy' and projects:
  - Principles provide overarching direction – they should be enduring, holistic, relatively brief, and there shouldn't be too many of them (although there is a trade-off between keeping them simple and providing useful guidance).
  - Within the IDM framework, principles need to articulate both '**Why** do we invest?' and '**How** do we invest?'
  - Policies are a means to deliver on the principles and may be both operational and tactical (but are separate to the 'big P' strategic policy guiding outcomes, eg the GPS).
- 'Principles' are used in multiple documents/domains, and there is some risk of confusion, so where possible (and within our control) it may be useful to limit the use of the terminology – eg Business Case Approach (BCA) principles vs overarching principles.
- User stories indicated that principles may be useful to:
  - provide assurance that Waka Kotahi is taking the right approach and focusing on the right issues
  - reinforce that there is consistency across different government agencies

- frame exploratory discussions with Waka Kotahi and councils prior to a funding case commencing
- help 'tell the story' in education and communication activities
- structure advice to the Board
- increase agility where innovative or 'outside-the-box' proposals are being considered, moving away from a box-ticking exercise
- demonstrate that underlying policies and procedures have a clear reason for existing and are aligned.
- 'Systems thinking' means different things to different people, and we need to build a common understanding and position on what it means in the IDM context.
- Behaviour change will be critical to ensure the intent of any principle/policy change is reflected in practice.
- Going forward, there were three commonly agreed principle 'themes':
  - contribution to government outcomes
  - value for money/investment
  - fair and transparent decision-making.
- Other concepts with the potential to be elevated to principle level were: being adaptable and future focused, partnership and collaboration, ongoing learning and benefits realisation, and being a responsible investor (eg minimising harm).

### Literature review

Examples of investment principles from 10 other organisations have been reviewed to inform the development of updated principles. Key findings were:

- The principles were generally quite process-oriented, rather than being directive in terms of why/what to focus investment on.
- Language was relatively high-level and generic, with the individual principles often being in statement form, with some brief explanatory text.
- The number of principles ranged from four to 15.
- There were no examples of how they specifically linked to underlying policies – more often they talked about providing overarching guidance, rather than illustrating specific actions to deliver on the principles.

As such, there was no obvious example to 'replicate' from a Waka Kotahi perspective, given the desire for our investment principles to provide direction for both **why** we invest and **how** investment decisions are made. However, there were some useful takeaways from individual organisations in terms of language, format, and themes.

### Legal opinion

Queries have also been raised regarding the legal status of the current principles and policies, specifically:

- a) clarity on what principles, policies and guidance have higher standing over others, and
- b) whether Waka Kotahi is following robust processes that stand up judicially.

The summary of legal advice is:

- Statutory requirements under the LTMA have the highest standing, in particular section 20 regarding approval of activities. This highlights giving effect to the GPS, seeking value for money, using different methods of assessment, setting funding conditions and funding assistance rates, and meeting the scrutiny principle.
- Waka Kotahi must also act in accordance with the functions and operating principles in sections 95 to 96, which includes contributing to an effective, efficient and safe land transport

system, acting in a transparent manner in its decision-making, and exhibiting a sense of social and environmental responsibility.

- In terms of non-statutory principles and policies that may exist, it is at the discretion of Waka Kotahi to specify which have higher standing than others. However, we need to demonstrate that all non-statutory principles, policies and procedures are relevant considerations within the decision-making process – that is, they relate to or stem from the high-level statutory requirements.
- A judicial review involves ensuring proper process is followed and that only relevant considerations are factored into the decision. Essentially, Waka Kotahi must be open and clear about the assessment factors leading to investment decisions. Also relevant is what is happening in practice (which has not been included in this review).
- As such, identifying the principles, policies and procedures decision makers are expected to apply is crucial, both in terms of transparency, but also so that it is clear that the decisions are being made on the right grounds.
- Given the previous lack of clarity around how the various components of investment decision-making fit together and inform one another, improving this will be an important output of the overarching IDMF review, and ensuring there is a clear map back to all of the considerations in the LTMA that need to be factored into decisions.
- Regarding current principles, the main area of caution was the *‘Those who pay should benefit from the land transport investment’* principle, as once in the NLTF, funds can be applied to any of the items in section 10(3) of the LTMA. This supports the feedback from the stocktake and design workshop that this principle is no longer relevant and should be removed.

## FEEDBACK SUMMARY

### General summary

Feedback was received from key partners (eg local and regional councils, Local Government NZ (LGNZ), Transport Special Interest Group), interested organisations (eg Generation Zero), internal Waka Kotahi staff and other individuals. In general, the feedback supported having fewer and clearer investment principles, and more specific points of feedback were of high quality and reflect the experience submitters had in the planning and investment decision-making process. Some higher-level points of feedback included:

- ensuring a clear articulation of the relationship between these investment principles and statutory requirements under the LTMA
- ensuring the intent of the ‘scrutiny principle’ was retained
- identifying the need for more guidance about cost-sharing arrangements and the kind of activities appropriate for NLTF investment (as a result of removing the principle that NLTF should be invested in activities specifically benefitting road-users).

#### **Principle 1: Invest in the transport system to achieve multiple government outcomes**

The most common area of feedback in relation to this principle was requests to include local government priorities, and also for a clearer distinction between enduring transport outcomes and shorter-term government priorities. There was also a request for ‘wellbeing’ to be referenced, as an overarching way of explaining the outcomes sought from transport investment.

#### **Principle 2: Take a comprehensive approach to delivering best value for money**

There was very strong feedback that the draft wording, which mentioned that *all* alternatives and options must be considered in the development of a proposal, was an impossible requirement and would lead to needless expensive work examining unrealistic options. There was also feedback requesting the addition of ‘cultural wellbeing’ and a greater focus on ‘whole of life’ costs. Some feedback found the wording relating to ‘sharing of costs across activities’ confusing and thought it might relate to activity classes rather than funding sources.

### **Principle 3: Ensure solutions are future-focused and adaptable**

Feedback focused on requiring stronger wording around the importance of considering long-term impacts of investment decision-making and integrating better with land use. There were also requests to ensure the wording did not inappropriately encourage risky proposals.

### **Principle 4: Promote alignment on local and national priorities and impacts**

There was a very wide variety of feedback on this principle, including questions about whether it was sufficiently different from Principle 1 to warrant being a separate principle. There was concern about the principle requiring too much community engagement, not sufficiently reflecting the role of iwi, and not sufficiently recognising the role of local government in establishing priorities. Of particular note, LGNZ provided feedback that this principle did not adequately capture the important role of local government in transport planning and investment decision-making.

### **Principle 5: Make decisions following a transparent process linked to a strong evidence base**

Several pieces of feedback highlighted the need for agile right-sized decision-making processes, as well as noting that current practice often struggles to be timely, leading to significant delays. Wider comments around the 'scrutiny principle' also relate most strongly to this principle.

## **ANALYSIS**

### **General comments**

As most feedback points related to the detail of the principles, while broadly supporting the change to fewer and clearer principles, the main focus has been on making 'wording tweaks' to the principles so that they pick up key points from feedback while still retaining their overall originally intent.

The main exception to this is in relation to Principle 4, where questions were raised about whether it should remain distinct from Principle 1, as well as the need for more fundamental change to appropriately reflect the role of local government in transport planning and decision-making. The option of merging principles 1 and 4 was considered, but the focus of Principle 4 on the 'added value' for investment decision-making that comes from engagement and collaboration with partners (including Māori), stakeholders and the wider community was sufficiently distinct from the intent of Principle 1 to warrant a reworking, rather than merging the two principles together.

### **Principle 1**

Minor wording tweaks recommended to the explanation of this principle to respond to feedback.

- Transport outcomes and GPS priorities are now both individually referred to. This reflects feedback and the need to reflect how prioritisation is undertaken, which does consider wider factors than just GPS priorities (eg enduring outcomes are considered in the cost-benefit analysis process).
- 'Prioritise our investment' has been changed to 'invest' to reflect that this principle applies throughout the whole investment process, not just the prioritisation process.
- 'Wellbeing' was added to reflect feedback (from the Ministry of Transport).

Some feedback requested greater reference to local government priorities in this principle. This has been reflected in some of the changes made to Principle 4 instead, which is more appropriate. The separation of transport outcomes from GPS priorities also reflects this feedback to some extent.

### **Principle 2**

Minor wording tweaks recommended to the explanation of this principle to respond to feedback.

- The requirement that 'all' options and alternatives are considered has been updated to a requirement that there be an 'appropriate assessment' of options. This wording emphasises the

expectation that a robust and right-sized process will have informed the selection of a preferred option, without setting an impossibly high bar.

- Inclusion of reference to the Waka Kotahi ‘intervention hierarchy’ reinforces this point while also highlighting the need for demand management, optimisation and land-use planning interventions to be considered before and as well as investments in additional capacity.
- Minor wording additions relating to ‘cultural impacts and ‘whole-of-life costs’ respond to feedback in a way that’s consistent with the overall intent of the principle.

### Principle 3

Minor wording tweaks recommended to the explanation of this principle to respond to feedback.

- Identifying the need for investment decision-making to *integrate* with land use (rather than just consider the land-use impacts of the decision) is a key part of better integrating transport and land use, and was raised by several submissions. Providing stronger direction here is consistent with wider strategic planning (eg *Arataki*).
- Identifying the need for investment decision-making to *support* long term system outcomes, and whole-of-life costs and effects (rather than just not undermine them) is more consistent with the overall intent of the principle and also responds to feedback, especially about the need to focus more on tackling climate change.

Some changes have also been made simply to provide clearer language.

### Principle 4

As discussed above, the option of merging together principles 1 and 4 was considered. However, a more substantial rewrite of Principle 4 was preferred, to provide greater clarity and visibility to the value of collaboration and engagement to the investment decision-making process – which was a very strong area of feedback.

- The principle itself is recommended to be renamed ‘Collaborate and engage to understand and reflect local, regional and national perspectives’. This provides clarity that perspectives at all levels add value to the decision-making process and brings out more clearly the need for collaboration and engagement between different parties through the planning and investment process.
- Additional reference to ‘planning work’ in the principle’s explanation reflects strong feedback from LGNZ that local government planning work (eg regional land transport plans (RLTPs), regional public transport plans (RPTPs), activity management plans (AMPs)) needs to be valued more strongly in the investment process.
- References to Māori have been tweaked to make clearer the partnership role Māori has, and that iwi are not just ‘another stakeholder’.
- The recommended wording now makes it clearer that engagement informs decision-making, especially in ensuring that solutions are tailored to local conditions. This reflects the important ‘value add’ from stakeholder and community engagement where large amounts of information are gathered that feed into revising proposals and reducing future risk factors.

### Principle 5

Minor wording tweaks recommended to the explanation of this principle to respond to feedback.

- Reference to ‘impartial’ decision-making, to reflect the intent of the scrutiny principle and the need for Waka Kotahi to treat Waka Kotahi projects the same as projects put forward for funding by other organisations.
- Slightly clearer language has been used to emphasise that the whole decision-making process is open, clear and impartial – not just the assessment factors that informed the decision.
- Reference to ‘agile’ decision-making has been added in response to feedback from several key stakeholders.