Impact Summary: Feasibility and other non-deductible expenditure for incomplete assets

Section 1: General information

Purpose
Inland Revenue is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment (RIA), except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis
There is no direct evidence on hand to give an estimate about the extent to which non-deductible expenditure affects efficiency in the tax system. This makes it difficult to quantify the scale of the problem or the potential benefits from introducing the preferred option. Officials were informed during consultation of anecdotal examples where current tax policy settings were acting as a barrier for businesses in respect of developing assets where uncertainty existed in respect of their completion or potential impairment and abandonment. Estimates on the impacts of the proposed option have been based on New Zealand 2018 gross fixed capital formation ($m) provisional statistics. The assessed impacts in the table in section 4.1 contain assumptions regarding taxpayer compliance and the composition of private sector asset creation in the 2018 statistics. Officials have a moderate level of confidence in the assumptions we have used but note the 2018 statistics are subject to volatility as a result of asset revaluations. Although the proposals in this RIA have been developed over several years the recent development of final proposal has been completed in a short timeframe which has limited officials' ability to undertake a complete analysis of the final proposals including its final design. The time available has also prevented officials from fully testing the design of the preferred option with stakeholders.
Responsible Manager (signature and date):
    Chris Gillion Policy Lead Policy and Strategy Inland Revenue 13 September 2019

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

This RIA considers two questions:

- Do the current tax policy settings hinder businesses from committing resource to developing new assets in situations where the completion of that asset is uncertain, and
- If the answer to the first question is yes, what is the best option for solving the problem.

The first question is considered in this section, section 2, the second question is considered in section 3.

Do current tax policy settings hinder businesses from committing resource to developing new assets in situations where the completion of that asset is uncertain?

Business decision-making on the potential or practicality of developing new assets, business models or processes is vital to innovation and driving productivity improvements.

The Government is concerned that current tax settings are acting as a barrier to business decision-making on these types of investment, specifically investments that decline in value. Under current law, expenditure (that is more than preliminary in nature) incurred to invest in a new asset, process, or business model (feasibility expenditure), and expenditure that is incurred to create a business asset that is subsequently abandoned, is generally not deductible.

As a general principle, the economic value of business expenditure that does not provide an enduring benefit should either be immediately deductible, or, when it provides an enduring benefit, deductible over time if that benefit declines over time and has a finite lifetime. When the tax system does not provide for that treatment, an economic distortion is created.

Overlaying this principle, New Zealand's income tax framework draws a distinction between the treatment of economic income from capital and non-capital sources. The distinction is best described using the following metaphor of a fruit-bearing tree. New Zealand's income tax is designed to tax the fruit from the tree. It does not necessarily tax the tree itself. The corollary of the example is that expenditure is deductible when it has a connection or relationship with producing taxable income (fruit) and is non-deductible when it relates to capital assets (the tree). Consistent with the general principle above, the system also allows depreciation deductions recognising the use of capital assets in producing taxable income.

The income tax system's distinction between income from capital and revenue can result in expenditure not being deductible. For example, feasibility expenditure or other expenditure that results in an economic cost to a taxpayer, but for which neither immediate deductions nor depreciation deductions are available (commonly referred to as "black hole" expenditure). Such examples can skew investment decisions.

Feasibility expenditure is expenditure that is undertaken to determine the practicality of a new proposal. In some cases, the Income Tax Act 2007 will deny taxpayers an immediate deduction for such expenditure when it has a connection with an asset that has the potential to yield future economic benefits beyond the taxpayer's immediate income year. In addition, because of the early-stage nature of feasibility expenditure uncertainty exists over the outcome and this can make it difficult for taxpayers to assess whether an asset indeed exists.

Inland Revenue's original interpretation statement[1] on feasibility expenditure allowed a relatively wide scope for preliminary expenditure to be immediately deductible if there was no definitive commitment to proceeding with a project.

Concerns that the Income Tax Act was skewing business decisions came to a head in 2016 as a result of obiter comments by the Supreme Court in *Trustpower Ltd v Commissioner of Inland Revenue*[2] (the *Trustpower* decision). The case itself was about resource costs, which the Commissioner of Inland Revenue maintained were not immediately deductible. The Supreme Court agreed with the Commissioner's view but noted that the statutory test for deducting certain types of expenditure was narrower than Inland Revenue's interpretation and taxpayer expectations at the time.

Officials have been informed that an effect of the *Trustpower* decision is that less expenditure is immediately deductible for tax purposes than previously thought[3] which increases the likelihood that businesses will incur non-deductible expenditure when creating income producing depreciable assets. In 2017 Inland Revenue released an updated interpretation statement that applies the analysis from the *Trustpower* decision.[4]

Inland Revenue has been anecdotally informed by stakeholders that the current state following the *Trustpower* decision is discouraging businesses from undertaking spending on new assets or processes that they otherwise would have undertaken in the absence of tax.

Additionally, if a project or investment is unsuccessful or abandoned, the capitalised expenditure may not generate depreciation deductions over time. As such, businesses may be incentivised to complete projects that, but for the tax effect, would be abandoned. This behaviour affects economic efficiency. Figure 1 illustrates a simple project timeline and the tax treatment of the expenditure incurred in developing that project following the *Trustpower* decision and Inland Revenue's 2017 interpretation statement:

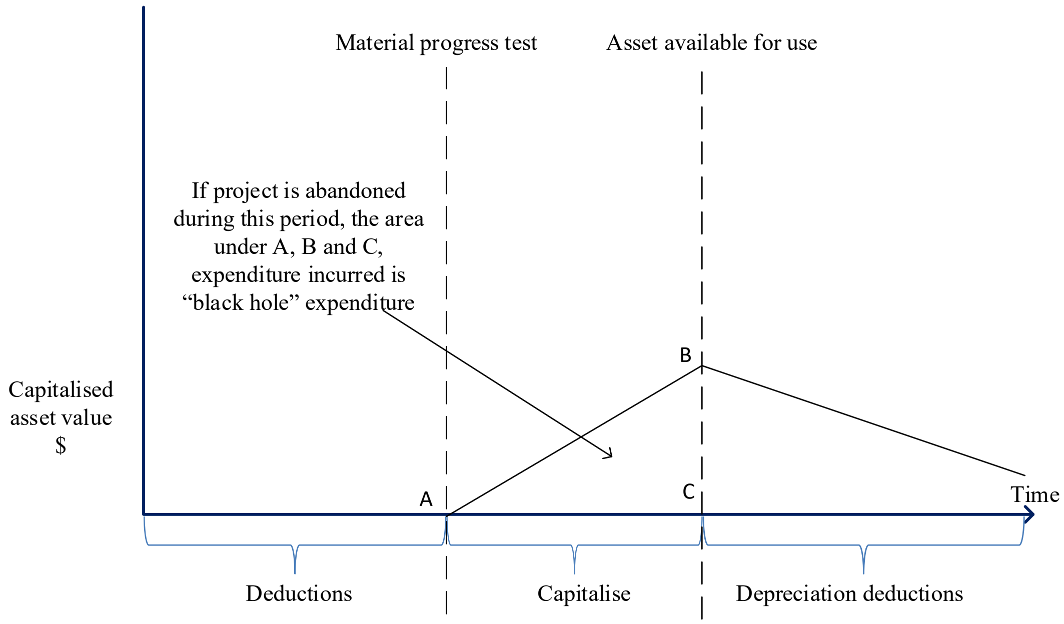
[1] Interpretation Statement IS 08/02: Deductibility of feasibility expenditure, Tax Information Bulletin Vol 20, No 6 (July 2008) available at https://www.classic.ird.govt.nz/resources/e/e/ee3c54c3-4675-45d3-8fa4-2cea747ff52b/tib-vol20-no6.pdf

[2] *Trustpower Ltd v Commissioner of Inland Revenue* [2016] NZSC 91.

[3] This outcome is appropriate, however, for assets that are not expected to decline in value.

[4] Interpretation Statement IS 17/01: Deductibility of feasibility expenditure, Tax Information Bulletin Vol 29, No 3 (April 2017) available at https://www.classic.ird.govt.nz/resources/3/e/3e0303d0-0b02-4f86-844a-547a6179b661/tib-vol29-no3.pdf

Figure 1: Tax treatment of feasibility expenditure



2.2 Who is affected and how?

The proposal in this RIA is directed at businesses, specifically in the following circumstances:

- Businesses delaying or not undertaking feasibility studies that would otherwise occur if there is uncertainty over whether the expenditure would be deductible and the higher after-tax cost of an unsuccessful investment.
- Businesses continuing with feasibility studies that would be uneconomic on a pre-tax basis to ensure they can claim deductions for expenditure already incurred.

The Government is concerned that current tax settings are not providing the correct outcome for businesses in respect of expenditure on new assets and processes (that would, if completed, decline in value). The Government wants to remove these tax barriers to promote economically efficient business decisions.

It is not intended that the reform would have effect on spending related to assets that are not expected to decline in value over time, such as land or shares, or other assets where the Income Tax Act 2007 provides for a specified treatment.

Inland Revenue does not hold information to inform who is directly impacted by the current treatment of expenditure directed at creating new assets. We are, however, aware from tax practitioner comment following the *Trustpower* decision and the views of submitters about the initial problem definition and initial solutions, that there is an impact on small-to-medium sized firms and the large corporate sector. Not for profits, public sector entities and individuals are not considered be within the scope of those affected.

Reform in this area of tax law has had long-standing support from the business community. The magnitude of the impact is also difficult to estimate as Inland Revenue does not directly capture data relating to the costs incurred by business when making investment decisions or when decisions are made that result in physical assets being abandoned. In assessing the revenue impact of the preferred option discussed in this RIA, Inland Revenue has used asset formulation statistics to get an understanding about how asset formulation changes from year to year.

2.3 Are there any constraints on the scope for decision making?

To date, the government has taken an incremental approach to other instances of non-deductible expenditure under New Zealand's tax system in relation to:

- Research and development;
- Company administration costs;
- Resource consents;
- Software projects;
- Patents; and
- Plant variety rights.

The options discussed in this impact statement are not intended to replace or otherwise alter the rules that are specific to the type of expenditure on the activities or transactions listed above. As such, it is not within the scope of this project to review or consolidate these previous responses. It is expected that any policy change would be directed at expenditure that is not the subject of these other rules in the Income Tax Act; as such, it is likely to act as a rule of last resort.

The options in this RIA therefore consider expenditure that is not dealt with elsewhere in the Income Tax Act. The options are also not intended to alter the current non-deductibility for assets that are expected to appreciate in value such, as land or shares, as such assets are not expected to result in an economic loss.

The Tax Working Group's consideration of the treatment of expenditure on feasibility and expenditure on abandoned assets, as set out in its final report in February 2019 have also had a strong influence on the selection of the preferred option.[5]

[5] Future of Tax: Final Report Volume I – Recommendations, Thursday, 21 February 2019 https://taxworkinggroup.govt.nz/resources/future-tax-final-report-vol-i-html#section-3, recommendation 33 refers.

Section 3: Options identification

3.1 What options have been considered?

The following criteria were used to assess the options considered:

- *Neutrality*: the tax rules should not influence taxpayer decisions about incurring feasibility expenditure
- *Compliance and administration costs*: the impacts on taxpayers complying with the tax rules and Inland Revenue's administration of those rules, should be minimised as far as possible.
- *Integrity*: Tax deductions should not be available for expenditure that when incurred is unlikely to give rise to taxable income now or in the future or for expenditure on assets that are not expected to decline in value over time.

Option One: Status quo

This would leave the deductibility of feasibility expenditure to be considered on a case-by-case basis with guidance from Inland Revenue's 2017 interpretation statement following the *Trustpower* decision.

Option Two: Spread the timing and recognition of feasibility expenditure over 5 years

This option would allow taxpayers to deduct expenditure on developing new assets and incomplete assets over a defined period of 5 years.

Alternative spreading periods have been considered such as 7 years. Officials initially considered 7 years was most appropriate for New Zealand, noting the absence of a comprehensive tax on the income from capital. A 5-year spread was chosen following detailed consideration of the treatment of feasibility and other non-deductible expenditure on incomplete assets by the Tax Working Group headed by Sir Michael Cullen. It is also noted that Australia has a comparable 5 year spreading rule to deal with expenditure incurred for similar purposes when developing new assets.[6] A period shorter than 5 years was considered to introduce a distortion to abandon incomplete assets earlier than would otherwise occur (in the absence of tax).[7]

Officials plan to carry out an additional round of consultation with key stakeholders on the final design of this option including any resulting draft amendments. An outstanding matter for stakeholder comment is the test(s) that would need to be met to establish the point in time in which expenditure can be recognised for tax deductibility.

Option Three: Generally accepted accounting practice (application of Financial Reporting Standards)

This option would allow generally accepted accounting practice (with certain constraints) to determine the recognition and timing of deductions.

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[6] Inland Revenue notes that any comparison of this proposal with tax deductibility rules that apply in Australia should be considered in the context of differences between New Zealand's and Australia's treatment of income from capital.

[7] Noting that a tension can exist for taxpayers who are required to comply with financial reporting standards. Assets expensed for tax purposes have a direct reflex in the taxpayer's balance sheet and profit and loss statement.

This would allow for:

- a defined class of expenditure, known as "feasibility expenditure", to be immediately tax deductible until an asset is recognised under generally accepted accounting practice; and
- an immediate deduction if the project or proposal is abandoned and written off under generally accepted accounting practice.

This option would also require support by new rules to deal with abandoned partially completed assets. The additional rule would be needed to remove distortions that would otherwise be created as depreciation deductions are available for completed assets only.

Modifications to options 2 and 3 for compliance and tax base integrity reasons

Options 2 and 3 have modifications that are not separate options in themselves but alter their application and effect to ensure the reform option is appropriately targeted and contains appropriate safeguards.

Reinstatement of expenditure if abandoned or completed asset is subsequently recognised

Under options 2 and 3, safeguards would be added to provide that deductions claimed for abandoned or impaired assets that are subsequently reinstated would be reversed in the year of reinstatement. Reinstatement would involve bringing back earlier tax deductions as an increase in revenue in the year of reinstatement and capitalizing those values in the cost of the asset (which would then be subject to tax depreciation).

Safe harbour for low threshold expenditure

Submitters on option 3 argued that a safe harbour was necessary to reduce compliance costs on small-to-medium sized taxpayers. This was largely due to the fact that such taxpayers were unlikely to be required to comply with New Zealand financial reporting standards. Similar compliance cost savings arguments apply to option 2 as there are costs attached with identifying and spreading expenditure under the option. It therefore makes sense for low levels of spending on investigating and/or developing a new asset, model or process to be immediately deductible. It has yet to be explored with stakeholders if expenditure covered by the safe harbour would have to be reinstated if it related to a completed asset that is expected to decline in value.[8]

A threshold of $10,000 was suggested by stakeholders, and officials considered that it was an appropriate amount that targeted asset creation expenditure by small-to-medium sized businesses. The $10,000 threshold is similar to other compliance cost savings measures in the Income Tax Act that allow taxpayers to deduct low levels of expenditure, such as legal fees.

[8] Ibid footnote 8. Officials note that taxpayers who are not required to comply with financial reporting standards do not always face a tension between accounting for tax and financial reporting when making decisions about whether to abandon an asset prior to completion.

3.2 Which of these options is the proposed approach?

The Government considers the status quo is inefficient. Current tax policy settings, based on comments from stakeholders and the conclusions reached by the Tax Working Group, act as a barrier to businesses committing to expenditure on developing assets when uncertainty exists as to whether that asset would be completed. In the absence of regulatory change, the current state requires taxpayers and Inland Revenue to take decisions regarding the deductibility of expenses and the recognition of assets through to disputes and the Courts. Regulatory intervention therefore seeks to remove, or substantially reduce, these interpretative transaction costs.

The next question is, which option for reform is preferable. Option 3 was initially developed in response to stakeholder concerns following the *Trustpower* decision and was the subject of the government discussion document *Black hole and feasibility expenditure*. Option 3 proposed that financial reporting should be used by businesses to determine the deductibility of expenditure or if it should be capitalised. Responses to option 3 suggested that it would not be a complete solution and could be expensive for taxpayers, who are not required to use financial reporting standards, to apply. Stakeholders also noted that the tax treatment of abandoned incomplete assets was unsatisfactorily unanswered if financial reporting standards were applied. Further consideration of option 3 by officials identified a concern that immediate tax deductibility could incentivise decisions to abandon incomplete assets earlier than otherwise occur (in the absence of tax).

Option 2 is a response to the concerns stakeholders voiced regarding the application and effect of option 3. Option 2 is preferred as it better meets the assessment criteria in section 3.1. Allowing deductions for expenditure incurred in developing assets, including abandoned incomplete assets, improves neutrality as businesses no longer face tax barriers depending on whether the results of that expenditure are successful or not.

Relative to the other options, option 2 should have a lower compliance and administration impacts. This comment is subject to final decisions about the legislative design of the proposal. Further consultation will be carried out on the practical application of Option 2, if Cabinet decides to proceed.

The details of when reinstatement of previously deducted expenditure is required has yet to be tested with stakeholders. It is, however, necessary to ensure the integrity of the proposal and the wider tax system.

There are no areas of incompatibility with the Government's 'Expectations for the design of regulatory systems'.

A summary of our analysis of the options is set out in the table on page 10. The analysis is by reference to the status quo.

Table: summary analysis

Option	Option 1: Status quo	Option 2: Spread the timing and recognition of feasibility expenditure over 5 years	Option 3: Generally accepted accounting practice
Neutrality	0	+ (tax barriers are removed)	+ (tax barriers are removed)
Compliance and administration costs	0	+ (++ if the safe harbour threshold is included	0 – recognising that financial reporting standards imposes its own asset recognition principles. (+ if the safe harbour threshold is included)
Integrity	0	+	+

Key:

++ much better than doing nothing/the status quo

+ better than doing nothing/the status quo

0 about the same as doing nothing/the status quo

- worse than doing nothing/the status quo

- - much worse than doing nothing/the status quo

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
Regulated parties	Tax records will need to be kept and maintained to support any tax deductions under the proposal. This requirement is expected to align with good record keeping practice. The requirement to spread the expenditure may impose an additional marginal cost on taxpayers.	Low
Regulators	None	Not applicable
Wider government	Reduction in tax revenue	$80 million over the forecast period 2019-2024. In 2024-25, when the proposal is fully implemented the annual cost is expected to be $42 million, increasing by 3% per annum thereafter.
Other parties	None	Not applicable
Total Monetised Cost		$80 million over the forecast period 2019-2024. In 2024-25, when the proposal is fully implemented the annual cost is expected to be $42 million, increasing by 3% per annum thereafter.
Non-monetised costs		*Low*
Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Reduced tax payments for businesses that incur expenditure to develop new assets, business processes or abandon incomplete investments that, if completed, would decline in value. Feasibility expenditure will be more likely to be incurred where it is economic to do so on a pre-tax basis.	$80 million over the forecast period 2019-2024. In 2024-25, when the proposal is fully implemented the annual cost is expected to be $42 million, increasing by 3% per annum thereafter. High but unquantified

	Reduction in uncertainty over whether feasibility expenditure will be deductible.	Medium but unquantified
Regulators	None	Not applicable
Wider government	Tax barriers removed on business decision-making on the potential or practicality of developing new assets, business models or processes is vital to innovation and driving productivity improvements.	Low
Other parties	None	Not applicable
Total Monetised Benefit		$80 million over the forecast period 2019-2024. In 2024-25, when the proposal is fully implemented the annual benefit is expected to be $42 million, increasing by 3% per annum thereafter
Non-monetised benefits		*Medium*

4.2 What other impacts is this approach likely to have?

The intent of the preferred option is to remove barriers to firms carrying out expenditure on developing new assets, business processes and other investments where the result of that expenditure is uncertain and could result in abandonment or impairment of the investment. This type of investment is important to innovation and driving productivity improvements. As such, the preferred option is expected to produce wider benefits to the business community.

The final design of the preferred option has not been the subject of full consultation with stakeholders. This consultation is expected to occur in the next few months following the outcome of Cabinet's decision. To ensure the integrity of the proposal, the consequences of any reinstatement of expenditure have not been fully explored and this may involve trade-offs regarding how simple option 2 operates in practice.

Officials have made certain assumptions regarding taxpayer behaviour in response to the proposal, those assumptions have inherent uncertainties, including:

- Whether the proposal may incentivise taxpayers to commit to completing uneconomic assets to reduce tax payments (raising tax-base integrity risks); and
- Whether this proposal, in conjunction with earlier policy responses outlined in section 2.3, causes introduces more complexity in taxpayer decision-making and associated tax compliance costs.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

Following the *Trustpower* decision, the private sector, being corporate taxpayers and their advisors, approached the government seeking a revision of the tax policy settings for expenditure on projects that was more in line with business norms and prevailing practices.

Officials undertook preliminary targeted consultation to define the parameters of the problem and consider initial solutions. The outcome from this consultation was the development of a proposal that was released in May 2017 for wider public comment in the government discussion document *Black hole and feasibility expenditure*. 23 submissions were received that largely supported the policy direction but had concerns regarding the complexity of the proposal and its practical application.

In October 2017, a second round of consultation was held on a revised proposal with key stakeholders. Of the ten responses received, feedback was generally supportive of the revised approach but concerns were again expressed over the complexity of the proposal. Submitters were also concerned that the revised proposal created gaps which could still give rise to non-deductibility of feasibility expenditure.

The preferred option in this RIA simplifies the rule and introduces a trade-off that deductions are spread over five years rather than immediately unless the qualifying expenditure is $10,000 or less in a tax year. Stakeholders have informed officials that the most important issue is the expenditure being deductible; not necessarily the timing of that deduction.

Consultation with stakeholders initially focused on a framework (option 3) that would allow businesses upfront tax deductions for expenditure incurred in developing assets, that if completed would decline in value, at the point when a decision was made to completely abandon progress on that incomplete asset. Immediate tax deductions would also be allowed for feasibility expenditure by reference to accounting principles, with an overlay of tax principles for tax base integrity purposes.

Submissions on the practicality of option 3 noted that the proposed deductibility test for feasibility expenditure was too complex. Submissions also noted that partial write down of assets needed to be recognised for tax purposes. Submitters noted that accounting standards imposed tight requirements on when assets should be written off and specific tax rules were recommended to provide for such impairments. Submitters also recommended a safe-harbour threshold that would allow small- to-medium sized businesses immediate tax deductions for low-levels of exploratory expenditure on new assets. Submitters noted that for businesses considering developing new assets, the requirement to use financial reporting standards could be an impediment if the business was not required to use New Zealand International Financial Reporting Standards, which also have a compliance cost attached to their use and application.

Officials revised the parameters of option 3 in response to submissions and undertook a second round of consultation with key stakeholders. The revised proposal relaxed the basis on which tax deductions could be claimed on partially impaired assets and suggested the tests for deductibility would be based on Inland Revenue's revised interpretation statement. Submitters were supportive of the revision but again noted the degree of complexity with the proposal (as it was a blend of accounting and tax concepts). Concerns were also expressed that the integrity measures that supported option 3 would lead to gaps with its application.

Option 3, without appropriate safeguards could, by allowing immediate tax deductions raise integrity risks around activities being claimed to be ceased while they were still intended to be progressed in order to access the tax deduction. This option is an improvement over the status quo, but less than option two. There is a risk that if the proposal is not well targeted the change may incentivise taxpayers deferring the recognition of asset (so as to continue incurring feasibility expenses) or encourage the early abandonment of projects and proposals.

In response to the concerns identified by submitters on option 3, officials considered that option 2 could provide a more complete response to submitter concerns. However, there is a trade-off. While option 2 is intended to deal with the gaps and problems identified in option 3, the deduction allowed under the option is spread over a specified period. As the requirement to track and record expenditure can create compliance costs, a safe harbour threshold is still required to ensure option 2 does not unreasonably disincentivise small-to-medium sized businesses. Consultation on the final design of option 2 has not occurred and is subject to Cabinet decision-making. Subject to Cabinet decisions, Inland Revenue will discuss the practical application of option 2 with stakeholders. Another round of consultation will also available as part of Parliament's consideration of any legislative amendment through the Parliamentary select committee process.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?
The preferred option would require changes to the Income Tax Act 2007 which could be introduced in the next available tax omnibus bill planned for early 2020. Legislation implementing the preferred option is expected to have effect for new expenditure incurred from the start of the 2020-21 income year (for most firms this is 1 April 2020) even if the feasibility project itself had started in previous years. It is not intended that these rules would apply to expenditure incurred before that date as these periods have already occurred so the change in tax treatment would not be able to impact on business investment decisions. These proposals would be favourable to affected taxpayers and would be enacted before taxpayers would typically file tax returns for the relevant periods. When the bill is introduced into Parliament, a Commentary on the bill will be concurrently released explaining the amendments. Further explanation about their effect will be contained in Inland Revenue's *Tax Information Bulletin* series, which would be released shortly after the bill receives Royal assent. Inland Revenue would administer the proposed legislative changes. Enforcement of the changes would be managed by Inland Revenue as business as usual. Inland Revenue has assessed the magnitude of the administrative impacts and considers that the proposed approach can be implemented and made effective for qualifying expenditure incurred anytime from the start of the 2020-21 income year. No changes to Inland Revenue systems are expected as a result of implementing the proposals. Taxpayers would be expected to use existing schedules and internal record-keeping processes to capture information to support tax positions that involve tax deductions relating to developing new assets, or when decisions are made to impair and abandon incomplete assets (that would otherwise decline in value if completed).

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?
There are no plans to specifically collect data on the proposal as, of itself, expenditure on developing new assets is a general business activity that would be incorporated and aggregated within existing business tax disclosures and tax returns. The existing record-keeping rules in the Tax Administration Act 1994 would apply to deductions allowed under the proposal. Monitoring of the proposed approach will be done through existing relationships Inland Revenue has with relevant stakeholders and their advisors. Following enactment of the proposal, any issues with the new law identified by tax practitioners and taxpayers would be considered for inclusion for remedial change as part of the stewardship programme on the Government's tax policy work programme. Comments from stakeholders and their advisors will inform officials if the proposal is not working as intended or creating unintended outcomes.

Inland Revenue's enforcement of the relevant rules (referred to in section 6.1) would also inform officials if the risks noted in section 4.2 are material, or raise concerns regarding the integrity of the tax system.

Inland Revenue would monitor the outcomes as per the objectives of the Generic Tax Policy Process (GTPP) to confirm that the proposed approach meets its objectives. The GTPP is a multi-stage policy process that has been used to design tax policy in New Zealand since 1995.

7.2 When and how will the new arrangements be reviewed?

If the Government adopts option 2, officials propose to engage with key stakeholders 18 months after the proposal's enactment and receive feedback regarding the effectiveness of the proposal (if feedback is not received earlier) for the period 2020-21.

The Government's tax policy work programme makes provision for work required to deal with remedial matters where tax legislation is not achieving its policy intent. Remedial work is informed from a variety of sources external and internal to Inland Revenue.

Any concerns identified by stakeholders about the proposed approach discussed in this RIA would be considered for priority as part of the remedial items component of the tax policy work programme. If the concerns with the proposal are more substantive, consideration would be given to prioritising the matter on the tax policy work programme.