TE TAI ŌHANGA
THE TREASURY

Reference: 20200401

12 February 2021

[redacted]

Thank you for your Official Information Act request, received on 25 November 2020. You requested the following:

> *Treasury Report T2020/2180: KiwiRail Equity Drawdown to Fund Multiple Projects*
>
> *Aide Memoire T2020/2182: Meeting with Canadian Minister of Finance, Hon Bill Morneau*
>
> *Treasury Report T2020/2214: Border settings: establishing a co-payment scheme*
>
> *Treasury Report T2020/2003: SOE Portfolio (delegated): Director Fee Approvals for 2020/21*
>
> *Treasury Report T2020/624: Proactive Release of Letters of Expectation 2020/21*
>
> *Treasury Report T2020/2002: SOE Portfolio (non-delegated): Director Fee Approvals for 2020/21*
>
> *Joint Report by the Treasury and Ministry of Transport T2020/2205: Further advice on the NZ Upgrade Programme Establishment Reports*
>
> *Treasury Report T2020/1998: NZ Green Investment Finance Ltd: Director Fee Approval for 2020/21*
>
> *Treasury Report T2020/2031: Stockton Mine*
>
> *Joint Report by the Treasury and Ministry of Transport T2020/2544: Auckland Light Rail - next steps*
>
> *Treasury Report T2020/2114: PREFU 2020 Specific Fiscal Risks*

1 The Terrace
PO Box 3724
Wellington 6140
New Zealand
tel. +64-4-472-2733
https://treasury.govt.nz

On 21 December 2020, I wrote to you to extend the time limit for deciding on your request by an additional 20 working days, due to the consultation necessary.

Information being released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	2 July 2020	Treasury Report T2020/2180: KiwiRail equity drawdown to fund multiple projects	Release in part
2.	2 July 2020	Aide Memoire T2020/2182: Call with Canadian Minister of Finance, Hon Bill Morneau	Release in part
3.	2 July 2020	Treasury Report T2020/2214: Border settings: establishing a co-payment scheme	Release in part
4.	3 July 2020	Treasury Report T2020/2003: SOE portfolio (delegated): Director fee approvals for 2020/21	Release in part
5.	3 July 2020	Treasury Report T2020/624: Proactive release of Letters of Expectation 2020/21	Release in part
6.	9 July 2020	Treasury Report T2020/2002: SOE portfolio (non-delegated): Director fee approvals for 2020/21	Release in part
7.	16 July 2020	Joint Report T2020/2205: New Zealand Upgrade Programme - final Establishment Reports and delegations	Release in part
8.	22 July 2020	Treasury Report T2020/1998: NZ Green Investment Finance Ltd: Director fee approval for 2020/21	Release in part
9.	20 July 2020	Treasury Report T2020/2031: Stockton Mine	Release in part
10.	27 July 2020	Joint Report T2020/2544: Auckland Light Rail - next steps	Release in part
11.	30 July 2020	Treasury Report T2020/2114: PREFU 2020 specific fiscal risks	Release in part

I have decided to release the relevant parts of the documents listed above, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

- section 6(a) – to protect the security or defence of New Zealand or the international relations of the Government of New Zealand,
- commercially sensitive information, under section 9(2)(b)(ii) – to protect the commercial position of the person who supplied the information, or who is the subject of the information,

- section 9(2)(ba)(i) – to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied,

- advice still under consideration, section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials,

- certain sensitive advice, under section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions,

- names and contact details of officials, under section 9(2)(g)(ii) – to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment,

- section 9(2)(h) – to maintain legal professional privilege,

- section 9(2)(i) – to enable the Crown to carry out commercial activities without prejudice or disadvantage,

- confidential information, under section 9(2)(j) – to enable the Crown to negotiate without prejudice or disadvantage, and

- direct dial phone numbers of officials, under section 9(2)(k) – to prevent the disclosure of information for improper gain or improper advantage.

Direct dial phone numbers of officials have been redacted under section 9(2)(k) in order to reduce the possibility of staff being exposed to phishing and other scams. This is because information released under the OIA may end up in the public domain, for example, on websites including Treasury's website.

Information publicly available

The following information is covered by your request and is publicly available on the Treasury website:

Item	Date	Document Description	Website Address
1.	3 July 2020	Attachments to Treasury Report T2020/624: Proactive Release of Letters of Expectation 2020/21 (item 5)	https://www.treasury.govt.nz/publications/information-release/shareholder-expectations-letters
2.	30 July 2020	Fiscal Sensitivities in Treasury Report T2020/2114: PREFU 2020 specific fiscal risks (item 11)	https://www.treasury.govt.nz/publications/efu/pre-election-economic-and-fiscal-update-2020-html#child-25

Accordingly, I have refused your request for the documents listed in the above table under section 18(d) of the Official Information Act:

- the information requested is or will soon be publicly available.

Some relevant information has been removed from documents listed in the above table and should continue to be withheld under the Official Information Act, on the grounds described in the documents.

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

Jean McDowall
Senior Advisor, Ministerial Advisory

OIA 20200401
Information for Release

IN-CONFIDENCE

TE TAI ŌHANGA
THE TREASURY

Treasury Report: KiwiRail Equity Drawdown to Fund Multiple Projects

Date:	2 July 2020	**Report No:**	T2020/2180
		File Number:	SE-2-25 (KiwiRail Holdings Ltd (KWH))

Action sought

	Action sought	Deadline
Minister for State Owned Enterprises (Rt Hon Winston Peters)	**Sign** the attached share subscription agreement authorising the purchase of $328.85 million in KiwiRail shares **Refer** a copy of this report to the Minister of Transport	15 July 2020
Minister of Finance (Hon Grant Robertson)	**Sign** the attached share subscription agreement authorising the purchase of $328.85 million in KiwiRail shares **Refer** a copy of this report to the Minister of Transport	15 July 2020

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Ann Webster	Principal Advisor, Commercial Performance	s9(2)(k)	s9(2)(g)(ii)	✓
Juston Anderson	Acting Manager, Commercial Performance			

Minister's Office actions

Refer a copy of this report to the Minister of Transport **Return** the signed report and the signed share subscription agreement to the Treasury

Note any feedback on the quality of the report	

Enclosure: **Yes (attached)**
Letter to Ministers increase in capital 30 June 2020 (Treasury:4307239v1)
KiwiRail Marsden Point payment request (Treasury:4307240v1)
KiwiRail Central North Island payment request (Treasury:4307241v1)
KiwiRail Share Agreement (Treasury:4307238v1)

Treasury Report: KiwiRail Equity Drawdown to Fund Multiple Projects

Purpose of Report

1. This report seeks shareholding Ministers' approval for, and execution of, a $328.85 million equity injection into KiwiRail Holdings Limited (KiwiRail).

KiwiRail has requested an equity injection of $328.85 million

2. KiwiRail has provided documents asking that Ministers sign a subscription agreement to authorise an equity drawdown from appropriated funds totalling $328.85 million. These documents are:

   - A letter from the Chair of KiwiRail, Mr Brian Corban, requesting a capital injection of $328.85 million to fund KiwiRail's capital expenditure requirements for KiwiRail's Working Capital, Capital Investment and Debt to Equity conversion. (Attached as Annex One)

   - Payment requests totalling $11.5 million under the terms of two Provincial Growth Fund project Funding Agreements. $0.3 million for the Land Acquisitions for the Marsden Point Rail Link and $11.2 million for the Central North Island Hub Funding Agreement between the Treasury and KiwiRail. (Attached as Annexes Two and Three)

   - A subscription agreement for Ministers' signatures. (Attached as Annex Four).

3. KiwiRail is seeking funding provided in appropriations and funding agreements for 2020/21, as follows:

   - $90 million is the first tranche of the Future of Rail – Working Capital to Support a Resilient and Reliable Rail Freight Network appropriation of $266 million.

   - $174.25 million is for KiwiRail's debt to equity conversion of loans drawn from the Crown.

   - $24.1 million is for the New Zealand Upgrade Programme appropriation of $210.8m appropriation for work as set out in KiwiRail's Establishment Plan.

   - $13 million is for the $64.9 million Rail – KiwiRail Holdings Limited – iReX (Interlslander ferries and terminals) appropriation.

   - $16 million is for the $246.5 million for Rail – KiwiRail Holdings Limited – Rolling Stock Upgrade appropriation.

   - $11.2 million of the $12.3 million for the Provincial Growth Fund Central North Island Freight Hub Funding Agreement.

   - $0.3 million of the $13m Land Acquisitions for the Marsden Point Rail Link Funding Agreement.

4. We have confirmed with the Ministry of Transport that the amounts sought by KiwiRail are within the 2020/21 Vote Transport Appropriations of equity funding made for KiwiRail capital expenditure works.

5. The $328.85 million equity injection sought would be provided to KiwiRail by way of a share subscription. Each shareholding Minister would purchase 164.425 million ordinary shares at $1 per share.

Arrangements for KiwiRail's Debt to Equity Conversion

6. KiwiRail's $174.25 million debt is held in two tranches of $10.75 million and $163.5 million. Conversion of the debt to equity, if agreed by Ministers will occur in accordance with KiwiRail's loan agreement which specifies that the loan tranches can be repaid at their quarterly interest dates. $10.75 million will be converted to equity on 15 July 2020 and $163.5 million will be converted on 17 September 2020.

Funding sought for the New Zealand Upgrade Programme is consistent with KiwiRail's Establishment Report

7. Work continues on the development of the reporting framework and oversight arrangements for the New Zealand Upgrade Programme with KiwiRail providing an updated Establishment Report. Although these arrangements are not yet in place, consistent with the Ministerial direction to complete work as soon as possible, KiwiRail has been making progress with its projects within the overall programme.

8. Given KiwiRail's projects were supported by well-advanced business cases and the funding sought is consistent with KiwiRail's Establishment Plan, we support KiwiRail's request for the equity funding to continue the development of its projects.

Impact of COVID-19 for KiwiRail's ability to continue its operations and capital investment projects

9. KiwiRail has previously advised that it expects to incur revenue losses during 2020/21 as a result of the impact of the COVID-19 pandemic. It submitted a bid for COVID-19 Response and Recovery Fund for relief from revenue pressures anticipated in 2020/21 for revenue losses related to its Tourism, Property and Freight businesses.

10. We have asked KiwiRail for information to support its funding request. With the return to Alert levels 1 and 2, KiwiRail's revenue has been improving. We want to work with KiwiRail to understand its overall position, and the options and timing for any Government support and will provide you a separate briefing on responding to KiwiRail's request for the financial relief from the impacts of COVID-19.

11. In preparing this report, we have confirmed that KiwiRail expects to have sufficient funding to continue operating, including carrying out its planned capital investment projects, until its next equity injection request in September 2020.

12. The Ministry of Transport and the Ministry of Business, Innovation and Employment have been consulted on this paper.

Risks

13. While there are a range of risks associated with both the projects, including as a result of the COVID-19 pandemic, there are no significant risks associated with signing the subscription agreement. KiwiRail's requests are consistent with the Estimates of Appropriations and the arrangements for each project.

Next Steps

14. The process for shareholding Ministers to approve and execute this equity drawdown is for each Minister to sign their copy of the share subscription agreement that is attached to this report as Annex Four.

15. Each shareholding Minister can sign a separate copy, or counterpart, of this share subscription agreement. It is not necessary for both Ministers to sign the same copy. The share subscription agreement complies with the legal requirements of the Companies Act 1993, the State-Owned Enterprises Act 1986 and with KiwiRail's constitution. Electronic signatures are acceptable.

16. The equity drawdown is scheduled to occur before Wednesday, 15 July 2020.

Recommended Action

We recommend that you:

a **sign** the attached share subscription agreement authorising the issuing of, and subscription for, $328.85 million of ordinary capital in KiwiRail to be paid before Wednesday, 15 July 2020.

Agree/disagree. Minister for State Owned Enterprises	*Agree/disagree.* Minister of Finance

b **note** that the share subscription includes shares to convert KiwiRail's debt to equity, which will occur on 15 July 2020 for $10.75 million and on 17 September 2020 for $163.5 million, in accordance with the loan agreement.

Noted. Minister for State Owned Enterprises	*Noted.* Minister of Finance

c **refer** a copy of this report and the attached material to the Minister of Transport.

Agree/disagree. Minister for State Owned Enterprises	*Agree/disagree.* Minister of Finance

Juston Anderson
Acting Manager, Commercial Performance

Rt Hon Winston Peters **Minister for State Owned Enterprises**	Hon Grant Robertson **Minister of Finance**

30 June 2020

Rt Hon Winston Peters
Minister for State Owned Enterprises
Parliament Buildings
WELLINGTON

Hon Grant Robertson
Minister of Finance
Parliament Buildings
WELLINGTON

Dear Ministers

INCREASE IN CAPITAL FOR KIWIRAIL HOLDINGS LIMITED

The purpose of this letter is to request your approval to increase the capital in KiwiRail Holdings Limited ("KRHL") by $328.85m.

This request is broken down into three different tranches:

- $90m is the first Government appropriation for FY21 in accordance with KiwiRail's operating plan;
- $174.25m is for KiwiRail's Debt to Equity conversion of loans drawn from the Debt Management Office;
- $64.6m is for the following elements of KiwiRail's Capital Investment programme:
    - $16m is part of the $246.5m FY21 Government appropriation for rolling stock;
    - $13m is part of the $64.9m FY21 Government appropriation for the iReX (ferries and terminals) project; and
    - $24.1m is part of the $210.8m FY21 Government appropriation for the New Zealand Upgrade Programme;
    - $11.2m is part of the $12.3m FY21 Government appropriation for the CNI Freight Hub;
    - $0.3m is part of the $13m FY21 Government appropriation for the Marsden Point Line land acquisitions.

On 26 May 2020, the Board of KRHL resolved to recommend to you that the capital of KRHL be increased for the items listed above.

In addition, please find attached the payment request forms for CNI Freight Hub and Marsden Point Line Land per their respective PGF Funding Agreements.

Consistent with the process adopted by Treasury officials and KiwiRail for previous capital increases, if this request is approved it is anticipated that $165.35m of the capital increase will be deposited with KRHL on 15 July 2020 with shares subscribed and issued on that date. The balance of $163.5m of the capital interest will be deposited with KRHL on 17 September 2020 with shares subscribed and issued on that date and used for repayment of the second and final loan drawn from the Debt Management Office.

Enclosed is a Share Subscription and Entitled Persons' Agreement to record your:

- approval to KRHL issuing ordinary shares in connection with the proposed capital increase (as required by KiwiRail's constitution); and

- agreement to subscribe for such shares.

Yours sincerely

Brian Corban, CNZM QSO
Chairman

KiwiRail

To: THE TREASURY

Dated: 30 June 2020

PAYMENT REQUEST NO 2

1. We refer to the Funding Agreement dated 07 May 2020 for Land acquisitions for Marsden Point Rail Link between KiwiRail Holdings Limited as recipient (**Recipient**) and The Treasury (**Treasury**) (the **Agreement**). Terms defined in the Agreement have the same meaning in this Payment Request.

2. This is a Payment Request for the purpose of clause 1.4 of the Agreement.

3. The amount of Funding requested is $0.3m excluding GST if any.

4. The Funding requested in this Payment Request is required to meet the following Eligible Costs that are forecast by KiwiRail for the project in FY21-P1:

Land acquisitions for Marsden Point Rail Link

	Cost Phasing								
$m	FY20	FY21-P1	FY21-P2	FY21-P3	FY21	FY22	FY23	Total	Funding Agreement
Project costs and consultancy	s9(2)(b)(ii)								
Land purchases									
Total									**40.0**
1st funding drawdown (FY20-P3)									
2nd funding drawdown (FY21-P1)									

NOTE: P1 = 1 Jul to 31 Oct, P2 = 1 Nov to 29 Feb, P3 = 1 Mar to 30 Jun

5. Each of the items referred to in paragraph 6 are Eligible Costs for the purpose of the Agreement have been paid or are currently due and payable or are expected to become payable within the Funding Period to which this Payment Request relates.

6. A copy of the share subscription and entitled persons agreement is attached.

7. We confirm that no Termination Event is subsisting.

8. There are no departures or anticipated departures from the Acquisition Strategy to report.

By and on behalf of the Recipient by

Greg Miller

Group Chief Executive Officer

Authorised Officer

KiwiRail

To: THE TREASURY

Dated: 30 June 2020

PAYMENT REQUEST NO 3

1. We refer to the Funding Agreement dated 16 November 2018 for the Central North Island Regional Growth Hub between KiwiRail Holdings Limited as recipient (**Recipient**) and The Treasury (**Treasury**) (the **Agreement**). Terms defined in the Agreement have the same meaning in this Payment Request.

2. This is a Payment Request for the purpose of clause 1.4 of the Agreement.

3. The amount of Funding requested is $11.2 excluding GST if any.

4. The Funding requested in this Payment Request is required to meet the following Eligible Costs that are forecast by KiwiRail for the first two quarters of FY21:

Central North Island Regional Growth Hub

$m	Cost Phasing							Total	Funding Agreement
	FY20	FY21-Q1	FY21-Q2	FY21-Q3	FY21-Q4	FY21	FY22		
	s9(2)(b)(ii)								
Project costs and consultancy									
Land purchases									
Total									**40.0**
1st funding drawdown (FY20-Q1&2)									
2nd funding drawdown (FY20-Q3&4)									
3rd funding drawdown (FY21-Q1&2)									

5. Each of the items referred to in paragraph 6 are Eligible Costs for the purpose of the Agreement have been paid or are currently due and payable or are expected to become payable within the Funding Period to which this Payment Request relates.

6. A copy of the share subscription and entitled persons agreement is attached.

7. We confirm that no Termination Event is subsisting.

Except to the extent otherwise agreed in writing by the Treasury, all those items forming part of the Eligible Costs identified in the previous Payment Request as due or becoming due and payable, have been paid in full (subject to the terms of any retentions as agreed between the Recipient and a Contractor

By and on behalf of the Recipient by

Greg Miller

Group Chief Executive Officer

Authorised Officer

KIWIRAIL HOLDINGS LIMITED ("COMPANY")

SHARE SUBSCRIPTION AND ENTITLED PERSONS' AGREEMENT

DATED 30 June 2020

BACKGROUND

A. The Minister of Finance and the Minister for State Owned Enterprises (each a "**Shareholder**" and together "**Shareholders**") wish to make a capital contribution of NZ$328,850,000 in the Company in the Crown's financial year ending 30 June 2021 by way of subscribing for fully-paid shares in the Company.

B. Pursuant to section 10 of the State-Owned Enterprises Act 1986, the Shareholders may subscribe for shares in the Company in equal proportion from time to time.

C. Section 107(2) of the Companies Act 1993 ("**Act**") permits a Company to issue shares without complying with the provisions of section 42, 44 or 45 of the Act if all entitled persons have agreed.

D. Accordingly, each Shareholder wishes to subscribe for, and the Company wishes to issue to each Shareholder, 164,425,000 ordinary shares at the issue price of NZ$1 per share.

AGREEMENT

1. Each Shareholder agrees to subscribe for, and the Company agrees to issue to each Shareholder, on 15 July 2020 and/or on such later date(s) on which the name of the Shareholder is entered in the share register of the Company as holder of the relevant shares as contemplated in clause 4 below, 82,675,000 ordinary shares (a total of 165,350,000 newly issued ordinary shares). Each Shareholder agrees to subscribe for, and the Company agrees to issue to each Shareholder, on 17 September 2020 and/or on such later date(s) on which the name of the Shareholder is entered in the share register of the Company as holder of the relevant shares as contemplated in clause 4 below, 81,750,000 ordinary shares (a total of 163,500,000 newly issued ordinary shares).

2. The shares shall be ordinary shares that shall rank in full for all dividends declared by the Company after the date of issue and shall rank in all respects equally with the existing ordinary shares in the Company.

3. Each Shareholder shall pay to the Company on 15 July 2020 and/or on such date(s) agreed with the Company (but no later than 30 June 2021), a subscription amount of NZ$1 per share in respect of each of the 82,675,000 shares. Each Shareholder shall pay to the Company on 17 September 2020 and/or on such date(s) agreed with the Company (but no later than 30 June 2021), a subscription amount of NZ$1 per share in respect of each of the 81,750,000 shares. The payments shall be made in immediately available funds. The Shareholders shall ensure that they each pay to the Company at the same time equal amounts of the subscription amount(s) so that each Shareholder is issued the same number of shares, and the total number of shares held by each Shareholder remains at one-half of the total shares in the Company.

4. Subject to clause 3, the Company shall issue to each Shareholder one share per NZ$1 of subscription amount received from the Shareholder, by entering the Shareholder's name in the share register for the Company as the holder of such share.

5. Each Shareholder hereby:

(a) pursuant to clause 8.2 of the constitution of the Company, authorises the Company to issue the shares contemplated in this agreement;

(b) consents, for the purposes of section 50 of the Act, to becoming the holder of the shares to be issued in accordance with this agreement; and

(c) agrees, for the purposes of section 107(2) of the Act, to the issue of shares contemplated in this agreement.

6. This agreement may be executed in any number of counterparts, all of which will together constitute one and the same instrument. Each of the parties may execute this agreement by signing any such counterpart.

EXECUTION BY PARTIES

SIGNED by **KIWIRAIL HOLDINGS LIMITED** by its authorised signatory:

Signature of authorised signatory

30 June 2020
Date

Greg Miller
Name of authorised signatory

SIGNED by **MINISTER FOR STATE OWNED ENTERPRISES**:

Rt Hon Winston Peters

Date

SIGNED by **MINISTER OF FINANCE**:

Hon Grant Robertson

Date

IN-CONFIDENCE

TE TAI ŌHANGA
THE TREASURY

Reference: T2020/2182 IM-3-7 (Canada)

Date: 2 July 2020

To: Minister of Finance (Hon Grant Robertson)

Deadline: Before your meeting on 4 July 2020.

Aide Memoire: Call with Canadian Minister of Finance, Hon Bill Morneau

You are speaking with the Canadian Minister of Finance, Hon Bill Morneau, on Saturday 4 July at 9 – 9:30am (5 - 5:30pm, 3 July EDT). Minister Morneau will call you on your mobile.

Purpose

This call was arranged following a virtual meeting in May between Prime Ministers Ardern and Trudeau, in which Rt Hon Ardern proposed a Finance Ministers' discussion of support to businesses in the wake of COVID-19. Canadian finance officials subsequently requested that the call also cover steps being taken to open our economies.

Context

Previous engagements with Minister Morneau

Most recently you met Minister Morneau as part of the virtual 'Five Treasurers' call on Friday 19 June. You last met in person at Davos in January 2019.

Biographical information

Bill Morneau was appointed Minister of Finance in 2015. His key achievements in this role include the introduction of the Canada Child Benefit, tax cuts for the middle class and small businesses, and the negotiation of an enhanced Canada Pension Plan.

Previously, he led the large human resources firm Morneau Shepell.

Recent events and 'hot topics'

- It was Canada Day on 1 July.
- On 24 June Fitch Ratings reduced Canada's credit rating from AAA to AA+ due to a deterioration in public finances.
- Canadian media is dominated by stories of regional and sector experiences of reduced health restrictions (including COVID outbreaks among migrant farm workers and in salons).
- Other prominent stories focus on police reform and police funding, as a response to concerns about systemic racism.

Other upcoming and recent New Zealand-Canada engagements

Five Treasurers' meeting

- At the time of writing, the next Five Treasurers' meeting is expected to be held in the week of 13 July. Australia will chair (ahead of the chair rotating), and is expected to focus the discussion on the labour market. Australia will prepare a short note to support this.
- During the 19 June meeting, Minister Morneau said he would like to use future meetings to discuss responses to a potential second wave of COVID, and broad economic recovery approaches. You noted your interest in border controls, monetary policy alongside fiscal policy, and international trade.

Recent Ministerial engagements include:

- You had a virtual meeting with Hon Mona Fortier, Minister of Middle Class Prosperity and Associate Minister of Finance, on 23 June to discuss COVID and wellbeing.
- Several other virtual meetings: Prime Ministers Ardern and Trudeau had a call in May about COVID responses; phone calls on 24 June between Climate Change Minister Hon James Shaw and Agriculture Minister Damien O'Connor with their respective counterparts.
- A number of in person visits over the last year: Hon Ron Mark in January 2020; Hon Tracey Martin in October 2019; Hon Carmel Sepuloni in June 2019; Hon Dr Megan Woods in May 2019; and Hon Nanaia Mahuta in April 2019.

Recent and upcoming engagements between Treasury and Canadian officials include:

- Canadian, New Zealand and Australian officials are meeting virtually on 6 July to discuss the APEC Finance Ministers' Process in 2020 and 2021.
- A virtual Five Treasuries' CEs' meeting (including Canada and New Zealand) took place on 24 June, focused on the economic recovery from COVID. In May the New Zealand and Canadian Treasury Secretaries had a bilateral call.
- In February 2020 New Zealand and Canadian officials discussed the Living Standards Framework and the broader Wellbeing Approach.

Talking points

Possible questions for discussion

- How is Canada thinking about the transition from immediate support measures to recovery?

- How are you thinking about the timing and composition of fiscal stimulus to have maximum impact? What kinds of measures do you see as useful interventions for the kinds of economic shocks we are facing?

- What is your overall strategy for addressing lower economic activity over the longer term? Do you see opportunities to address longer-standing economic challenges?

- How do you think the 'Five Treasurers' calls could be most usefully used?

Current economic outlook

- New Zealand moved down to health alert level 1 on 9 June, and is reopening the economy while maintaining border restrictions. The Treasury's (as yet untested) assumption is that economic activity will be around 7.5% below normal levels under level 1.

- There are some signs that the economic shock may be less severe than we expected in March – but the impacts are still very large.

- Recent modelling from the Treasury forecasts an economic contraction of around 6.5% in the year to June 2021 compared to the previous year. We expect unemployment to peak at around 8.5% later this year.

- Our economic response is built around three overlapping waves. As well as responding to immediate needs and stimulating the economy, we are looking for opportunities to reset the economy to address long-standing challenges. We are still keeping our focus on intergenerational wellbeing.

Economic response - Wave 2 measures

- Our focus is currently on a strategy to support growth and reallocation. The reduction in health restrictions makes it appropriate to start transitioning to a more market-led economic recovery, with measures like the wage subsidy scheme having cushioned the blow of the initial shock.

- That means we are **targeting or looking to exit some immediate support measures**. For example, the wage subsidy scheme has been extended by eight weeks, but firms will have to report a larger reduction in revenue to be eligible (40 percent rather than 30 percent under the earlier scheme). As a result, around 1.1 million jobs are currently supported by the wage subsidy scheme, down from around 1.7 million at its peak – and we expect that to continue to fall over the next two months.

- Although we are starting to exit some schemes, **support continues for the hardest hit people, places, and sectors**. For example:
    - ongoing support to firms, particularly small firms, via the small business cashflow scheme
    - additional funding to social services
    - complements to the wage subsidy scheme to protect jobs, stimulate job creation, and fill skill shortages, like support for the tertiary education sector and training schemes
    - a new temporary COVID-19 Income Relief Payment, which is more generous and has wider eligibility than existing jobseeker support, to help those who have lost a job because of COVID-19 to manage the sudden income loss
    - a $400 million package has been set up for the tourism sector, which includes funding for strategic tourism assets.

- As we move to recovery we are considering the need for further **broad-based demand stimulus this year** as the immediate support measures are withdrawn. The Treasury's published forecasts show that output and employment will remain particularly weak over the rest of this year.

- A key choice is how best to deliver this immediate fiscal stimulus – for example through direct transfers to households or more targeted measures to support investment.

- The Government is making significant infrastructure investment, which will be a source of fiscal support. Some regulatory changes will speed up infrastructure projects approval.

- The Government is also working on approaches to manage health risks and **open up flows of people** for economic and social reasons. This will include setting guiding principles for managed arrivals (quarantine and managed isolation, and the funding of them); immigration settings for essential workers; and arrangements for safe travel zones where COVID-19 is contained or eliminated.

- **Monetary policy** is working alongside fiscal policy to support the economy as neither will be able to close the output gap alone in the short term, and monetary policy cannot tackle some of the firm or sector specific issues we now face. The official cash rate has been cut to 0.25% and a large scale asset purchases programme of up to $60 billion has been launched to provide further support to the economy.

[If needed] Other waves of the economic response

Wave 1 measures

- The key measures to support businesses in the immediate economic response include:
  - the wage subsidy scheme, providing $585 per week to each full time employee (4% of GDP) and has supported just under 1.7 million workers. From 10 June, the scheme was replaced by a more targeted eight-week extension. This is available to firms that have had an at least 40 percent reduction in revenue (rather than 30 percent under the earlier scheme).
  - the $5.2 billion Small Business Cashflow Loan Scheme
  - the Business Finance Guarantee scheme, which provides government backed loans to SMEs (2% of GDP)
  - support for SMEs through loosening tax continuity rules and allowing tax losses to be carried back,
  - commercial rent support, and
  - sector specific support for aviation, border agencies, and media and tourism sectors. Examples of recent sector support include a $400 million package to encourage R&D.
- This has been complemented by support for households and liquidity support. The Reserve Bank purchased up to $30 billion of Government bonds on the secondary market, and an additional $3 billion of Local Government Bonds (totalling almost 11% of GDP).
- Lessons:
  - the principles underpinning response have stood us in good stead: act swiftly with no regrets; improve cashflow and confidence; act in coordination to secure and support our financial and business sector.

- operational feasibility and speed have been critical in delivering the response, and can be achieved via high trust models and using existing delivery channels. The wage subsidy has been an example of this, in place 19 days after the first local COVID case was detected. It has been effective in preserving employment and firms from failure, with employment holding up relatively well despite significant falls in activity.
- take up of some business liquidity measures has been lower than originally expected, which I understand Canada has also experienced.

Wave 3 measures

- The Government is also considering options to 'reset' the economy, to take account of the massive disruption to some sectors, and to address some of the long-standing challenges we face.
- Alongside this, we must chart a course back towards a sustainable fiscal position – but must balance this with rebuilding other capitals.

[If needed] Overseas investment

- We recently reformed our investment rules to ensure New Zealand assets will be better protected from being sold to overseas owners in a way contrary to the national interest, and to cut unnecessary red tape to help our economic recovery. I understand Canada is also enhancing its scrutiny of where risks could arise.
- As you'll be aware, the economic downturn has changed the foreign investment risk environment. Falling firm values, in particular, pose a risk to New Zealand given our overseas investment regime is set around transaction thresholds – many transactions may no longer be subject to review.
- In response, we have enacted legislation that introduces new tools empowering the government to:
  - decline any investment already screened if it is contrary to our national interest, and
  - temporarily review any controlling investment in a New Zealand business, irrespective of the size of that investment.
- The temporary review measure will remain as long as the pandemic and related economic downturn continue to have a significant impact in New Zealand.
- It will then be replaced by a tool to review investments in strategically important businesses for national security and public order risks.
- We have also introduced measures to remove unnecessary red tape, in recognition of the importance of high-quality foreign investment.
- I value the cooperation between our governments on investment issues. Canadian officials at the Department of Innovation, Science and Economic Development provided useful advice as part of earlier stages of the reform.

[If needed] APEC 2021

Host year

- The Government recently announced that New Zealand will proceed with hosting APEC in 2021 using virtual platforms. The global disruption caused by COVID, including border restrictions, has been the major factor in the decision.
- APEC has an important role to play as the region responds to the crisis, and we are keen to ensure our year supports this.

Finance Ministers' agenda

- I welcome the offer the Canadian Department of Finance has made to support New Zealand to reflect wellbeing and inclusive growth in our host year themes. I understand officials will shortly discuss this.
- We expect COVID will be front and centre in the Finance stream's efforts over the next few years. However, we still very much believe a wellbeing lens should shape how we go about this. s6(a) and s9(2)(f)(iv) [redacted]

Appendix: Background information about Canada

Impacts of COVID-19[1]

Health measures to respond to COVID

- Containment measures came into force from mid to late March, and began lifting from 4 May, with reopening now underway throughout the country.

- There have been over 100,000 cases and over 8,500 deaths. As at late June, public health authorities described transmission as largely under control, and daily reported infections were in steady decline, though some provinces experienced their highest case numbers since May.

Economic impacts of COVID

Canada: Demand, output and prices (single-hit scenario)

Canada: single-hit scenario	2016 Current prices CAD billion	2017	2018	2019	2020	2021
		Percentage changes, volume (2012 prices)				
GDP at market prices	2 025.5	3.2	2.0	1.7	-8.0	3.9
Private consumption	1 184.6	3.6	2.1	1.6	-8.8	5.7
Government consumption	426.3	2.3	3.0	2.1	1.1	2.3
Gross fixed capital formation	461.3	3.6	1.2	-0.4	-10.9	4.9
Final domestic demand	2 072.2	3.3	2.1	1.3	-7.1	4.8
Stockbuilding[1]	1.1	0.9	-0.2	0.1	-0.8	0.0
Total domestic demand	2 073.3	4.1	1.9	1.4	-7.9	4.8
Exports of goods and services	638.1	1.4	3.1	1.3	-6.8	6.9
Imports of goods and services	685.9	4.2	2.6	0.6	-6.9	8.9
Net exports[1]	- 47.8	-1.0	0.1	0.2	0.2	-0.9
Memorandum items						
GDP deflator	_	2.5	1.8	1.9	0.5	0.8
Consumer price index	_	1.6	2.2	2.0	0.9	1.3
Core consumer price index[2]	_	1.6	1.9	2.1	1.2	1.3
Unemployment rate (% of labour force)	_	6.3	5.8	5.7	8.9	8.0
General government financial balance (% of GDP)	_	-0.1	-0.4	-0.3	-7.5	-2.6
General government gross debt (% of GDP)	_	95.2	93.8	94.5	103.7	104.8
Current account balance (% of GDP)	_	-2.8	-2.5	-2.0	-3.1	-4.2

1. Contributions to changes in real GDP, actual amount in the first column.
2. Consumer price index excluding food and energy.
Source: OECD Economic Outlook 107 database.

- The COVID-19 crisis is bringing two economic shocks – the direct impact from containment measures and an indirect impact via commodity markets, with low oil prices and weak demand.

- Canada's economy contracted at an annualized pace of 8.2% in the first quarter. Preliminary information indicates an 11% decline in real GDP in April. The unemployment rate rose to 13.7% in May.

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1 Sourced from OECD Economic Outlook 2020 Volume 1, Statistics Canada, and media reporting.

- April's international trade report (released 4 June) underscored severe impacts on Canadian trade flows. Merchandise exports fell by 29.7% in April to the lowest level in more than 10 years. Merchandise imports declined by 25%. Almost all of the reduction in trade activity was due to lower trade flows with the United States.

- Canada's large sectors continue to be heavily affected. Energy prices were down 23.7% on a year-over-year basis in April, and energy exports fell by over 40%. Cross-border travel between the US and Canada at a near standstill. Accommodation services contracted 30.9% in March, and major Canadian airline carriers reported a 41% decline in revenues.

- Most commentators agree that Canada was well enough positioned to weather the impact, with the federal government having the lowest debt-to-GDP ratio in the G7.

- However, recovery is expected to be sluggish. The future path of oil price and demand is a key source of uncertainty and risk, and recovery will depend substantially on developments in the United States. Financial market risks remain.

Economic policy responses to COVID-19

Measures to date

- Federal government spending and tax measures that have a direct budgetary impact are equivalent to around 7% of GDP (other support has been provided at provincial and territory level). Key planks are:

    - the Canada Emergency Response Benefit for workers losing income due to COVID-19, and

    - the Canada Emergency Wage Subsidy, providing a wage-bill subsidy of up to 75% to employers for up to three months.

- Other support includes tax deferrals, forgivable loans enable property owners to give commercial rent relief, interest-free loans, loan guarantees and co-lending programmes, and support for families through tax credits and child benefits.

- The government has not provided industry specific bailouts.

- The Bank of Canada lowered its policy rate by 150 basis points, to 0.25%. It has also supported liquidity through a reduction in the Domestic Stability Buffer Requirement and through more favourable conditions in the term repo market. Balance-sheet operations have been used to support the markets for government and mortgage bonds. The Bank has similarly supported markets that are important for the financing of provincial-government and SMEs.

Next steps in the economic response

- Finance Minister Morneau is reported to be working on a host of changes to federal programmes as health restrictions are rolled back. The Canada Emergency Response Benefit was extended until the end August on 16 June. Further announcements are expected on an extension of eligibility to the wage subsidy programme (which was undersubscribed relative to expectations), and new options for SMEs to access emergency loans.

- A major challenge will be developing a plan for the federal government's finances during the recovery. Parliamentary Budget Officer Yves Giroux has estimated that the federal deficit is on track to be nearly five times larger than the deficit during the financial crisis in 2009.

- The planned March budget was delayed, to be rescheduled once the economy stabilises. The government plans a fiscal update on 8 July to provide a 'snapshot' of where the economy is, how Canada's response compares to that of other countries, and what can be expected in coming months.

Canada - key facts[2]

The New Zealand-Canada relationship

- Canada is one of the largest sources of new foreign direct investment into New Zealand, driven by the activities of large pension funds that are in a rapid growth phase and seeking stable overseas markets. Services exports drove strong trade growth and made up 40% of total exports to Canada in 2019, one of the highest ratios for any of New Zealand's export destinations. However this has been severely impacted by COVID-19. Under CPTPP, 99% of existing New Zealand exports are tariff-free.

- The New Zealand and Canadian (Liberal Party) government agendas are closely aligned, and we have a number of similar domestic policy priorities. Canada's interest in looking to New Zealand for responses to policy issues has increased under the Trudeau administration. Policy makers regularly share perspectives.

Canadian political overview

- In the October 2019 federal election, the Liberal Party secured a second term, but without a majority. s6(a) and s9(2)(g)(i) [redacted]

2 Material supplied by MFAT.

- s6(a) and s9(2)(g)(i)

Political system key facts

Political system:	Canada is a confederation with a parliamentary democracy.
Federal Government:	Liberal Party (minority government)
Federal legislature:	Bicameral Parliament consisting of a House of Commons and an appointed Senate
Last election:	21 October 2019
Next election due:	October 2023
Head of government:	Prime Justin Trudeau (since 4 November 2015)
Head of state:	Queen Elizabeth II. Represented by Governor General, Her Excellency Julie Payette.

Economic overview (2019)

GDP:	US$1.65 trillion (2019)
GDP growth:	1.6% (2019)
GDP per capita:	US$51,357 (2019)
Total exports:	US$447 billion (2019)
Main exports:	Crude Petroleum, Cars, Refined Petroleum, Vehicle Parts and Petroleum Gas.
Total imports:	US$453 billion (2019)
Main imports:	Cars, Delivery Trucks, Refined Petroleum, Crude Petroleum and Computers.
Unemployment:	13.7% (May 2020)

Canadian trade profile – key points
Canada is a G7 member. Its trade with the USA is the largest bilateral trading relationship in the world.
Agriculture, energy, mining and forestry account for more than 50% of total exports. Machinery, equipment and other manufactures account for the majority of the rest.
Capital goods imports include machinery, crude oil, chemicals, and durable consumer goods.

New Zealand trade with Canada (year ended March 2020)	
Ranking	NZ's 14th largest trading partner
NZ Exports	NZ$1.23 billion NB: *Actual may be higher as some products are re-exported to Canada via the United States and not reflected in official statistics*

Main exports	Tourism, beef, wine, lamb, agritech
NZ Imports	NZ$915.07 million
Main imports	Aircraft parts, tourism, fertilizers, wood products

Jennie Marjoribanks, Senior Analyst, International, s9(2)(k)
Thomas Parry, Manager, International, s9(2)(k)

IN-CONFIDENCE

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Border settings: establishing a co-payment scheme for managed isolation and quarantine

Date:	2 July 2020	**Report No:**	T2020/2214
		File Number:	IM-0-0 (International Memberships and Trade - General)

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Note** the contents of this report	N/A

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Mary Llewellyn-Fowler	Senior Analyst, International	s9(2)(k)	N/A (mob)	✓
Kate Yesberg	Team Leader, International		N/A (mob)	

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report	

Enclosure: No

Treasury Report: Border settings: establishing a co-payment scheme for managed isolation and quarantine

Recommended Action

We recommend that you:

1. **Note** the contents of this report

   Agree/disagree.

Kate Yesberg
Team Leader, International

Hon Grant Robertson
Minister of Finance

Treasury Report: Border settings: establishing a co-payment scheme for managed isolation and quarantine

Purpose of report

1. On 29 June, Cabinet considered a paper from the Minster of Housing on establishing a co-payment scheme for users of managed isolation and quarantine (MIQ) facilities and noted that the Minister would undertake further work on the matter [CAB-20-MIN-0317 refers]. At the pre-Cabinet meeting you requested more information on the scheme, particularly on:

   - Financial sustainability: why the recently allocated $298m will be exhausted by October

   - Timing: why officials recommend introducing legislation for the co-payment scheme in November

   - Design: how the co-payment scheme will work in practice, including how equity issues will be addressed

2. This report provides you with that information.

Financial sustainability

Current funding has been exhausted

3. On 16 June, Cabinet agreed to appropriate an additional $298 million to Vote Health to cover increased demand for MIQ facilities through to the end of 2020 [CAB-20-MIN-0284 refers].

4. This funding is now forecast to be exhausted by October, primarily due to volumes of arrivals being higher than forecast: while the $298 million figure was based on an increase of four per cent per fortnight, to 288 arrivals per day on average, actual arrivals have been around 304 per day. Demand is expected to continue to increase as restrictions ease, flight options increase and New Zealand's economy moves further into the recovery phase (increasing demand for further exemptions e.g. for international students and workers).

5. In addition, the $298 million was also largely based on the operating model in early June. However:

   a. As demand has increased, other centres (such as Rotorua) have increasingly been used for accommodation. Use of smaller centres is unlikely to realise the same economies of scale (staff working across several facilities, for instance), and results in increased transit costs (buses, domestic flights) and additional costs for staff (such as accommodation if required); and

   b. As a result of recent issues, staffing requirements have increased.

Additional funding is being sought

6. On 30 June, Cabinet invited Ministers to report-back to seek agreement to a tagged contingency for additional funding, once modelling of costs for the remainder of 2020/21 had been completed.

7. Treasury met with the Ministry of Business Innovation and Employment (MBIE) on 1 July to discuss funding requirements. MBIE at that stage were seeking a tagged contingency of around $485 million. Costings are still highly provisional, reflecting the high level of uncertainty (including around how MBIE will run MIQ facilities when they transfer to them).

8. This funding includes:

Accommodation, food and staffing	$406 million
Testing	$60 million
Establishment of a supporting entity/structure and contingency for unforeseen increases in costs and/or volumes	$19 million

9. This funding would allow for MIQ facilities to be scaled up to and capped at 8000 places (up from the current 6097 places). A pre-booking system will then enable flows to be managed within that cap (see below for further details).

10. These assumptions do not reflect any potential reduced demand that may arise as a result of safe travel zones, or further policy work that might reduce costs, including:

- Options for co-payments/cost recovery (see below)
- The operating model for MIQ facilities, which could enable regulated private facilities
- The relationship between testing, contact tracing and MIQ requirements, and
- Efficiencies and/or economies of scale,

11. Cabinet will consider further papers on MIQ and border issues later this month, including on future operational settings and a transition plan for moving responsibilities for MIQ from Health to MBIE. Additional funding is likely to be sought as part of the transition plan paper. These papers will provide further opportunity to consider the funding and policy assumptions in the MIQ model.

Demand is being managed

12. To assist with managing the demand for MIQ facilities, on 1 July SWC agreed to introduce a requirement that all passengers (New Zealanders and foreign nationals) have a pre-booked place in MIQ facilities before boarding a flight to New Zealand, and to use an Air New Zealand booking system to manage this process [SWC-20-MIN-0094 refers]. This system is estimated to take three weeks to set up.

13. In the interim, we understand the Minister of Housing is considering how to manage a projected spike in demand in mid-July (at which point there are forecast to be 500+ more arrivals than available places). The OCC is actively working to find places for the extra arrivals, but as a backstop we understand the Ministry of Transport is looking at other options, including:

- Negotiating an arrangement with Air New Zealand to divert aircraft to facilities outside Auckland, cap passenger numbers on some flights, reschedule or cancel flights (as a last resort).
- Asking other airlines to delay putting on additional flights over the next three weeks.
- Delaying repatriation flights.
- Using a health order to cap volumes of people or flights that can arrive in New Zealand on a given day.
- Refusing entry for most cohorts of people for a short period.

14. Some of these options entail significant commercial and reputational risk (i.e. flight cancellations or further border closures), and highlight the need to get a booking system in place as soon as possible. We will seek further clarity from officials the negotiations with airlines continue.

Timing

15. The Cabinet paper proposed three main options for the timing and implementation of the co-payment scheme:

i. **Late 2020 / early 2021**: legislative change enabling a co-payment scheme that can apply to New Zealand citizens and residents, as well as foreign nationals – providing the government with clear legal authority to require people to pay a fee. The paper recommends against passing legislation before the election due to the risks of error arising from working to such tight policy and drafting timeframes (given the House rises on 6 August). If legislation is passed immediately after the election, the co-payment scheme would likely be ready for implementation late 2020 or early 2021.

ii. **August 2020**: implement a co-payment scheme applying to foreign nationals only, through changes to the Immigration Instructions. , The scheme could be introduced relatively quickly (likely in August, once contractual arrangements with accommodation providers had been put in place). However, implementation would be relatively complex and also gives rise to risks including a significant legal risk that the Crown is found to be (indirectly) charging for MIQ without a legal basis to do so. .

iii. **Phased introduction**: proceed with both options in parallel - developing the legislation required to include New Zealand citizens and residents in the co-payment scheme while simultaneously introducing the limited (foreign nationals only) scheme from August (with the risks associated with that approach still present). Foreign nationals could then be brought into the wider legislated scheme when this was implemented.

Design

16. The 29 June Cabinet paper proposed the following design for the co-payment scheme:

Costs recovered	Accommodation and services (including food) – representing approximately 48% (family) - 60% (individual) of total costs. The Crown would continue to cover other costs (e.g. health including testing, welfare and security).
Co-payment rates	Rates could be set on the basis of actual or average contracted accommodation and services costs, or a minimum contribution. If based on average contracted costs, rates for a 14 day period would be approximately: $3,430 for individuals and $7,980 for a family of four
People included	Option 1: all arrivals (including New Zealand citizens and residents, and Australians normally resident in New Zealand). Recommended as would result in the greatest reduction in MIQ costs, given New Zealanders are the vast majority of arrivals. Requires legislative change. Option 2: foreign nationals only (essentially the people who currently require an exception to be allowed to travel to New Zealand). May not require legislative change.
Exemptions	Made on a case by case basis by the Minister of Housing and Minister of Immigration.
Financial assistance	Available to those unable to pay due to hardship, e.g. in the form of a dedicated fund or a repayable loan.

How the scheme would work in practice

17. Payment for MIQ facilities will be integrated into the soon to be established MIQ booking system discussed in paragraph 7. In practice, the process for a traveller would be broadly as follows (see annex for further detail):

- [for a visa holder] Get exception to border closure
- Request MIQ place – selecting arrival date and port
- Accept offer of MIQ place
- [for a visa holder] Get visa

- Book flight to match MIQ booking
- Pay for MIQ place and receive token as proof of booking
- Present evidence of booking to carrier at check in
- Arrive either directly into the city where MIQ will take place, or transfer there from Auckland.
- Go through border clearance at final destination

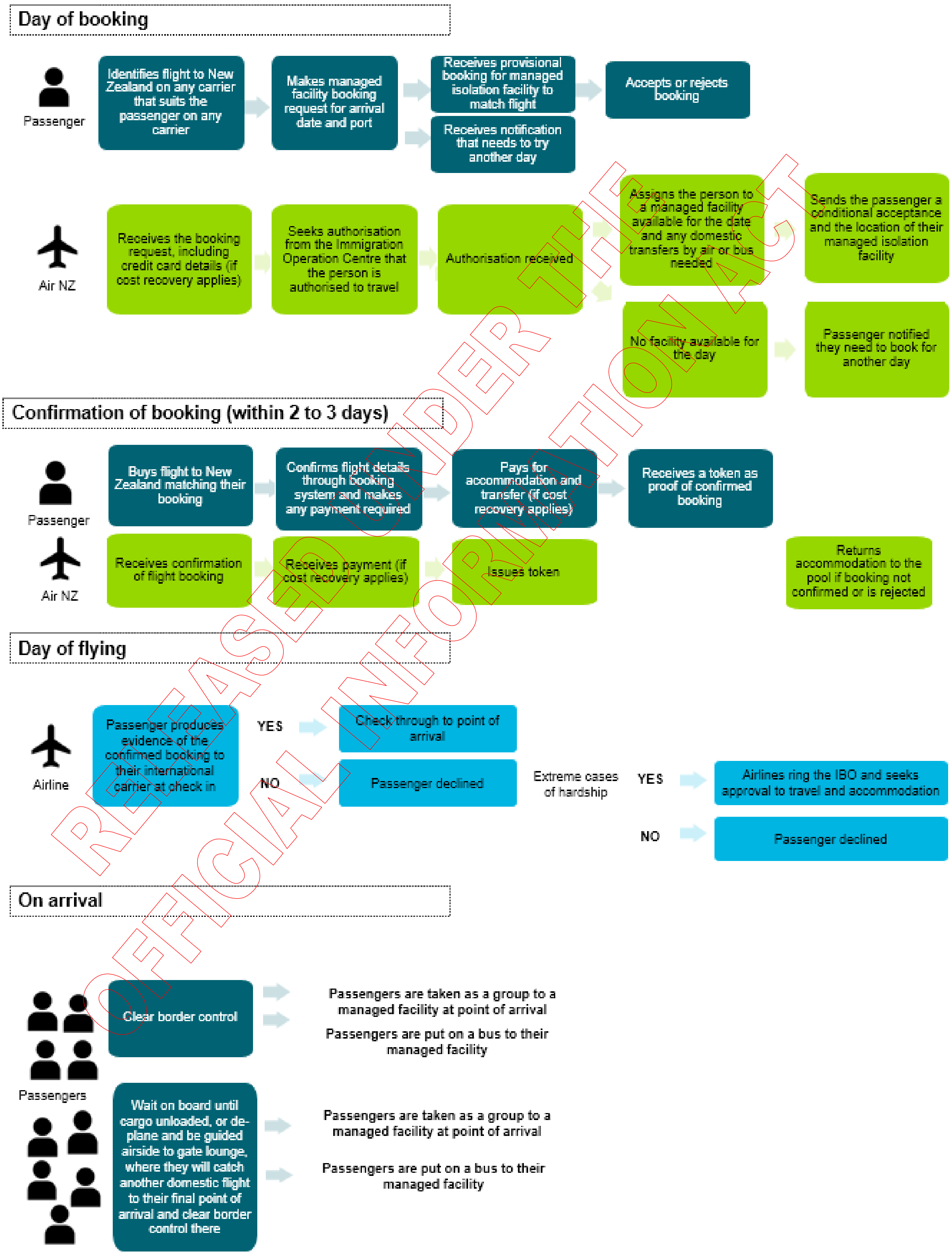
18. MBIE officials are leading further work on the design of the co-payment scheme. We will work closely with them through this next phase, with a focus on ensuring:

- Robust assessment of the various design elements (MBIE has requested our support to undertake a Regulatory Impact Assessment of the proposed scheme).
- Consistency with cost-recovery principles and the Bill of Rights Act 1990 (particularly with regard to charging New Zealanders).
- Consideration of equity implications, particularly relating to who is included and exempted from the scheme (for example, it may be difficult to charge people who have a right to return but easier to do so for those who leave for non-essential purposes).
- Coherence with other relevant policy work.

Next steps

19. Please let us know if you require further advice on any of the matters discussed in this paper. We will keep your office up to date as the policy work develops. Cabinet will consider further papers on MIQ and border issues later this month, including on future operational settings and a transition plan for moving responsibilities for MIQ from Health to MBIE. As noted above, additional funding is likely to be sought as part of the transition plan paper.

Annex: Proposed managed passenger flow process[1]



[1] From SCW paper on *Managing the flow of people across the border and into managed isolation and quarantine*

APPOINTMENT-IN-CONFIDENCE

TE TAI ŌHANGA
THE TREASURY

Treasury Report: SOE Portfolio (delegated): Director Fee Approvals for 2020/21

Date:	3 July 2020	**Report No:**	T2020/2003
		File Number:	CM-0-3-24

Action sought

	Action sought	Deadline
Minister for State Owned Enterprises (Rt Hon Winston Peters)	For your information	None
Minister of Finance (Hon Grant Robertson)	**Note** and **agree** recommendations	As soon as practicable
Associate Minister of Finance (Hon David Parker)	For your information	None
Associate Minister for State Owned Enterprises (Hon Shane Jones)	**Note** and **agree** recommendations, **agree** to sign the letters approving board fee levels for 2020/21	As soon as practicable

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Gael Webster	Manager, Governance and Appointments	s9(2)(k) [redacted]	s9(2)(g)(ii) [redacted]	

Minister's Office actions (if required)

Return the signed report to Treasury.

Send the attached letters to the Chairs with copies to the companies and Treasury.

Note any feedback on the quality of the report	

Enclosure: **Yes (attached)**

Treasury Report: SOE Portfolio (delegated): Director Fee Approvals for 2020/21

Executive Summary

This report addresses the requirement for the companies within your SOE Portfolio to receive formal approval of their director fee levels for 2020/21, together with any special fees and professional development budget to which you agree. The current approvals expire on 30 June 2020, and base fees are being approved at the rate applying in 2019/20, pending decisions on proposed fee increases.

Recommended Action

We recommend that you:

a. **note** that the Companies Act 1993 and the constitutions of Crown companies require board fees to be approved by shareholding Ministers and that, by convention, the responsible Minister signs the approval on behalf of both shareholding Ministers

b. **note** that, as the fees have been determined on the basis of a methodology previously approved by Cabinet, it is not necessary for you to consult with SSC

c. **note** a review of the fees across all Crown companies is currently being considered by Ministers and we will report back regarding the fee levels in due course

d. **note** your approval is also required for the professional development budgets requested by the boards

e. **agree** to pay special fees in 2020/21 to Landcorp ($64,000) and Transpower ($30,000)

Agree / disagree.	*Agree / disagree.*
Minister of Finance	Associate Minister for State Owned Enterprises

f. **agree** to the Associate Minister for State Owned Enterprises signing the attached letters on behalf of both shareholding Ministers to the Chairs of the companies, approving their board fees and professional development budgets for 2020/21.

Agree / disagree.	*Agree / disagree.*
Minister of Finance	Associate Minister for State Owned Enterprises

Gael Webster
Manager, Governance and Appointments

Rt Hon Winston Peters
Minister for State Owned Enterprises

Hon Grant Robertson
Minister of Finance

Hon David Parker
Associate Minister of Finance

Hon Shane Jones
Associate Minister for State Owned Enterprises

Treasury Report: SOE Portfolio (delegated): Director Fee Approvals for 2020/21

Purpose of Report

1. The Companies Act 1993 and the constitutions of Crown companies require board fees to be approved by shareholding Ministers. This report addresses the formal approvals required for SOEs (including 'special fees' and professional development budgets where appropriate) for the payment of 2020/21 board fees.

Background

2. The SOE Portfolio has been covered in two reports to reflect the Ministerial delegations. In this report, the term 'SOE Portfolio' refers to the following SOE boards:

- Airways Corporation of New Zealand Ltd (Airways)
- AsureQuality Ltd (AsureQuality)
- Crown Asset Management Ltd (CAML)
- Electricity Corporation of New Zealand Ltd (ECNZ)
- Kordia Group Ltd (Kordia)
- Landcorp Farming Ltd (trading as Pāmu) (Landcorp)
- Meteorological Service of New Zealand Ltd (MetService)
- New Zealand Post Ltd (NZ Post)
- Quotable Value Ltd (QV)
- Transpower New Zealand Ltd (Transpower)

3. The fees for the boards of the SOEs have been determined on the basis of a methodology initially approved by Cabinet in December 2003. The methodology was updated in 2013.

4. This approval is essentially a mechanical issue, as the amounts are derived from the fee-setting methodology, and are a function of the number of directors on a board. The Chair allowance is two times the unit rate, and the Deputy Chair allowance is 1.25 times the unit rate. As these fee levels have been previously approved, it is not necessary for you to consult SSC.

5. Once the total pool of fees is approved, it is the board's prerogative to determine the allocation of 'ordinary fees' to individual directors.

6. The current fee approvals expire on 30 June 2020. Base fees are being approved at the rate applying in 2019/20. A review of the fees across all Crown companies is currently being considered by Ministers and we will report back in due course.

Professional development requests

7. Approval is also required for the professional development budget requested by each board. Professional development is carried out in the context of a specific board role but it also carries an element of personal benefit, hence the need for Ministerial approval. This is an 'up to' budget – our records show the boards do not usually spend the full allowance.

Special fees requests

8. The boards may seek approval to pay directors 'special fees'. There are no set criteria for what constitutes a 'special fee', but approval must be sought in advance, and they are considered only where directors are required to contribute time over and above what would be considered an ordinary commitment and where the company has provided appropriate justification.

Voluntary reductions in fees in 2020

9. The Treasury has the following information about voluntary reductions being made by the SOEs for 6 months from May 2020. These are acknowledged in the fees approval letters.

Table 1: Voluntary reductions in 2020 for SOE boards and management

Company	Reduction to Chair fee	Reduction to director fees	Reductions for CE or senior mgmt
Airways	20%	20%	30%
Kordia	20% cuts being considered if revenue losses reach 30%		
MetService	20%		20%
NZ Post	20%	20%	20%
QV	20%	20%	20%
Transpower	20%	20% and no special fees for remainder of financial year	20%

Special Fees Requests for 2020/21

Landcorp

10. Landcorp has requested special fees of up to $64,000 to cover membership of four directors ($16,000 per director per annum) on the boards of joint ventures of trading subsidiaries (Focus Genetics Management Ltd, Melody Dairies GP Ltd, Pāmu Academy, and Spring Sheep Dairy NZ Management Ltd).

11. Membership on each of those boards is an additional role for the directors concerned and requires time over and above what is considered an ordinary time commitment of board members.

Transpower

12. Transpower has sought special fees of $60,000 for extensive workload on the commencement of Regulatory Control Period (RCP3), the additional subcommittee to address the Transmission Pricing Methodology, and approval of a number of out of cycle regulatory disclosures. They also consider that the board is markedly different from other SOEs in terms of both workload and risk profile, and claim the workload equates to the another directorship. The board intends to appoint a panel of specialist expert advisors to assist the board due to identified skills gaps.

Issues in approving Special Fees for 2020/21

13. While the Treasury has been sympathetic to requests in previous years, we are becoming more critical of the basis for some of these requests.

14. Last year the Treasury reviewed Transpower's special fee requests over the last decade. We identified a consistent pattern of special fee requests claiming compensation for an additional 2-3 days per month worked per director for several matters that we now consider to fall within the normal 'business as usual' responsibility of the board and normal board workload.

15. Treasury raised these concerns with Transpower last year, and the request for 2019/20 was reduced from $75,000 to $60,000. Treasury recommended providing $30,000 and Ministers approved that amount until the appropriateness of the fee level was reviewed. The review established that the Transpower fee level is significantly below the rate proposed by the review. Not approving special fees would effectively result in a fees cut for the board.

16. Requests are being further scrutinised this year as directors have been asked to acknowledge the strains caused by COVID-19, and many directors of Crown companies are giving more time to help manage the impacts on their organisations.

17. The Treasury considers that payment of special fees for additional work does not constitute a fees increase, so where these are justified they can be approved notwithstanding the pay restraint across the State Sector. The Treasury recommends you approve the special fees for Landcorp as claimed, but only half of what is claimed by Transpower, consistent with last year's approval.

Summary of 2020/21 fee approvals

18. The current director fee rates, special fees, and professional development budgets for which approval is recommended in this report are summarised below:

Table 2: 2020/21 fees and professional development for SOE boards

Company	Director fee unit rate ($)	Special fees ($)	Professional development budget ($)	Comments
Airways	32,461		26,500	Special fees of $25,000 were approved for 2019/20
AsureQuality	36,000	-	17,500	No change from 2019/20
CAML	36,000	-	-	No change
ECNZ	18,000	-	-	No change
Kordia	36,000	-	18,000	No change
Landcorp	37,612	64,000	24,000	No change
MetService	23,448	-	20,000	No change
NZ Post	52,865	-	24,000	PD budget in 2019/20 was $28,000 (also $4,000 per director)
QV	23,448	-	20,000	No change
Transpower	54,567	30,000	25,000	No change

Financial Implications

19. There are no direct financial implications for the Crown, as all Crown company directors' fees are paid directly from company revenues.

Next Steps

20. If you agree, you are asked to sign and send the attached letters approving the directors' fees for the SOE boards for 2020/21 as soon as possible.

Attached Documents

21. Attached to this report are:

- Annex I: Approval letters to SOE Chairs

Ms Denise Church
Chair
Airways Corporation of New Zealand Ltd
PO Box 294
WELLINGTON 6140
s9(2)(g)(ii)

Dear Ms Church

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for Airways Corporation of New Zealand Ltd (Airways) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $300,300, based on there being eight directors on the Board. The fees are based on a unit rate of $32,461 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

I appreciate the board's voluntary 20% reduction in board fees for six months as a response to COVID-19, and acknowledge the additional workload the response has required of all SOE boards.

I note you have not sought special fees for the Board for 2020/21 and have not spent the special fees that were approved for 2019/20, as directors are mindful of the constrained circumstances of Airways. Ministers appreciate the Board's thoughtfulness in making this decision.

Airways Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$64,922
Deputy Chair	$40,577
Directors (x6)	$194,766
Total fees	**$300,300 (rounded)**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation of 'ordinary fees' to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of $24,000 for Board professional development, based on $3,000 per director (x8). I expect you will have a system in place to record the allocation of the professional development budget.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Katie Bhreatnach, Company Secretary, Airways, PO Box 294, Wellington 6140
s9(2)(g)(ii)

Dr Alison Watters
Chair
AsureQuality Ltd
Private Bag 14946
Panmure
AUCKLAND 1741
s9(2)(g)(ii)

Dear Dr Watters

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for AsureQuality Ltd for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $297,000, based on there being seven directors on the Board for a full year. The fees are based on a unit rate of $36,000 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

AsureQuality Ltd Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$72,000
Deputy Chair	$45,000
Directors (x5)	$180,000
Total fees	**$297,000**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation of 'ordinary fees' to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of up to $17,500 for Board professional development.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Jeremy Hood, CFO, AsureQuality, Private Bag 14946, Auckland 1741,
s9(2)(g)(ii)

Gary Traveller
Chair
Crown Asset Management Ltd
PO Box 778
WELLINGTON 6140
s9(2)(g)(ii)

Dear Mr Traveller

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the director fees for Crown Asset Management Ltd (CAML) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $117,000, based on there being two directors on the Board for a full year. The fees are based on a unit rate of $36,000 per annum.

CAML Board Fees Approval – 2020/21

Ordinary fees	Amount approved
Chair	$72,000
Deputy Chair	$45,000
Total fees	**$117,000**

Notwithstanding the method of calculation of these fees, it is the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees. If the company finalises its activities before the end of the financial year, I expect the fees will be paid pro rata accordingly.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

Mr Victor Wu
Chair
Electricity Corporation of New Zealand (Residual) Ltd
PO Box 930
WELLINGTON 6140
s9(2)(g)(ii)

Dear Mr Wu

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for Electricity Corporation of New Zealand (Residual) Ltd (ECNZ) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $54,000, based on there being two directors on the Board for a full year. The fees are based on a unit rate of $18,000 per annum.

ECNZ Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$36,000
Director	$18,000
Total fees	**$54,000**

Notwithstanding the method of calculation of these fees, it is the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees. If the company finalises its activities before the end of the financial year, I expect the fees will be paid pro rata accordingly.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

Mr John Quirk
Chair
Kordia Group Ltd
PO Box 2495
AUCKLAND 1140
s9(2)(g)(ii)

Dear Mr Quirk

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for Kordia Group Ltd (Kordia) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $297,000, based on there being seven directors on the Board for the full year. The fees are based on a unit rate of $36,000 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

I appreciate the Board's intention to take a 20% voluntary reduction in fees if revenue losses of 30% or more result from COVID-19, and acknowledge the additional workload the response has required of all SOE boards.

Kordia Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$72,000
Deputy Chair	$45,000
Directors (x5)	$180,000
Total fees	**$297,000**

Notwithstanding the method of calculation of these fees, it is the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of up to $18,000 for Board professional development.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Michael Jamieson, Company Secretary, Kordia, PO Box 2495, Auckland 1140
s9(2)(g)(ii)

Dr Warren Parker
Chair
Landcorp Farming Ltd
PO Box 5349
WELLINGTON 6145
s9(2)(g)(ii)

Dear Dr Parker

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for Landcorp Farming Ltd (Landcorp) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $412,000, based on there being eight directors on the Board for the full year, and includes $64,000 in special fees. The fees are based on a unit rate of $37,612 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

Landcorp Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$75,224
Deputy Chair	$47,015
Directors (x6)	$225,672
Special fees	
For directors to serve on the boards of joint ventures of trading subsidiaries	$64,000
Total fees	**$412,000 (rounded)**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation of 'ordinary fees' to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Special Fees

An additional sum of $64,000 is approved as an allowance to cover membership of four directors ($16,000 per director) on the boards of joint ventures of trading subsidiaries (Focus Genetics Management Ltd, Melody Dairies GP Ltd, Pāmu Academy and Spring Sheep Dairy NZ Management Ltd).

This approval is given on the basis that the special fees will be used only for the purpose specified. I expect that you will have a system in place to record the additional duties performed, and that an appropriate record will be kept at Board level of the allocation of the special fees.

Approval is also given to a budget of up to $24,000 for Board professional development.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Alistair McMechan, Company Secretary, Landcorp, PO Box 5349, Wellington 6145
s9(2)(g)(ii)

Ms Sophie Haslem
Chair
Meteorological Service of New Zealand Ltd
PO Box 722
WELLINGTON 6140
s9(2)(g)(ii)

Dear Ms Haslem

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for Meteorological Service of New Zealand Ltd (MetService) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $216,900, based on there being eight directors on the Board for a full year. The fees are based on a unit rate of $23,448 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

I appreciate your intention to take a voluntary 20% reduction in fees for six months as the Chair as a response to COVID-19, and acknowledge the additional workload the response has required of all SOE boards.

MetService Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$46,896
Deputy Chair	$29,310
Directors (x6)	$140,688
Total fees	**$216,900 (rounded)**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of up to $20,000 for Board professional development.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Tina Dustdar, Company Secretary, MetService, PO Box 722, Wellington 6140, s9(2)(g)(ii)

Mr Rodger Finlay
Chair
New Zealand Post Ltd
Private Bag 39 990
Wellington Mail Centre
LOWER HUTT 5045
s9(2)(g)(ii)

Dear Mr Finlay

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for New Zealand Post Ltd (NZ Post) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $370,100, based on there being six directors on the Board for the year, with no Deputy Chair being appointed. The fees are based on a unit rate of $52,865 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

I appreciate the board's intended voluntary 20% reduction in board fees for six months as a response to COVID-19, and acknowledge the additional workload the response has required of all SOE boards.

NZ Post Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$105,730
Directors (x5)	$264,325
Total fees	**$370,100 (rounded)**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation to individual directors.

Approval is also given to a budget of up to $24,000 for Board professional development.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Malcolm Shaw, GM Governance & Sustainability, NZ Post, Private Bag 39 990, Lower Hutt 5045 s9(2)(g)(ii)

Mr Gregory Fortuin
Chair
Quotable Value Ltd
PO Box 3698
AUCKLAND 1140
s9(2)(g)(ii)

Dear Mr Fortuin

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for Quotable Value Ltd (Quotable Value) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $216,900, based on there being eight directors on the Board for a full year. The fees are based on a unit rate of $23,448 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

I appreciate the Board's intended voluntary 20% reduction in board fees for six months as a response to COVID-19, and acknowledge the additional workload the response has required of all SOE boards.

Quotable Value Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$46,896
Deputy Chair	$29,310
Directors (x6)	$140,688
Total fees	**$216,900 (rounded)**

Notwithstanding the method of calculation, it remains the Board's prerogative to determine the allocation to individual directors of the 'ordinary fees' component. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of up to $20,000 for Board professional development.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Jacquie Barker, CEO, Quotable Value, PO Box 3698, Auckland 1140
s9(2)(g)(ii)

Hon Shane Jones

Minister of Forestry
Minister for Infrastructure
Minister for Regional Economic Development
Associate Minister of Finance
Associate Minister for State Owned Enterprises
Associate Minister of Transport

Pip Dunphy
Chair
Transpower New Zealand Ltd
PO Box 1021
WELLINGTON 6140
s9(2)(g)(ii)

Dear Ms Dunphy

Board Fees 2020/21

In this letter I am conveying the approval of shareholding Ministers to the fees for Transpower New Zealand Ltd (Transpower) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $534,800, based on there being eight directors on the Board for a full year, and includes $30,000 special fees as detailed below. The fees are based on a unit rate of $54,567 per annum.

I appreciate the Board's intended voluntary 20% reduction in board fees for six months and non payment of special fees for the remainder of the 2019/20 year as a response to COVID-19, and acknowledge the additional workload the response has required of all SOE boards.

Transpower Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$109,134
Deputy Chair	$68,209
Directors (x6)	$327,402
Special fees	
Special fees for additional workload required of the Board	$30,000
Total fees	**$534,800 (rounded)**

Notwithstanding the method of calculation, it remains the Board's prerogative to determine the allocation to individual directors of the 'ordinary fees' component. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Special Fees

In respect of ‘special fees’, you have requested $60,000 and outlined additional work being required of directors in respect of extensive workload associated with the beginning of RCP3, the additional subcommittee to address the Transmission Pricing Methodology, and approval of a number of out of cycle regulatory disclosures. You have also noted that the Transpower Board is markedly different from other SOEs in terms of both workload and risk profile and claim the workload equates to the another directorship and that the board intends to appoint a panel of specialist expert advisors to assist the board with skills gaps identified.

I note that a review of the past eleven years establishes that there has been a consistent pattern of special fees requests.

Approval is given for special fees of up to $30,000 until such time as consideration by all shareholding Ministers of the review proposing increases across Crown companies is completed, and the appropriateness of the current fees for the Transpower Board determined. This level also recognises that pay restraint is being exercised across the public sector.

I want to be assured that the special fees will be used solely for the purposes you have identified. I acknowledge that you have a system in place to record the additional duties performed, and that an appropriate record will be kept at Board level of the allocation of the special fees.

Approval is also given to a budget of up to $25,000 for Board professional development, as requested.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors’ fees, payments and related policies) of the Owner’s Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Hon Shane Jones
Associate Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc David Knight, Company Secretary, Transpower, PO Box 1021, Wellington 6140
s9(2)(g)(ii)

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Proactive Release of Letters of Expectation 2020/21

Date:	3 July 2020	**Report No:**	T2020/624
		File Number:	SE-1-1-0

Action sought

	Action sought	Deadline
Minister for State Owned Enterprises (Rt Hon Winston Peters)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Minister of Finance And **Minister Responsible for the Earthquake Commission** (Hon Grant Robertson)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Minister for Greater Christchurch Regeneration (Hon Dr Megan Woods)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Minister of Education (Hon Chris Hipkins)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Associate Minister of Finance (Hon David Parker)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Minister for Biosecurity And **Minister of Agriculture** (Hon Damien O'Connor)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Minister of Internal Affairs (Hon Tracey Martin)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Associate Minister for State Owned Enterprises (Hon Shane Jones)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020
Associate Minister of Justice (Hon Aupito William Sio)	**Agree** to proactively release the attached Letter of Expectations	16 July 2020

Contact for telephone discussion

Name	Position	Telephone		1st Contact
Ian Stewart	Senior Ministerial Advisor, Commercial Performance	s9(2)(k) [redacted]	N/A (mob)	✓
Juston Anderson	Acting Manager, Commercial Performance		s9(2)(g)(ii) [redacted]	

Minister's Office actions

Return the signed report to Treasury

Note any feedback on the quality of the report	

Enclosure: **Yes (attached)**
loe-cia-jul20 (Treasury:4253688v4)
loe-dia-jul20 (Treasury:4253690v3)
loe-hba-jul20 (Treasury:4253693v3)
loe-tnz-jul20 (Treasury:4253706v4)
loe-kg-jul20 (Treasury:4253694v3)
loe-aq-jul20 (Treasury:4253709v3)
loe-msnz-jul20 (Treasury:4253697v3)
loe-acp-jul20 (Treasury:4253708v3)
loe-lf-jul20 (Treasury:4253696v3)
loe-qv-jul20v2 (Treasury:4253704v4)
loe-pt-jul20 (Treasury:4253702v3)
loe-nzp-jul20 (Treasury:4253699v3)
loe-tnl-jul20 (Treasury:4253705v3)
loe-ep-jul20 (Treasury:4253691v3)
loe-otk-jul20 (Treasury:4253701v3)
loe-cii-jul20 (Treasury:4253689v3)
loe-nzlc-jul20 (Treasury:4253698v3)
loe-kh-jul20 (Treasury:4253695v3)
loe-nzrc-jul20 (Treasury:4253700v3)
loe-eqc-jul20 (Treasury:4253692v3)
loe-acnz-jul20-covid (Treasury:4302796v1)

Treasury Report: Proactive Release of Letters of Expectation 2020/21

Purpose of Report

1. This report seeks approval for the Treasury to proactively release the attached Letters of Expectations (LOEs) for the 2020/21 financial year on the Treasury's website (alongside past years' LOEs)[1].

Background

2. In prior years, Ministers and the Treasury have received several Official Information Act (OIA) requests for these LOEs. In light of this, the Treasury recommends that Ministers proactively release the LOEs for the following entities:

- Airways Corporation of NZ
- AsureQuality
- Christchurch Airport
- Crown Irrigation
- Dunedin Airport
- Earthquake Commission
- Education Payroll Limited
- Hawke's Bay Airport
- KiwiRail
- Kordia
- Landcorp
- Lotteries
- MetService
- Network for Learning
- NZ Post
- NZ Railways Corporation
- Orillion
- Ōtākaro
- Public Trust
- Quotable Value
- Transpower

3. LOEs mark the commencement of the annual business planning round for each entity and inform the content of Statements of Corporate Intent and/or Performance Expectations. LOEs for the 2020/21 financial year have been sent to all entities considered in this report.

Proactive Release

4. Attached to this report are versions of the LOEs that we intend to release on the Treasury's website. Redactions have been made to the letters in accordance with OIA provisions. We have consulted with each entity to confirm the appropriateness of the redactions.

[1] https://treasury.govt.nz/publications/information-release/shareholder-expectations-letters

Communication Implications

5. There is potential for public comment upon release of the LOEs. This is on a case by case basis for each entity, and where this occurs, the Treasury will inform Ministers where appropriate.

Recommended Action

We recommend that you **agree** for the Treasury to proactively release the attached Letters of Expectations for the entities for which you are responsible on the Treasury's website.

Agree/disagree.
Minister for State Owned Enterprises

Agree/disagree.
Minister of Finance

Agree/disagree.
Minister Responsible for the Earthquake Commission

Agree/disagree.
Minister of Education

Agree/disagree.
Minister for Greater Christchurch Regeneration

Agree/disagree.
Associate Minister of Finance

Agree/disagree.
Minister for Biosecurity

Agree/disagree.
Minister of Agriculture

Agree/disagree.
Minister of Internal Affairs

Agree/disagree.
Associate Minister for State Owned Enterprises

Agree/disagree.
Associate Minister of Justice

Juston Anderson
Acting Manager, Commercial Performance

Rt Hon Winston Peters
Minister for State Owned Enterprises

Hon Grant Robertson
Minister of Finance
Minister Responsible for the Earthquake Commission

Hon Megan Woods
Minister for Greater Christchurch Regeneration

Hon Chris Hipkins
Minister of Education

Hon David Parker
Associate Minister of Finance

Hon Damien O'Connor
Minister for Biosecurity
Minister of Agriculture

Hon Tracey Martin
Minister of Internal Affairs

Hon Shane Jones
Associate Minister for State Owned Enterprises

Hon Aupito William Sio
Associate Minister of Justice

APPOINTMENT-IN-CONFIDENCE

TE TAI ŌHANGA
THE TREASURY

Treasury Report: SOE Portfolio (non-delegated): Director Fee Approvals for 2020/21

Date:	9 July 2020	**Report No:**	T2020/2002
		File Number:	CM-0-3-24

Action sought

	Action sought	Deadline
Minister for State Owned Enterprises (Rt Hon Winston Peters)	**Note** and **agree** recommendations, **agree** to sign the letters approving board fee levels for 2020/21	As soon as practicable
Minister of Finance (Hon Grant Robertson)	**Note** and **agree** recommendations	None
Minister for Urban Development (Hon Phil Twyford)	For your information	None

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Gael Webster	Manager, Governance and Appointments	s9(2)(k) [redacted]	s9(2)(g)(ii) [redacted]	✓

Minister's Office actions (if required)

Return the signed report to Treasury.

Sign and send the attached letters to the Chairs with copies to the companies and Treasury.

Note any feedback on the quality of the report	

Enclosure: **Yes (attached)**

Treasury Report: SOE Portfolio (non-delegated): Director Fee Approvals for 2020/21

Executive Summary

This report addresses the requirement for the companies within your SOE Portfolio to receive formal approval of their director fee levels for 2020/21, together with any special fees and professional development budget to which you agree. By convention, the responsible Minister signs the fee approval letters on behalf of both shareholding Ministers.

The current approvals expired on 30 June 2020, and base fees are being approved at the rate applying in 2019/20, pending decisions on proposed fee increases.

Recommended Action

We recommend that you:

a. **note** that the Companies Act 1993 and the constitutions of Crown companies require board fees to be approved by shareholding Ministers and that, by convention, the responsible Minister signs the approval on behalf of both shareholding Ministers

b. **note** that, as the fees have been determined on the basis of a methodology previously approved by Cabinet, it is not necessary for you to consult with SSC

c. **note** a review of the fees across all Crown companies is currently being considered by Ministers and we will report back regarding the fee levels in due course

d. **note** that your approval is also required for professional development budgets

e. **agree** to approve special fees in 2020/21 of up to $35,000 to Crown Infrastructure Partners (CIP)

Agree/disagree.	*Agree/disagree.*
Minister for State Owned Enterprises	Minister of Finance

f. **agree** to the Minister for State Owned Enterprises signing the attached letters to the Chairs of the companies, approving their board fees for 2020/21.

Agree/disagree.	*Agree/disagree.*
Minister for State Owned Enterprises	Minister of Finance

Gael Webster
Manager, Governance and Appointments

Rt Hon Winston Peters
Minister for State Owned Enterprises

Hon Grant Robertson
Minister of Finance

Hon Phil Twyford
Minister for Urban Development

Treasury Report: SOE Portfolio (non-delegated): Director Fee Approvals for 2020/21

Purpose of Report

1. The Companies Act 1993 and the constitutions of Crown companies require board fees to be approved by shareholding Ministers. This report addresses the formal approvals required for SOEs (including 'special fees' and professional development budgets where appropriate) for the payment of 2020/21 board fees.

Background

2. The SOE Portfolio has been covered in two reports to reflect the Ministerial delegations. In this report, the term 'SOE Portfolio' refers to the following SOE boards:

   - Crown Infrastructure Partners Ltd (CIP)
   - KiwiRail Holdings Ltd (KiwiRail)
   - New Zealand Railways Corporation (NZRC).

3. The fees for the boards of the SOEs have been determined on the basis of a methodology initially approved by Cabinet in December 2003. The methodology was updated in 2013.

4. This approval is essentially a mechanical issue, as the amounts are derived from the fee-setting methodology, and are a function of the number of directors on a board. The Chair allowance is two times the unit rate, and the Deputy Chair allowance is 1.25 times the unit rate. As these fee levels have been previously approved, it is not necessary for you to consult SSC.

5. Once the total pool of fees is approved, it is the board's prerogative to determine the allocation of 'ordinary fees' to individual directors.

6. The current fee approvals expired on 30 June 2020. Base fees are being approved at the rate applying in 2019/20, pending decisions on proposed fee increases. A review of the fees across all Crown companies is currently being considered by Ministers and we will report back in due course.

Professional development

7. Approval is also required for the professional development budget requested by each board. Professional development is carried out in the context of a specific board role but it also carries an element of personal benefit, hence the need for Ministerial approval. This is an 'up to 'budget - our records show the boards do not usually spend the full allowance.

Special fees

8. Boards may seek approval to pay directors 'special fees'. There are no set criteria for what constitutes a 'special fee', but they are considered only where directors are required to contribute time above what would be considered an ordinary commitment, and where the company has provided appropriate justification.

Professional development requests

9. The Boards have requested approval for the following professional development budgets:

   - CIP: $24,000, being up to $4,000 per director (including the pending appointment of a sixth director)
   - KiwiRail: $60,000. This has increased from the $32,000 budget approved last year, to provide support for new directors and send six directors to Institute of Directors courses
   - NZRC: $25,000. This has increased from the $4,000 budget approved last year, to allow for two directors to attend the Institute of Directors course (approx. $10,000 including travel cost), plus $5,000 for conferences or training opportunities for the Chair.

10. The KiwiRail and NZRC development budgets are relatively high, but the Treasury supports these requests to support directors to be high performers.

Special Fees for 2020/21

11. The CIP Board has requested $35,000 in special fees for additional work of its currently five directors in relation to CIP's recently expanded activities supporting the Infrastructure Reference Group and the COVID-19 shovel ready construction response, and for anticipated expanded responsibilities in relation to critical infrastructure for FY21. CIP also requests this amount be increased proportionately on the appointment of a sixth director.

12. While the Treasury has been sympathetic to requests in previous years, we are becoming more critical of the basis for some of these requests. Requests are being further scrutinised this year as directors have been asked to acknowledge the strains caused by COVID-19, and many directors of Crown companies are giving more time to help manage the impacts on their organisations.

13. The Treasury considers that payment of special fees for additional work does not constitute a fees increase, so where these are justified they can be approved notwithstanding the pay restraint across the State Sector.

14. You approved $70,000 in special fees for CIP in 2019/20 for work related to the proposed Infrastructure Funding and Financing Bill and none has been spent so far for the 2019/20 financial year.

15. The Treasury considers the special fees request is reasonable given the extensive involvement that is required by the board, and in particular the Chair.

16. Once there is more certainty about CIP's future mandate, a review of the company's board fees structure would be warranted.

Voluntary reductions in fees for 2020

17. KiwiRail has resolved to reduce Board fees for 6 months from May 2020. This is acknowledged in the fee approval letter.

Summary of 2020/21 fee approvals

18. The current director fee rates, special fees, and professional development budgets for which approvals are sought in this report are summarised below.

Table 1. 2020/21 fees and professional development requests for SOE boards

Company	Director fee unit rate ($)	Special fees ($)	Professional development budget ($)
CIP	31,582	35,000	24,000
KiwiRail	44,109	-	60,000
NZRC	18,000	-	25,000

Financial Implications

19. There are no direct financial implications for the Crown, as all Crown company directors' fees are paid directly from company revenues.

Next Steps

20. If you agree, you are asked to sign and send the attached letters approving the directors' fees for the SOE boards for 2020/21 as soon as possible.

Attached Documents

21. Attached to this report are:

Annex I: Approval letters to SOE Chairs.

Mr Mark Binns
Chair
Crown Infrastructure Partners Ltd
PO Box 105 321
AUCKLAND 1143
s9(2)(g)(ii)

Dear Mr Binns

Board Fees 2020/21

In this letter we are conveying the approval of shareholding Ministers to the director fees for Crown Infrastructure Partners Ltd (CIP) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $256,100, based on there being six directors on the Board for a full year (with one appointment pending until there is a resolution of potential conflicts of interest). The fees are based on a unit rate of $31,582 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

CIP Board Fees Approval – 2020/21

Ordinary fees	**Amount**
Chair	$63,164
Directors (x5)	$157,910
Special fees	
Additional work of directors in relation to expanded infrastructure activities	$35,000
Total fees	**$256,100 (rounded)**

Notwithstanding the method of calculation of the 'ordinary' fee component, it is the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Special Fees

You have requested $35,000 in special fees for additional work of directors in relation to CIP's recently expanded activities. These activities include taking a leading role in the delivery of shovel-ready projects, and for anticipated expanded responsibilities in relation to critical infrastructure for FY21.

Approval is given to the amount of $35,000 in special fees for this activity once the expanded responsibilities in relation to critical infrastructure for FY21 are formalised. We expect the special fees to be apportioned in full recognition of the work you have done as Chair and in leading the Infrastructure Reference Group. If the responsibilities of the company substantially change in future, we may issue a revised approval.

This approval is given on the basis that special fees will be used only for the purpose specified. The level of special fees can be increased proportionately on the appointment of a sixth director and a revised approval will be issued then. We expect that you will have a system in place to record the additional duties performed, and that an appropriate record will be kept at Board level of the allocation of the special fees.

Approval is also given to a budget of up to $24,000 for Board professional development, allowing for appointment of a further director.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Rt Hon Winston Peters
Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Kathryn Mitchell, Chief Legal and Risk Officer, CIP, PO Box 105 321, Auckland 1143
s9(2)(g)(ii)

Mr Brian Corban
Chair
KiwiRail Holdings Ltd
Private Bag 92138
Victoria Street West
AUCKLAND 1142
s9(2)(g)(ii)

Dear Mr Corban

Board Fees 2020/21

In this letter we are conveying the approval of shareholding Ministers to the fees for KiwiRail Holdings Ltd (KiwiRail) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The level approved is $452,200, based on there being nine directors on the Board for a full year. The fees are based on a <u>unit rate of $44,109 per annum</u>. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

We appreciate the Board's intended voluntary 20% reduction in board fees for six months as a response to COVID-19, and acknowledge the additional workload the response has required of all SOE boards.

KiwiRail Board Fees Approval – 2020/21

Ordinary fees	Amount
Chair	$88,218
Deputy Chair	$55,137
Directors (x7)	$308,763
Total fees	**$452,200 (rounded)**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of up to $60,000 for Board professional development, in particular for up to six directors to attend the NZ Institute of Directors one-week course, noting two directors were unable to attend in the last financial year due to COVID-19.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Rt Hon Winston Peters
Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Jonathon Earl, General Counsel, KiwiRail Holdings Ltd, Private Bag 92138, Victoria Street West, Auckland 1142, s9(2)(g)(ii)

Mr Brian Corban
Chair
New Zealand Railways Corporation
Private Bag 92138
Victoria Street West
AUCKLAND 1142
s9(2)(g)(ii)

Dear Mr Corban

Board Fees 2020/21

In this letter we are conveying the approval of shareholding Ministers to the fees for New Zealand Railways Corporation (NZRC) for 2020/21.

This approval is based on the current director fee rates set under the Crown Company Director Fees Methodology. The fee level approved is $72,000, based on there being three directors on the Board for the financial year. The fees are based on a unit rate of $18,000 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

NZRC Board Fees Approval – 2020/21

Ordinary fees	Amount
Chair	$36,000
Directors (x2)	$36,000
Total fees	**$72,000**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of up to $25,000 for Board professional development. This is based on two directors attending the NZ Institute of Directors one-week course at a cost of approximately $10,000 (including GST and travel expenses), plus an additional $5,000 for conferences or training that the Chair may wish to attend.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Yours sincerely

Rt Hon Winston Peters
Minister for State Owned Enterprises
on behalf of shareholding Ministers

cc Jonathon Earl, General Counsel, New Zealand Railways Corporation, Private Bag 92138, Victoria Street West, Auckland 1142, s9(2)(g)(ii)

Ministry of Transport
TE MANATŪ WAKA

TE TAI ŌHANGA
THE TREASURY

New Zealand Upgrade Programme - Final Establishment Reports and Delegations

Reason for this briefing	To provide you with: • advice on the final Establishment Reports for the transport aspects of the New Zealand Upgrade Programme • draft letters to the Waka Kotahi NZ Transport Agency and KiwiRail Boards that outline how decision-making will be delegated.
Action required	Accept the updated Establishment Reports noting the risks and concerns for individual projects and across the Programme. Sign the attached delegation letters to the Waka Kotahi NZ Transport Agency and KiwiRail Boards.
Deadline	20 July 2020.
Reason for deadline	To provide the delegation letters to the Boards before the New Zealand Upgrade Programme Oversight Group meeting on 23 July 2020.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
Robert Anderson	Acting Manager, Governance and Commercial, Ministry of Transport	s9(2)(g)(ii)	✓
Marcus Sin	Senior Advisor, Investment, Ministry of Transport		
Fiona Stokes	Acting Manager, National Infrastructure Unit, The Treasury		
Erana Sitterlé	Senior Analyst, National Infrastructure Unit, The Treasury	s9(2)(g)(ii)	✓

MINISTER'S COMMENTS:

Date:	16 July 2020	**Briefing number:**	OC200503 (MoT) T2020/2205 (TSY)
Attention:	Hon Grant Robertson (Minister of Finance) Hon Phil Twyford (Minister of Transport)	**Security level:**	In-confidence

Minister of Transport's office actions

☐ *Noted* ☐ *Seen* ☐ *Approved*

☐ *Needs change* ☐ *Referred to*

☐ *Withdrawn* ☐ *Not seen by Minister* ☐ *Overtaken by events*

Purpose of report

1. This briefing provides you with:

   1.1. advice on the Waka Kotahi NZ Transport Agency (Waka Kotahi) and KiwiRail Establishment Reports under the New Zealand Upgrade Programme (the Programme);

   1.2. proposed parameters for delegating project level decisions to the Waka Kotahi and KiwiRail Boards that would both support project momentum and manage the Crown's risk as funder and Programme owner.

The Programme provides a significant investment in New Zealand's infrastructure

2. As you are aware, the transport element of the Programme provides $6.8 billion of Crown capital to accelerate investment in road, rail, public transport and walking and cycling infrastructure. The Programme investment will modernise infrastructure, and future proof and grow the New Zealand economy. The Programme also now provides an important fiscal stimulus to respond to the economic impacts of COVID-19.

3. The Programme differs to other transport projects in that the Crown plays the role of 'funder' and 'Programme owner', by directly funding the projects and taking on project risk. As a result of this, there are several key objectives for the Crown:

   3.1. **Successful delivery** – projects are successfully delivered in a way that contributes to the overarching objectives of the Programme;

   3.2. **Delivery momentum** – projects are delivered within expected timeframes;

   3.3. **Cost management** – projects are delivered within the fiscal envelope, and risks are appropriately managed and mitigated to reduce future calls for further Crown funding.

4. On 29 January 2020, the Minister of Finance and the Minister of Transport (Joint Ministers) wrote to Waka Kotahi and KiwiRail (the agencies) outlining the Crown's expectations for the Programme. The respective letters reflected the considerations above and the primary objective to deliver the projects as efficiently and effectively as possible.

5. The letters outline that the Crown is purchasing a specified list of projects that the respective agencies are responsible for delivering. The agencies were therefore asked to prepare Establishment Reports to set a baseline for project monitoring and reporting, outlining:

   5.1. the proposed cost of the projects, including underlying assumptions;

   5.2. the scope of the project, including core project assumptions and design details;

   5.3. the project timeframes and milestones;

   5.4. potential risks or challenges to the successful delivery of the project.

6. As this is the Crown's largest infrastructure investment, it was also acknowledged that appropriate governance, monitoring, and reporting would be required to provide oversight and confidence in the delivery of the Programme. This would provide for clear roles and responsibilities, ensuring that key investment decisions sit with the right decision makers, and provide for assurance at both the project and programme level.

7. Since the Programme was announced, Waka Kotahi and KiwiRail have been progressing the transport projects in the Programme, consistent with the Ministerial direction signalled in the letter of 29 January 2020 to progress with the work at pace.

The Establishment Reports provide a starting point to establish the Programme baseline

8. The Establishment Reports were delivered to Joint Ministers in June 2020. Officials have reviewed the reports and consider that they outline the key features that were requested (as outlined in paragraph 5 above).

A number of projects are close to construction

9. There are four projects with clearly defined scope, cost, and timeframes in the Establishment Reports. They are:

- Wiri to Quay Park
- Papakura to Pukekohe electrification
- Tauranga Northern Link
- SH58 Safety Improvements.

10. There are three additional projects with significant scope issues to resolve which are discussed in further detail below:

- s9(2)(f)(iv) [redacted]
- Northern Pathway
- Penlink.

11. These seven projects in the Programme are effectively committed, and close to commencing (or have already commenced) procurement and construction.

Property purchase decisions are required for Penlink and Mill Road

12. The agencies have indicated that further decisions are required in the coming months to maintain the delivery momentum of the Programme. This includes the transfer of properties from Auckland Transport to advance the next stages of Penlink and Mill Road.

13. Waka Kotahi has negotiated with Auckland Transport to pay s9(2)(i) [redacted] for the property transfer in accordance with the compensation provisions of the Public Works Act 1981. Waka Kotahi have advised us that this amount is within the allowance of s9(2)(i) [redacted] that was factored in when the Programme budget was announced in January 2020.

14. Officials consider that this is consistent with the standard process of transferring a local road to Waka Kotahi for delivery, which is aligned with our previous advice for the treatment of the two projects (OC191252 refers). The Waka Kotahi Board is now expected to make a decision on the property transfer in August 2020. It is unable to do so until it is delegated the authority to make this decision by Joint Ministers.

15. We recommend Joint Ministers endorse the Board's upcoming decision so Waka Kotahi can continue to progress with the delivery of the two projects. This enables Waka Kotahi to make its decision in-principle while Joint Ministers' approve the delegations. Decisions such as these, which are in line with estimates in the Establishment Reports, would be delegated to agencies' once our proposed approach (described below) is in place.

There is still a lot of uncertainty in aspects of the Programme

16. At a Programme level, an independent external review of the Establishment Reports has identified a number of risks that present significant challenges for Programme delivery within the funding allocation, as the table below outlines. These are consistent with the risks and concerns raised in our earlier advice (OC200307 refers), which we noted would require ongoing attention.

Key risk	Description
Scope amendments	A number of projects highlight either potential or proposed scope changes that have not been fully costed.
COVID-19	Potential for impacts on the availability of materials, access to offshore skillsets (as a result of travel and border restrictions), and stakeholder engagement.
Delivery partner support	This relates to the need for support from other government agencies which, if not forthcoming, would cause delays to the delivery of projects.
Escalations of project cost estimates	As a result of: • certain projects at the early stages, with their business cases still in development (further detail is below) • scope changes and delays to expected timeframes • increases to construction costs due to constraints on industry capacity or cost inflation • interim cost volatility (over the next 12 months) as a result of COVID-19 impacts.
Property purchases / stakeholder engagement	A number of the projects feature the need for significant property purchases, which could materially impact the expected project cost and duration. The need for substantial stakeholder engagement was also highlighted as a key risk on certain projects.
Consenting	The timeframes for consenting are uncertain in the Establishment Reports.
Construction sector	Financial stability of the construction industry, including sub-contractors.
Supporting projects	There is a coordination risk as a result of the uncertainty in timeframes for supporting projects that may be required to realise the full benefits of the Programme. These projects are led by local authorities or Waka Kotahi, and could be delayed or not funded as a result of recent financial constraints, or alternatively accelerated as part of an economic stimulus, which could enhance the outcomes of the Programme. Future work on defining the outcomes and benefits of the Programme will provide greater clarity on the supporting projects needed to realise the full benefits of the Programme.
Timeframes	The timeframes in the Establishment Reports are ambitious, particularly around consenting and property purchases.

17. We note that Waka Kotahi and Kiwirail have been requested to provide project progress updates, in addition to the Establishment Reports, to the Minister of Transport. This will outline the current status of each project.

Specific scope concerns have been identified and Joint Ministers' decisions will be required

s9(2)(f)(iv)

[redacted]

s9(2)(f)(iv)

[redacted]

Further work is being done to understand the cost escalations across the Programme

28. As we previously advised (OC191303 refers), there is significant potential for cost pressures across the Programme. The two projects above are examples of project scope changes with no corresponding funding made available to cover the additional costs.

29. In addition to this type of cost pressure, there is the issue of cost escalation (i.e. the effect of inflation on costs). The projects outlined in the Establishment Reports are based on 2020 dollars, and over time, as a result of inflation, it is likely that the actual cost to deliver the Programme will be above the funding envelope. This sort of thing is inevitable with a Programme such as this which spans a decade.

30. Ministry and Treasury officials are now working with the agencies to better understand the potential cost escalations and impact of any potential delays to construction start dates across the Programme. We will report back to you with further advice on this issue to seek any required decisions.

We recommend Joint Ministers accept the Establishment Reports as a starting point for the Programme

31. Officials recommend Joint Ministers accept the Establishment Reports as a starting point for making progress on the Programme. The reports summarise the projects, signal the plan for less well-defined projects, and provide the information that was requested by Joint Ministers.

32. Given the high level of uncertainty on some of the projects, it will be important that communication to agencies on acceptance of the Establishment Reports reflects that the Crown needs to maintain some control to manage its exposure to risk.

33. The Ministry of Transport (the Ministry) and the Treasury are engaging with Waka Kotahi and KiwiRail to better understand how risks on scope, cost and timeframes across the Programme will be managed to provide assurance of Programme delivery to Joint Ministers.

34. As part of this engagement, officials have been clear that the Crown does not need to do a deep dive into the projects. We recognise that to support momentum, the agencies should be sufficiently empowered to deliver the projects in a timely and cost effective manner. The Crown does not need to have a role in project level decisions that the agencies are best placed to make.

35. However, we consider that Joint Ministers need to have sufficient confidence that project delivery is being undertaken in a way that ensures the projects deliver on the Crown's objectives, and manage the overarching risks to the Crown as funder and Programme owner. s9(2)(f)(iv) [redacted]

We propose to delegate decision making authority within clear parameters to support the delivery momentum of the Programme

36. We understand Joint Ministers want to delegate further decision making authority to maintain the delivery momentum of the Programme. We consider it is appropriate to delegate the individual project level decisions to the Boards where those decisions do not increase the risk to the Crown as funder and Programme owner. This will provide the agencies with the certainty they need to deliver the projects and maintain the momentum of the Programme.

37. Our previous advice (OC191252 refers) and the Ministerial letter of 29 January 2020 contained a set of decision making processes for managing cost overruns and savings across the Programme. Our proposed approach clarifies these processes, and builds on the previous expectations of Joint Ministers.

38. We recommend that the key parameters for the delegations are:

    38.1. **Scope** – any significant changes to scope, where outcomes, outputs and expected benefits are significantly impacted, reduced or changed from those identified in the Establishment Report (e.g. a two lane road vs a four lane road). This includes any reprioritisations that would remove a project from the Programme;

    38.2. **Costs** – any significant changes to cost estimates that are expected to impact the delivery of the Programme within the Crown funding envelope. This is to ensure that any decisions to reprioritise do not put unnecessary fiscal strain on other projects;

    38.3. **Timing** – any significant changes to timing where there is a forecast delay to the construction start or construction completion dates. An appropriate time period will need to be agreed based on the indicated delivery date set out in the Establishment Reports (e.g. overall delay of more than six months).

39. This means that if these thresholds are met, we will seek any required decisions from Joint Ministers. We are working to define what 'significant' means to ensure that this is clear to all parties (and will do so by September 2020). Before September 2020, the agency Boards will receive project decision making delegations but will report on any concerns that may impact the Crown's objectives and decisions that may breach the thresholds.

40. This approach will enable the agencies to make decisions at the appropriate level to maintain delivery momentum of the Programme and manage the risk to the Crown by ensuring decisions of a substantive nature are escalated to Joint Ministers.

41. The agencies have advised us that they will have a much clearer idea of the detailed scope, costs and timeframes across the Programme by December 2020. We propose to review these parameters and thresholds at this time to ensure they remain fit for purpose.

The Oversight Group will monitor and report on the progress of the Programme

42. The Oversight Group is being established to monitor and report on the Programme on behalf of the Crown. The group includes senior officials from the Ministry, the Treasury, and the Infrastructure Commission. We have appointed Brian Wood as Chair, who was the former chair of the Kaikōura Re-instatement Oversight Steering Group. Two further appointments of external members that bring deep infrastructure delivery, governance and assurance expertise to the Programme have also been made. The first Oversight Group meeting will be on 23 July 2020.

43. The Oversight Group is not a decision making body. The risks within the Programme are to be managed by the agencies in the first instance. Waka Kotahi and KiwiRail have established a separate governance board with an independent chair to oversee and manage the delivery of projects within the Programme.

44. The Oversight Group will provide additional assurance to Joint Ministers on the delivery of the Programme. Its role is to provide high level strategic oversight and regular reporting to ensure Joint Ministers are receiving integrated and independent advice. It is responsible for drawing any significant risks or concerns across the Programme to the attention of Joint Ministers.

45. A monitoring and reporting framework is currently in development by the Oversight Group, which will help to assist with the early identification of issues, assessment of any mitigation strategies, and the management of risks across the Programme. The standard monitoring and reporting processes used by the agencies will be adopted (and reviewed by the Oversight Group) to avoid any unnecessary burdens and duplication of systems. This will support the agencies in the delivery of their respective projects in the Programme.

46. This monitoring and reporting approach is designed to provide Joint Ministers with confidence over the delivery of individual projects and the Programme as a whole. The approach set out above will ensure that only the most significant concerns are escalated to Joint Ministers for a Ministerial decision. This approach enables agencies to continue at pace with the Programme, and is a similar monitoring and reporting approach for the other non-transport aspects of the New Zealand Upgrade Programme.

47. As outlined above, a particular role we consider the Oversight Group should have is one where it can identify risks to scope, cost, and timeframes, and escalate decisions to Joint Ministers if thresholds are met.

48. This approach will provide an escalation pathway so that, where risks are identified in line with the thresholds, there is a clear mechanism for ensuring Joint Ministers are involved in the decision making process. The thresholds will help to support the agencies to make project level decisions in an expeditious way while also ensuring that decisions that pose risks to the Crown's objectives are appropriately dealt with by Joint Ministers.

Next steps

49. We have prepared the attached letters to give effect to:

   49.1. our recommended approach to delegate an appropriate level of decision making authority to the respective agency Boards

   49.2. the ongoing monitoring and reporting of risks across the Programme by the Oversight Group

   49.3. our recommended approach to request KiwiRail and Waka Kotahi to report back to Joint Ministers on s9(2)(f)(iv)

50. If you agree with this approach, we recommend you sign the attached letters. Ministry and Treasury officials will then discuss with Waka Kotahi and KiwiRail the specific reporting requirements of the Programme, including the agreement of thresholds.

Recommendations

51. We recommend that you:

		Minister of Finance	Minister of Transport
(a)	**endorse** the Waka Kotahi NZ Transport Agency (Waka Kotahi) Board's upcoming decision to transfer s9(2)(i) worth of properties from Auckland Transport to Waka Kotahi for Penlink and Mill Road	Yes/No	Yes/No
(b)	**note** the risks and concerns of possible cost escalations, scope changes and project delays across the New Zealand Upgrade Programme (the Programme)		
(c)	**note** that the New Zealand Upgrade Programme Oversight Group (the Oversight Group) will use the final Establishment Reports as a starting baseline for monitoring projects and the Programme as a whole		
(d)	**request** Waka Kotahi to report back to Joint Ministers on s9(2)(f)(iv)		
(e)	**request** KiwiRail (as the lead agency) and Waka Kotahi as a supporting partner, in conjunction with other relevant parties (such as Auckland Transport), s9(2)(f)(iv)		
(f)	**agree** to the Oversight Group working with the Ministry of Transport, the Treasury, Waka Kotahi and KiwiRail to update the Programme baseline as project information improves	Yes/No	Yes/No
(g)	**agree** to the Oversight Group working with the Ministry of Transport, the Treasury, Waka Kotahi and KiwiRail to establish a set of thresholds to escalate decisions of significant risk to the Minister of Transport and Minister of Finance	Yes/No	Yes/No

(h) **sign** the attached letters delegating authority for individual project level decisions to the Waka Kotahi and KiwiRail Boards, and s9(2)(f)(iv) [redacted]

Fiona Stokes

Fiona Stokes
Acting Manager, National Infrastructure Unit
The Treasury

Robert Anderson
Acting Manager, Governance and Commercial
Ministry of Transport

MINISTER'S SIGNATURE:

Hon Grant Robertson
Minister of Finance

DATE:

Hon Phil Twyford
Minister of Transport

DATE:

Appendix one: Projects and current business case status from the Establishment Reports

Eight projects have fully or well developed business cases:

- Fully developed scope with cost estimates.
- The key risks have been identified and the contribution to outcomes are well understood.
- These business cases still have a range of uncertainties that impact on deliverability, albeit more well quantified than those with business cases still in development.

Projects with fully or well developed business cases	NZUP Allocation ($ million)
Tauranga Northern Link	478
SH1 Papakura to Drury South improvements**	423
Penlink*	411
Papakura-to-Pukekohe electrification	371
Northern Pathway**	360
Third line – Wiri-to-Quay Park	315
Melling Interchange	258
SH58 safety improvements	59
Total allocation	*2,675*

* Business cases not complete but well developed. Delivery readiness plan is in progress. No plans to review the preferred option.
** Business case has been completed but some significant scope issues to resolve.

Seven projects have business cases still in development:

- These have indicative estimates for: scope, cost, and key risks, but all subject to confirmation.
- There are likely to be movements in project detail and cost as the business case progresses, which increases the uncertainty for these projects.

Projects with business case still in development	NZUP Allocation ($ million)
Mill Road	1,354
Ōtaki to north of Levin (Ō2NL)	817
SH2 Te Puna to Ōmokoroa	455
Drury rail stations	247
Rail upgrades – North of Wellington	211
SH1/SH29 intersection	58
SH1 Walnut Avenue intersection improvement	11
Total allocation	*3,153*

Nine projects have business cases in early stages or not yet started:

- These are in preliminary planning with no confirmed scope so that the costs cannot be estimated with any certainty as the design and risks are yet to be determined.
- They are subject to wide-ranging changes to project information.

Projects with business case in early stages or not started	NZUP Allocation ($ million)
SH1 Whangārei to Port Marsden Highway	692
Rolleston access improvements	60
Brougham Street improvements	40
Ladies Mile corridor improvements	30
SH6 Grant Road to Kawarau Falls improvements	30
SH6a corridor improvements	30
SH75 Halswell Road improvements	25
West Melton improvements	12
SH1 Tinwald corridor improvements	11
Total allocation	*930*

TE TAI ŌHANGA
THE TREASURY

Treasury Report: NZ Green Investment Finance Ltd: Director Fee Approval for 2020/21

Date:	22 July 2020	**Report No:**	T2020/1998
		File Number:	CM-0-3-24

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	For your information	None
Associate Minister of Finance (Hon James Shaw)	**Note** and **agree** recommendations, and **sign** the letter approving board fees for 2020/21	As soon as practicable

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Gael Webster	Manager, Governance and Appointments	s9(2)(k) [redacted]	s9(2)(g)(ii) [redacted]	✓

Actions for the Associate Minister of Finance's Office (if required)

Return the signed report to Treasury.

Send the signed letter to the Chair, with a copy to the company and to Treasury.

Note any feedback on the quality of the report	

Enclosure: **Yes (attached)**

Treasury Report: NZ Green Investment Finance Ltd: Director Fee Approval for 2020/21

Executive Summary

This report addresses the requirement for New Zealand Green Investment Finance Ltd (GIF) to receive formal approval of directors' fees for 2020/21, together with the professional development budget. By convention, the responsible Minister signs the fee approval letter on behalf of both shareholding Ministers. The current fee approval expired on 30 June 2020.

Recommended Action

We recommend that you:

a. **note** that the Companies Act 1993 and the constitutions of Crown companies require board fees to be approved by shareholding Ministers and that, by convention, the responsible Minister signs the approval on behalf of both shareholding Ministers

b. **note** that, as the fees have been determined on the basis of a methodology previously approved by Cabinet, it is not necessary for you to consult with SSC

c. **note** that a review of the fees across all Crown companies is currently being considered by Ministers and we will report back regarding the fee level in due course

d. **note** that your approval is also required for the professional development budget requested by the board

e. **agree** to sign the attached letter to the Chair approving the board fees for 2020/21.

Agree/disagree.

Gael Webster
Manager, Governance and Appointments

Hon Grant Robertson
Minister of Finance

Hon James Shaw
Associate Minister of Finance

Treasury Report: NZ Green Investment Finance Ltd: Director Fee Approval for 2020/21

Purpose of Report

1. The Companies Act 1993 and the constitutions of Crown companies require board fees to be approved by shareholding Ministers. This report addresses the formal approval required for GIF (including professional development budget) for the payment of 2020/21 board fees. The current fee approval expired on 30 June 2020.

Background

2. The fees for the GIF board have been determined on the basis of the Crown Company Director Fees Methodology (Fees Methodology) which was initially approved by Cabinet in December 2003. The Fees Methodology was updated in 2013.

3. This approval is essentially a mechanical issue, as the amounts are derived from the Fees Methodology, and are a function of the number of directors on a board. The Chair allowance is two times the unit rate, and the Deputy Chair allowance is 1.25 times the unit rate. As these fee levels have been previously approved, it is not necessary for you to consult SSC.

4. Once the total pool of fees is approved, it is the board's prerogative to determine the allocation of 'ordinary fees' to individual directors.

5. You are asked to approve the professional development budget requested by the board. Even though professional development is carried out in the context of a specific board role, it also has an element of personal benefit; hence the need for your approval.

Fees in 2020/21

6. The Treasury recommends you approve a pool of $355,300 for 2020/21, based on there being six directors on the Board for a full year. The fees are based on a unit rate of $49,000 per annum.

7. A review of the fees across all Crown companies is currently being considered by Ministers and we will report back in due course.

GIF Board Fees Approval – 2020/21

Ordinary fees	Amount approved
Chair	$98,000
Deputy Chair	$61,250
Directors (x4)	$196,000
Total fees	**$355,300 (rounded)**

8. GIF had a 50% loading fee approved for the first 12 months of the company's operation until April 2020. The company did not request a continuation of the special fees for 2020/21 even though there is still significant additional work required of the board related to the establishment of the company.

Professional Development

9. The Chair has sought a budget of $30,000 ($5,000 per director) for professional development for 2020/21 and we recommend your approval.

Voluntary fee reductions for six months

10. GIF's board and CEO have voluntarily reduced their fees by 20% for six months. They have decided to donate this money individually either to charities that support people adversely affected by COVID-19 or that support GIF's mission. Your appreciation of these reductions is noted in the attached letter.

Committee Chair Fee

11. The Chair requested a 15% additional fee for the Chair of the Audit & Risk Committee.

12. There is currently no provision for an allowance for additional fees for Committee Chairs under the Fees Methodology. Boards may request 'special fees', however an ongoing allowance for a Committee Chair does not qualify as a 'special fee' as those fees are only to be granted in exceptional circumstances as extraordinary requests. Special fees are supposed to be time limited and not to be used for ongoing 'ordinary board commitments'. Granting GIF an ongoing allowance to pay their Committee Chair an additional fee would set a precedent and might prompt other companies to seek similar fees. The Treasury recognises that this issue is not unique to GIF and will evaluate the appropriateness of additional fees when the Fees Methodology is next reviewed.

13. We do not recommend your approval of the additional fees for the Audit & Risk Committee Chair at this time.

Financial Implications

14. There are no direct financial implications for the Crown, as the directors' fees are paid directly by GIF.

Next Steps

15. If you agree, you are asked to sign and send the attached letter as soon as possible, approving the 2020/21 directors' fees for GIF.

Attached Document

16. Attached to this report is:

- Annex I: Fee approval letter for the Chair of GIF.

Hon James Shaw

Minister for Climate Change	Minita mō Te Rerekētanga o Te Āhuarangi
Minister of Statistics	Minita Tatauranga
Associate Minister of Finance	Hoa Minita Tahua Moni

Cecilia Tarrant
Chair
New Zealand Green Investment Finance Ltd
PO Box 1054
WELLINGTON 6140
s9(2)g)(ii)

Tēna koe Cecilia

New Zealand Green Investment Finance Ltd: Board Fees 2020/21

I am writing to convey the approval of shareholding Ministers to the fees for New Zealand Green Investment Finance Ltd (GIF) for 2020/21. This approval is based on the Crown Company Director Fees Methodology (Fees Methodology). The level approved for 2020/21 is $355,300, based on there being six directors on the Board for a full year.

If a further appointment is made in 2020/21 I will revise this approval as required.

The fees are based on a unit rate of $49,000 per annum. Please note that Ministers are considering a review of the current fee levels but no decisions have been made yet.

I appreciate the board's voluntary 20% reduction in board fees for six months as a response to COVID-19, and acknowledge the additional workload the response has required of all Crown company boards.

I also note that you have not sought special fees for the Board for 2020/21 even though there is still a significant additional workload related to the establishment of the company. Ministers appreciate the Board's thoughtfulness in making this decision.

GIF Board Fees Approval – 2020/21

Ordinary fees	**Amount approved**
Chair	$98,000
Deputy Chair	$61,250
Directors (x 4)	$196,000
Total fees	**$355,300 (rounded)**

Notwithstanding the method of calculation of these fees, it remains the Board's prerogative to determine the allocation to individual directors. For the avoidance of doubt it is expected that fees for vacant Board positions will be excluded from any allocation of the pool of director fees.

Approval is also given to a budget of up to $30,000 ($5,000 per director) for professional development purposes.

All fees, and any other payment or reimbursement to directors, should be paid in accordance with Appendix 3 (Directors' fees, payments and related policies) of the Owner's Expectations document issued in 2020. This is available on the Treasury website.

Additional fees for Committee Chair

You have requested an additional amount of 15% of the base fee to recognise the additional workload that will be undertaken by the Chair of the Audit & Risk Committee.

At this point I do not approve this request as there is currently no provision for additional fees for Committee Chairs under the Fees Methodology, and special fees provisions do not apply because these are intended for time-limited projects.

This issue will be taken into account when the Fees Methodology is next reviewed.

Yours sincerely

Hon James Shaw
Associate Minister of Finance
on behalf of shareholding Ministers

cc Craig Weise, Chief Executive Officer, New Zealand Green Investment Finance Ltd, PO Box 1054, Wellington 6140, s9(2)(g)(ii)

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Stockton Mine

Date:	20 July 2020	**Report No:**	T2020/2031
		File Number:	SH-17-2 (Stockton Acid Mine)

Action sought

	Action sought	Deadline
Hon Grant Robertson **Minister of Finance**	**Agree** to refer this briefing to Hon Damien O'Connor in his capacity as the MP for West Coast-Tasman	None

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Amanda Wilson	Analyst, Commercial Performance	s9(2)(k)	✓
Juston Anderson	Acting Manager, Commercial Performance		

Minister's Office actions (if required)

Return the signed report to Treasury and **refer** a copy to Hon Damien O'Connor, subject to the Minister of Finance's approval

Note any feedback on the quality of the report	

Enclosure: No

Treasury Report: Stockton Mine

Purpose of Report

1. Hon Damien O'Connor, in his capacity as the MP for the West-Coast Tasman, has been approached by s9(2)(a) [redacted] regarding s9(2)(a) [redacted] alternative Acid Mine Drainage (AMD) solution at Stockton mine.

2. Hon O'Connor has asked for a meeting with the Treasury to discuss progress on procuring an alternative AMD solution. As the responsible Minister, this briefing contains background information for you to consider sharing with Hon O'Connor.

3. The information contained within this briefing should not be shared with s9(2)(a) [redacted] as that would undermine the Crown's negotiating position.

Background

Acid Mine Drainage

4. AMD occurs when rock is exposed through mining activities to air and water. When miners remove the top layer of rock it reacts with water and creates sulphuric acid. In addition, the runoff picks up low levels of pH, which can mobilise heavy metals from the rock. This combination of sulphuric acid and heavy metals needs to be treated before it runs into rivers, as it causes negative impacts on plant and animal life. Given the high rainfall levels on the West Coast, significant levels of AMD are produced at the Stockton mine. In New Zealand AMD is unique to Stockton, but this problem is found on many mine sites worldwide, including Australia.

5. Currently, the acidic runoff at Stockton is being diverted off the plateau and collected in a sump. Once captured in the sump, the water is dosed with lime, which neutralises the acid and raises the pH, and precipitates the metals. The treated water is then released back into the stream, which runs out to the Ngakawa River, and then out to sea.

Liquidation of Solid Energy

6. In 1987, when Solid Energy (formally known as Coal Corporation) was established as a State Owned Enterprise (SOE) the Crown provided it with an uncapped indemnity (the 1987 Indemnity) to cover the cost of rehabilitating the land previously mined by the Crown under its State Coal Mines and Coal Corporation days. This was a standard approach to treating pre-existing liabilities on the formation of new SOEs.

7. In 2015, Solid Energy entered voluntary administration. During this process, the Crown agreed to restructure the 1987 Indemnity and created twenty capped indemnities, one for each of Solid Energy's mine sites. This reflected the view that without individual indemnities Solid Energy's mines would not sell.

8. The new indemnities were limited to rehabilitation relating to mining activities undertaken before 18 September 2014. Any remediation required past this date is the responsibility of the new mine owner.

Stockton Indemnities

9. The Stockton Mine was provided with two indemnities. One for the land rehabilitation and one for the remediation of the AMD. In June 2016, Cabinet [EGI-16-MIN-0148 refers] agreed for the Crown to take responsibility for the historic AMD liabilities at Stockton, and as a result a Deed of Commitment (the Deed) was negotiated. The Deed replaced the indemnity for AMD at Stockton and represents an uncapped liability.

10. When BT Mining bought the Stockton Mine in 2017, it acceded to the Deed. Under the Deed, the Crown pays BT Mining to treat, using the current treatment solution, the acid in proportion to the amount of mining done by the Crown (Solid Energy) and the new owner. The amount of mining done is approximated by the amount of waste rock disturbed. The Crown has the option to explore an alternative AMD treatment solution at Stockton.

11. To value the Crown's liability for AMD at Stockton, the Treasury uses a financial model that was agreed between Solid Energy and the Crown in 2016 and is included in the Deed. Based on the current method of treatment it is anticipated that the Crown will be required to continue paying for AMD treatment at Stockton for at least 100 years.

12. The Crown's financial statements for the year ended 30 June 2019 valued the Crown's current liability for AMD at $87m (compared with $57m in 2016). The Crown currently contributes approximately $3m annually to AMD treatment. Given the expectation that AMD treatment will be required for at least 100 years, it is likely that the liability will not decrease in size over time, as would normally be the case.

13. s9(2)(a) [redacted] There is no escrow account for Stockton AMD. Funding has been appropriated for the Treasury to <u>procure</u> a long-term solution however; no funding has been appropriated to <u>implement</u> a long-term AMD solution. An alternative AMD solution would require Cabinet to agree an appropriation (through a future Budget process) for construction and management.

s9(2)(a) [redacted]

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14. s9(2)(a) [redacted]

15. s9(2)(a) [redacted]

16. s9(2)(a) [redacted]

s9(2)(a), s9(2)(g)(i) and s9(2)(j) [redacted]

17. s9(2)(a), s9(2)(g)(i) and s9(2)(j) [redacted]

18. s9(2)(a), s9(2)(g)(i) and s9(2)(j) [redacted]

19. [redacted]

20. [redacted]

21. [redacted]

22. [redacted]

The need for an alternative AMD solution

23. BT Mining expect to conclude operations at Stockton s9(2)(ba)(i) [redacted]

    At this point, if no alternative scheme were introduced, the Crown would need to employ a number of people to remain on site and continue with the current manual treatment method, and the costs associated with doing so would increase. The Crown would be required, at a minimum, to continue monitoring the waterways as well as maintenance of the dosing plant and logistics.

24. In Budget 2017, Treasury was provided funding of $4.8m for the procurement of an alternative AMD solution. It was intended that the funding would enable a competitive procurement process to be undertaken to identify the optimal solution to manage the long-term liability. The objective of this was to find an AMD management option to mitigate the potential future environmental impacts while minimising the future cost to the Crown.

25. In 2017/18, the Treasury conducted a market sounding exercise to identify interest in providing an alternative AMD solution at Stockton. s9(2)(a), s9(2)(ba)(i) and s9(2)(j) [redacted]

26. s9(2)(a), s9(2)(ba)(i) and s9(2)(j) [redacted]

27. s9(2)(g)(i), s9(2)(a) and s9(2)(j) [redacted]

28. Due to a number of factors, this process was not progressed and so no further research or assessments have yet been undertaken. As a number of years have passed since the last market sounding exercise, the Treasury views it is critical to retest the market to identify and capture any potential technological advancements in this space. In addition, a full procurement process, following the Government Rules of Sourcing is required to ensure a robust and defensible process is followed. While progress on an alternative AMD solution has not progressed as quickly as anticipated, AMD and the Crown's liability is currently being managed by the current treatment process.

Risks

29. s9(2)(g)(i), s9(2)(a) and s9(2)(j) [redacted]

Next Steps

30. The Treasury was planning to restart the procurement process this year; however, this has been delayed by our response to the impacts of COVID-19. We have now begun the preparations for an expressions of interest process and are considering the appropriate time to go to market for a solution. As we are hoping to attract international expertise, and consultants are unlikely to be able to travel to visit the site at this time, we are carefully considering the appropriate time to advertise the expressions of interest to ensure we capture all of the available option and expertise.

31. We anticipate providing you and Cabinet with an overview of the proposed process, assessment criteria and considerations before we publish an expressions of interest, to ensure that Cabinet has agreement on what is intended to be achieved and the key considerations when assessing the options. s9(2)(a) [redacted]

32. This information has been provided to you as the responsible Minister. We recommend that you consider sharing the contents of this briefing with Hon Damien O'Connor in his capacity as the local MP for West Coast-Tasman.

Recommended Action

We recommend that you **refer** this briefing to Hon Damien O'Connor in his capacity as the local MP for West Coast-Tasman, noting that it should not be shared any wider.

Agree/disagree.

Juston Anderson
Acting Manager, Commercial Performance

Hon Grant Robertson
Minister of Finance

Ministry of Transport
TE MANATO WAKA

TE TAI ŌHANGA
THE TREASURY

Auckland Light Rail - next steps

Reason for this briefing	Cabinet has recently agreed to end the Auckland Light Rail proposals process and to refer the project to the Ministry of Transport and Treasury for further work. This briefing provides you with advice on how the Ministry of Transport and the Treasury intend to move forward.
Action required	Minister Twyford: discuss with Ministry officials. Ministers Robertson and Twyford: agree with recommendations, including for the transfer of funding to enable the Ministry and the Treasury to progress the work programme including the intellectual property discussions.
Deadline	5 August 2020
Reason for deadline	To allow the Ministry and the Treasury to mobilise the necessary advisors in a timely way, this will support the work to initiate intellectual property discussions.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
Siobhan Routledge	Director, System Strategy and Investment	s9(2)(g)(ii) [redacted]	
Steph Ward	Programme Director, Auckland Light Rail		
Bryn Gandy	Deputy Chief Executive, System Strategy and Investment		
Erana Sitterle	Senior Analyst, National Infrastructure Unit, The Treasury		
David Taylor	Manager, National Infrastructure Unit, The Treasury	s9(2)(k) [redacted]	

MINISTER'S COMMENTS:

Date:		**Briefing number:**	OC200555
Attention:	Hon Phil Twyford **Minister of Transport** Hon Grant Robertson **Minister of Finance**	**Security level:**	COMMERCIAL IN CONFIDENCE

Minister of Transport's office actions

☐ *Noted* ☐ *Seen* ☐ *Approved*

☐ *Needs change* ☐ *Referred to*

☐ *Withdrawn* ☐ *Not seen by Minister* ☐ *Overtaken by events*

Purpose of briefing

1. This briefing outlines how the Ministry of Transport and the Treasury intend to take forward the next phase of the city centre to Mangere (CC2M) Auckland light rail project (the project) in order to provide advice to the incoming government. This includes:

    1.1. Working collaboratively with a number of agencies to prepare advice to the incoming government regarding the public service delivery of the project, following the Cabinet direction [CAB-20-MIN-0300 refers]

    1.2. Reviewing, valuing and acquiring intellectual property held by the two Respondents, so that it can be used to inform the project's next phase.

2. The briefing seeks agreement from joint Ministers to re-purpose funding from the Ministry of Transport's baseline for this purpose. The work programme is challenging and will require continued access to specialist advisors, both to deliver the advice needed and to ensure that a project could be scaled up quickly if an incoming government wants to proceed.

Background

3. On 22 June 2020, Cabinet "agreed to formally terminate the Proposals Process and revert to public service delivery; and noted that as a consequence, neither proposal will be progressed". The Ministry and the Treasury were directed to report to Ministers on optimal arrangements for public service delivery following the general election. Cabinet directed that this work should be carried out in close consultation with Auckland Transport Alignment Project (ATAP) partners and the Ministry of Housing and Urban Development **(MHUD).**

4. Given that closing-out the proposals process may take several months (with the Respondents controlling much of the timing) there will be an overlap between this process and our future work programme. The overlap between the processes has some implications for how we can proceed. The decision to terminate the proposals process means that:

    s9(2)(h)

    4.1.

    4.2.

    4.3.

    4.4.

5. Cabinet also agreed to establish a tagged contingency to enable the Ministry to acquire intellectual property from the Respondents. This provides the Ministry with sufficient assurance that it can commence discussions with NZ Infra, with joint Ministers' (Minister of Finance and Minister of Transport) approval required to complete any deal. Any intellectual property that the Government wishes to obtain from Waka Kotahi is unlikely to require funding, given its Crown Entity status. However, there will need to be a formal process for reviewing and obtaining intellectual property from Waka Kotahi, consistent with the Crown's ongoing obligations to treat both Respondents in good faith.

6. We will review and assess the intellectual property contained within the proposals so that, where appropriate, it can be used for the next phase of the project. The project delivery entity will have to develop and own an alignment and technical solution, and the intellectual property acquired could potentially support this stream of work and get it underway quickly.

7. You will receive further advice on the acquisition process in a separate paper.

We will prepare advice for an incoming government regarding how it could move forward with the project

8. The work programme agreed between the Ministry and the Treasury supports the development of advice to an incoming Government regarding the delivery of light rapid transit in Auckland.

9. The advice will enable decisions to be made by an incoming government on the next steps that could be taken with the project. For example, this may be to initiate the establishment of a delivery entity, or to direct further work if the government needs further advice on how elements of the project would be delivered, or to not proceed. We will deliver that advice in October 2020, subject to the formation of the incoming government.

10. The advice will include the following areas of work:

    10.1. A stocktake of analysis and information on the strategic case, outcomes and project scope. This part of the work programme will collate any intellectual property acquired from the Respondents and work completed prior to the proposals process, and will be an essential set of information for the delivery entity, so that it can use the best of what has been produced over the last 5 or so years

    10.2. The arrangements for the delivery of the project, including the nature of any decisions needed to enable the establishment of a delivery entity (or entities) and the roles of the key agencies

    10.3. Options for funding and financing the project

    10.4. Key policy issues and implications

    10.5. A future work programme, containing a clear timeframe for the feasible delivery of the project, and the nature of any decisions needed to meet that timeframe.

11. While we will provide advice based on the optimal arrangements for the project (a "first best" public delivery option), an incoming government may have differing objectives from the current government, and we will provide advice on the options available.

12. The development of this advice will be led by officials from the Ministry and the Treasury and we will work collaboratively with ATAP partners, MHUD and Kainga Ora to inform our advice. The advice will demonstrate how the perspectives of partner agencies have been reflected, and where there are any differences of view.

13. It will be important that these agency perspectives are fully understood by the incoming Government, particularly as Auckland Council and Auckland Transport face new challenges arising from COVID-19 revenue reductions.

14. The core aspects of our work programme are discussed in more detail below.

Considerations relating to the strategic case, outcomes and project scope

15. A set of outcomes for the City Centre to Mangere (CC2M) project were developed jointly by central and local government agencies in 2019. These were designed to be enduring, and are 'design and solution' agnostic. These are:

    15.1. **Access and integration:** improved access to opportunities through enhancing Auckland's Rapid Transit Network and integration with Auckland's current and future transport network

    15.2. **Urban development:** enabling quality integrated urban communities, especially around Mangere, Onehunga and Mt Roskill

    15.3. **Environment:** optimised environmental quality and embedded sustainable practices

    15.4. **Experience:** a high quality service that is attractive to users, with high levels of patronage.

16. We do not propose to revisit the project's outcomes, and we understand that Auckland Transport and Auckland Council remain comfortable with these, and with highest weightings applying to access and integration and urban development. Within this context, however, future decisions relating to the project will need to have regard to how technical scope and parameters affects the delivery of these outcomes.

17. We are not proposing to revisit the strategic case for rapid transit and light rail as outlined in ATAP 2018. ATAP was based on extensive research and consultation, and Auckland Council and Auckland Transport continue to emphasise that a rapid transit solution is required to address growing bus congestion in the CC2M area (particularly Mount Roskill to the city).

18. However, should the ATAP refresh (that is currently underway) yield new insights or signal any shift in prioritisation, we will ensure we reflect this in our work.

19. We will provide an incoming government an overview of how some key design characteristics would impact on the delivery of the project outcomes. This work will draw together the considerable work that has been completed by experts over a number of years, and the collective knowledge of local and central government agencies. This will enable the incoming government to better understand the trade-offs involved between the broad approaches that are available.

20. The delivery entity will need a clear understanding of central and local government requirements so that it can make operational decisions and trade-offs. We will work with agencies and with technical advisors so that what is provided to Ministers is at the right level. In effect the intent will be to provide an opportunity for Ministers to establish some high level requirements, while also balancing the need to give the delivery entity the flexibility it needs to develop and own the project and manage a stakeholder engagement process with community, business and mana whenua / Iwi.

Delivery entity considerations

21. Cabinet has directed that the project be delivered by a public sector entity. We will take a 'form follows function' approach to arriving at advice on entity structure and role. The questions in respect of entity form are connected to the scope and parameters of the project, the rights and powers needed by the entity, the management of risk, and how the project will be funded and financed.

22. Key issues that this part of the work programme will need to consider will include:

22.1. The nature of the risks in the design, delivery and operation of the project, and who is best placed to manage each risk (i.e. the allocation of risk between Crown agencies, local government agencies and the private sector). This will be a key driver in the consideration of different entity forms. Given the complexity of the project and its significant funding requirements, we anticipate that there will need to be robust governance and assurance to manage Crown risk, including a detailed approach to change management and contingency management.

22.2. How incentives can be aligned between the Crown and the entity or entities responsible for project delivery. Typical Crown entity arrangements may not offer the high level of alignment of outcomes (which goes well beyond a 'design and construct' approach) that may be needed for delivery of a project like this, where a high level of integration between transport and other outcomes is sought, and delivery is complex and will inevitably require compromise along the way.

22.3. The nature of relationships needed with key partner agencies, including Auckland Transport, Auckland Council, Waka Kotahi and Kainga Ora, and how to best achieve these through mechanisms such as major project governance structures.

22.4. s9(2)(b)(ii) [redacted]

23. The capability and capacity demands of a project of this scale and complexity are almost unprecedented in New Zealand, and no current entity has the necessary capabilities to deliver the project. All options will be considered, including building expertise within an existing entity or establishing a new one.

Funding and financing considerations

24. The Proposals process demonstrated that the project could be delivered in accordance with ATAP expectations. ATAP signals that the project should be suitable to leverage alternative funding and financing, through the provision of seed funding. [redacted]
s9(2)(b)(ii) [redacted]

25. However, with COVID-19, the Crown's financial position has changed, with greater levels of debt being raised to support economic recovery and with some ongoing challenges for the National Land Transport Fund.

26. The work programme will need to consider the range of options for funding and financing in this context, and consider factors including:

26.1. Potential sources of funding for the project, drawing on past work on the opportunity for urban development to reduce the draw on Crown funding

26.2. The nature of long term Crown borrowing that would be needed for the project

26.3. How funding and financing arrangements might accommodate other potential options such as private equity

26.4. Updated advice on the National Land Transport Fund, including revenue and expenditure scenarios

26.5. The extent to which this project may support a greater confidence in the infrastructure market and as an anchor project for Auckland (while recognising that construction would feasibly take another 2 to 3 years to commence)

26.6. The international market for financing, and the likelihood that this project could attract international financing over the next 2 to 3 years (recognising the ongoing and uncertain effects of COVID-19).

There are a number of wider policy matters that will need to be progressed

27. The Proposals process has revealed that current policy settings are not fit for purpose for large, nationally significant brown-fields infrastructure projects such as light rapid transit. The work programme to address these issues is extensive. The next three months provides an opportunity to get define the policy work programme and to get aspects of it underway, working with ATAP partners and MHUD. By providing advice on the policy work programme, the incoming government will also be well positioned to confirm its priorities for the policy work and to set clear direction to policy agencies - this will support accelerated delivery of the policy work, as required.

28. A project of this nature involves coordinated works across a number of sectors, subject to a range of regulatory and legislative regimes. The work programme will help highlight these key constraints, and inform the advice to Ministers about the steps necessary to overcome these.

29. Policy responses will most likely be needed to respond to the following key constraints facing large-scale infrastructure projects in New Zealand:

29.1. The limited ability of central and local government agencies to take a coordinated approach to compulsory acquisition of land and to delegate these powers in appropriate circumstances

29.2. The suitability of current policy and legislative settings relating to the compulsory acquisition of land to be used for urban development in association with the primary infrastructure

29.3. The availability of appropriate land value capture mechanisms, including limited familiarity in New Zealand of using these tools

29.4. The potential limited flexibility of existing legislative settings to enable a coordinated and certain process for accessing, moving and managing utilities during construction.

30. s9(2)(f)(iv)

s9(2)(f)(iv)

31. In addition to the fit for purpose issues highlighted above, a key issue for the work programme will be to assist Ministers to work through choices relating to the emphasis on, and relationship between, transport outcomes and urban development outcomes.

32. The work programme will identify best practice approaches to Transit Oriented Developments, and will particularly consider how effective partnerships could be established between the public sector delivery entity, Kainga Ora, Auckland Council and others such as Panuku. A further focus area for the policy programme will be to consider how to ensure that the roles of Auckland Transport under any public sector delivery arrangement are clear and workable. It will be important that Auckland Transport, as the network integrator, has clear roles and responsibilities vis a vis the public sector delivery entity, and that it is confident that it can build appropriate relationships with that entity.

33. Current legislative settings will need to be considered through this part of the work programme, including the Land Transport Management Act which sets out Auckland Transport's role to plan and contract for public transport in Auckland.

The acquisition and purchase of intellectual property

34. The Respondents have developed extensively researched routes and designs for the CC2M project, including proposals for service delivery. In doing so, they have received advice from internationally experienced light metro designers and experts, and have drawn off expertise and analysis conducted by NewZealand based agencies including Auckland Transport.

35. The work programme proposes to:

35.1. Engage with Respondents on their intellectual property. This includes reviewing, assessing and valuing their intellectual property, including the extent to which it is likely to be valuable to the future public sector delivery entity

35.2. Work with Auckland Transport, MHUD and Kainga Ora to ensure that any intellectual property acquired is likely to be relevant and usable for the project

35.3. Following discussions with the Respondents, officials will brief Ministers on the findings of the intellectual property assessment, with a view to obtaining agreement to proceed with a purchase of intellectual property from NZ Infra. Waka Kotahi's intellectual property is Crown-owned and should not be subject to any cost to the Crown.

36. This part of the work programme will rely on continued use of the technical, legal and commercial expertise that has been engaged in the first part of the process. This is necessary to assess the content of the proposals and value the intellectual property, and to execute negotiations. We expect that NZ Infra would approach the negotiations from a strongly commercial perspective. As noted above, discussions with Waka Kotahi will need to be approached in a formal way to manage the Crown's ongoing good faith obligations.

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[1] The Transport and Works Act 1992 (UK) provides for the making of an order to authorise a new railway or tramway scheme in England and Wales. This order allows for the transfer of relevant powers to the promoter of the infrastructure scheme for that particular scheme (such as compulsory acquisition of land or the power to close streets) through the amendment, repeal or revocation of some statutory provisions of local application.

How we propose to work with other agencies

37. We will shortly initiate discussions with ATAP agencies, MHUD and Kainga Ora to identify how they would like to engage in the next phase of the project. There has been considerable work by these agencies on Auckland light rail over recent years and our preference is to use this process to bring together all the analysis into one place. We will be inviting all relevant agencies to be involved in a series of workshops to generate and test content for the advice that the Treasury and the Ministry is preparing.

38. While the advice to the incoming government will be the responsibility of the Ministry and the Treasury to deliver, we would like it to present a collective view of the relevant agencies, or at least be clear on where there are differing views and why.

39. We envisage that the existing ATAP governance mechanisms can be applied to the project, with Auckland Light Rapid Transit becoming one of ATAP's regular agenda items. This will ensure that there is Chief Executive engagement, supported by working group arrangements that will be agreed between agencies.

40. While we have not yet engaged with agencies on the scope of the work programme, we have starting testing their ability to provide team members over the next ten weeks and we have had a positive reception. We have not yet had requests for funding from the agencies to support their involvement.

Resourcing for the next phase

41. The Ministry and the Treasury will need to access technical, legal and commercial advice. It is also a priority to retain the project knowledge that sits with key advisors who have been exposed to the ideas in both proposals, to provide a way forward for the delivery entity that is free from obligations to the proposals process; and to have the ability to scale up quickly if a new government wishes to proceed with the project.

42. The Ministry is in discussions with Waka Kotahi on the prospect of using the remaining funding that Waka Kotahi has agreed to provide to support the Ministry's close-out work on the proposals process, including the opportunity to apply this remainder towards the IP discussions. However, additional funding will be needed for external support for the forward work programme. In particular, external support is needed in respect of:

    42.1. Technical and engineering support to inform the collation of analysis on project outcomes and scope, and delivery approach

    42.2. Legal support to complement the analysis above. In addition, this support would also be focused on assisting the Ministry and the Treasury with legal issues around delivery approach and entity form. In scope this would be similar to the legal work that helped establish the corporate structure for City Rail Link Limited

    42.3. Commercial support to complement the analysis above and also to assist the Ministry and the Treasury on funding and financing matters

    42.4. Resource to support other government and potentially local government agencies to undertake policy work on an 'as needed' basis

    42.5. Senior support from industry experts to provide oversight and challenge to the advice before it is presented to the incoming government.

43. In order to maintain continuity and to get the work underway as quickly as possible, the Ministry and the Treasury intend, where possible, to retain the services of contractors and firms that assisted the Ministry throughout the proposals process. The Ministry anticipates that approximately $1 million of funding will be required to progress the work programme through to the advice provided to the incoming government and into the next phase, should the incoming government decide to proceed.

44. The Ministry's baseline funding is under significant pressure and a significant portion of the funding is for specific initiatives and is treated as ring-fenced (e.g. search and rescue activities, New Zealand Upgrade Programme and the Provincial Growth Fund). There is very little discretionary funding available to fund the proposed work programme and it would not be feasible for the Ministry to reprioritise its entire work programme given the majority of these are transport priorities for the Government.

We recommend repurposing funding allocated to the Green Transport Card

45. The Ministry has $4.64 million in its 2019/20 baseline allocated to the establishment of the Green Transport Card. Given the likelihood that the Green Transport Card will not proceed within this Parliamentary term, the Minister of Transport has previously agreed with the Ministry's recommendation to repurpose this funding to support the exclusive negotiation phase of the Auckland Light Rail project [OC200292 refers]. In June 2020, the Ministers of Transport and Finance agreed to an in-principle expense transfer for $4.640 million from 2019/20 to 2020/21 for establishing a Green Transport Card within the Ministry's Policy Advice appropriation [OC200442 refers].

46. Given Cabinet's decision to terminate the proposals process, this funding is no longer needed for the exclusive negotiation process. We recommend that $1 million of the $4.64 million Green Transport Card funding is repurposed to support the proposed work programme for the Auckland Light Rail project.

47. If no additional funding is secured, the work programme detailed above is unlikely able to be delivered within the proposed scope and timeframes, and is likely to result in heavily scaled back advice being provided to the incoming government on approaches to delivering the project.

48. We are seeking early confirmation of $1.000 million of this in-principle expense transfer. In-principle expense transfers are usually confirmed through the October 2020 Baseline Update once 2019/20 year-end results are confirmed. The Ministry is confident that none of the Green Transport Card funding was spent in 2019/20 so the $1.000 million being sought for early confirmation is available.

Recommendations

49. The recommendations are that you:

(a) **Note** the proposed work programme and discuss with officials.

Yes/No

(b) **Note** that the Minister of Transport and Minister of Finance have previously approved an in-principle expense transfer of up to $4.640 million from 2019/20 to 2020/21 for establishing a Green Transport Card.

(c) **Agree** to an early confirmation of $1.000 million of the in-principle expense transfer for establishing a Green Transport Card.

Yes/No

(d) **Approve** the following changes to appropriations to provide for the decision in recommendation (c) above, with no impact on the operating balance across the forecast period:

	$m - increase/(decrease)				
Vote Transport **Minister of Transport**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024/25 and Out years**
Multi-Category Expenses and Capital Expenditure: Policy Advice and Related Outputs MCA Departmental Output Expenses : Policy Advice	1.000	-	-	-	-

Yes/No

(e) **Note** that the Ministry of Transport expects $1.000 million of funding is required to implement the next stage of the Auckland Light Rail project.

(f) **Agree** to reallocate $1.000 million from the Green Transport Card funding to support the Auckland Light Rail project.

Yes/No

(g) **Approve** the following fiscally neutral adjustment to provide for recommendation (f), with no impact on the operating balance and net core Crown debt:

	$m - increase/(decrease)				
Vote Transport **Minister of Transport**	**2020/21**	**2021/22**	**2022/23**	**2023/24**	**2024/25 and Out years**
Multi-Category Expenses and Capital Expenditure: Policy Advice and Related Outputs MCA Departmental Output Expenses: Policy Advice	(1.000)	-	-	-	-
Departmental Output Expense: Transport - Policy advice, ministerial servicing, governance, and other functions	1.000	-	-	-	-

Yes/No

(h) **Agree** that the proposed change to appropriations for 2020/21 above be included in the 2020/21 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply.

Yes/No

Bryn Gandy
Deputy Chief Executive, System Strategy and Investment

David Taylor
Manager, National Infrastructure Unit, The Treasury

MINISTER OF TRANSPORT1S SIGNATURE:

DATE:

MINISTER OF FINANCE'S SIGNATURE:

DATE:

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TE TAI ŌHANGA
THE TREASURY

Treasury Report: PREFU 2020 Specific Fiscal Risks

Date:	30 July 2020	**Report No:**	T2020/2114
		File Number:	BM-2-9-2-3-2020

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Note** the risks contained in this report **Discuss** this report with officials at Budget Matters on Tuesday 4 August, or provide feedback via your office **Inform** the Treasury of any other matters that should be considered for inclusion as Specific Fiscal Risks **Agree** to exclude certain risks under section 26V of the Public Finance Act	Tuesday 4 August

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Hamish Dick	Graduate Analyst, Budget Management	s9(2)(k)	N/A (mob)	✓
Alex Harrington	Manager, Budget Management		s9(2)(g)(ii)	

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report	

Enclosure: Yes (attached)

Treasury Report: PREFU 2020 Specific Fiscal Risks

Executive Summary

This report outlines the specific fiscal risks (SFRs) that will be published in the Pre-election Economic and Fiscal Update 2020 (PREFU), and seeks your agreement to exclude one risk under section 26V of the Public Finance Act 1989 (PFA). Officials are available to discuss the contents of this report and the attached Risks to the Fiscal Forecasts draft chapter with you at Budget Matters on Tuesday 4 August. Alternatively, you can provide feedback via your office and inform the Treasury of any other matters that should be considered for inclusion as specific fiscal risks.

Purpose of Chapter

At each Economic and Fiscal Update (EFU), the Treasury publishes a Statement of Specific Fiscal Risks. In past years, SFRs have been disclosed in a standalone Specific Fiscal Risks chapter. However, as at the Budget Economic and Fiscal Update 2020 (BEFU), this statement is now incorporated into a broader Risks to the Fiscal Forecasts chapter, which also includes information on fiscal sensitivities, balance sheet risk, COVID-19 risk, and disclosure of contingent assets and liabilities.

SFRs are material risks that may have an impact on the fiscal outlook but are not certain enough in timing or quantum to include in the forecasts. SFRs disclosed in the Risks to the Fiscal Forecasts chapter cover potential policy changes, cost pressures and cost variances. A risk is included in this statement when it amounts to more than $100 million over the forecast period and has a 20% to 50% likelihood of occurring.

Approach

The Statement of Specific Fiscal Risks takes a transparent approach to the disclosure of risks. Because this is a PREFU, we have taken extra care to identify risks to the Crown's fiscal position. Risks are disclosed to the fullest extent possible, regardless of how they can be managed. This is done to improve transparency and not pre-judge future decisions of the Government or of any future government.

The overview of the statement outlines that the Government has a number of mechanisms to manage these risks, with the expectation that government commitments and cost pressures will be managed through Budget allowances and/or baseline prioritisation.

Recommended Action

We recommend that you:

a **note** that the Statement of Specific Fiscal Risks in the Risks to the Fiscal Forecasts chapter outlines risks to the fiscal outlook presented in the Treasury's Pre-election Economic and Fiscal Update;

b **note** the new risks in the Pre-election Economic and Fiscal Update, as set out from paragraph 12 of this report;

c **discuss** the report with officials at Budget Matters on Tuesday 4 August, or provide feedback via your office by this date;

d **inform** officials of any additional matters you consider should be captured in the Statement of Specific Fiscal Risks;

e **agree** to exclude the following risk under section 26V of the Public Finance Act 1989:

Portfolio	Title	Description	Reason for withholding
s6(a) [redacted]			This risk should be excluded from public disclosure under section 26V(a)(ii). Public disclosure of the scope of the project may prejudice the security or defence of New Zealand.

f **note** the risks that have expired since the Budget Economic and Fiscal Update 2020, as set out in paragraph 21 of this report; and

g **note** the Treasury is still completing a final review of this chapter and a revised version will be provided as part of the near-final Pre-election Economic and Fiscal Update that you will receive in its entirety on Wednesday 12 August.

Alex Harrington
Manager, Budget Management

Hon Grant Robertson
Minister of Finance

Treasury Report: PREFU 2020 Specific Fiscal Risks

Purpose of Report

1. This report outlines the specific fiscal risks (SFRs) intended for publication in the upcoming Pre-election Economic and Fiscal Update (PREFU). A draft of the SFR chapter is attached for your review, and this can be discussed at Budget Matters on Tuesday 4 August. Alternatively, we welcome written feedback.

2. This report covers the following:

   a information on the process and criteria for publishing risks in the Statement of Specific Fiscal Risks at each economic and fiscal update (EFU);

   b newly disclosed publishable risks;

   c key changes to risks since BEFU;

   d risks to be withheld from publication; and

   e expired risks.

Process and Criteria for Specific Fiscal Risks

3. The purpose of the Statement of Specific Fiscal Risks (within the Risks to the Fiscal Forecasts[1] chapter of each EFU) is to disclose fiscal risks that are likely to have a material impact on the fiscal position but are not certain enough in timing or quantum to include in the fiscal forecasts. The nature of these risks can be positive or negative, and relate to either capital or operating activities.

4. Section 26U of the Public Finance Act 1989 (PFA) requires each EFU to incorporate "all Government decisions and other circumstances that may have a material effect on the fiscal and economic outlook" to the fullest extent possible.

5. You are required to sign a statement of responsibility that includes that:

   a you have communicated to the Secretary to the Treasury:

      i all policy decisions with material economic and fiscal implications that the Government has made before the day on which the forecasts are finalised (6 August for this EFU).

      ii all other circumstances with material or fiscal implications that you are aware of before that day, and

   b the disclosures in the EFU are consistent with Part 2 of the PFA, except for matters that are withheld under section 26V, where disclosure might cause serious harm to the New Zealand Government or economy.

[1] At BEFU, and owing to the disruption of COVID-19, the Risks and Scenarios, and Specific Fiscal Risks, chapters were consolidated into a single Risks to the Fiscal Forecasts chapter (T2020/1174 refers). PREFU will also reflect this change to chapter structure.

6. The Secretary to the Treasury is required to sign a Statement that she has supplied an EFU to the Minister of Finance that incorporates the fiscal and economic implications of those decisions and other circumstances. The Statement also certifies that the EFU has been prepared by the Treasury using its best professional judgement.

7. A specific fiscal risk is disclosed in the Risks to the Fiscal Forecasts chapter if it meets the following criteria:

    a *Materiality* – the matter is likely to have a fiscal impact of more than $100 million over the forecast period, and

    b *Likelihood* – the matter might be approved or the risk might occur within the forecast period (i.e. there is a 20% to 50% chance of the matter being approved or occurring). Matters with a greater than 50% chance of approval, which can be quantified for particular years with reasonable certainty, are included in the fiscal forecasts.

8. The process for disclosure of SFRs is as follows:

    a Agencies submit SFRs with more than a $10 million fiscal impact in any given year and a reasonable likelihood of materialising over the forecast period. The purpose of the lower threshold is to cast a wide net to ensure that all potential risks are captured and known to the Treasury.

    b SFRs are reviewed and signed off by Treasury Vote teams.

    c Risks are reviewed by an internal Treasury Risk Committee to ensure a consistent approach has been taken in the identification of risks for publication and determine whether there are any additional risks that have not been captured by the process.

9. There is a degree of professional judgement involved in determining which risks meet the materiality threshold for publication, particularly given the uncertainty around their timing and quantum. These judgements are tested by the Risk Committee in the preparation of the chapter to ensure consistency across all portfolios. Because this is a PREFU, we have taken extra care to identify all known risks that may impact the Crown's fiscal position and a number of new risks have been identified for publication, as set out from paragraph 12.

Risks Published in the Chapter

10. The risks included in the Statement of Specific Fiscal Risks are categorised as:

    a **Policy changes:** potential decisions likely to be taken by the Government related to both new policy and existing policy settings.

    b **Cost pressures:** changes in demand or pricing which impact the cost of delivering services under existing policy settings. This category also includes variances to costs of policies included in the fiscal forecasts.

    c **Cross-portfolio risks:** general risks that are relevant to multiple portfolios.

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New Risks

11. For a small number of SFRs, chapter narratives are still to be finalised. This is because, where necessary, Vote teams and agencies are being consulted on final wording and decisions may yet be made that affect the status of these risks (including, but not limited to, the risks "Managed Isolation and Quarantine" and "Transmission Gully"). From this point, however, we expect any changes to risk narratives to be technical in nature. We will inform you of any substantive changes that may arise as we continue to finalise the Risks to the Fiscal Forecasts chapter.

12. The following table details new risks to be disclosed in this chapter:

Portfolio	Title	Description
Policy Changes		
s9(2)(f)(iv)		
Education	Free and Healthy Lunch Programme	The Free and Healthy Lunch Programme was a pilot to test different models of delivery to students in selected schools. The programme was expanded to provide lunches to the 25% most disadvantaged students in the country as part of the Governments COVID-19 response. The programme funding (both the pilot and expansion) ends in December 2021. If the Government decides to extend or expand the Programme, then additional ongoing funding will be required.
	Replacing Deciles with the Equity Index[2]	The Government has made an in-principle decision to replace school deciles with the Equity Index. The Index provides a more refined measure to understand whether there are socio-economic factors present in the lives of children that can impact educational outcomes. This will inform how the education system can be resourced to provide all children an equitable chance of success. s9(2)(f)(iv)

[2] The central elements of this risk were published until BEFU 2019 under the title "School and Early Childhood Education Funding Review". When this risk was removed at the Half-year Economic and Fiscal Update (HYEFU) 2019, it was Treasury's view that there was "no longer an imminent material risk" with respect to this policy change. However, we now consider this risk to be both sufficiently likely and material to warrant its inclusion.

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Finance	Business Finance Guarantee Scheme[3]	As reported under contingent liabilities, the Crown has established a Business Finance Guarantee Scheme (BFGS) with a number of banks to support New Zealand businesses facing hardship as a consequence of COVID-19. The currently assessed fair value of these contracts, and the expense arising, has been quantified and incorporated into the forecasts. The extent of credit losses under this scheme is uncertain. Proposed changes to the BFGS are likely to increase take-up of the scheme, and may impact on credit losses that will be incurred.
Health	COVID-19 Vaccine Strategy	The New Zealand Government will need a strategy to facilitate developing or obtaining a vaccine for COVID-19. Once a vaccine becomes available, there will be the cost of purchasing it and vaccinating the population to prevent further outbreaks. A vaccine is likely to be 12-18 months away.
Local Government	Three Waters Infrastructure Investment and Reform Programme	The Three Waters Review highlighted systemic challenges facing the three waters sector including infrastructure deficiencies, asset management, service delivery, capacity and capability issues, and funding and affordability constraints. In July 2020, the Government made available up to $701.9 million to territorial authorities to support their planned investment programme and large-scale asset replacements. This funding will only be available to territorial authorities that opt in to the proposed three waters service delivery reform programme over the next three years. It is possible that further funding is required in the future to incentivise territorial authorities to support and deliver the reform programme. In addition, the drinking water supply infrastructure assets managed by the Department of Conservation at more than 2.000 sites will need to comply with safe drinking water standards, with significant fiscal implications for the department.
Cost Pressures		
Corrections	Waikeria Mental Health Unit Operating Funding	The Waikeria Prison Development, including a 500 bed High Security Facility and a 100 bed Mental Health and Addiction Service, is currently under construction. The costs of running the mental health unit still need to be provided for and there is a risk that these cannot be met through baseline expenditure, so further Crown funding may be required.
Education	Change in Demand for Tertiary Education and Training	There is significant uncertainty on the impact of COVID-19 on unemployment, the reduced net-migration of New Zealand residents, and the scale of the increased enrolments in tertiary education that result. More people aged 18-24 years, and more people unable to find work that enter study instead to upskill or re-train, can both lead to more people enrolling in tertiary education. In Budget 2020, the COVID-19 Response and Recovery Fund provided an additional $334 million, over 2021-2023, to meet increased learner demand. Due to the uncertainty around the impact of COVID-19, learner demand could be higher, or lower, than the available number of funded-places for learners. Updated forecasts and initial enrolments in 2021 will provide an indication of any potential additional financial costs.

[3] At BEFU, this risk was excluded under section 26V(a)(iii) of the PFA. This is because some possible affected parties were not aware that negotiations had been authorised with respect to the extension of the scheme. This sensitive element of the risk has expired and the BFGS risk can now be published with the above narrative.

Finance	Closure of Tiwai Point	On 9 July 2020 Rio Tinto Limited announced the closure on or before August 2021 of New Zealand Aluminium Smelters (NZAS) which operates the Tiwai Point Aluminium Smelter in Southland, with the wind down of operations expected to be complete by August 2021. The impacts on electricity generation and transmission companies, which are majority or wholly owned by the Crown, and the need for transitional assistance for the Southland regional economy and workforce are unknown at this stage but could be significant. s9(2)(j) [redacted]
Housing	Large-scale Housing and Urban Development Projects	A number of large scale housing redevelopment projects are currently being carried out by Kāinga Ora. While a portion of these costs will be met from Kāinga Ora's balance sheet, funding for the additional infrastructure and works needed to support these developments is yet to be agreed between central and local governments.
	Managed Isolation and Quarantine	Public health requirements regarding immigration and border control create a risk that demand for Managed Isolation and Quarantine (MIQ) facilities outstrips both current supply and appropriated funding. Current expectations are that facilities may be required for some time, and the establishment of an allocation system will mitigate some of the demand pressures.
Internal Affairs	Royal Commission of Inquiry into Abuse in State Care	The Royal Commission of Inquiry into Historic Abuse in State Care and in the Care of Faith-based Institutions was formally established in November 2018 and was only funded for the first phase of its work. Additional funding is likely to be required through Budget 2021 to enable the Royal Commission to complete the second phase of work, following submission of its interim report in late 2020.
Justice	Legal Aid Demand Pressures	Entitlement to legal aid is legislatively mandated and costs are driven by the volume and complexity of cases. The average cost per case has increased as a result of growth in more serious cases. Volumes may also be affected, either positively or negatively, by any future change in justice sector policy settings. The forecasts are based on historic spending levels but there is a risk that additional funding will be required if future costs are higher than forecast.
Racing	Financial Viability of TAB NZ	The Government made up to $50 million available for the Racing Industry Transition Agency (now TAB NZ) to assist it to continue operating through to 31 July 2020. The work to determine the level of the industry support package revealed that TAB NZ was undercapitalised, and additional support may be needed. In the post-COVID environment, TAB NZ revenue may also be depressed for several years which could have downstream implications for the industry and communities that depend on it. Work is underway to confirm and size this and identify options for addressing any funding requirements.

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Revenue	Small Business Cashflow Scheme	The Small Business Cashflow Scheme was introduced to support small-to-medium businesses affected by COVID-19. There is a risk that the value of the lending may differ from what is forecast as the lending under the scheme is dependent on demand until the application closing date of 31 December 2020. As new lending occurs, an initial write-down to fair value is made. This reflects the cost the Crown incurs in making a loan at below-market terms and the risk that borrowers will not repay their loans. The fair value of the scheme will depend on the amount of loans and the assumptions around borrower repayments and defaults over the life of the scheme. The fair value assumptions made to project borrower repayments and discount them to today's dollars rely on volatile factors that are subject to change.
Transport	Transmission Gully	There are ongoing commercial negotiations between Waka Kotahi NZ Transport Agency and the builder of Transmission Gully on the impact of COVID-19 lockdown period on the project. This could lead to a range of possible outcomes, including the potential for additional costs to the Crown.
Veterans	Veterans' Disability Entitlements	The fiscal forecasts include a liability for payments to veterans deemed to be in relation to their service rendered. On 28 July 2020 the Minister for Veterans announced new declarations of qualifying operational service, s9(2)(f)(iv) [redacted] The fiscal impacts of this announcement have not been reflected in the fiscal forecasts, as they could not be quantified prior to the forecast finalisation date.
Cross-portfolio		
Information and Communications Technology Operating and Capital Pressures		A number of agencies are facing increasing operating and capital pressures related to ageing information communications technology (ICT) assets and capability that are no longer fit for purpose. In addition, COVID-19 has highlighted the need for some agencies, particularly in the Education sector, to expand existing digital services, in line with increased demand and changed circumstances. This risk is aligned to the necessity for agencies to transition to cloud based solutions in line with Government's Cloud-First policy. These pressures are fiscal risks to the extent that they cannot be managed through existing agencies' existing balance sheets and/or other funding mechanisms as outlined in this chapter.

13. In addition, the following risk has been flagged for potential inclusion in the Statement of Specific Risks. As we are still working through the details of this risk, and decisions are still being made, this risk is not currently included in the attached draft chapter. Should this risk remain relevant at the time the fiscal forecasts are finalised, this will be included in the revised chapter to be sent to you on 12 August.

Policy Change		
Finance	Indemnifying the Reserve Bank for Further Alternative Monetary Policy Tools	The Reserve Bank of New Zealand (RBNZ) is considering a range of options to expand its Alternative Monetary Policy tools (AMPs). These tools may require an expanded indemnity for potential losses for the RBNZ. The potential risk and costs to the Crown are material but unquantifiable at this stage.

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Changed and Unchanged Risks

14. A number of risks that were published at BEFU have changed in nature. Where this is the case, the risk narrative has been updated to reflect the reason for change. No notable wording changes have been made to risks that remain unchanged in nature, except in some instances to better reflect the nature of the risk.

15. Most changes to previously published risks are a consequence of COVID-19 or funding allocated through the COVID-19 Response and Recovery Fund (CRRF). Where relevant, risk narratives have been updated to reflect these changed circumstances.

16. Although the COVID-19 pandemic is a driving force behind a number of risks disclosed in this chapter, notably the “Managed Isolation and Quarantine” and “COVID-19 Vaccine Strategy” risks, COVID-19 is not itself an individual specific fiscal risk because:

    a This pandemic largely affects the overarching economic and fiscal situation and outlook of New Zealand. COVID-19 has affected, and will continue to affect, levels of Government expenditure, the value of assets, and levels of third party revenue. The effect of this is evolving and ongoing, rather than specific and discrete.

    b Where relevant and specific, therefore, COVID-19 has been reflected within the discrete risks outlined in the Statement of Specific Fiscal Risks. The overall impact of COVID-19, however, is fundamentally built into the assumptions that inform the Economic Outlook and Fiscal Outlook chapters of the PREFU.

    c The Risks to the Fiscal Forecasts chapter does include a separate narrative section outlining the nature of the COVID-19 risk, including with respect to the possibility of a second outbreak, and COVID-19 is similarly incorporated into the narrative section on Balance Sheet Risks.

17. Substantive changes to existing risks include:

Portfolio	Title	Nature of Change
Policy Changes		
Transport	Support for KiwiRail	At BEFU, an element of this risk related to the National Land Transport (Rail) Legislation Bill, noting that further Crown funding would likely be required to support the establishment of a reliable and resilient rail network, should this Bill not be passed. This Bill was enacted on 30 June 2020. The other elements of this risk remain relevant.
	s9(2)(f)(iv) [redacted]	
Cross-portfolio		
Other Capital Cost Pressures		The information and communications technology (ICT) element of this risk has been removed and incorporated in the new risk under the “Information and Communications Technology Operating and Capital Pressures” title.
Other Operating Cost Pressures		The risk narrative has been updated to incorporate pressures that may arise from time-limited funding.
Services Funded by Third Parties		This risk has been significantly heightened by COVID-19 and the risk narrative has been updated to reflect this change. A number of agencies, particularly border agencies, disclosed risks of this nature to the Treasury.

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Risk to Withhold from Publication

18. Section 26V(a) of the PFA states that you may determine a matter be excluded from the EFU if disclosure would:

    a prejudice the substantial economic interests of New Zealand;

    b prejudice the security or defence of New Zealand, or the international relations of the Government;

    c compromise the Government in a material way in negotiation, litigation or commercial activity; or

    d result in a material loss of value to the Government.

19. In making this determination, section 26V(b) of the Act also requires that you consider if there is any reasonable or prudent way the Government could avoid that prejudice, compromise or material loss by:

    a making a final decision before the day on which the forecast financial statements are finalised;

    b incorporating the fiscal implications of the matter, or the nature of the matter, into the EFU but without reference to its fiscal implications; or

    c in the case of a statement, by incorporating the statement into the EFU.

20. We recommend that the following risk be withheld from publication under section 26V of the PFA:

Portfolio	Title	Description	Reason for withholding
s6(a)			This risk should be excluded from public disclosure under section 26V(a)(ii). Public disclosure of the scope of the project may prejudice the security or defence of New Zealand.

Expired Risks

21. The following risks have been expired since BEFU because the risks have either materialised and are provided for in the forecasts or are no longer material:

Portfolio	Title	Reason for expiry
ACC	Legal Claims and Proceedings	A Court of Appeal decision allowing an appeal by ACC against a High Court decision removes the ongoing fiscal risk.
Foreign Affairs	APEC 2021	Owing to COVID-19, the Minister of Foreign Affairs has announced that APEC 2021 will be a virtual event. Accordingly, all costs can now be met from within the existing appropriation.

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Greater Christchurch Regeneration	Christchurch Central Recovery Plan – Anchor Projects	As most anchor projects have now been completed or the development expenses are included in the fiscal forecasts, the materiality of this risk is below the threshold for publication.
Housing	Infrastructure Funding and Financing to Improve Housing Affordability	The Infrastructure Funding and Financing Act 2020, to which this risk related, has now been passed.
Housing	Progressive Home Ownership	This has been accounted for in the fiscal forecasts and the launch of the first phase of the Progressive Home Ownership scheme was announced by the Government on 24 July 2020.
Revenue	Loss Continuity	This is now included in the fiscal forecasts. The Government intends to pass legislation on this, and for the policy to apply to the relevant tax year.

Next Steps

22. If you have any further information on matters that should be considered for inclusion as SFRs, or any questions or comments on the draft Risk to the Fiscal Forecasts chapter, please raise these with us through your office by Tuesday 4 August and/or at Budget Matters that day.

23. You will receive a revised version of the chapter, together with other chapters in the PREFU, on Wednesday 12 August.

3

Risks to the Fiscal Forecasts

Overview

The Treasury's fiscal forecasts are based on a number of assumptions and key judgements using the best information available and our best professional judgement. As with any kind of forecast, there is a risk that actual events will differ from expectations. This chapter outlines the key risks to the fiscal forecasts.

Risks to the fiscal forecasts can be either positive or negative and can affect revenue and spending or assets and liabilities. The key risks to the fiscal forecasts can be broadly classified into the following categories:

Nature of risk	Description
1. Fundamentally uncertain events	Significant events relating to changes in the external environment (eg, climate-induced events, natural disasters, pandemics, and international events).
2. Deviation from key assumptions and judgements	Any deviations from the key assumptions and judgements used for the economic and fiscal forecasts (eg, changes in nominal GDP used to forecast tax revenue) that have flow-on impacts for the fiscal forecasts.
3. Contingent liabilities and assets	Potential costs or income to the Crown that depend on whether particular events occur.
4. Policy changes	Potential decisions likely to be taken by the Government related to both new policy and existing policy settings (eg, changes to eligibility criteria for a benefit).
5. Cost pressures associated with existing policies and risk of cost variances	Changes in demand or pricing that impact the cost of delivering services under existing policy settings (eg, an increase in the number of students enrolling in schools). This category includes variances to costs of policies included in the fiscal forecasts.

This chapter provides a discussion of the following risks to the fiscal forecasts:

- COVID-19 (risk type 1, with consequences for all risk types) – there is a significant risk that the fiscal forecasts will be impacted from the continued effects of COVID-19, particularly on the economy and from the Government's response. This section outlines the key risks to the fiscal forecasts resulting from COVID-19, including the possibility of a second outbreak in New Zealand.
- Fiscal Sensitivities (risk type 2) – the fiscal forecasts are sensitive to particular economic indicators (eg, nominal GDP). This section outlines how changes in these economic indicators impact key fiscal indicators.
- Balance Sheet Risks (risk types 2 and 3) – the Government's balance sheet is exposed to a number of risks. This section outlines the risks that assets and liabilities will not be able to provide public services, finance or prefund future government expenditure and obligations, or achieve commercial objectives.
- Specific Fiscal Risks (risk types 4 and 5) – the fiscal forecasts will be impacted from future policy decisions and changes in demand for government services. This section covers all government decisions and other circumstances known to the Government that may have a material effect on the fiscal outlook, but are not certain enough in timing or quantum to include in the fiscal forecasts.
- Contingent Liabilities and Assets (risk type 3) – the fiscal forecasts will be impacted if any of the Government's current contingent liabilities or assets crystallise. This section outlines the Government's contingent liabilities and assets as at 31 May 2020.

In Economic and Fiscal Updates prior to this year's *Budget Update*, information on Fiscal Sensitivities and Balance Sheet Risks was disclosed separately in a Risks and Scenarios chapter. However, we believe it is more useful in the current environment to include this information in this chapter with the other discussions of risks to the fiscal forecasts.

COVID-19

The COVID-19 pandemic is a 'once in a century' public health shock, which has already had a significant fiscal impact on the Government's finances. This chapter identifies the following specific fiscal risks directly affected by COVID-19:

Policy Changes

- (Finance) Business Finance Guarantee Scheme;
- (Health) COVID-19 Vaccine Strategy;
- (Revenue) Potential Tax Policy Changes;

Cost Pressures

- (Education) Change in Demand for Tertiary Education and Training;
- (Housing) Managed Isolation and Quarantine;
- (Revenue) Small Business Cashflow Scheme;
- (Transport) Transmission Gully; and

Cross-portfolio risks

- Services Funded by Third Parties.

In addition, a number of other specific fiscal risks identified in this chapter are more generally affected by the economic downturn brought about by COVID-19. Despite the identification of these specific fiscal risks, the true fiscal impact of COVID-19 is still highly uncertain. This uncertainty presents significant risks to a number of assumptions used in preparing the fiscal forecasts. The key risks to the fiscal forecasts are:

Impact on the economy – while a number of months have passed since the onset of the pandemic, the duration of the economic downturn and subsequent pace of the recovery depend on many unknown factors. Forecasts for tax revenue and benefit expenses are particularly sensitive to economic conditions. To illustrate this uncertainty, the Economic Outlook chapter includes scenarios that model the fiscal impact of how the economy might evolve if some of the key judgements around COVID-19 in the main forecasts were to be altered.

The Government's response – the Government has already implemented a number of policies to respond to COVID-19. Policies announced as at 6 August 2020 have been included in the fiscal forecasts based on the best information available; however, given the degree of uncertainty there is a risk that actual costs for these policies may differ, for example in estimating future calls on the Business Finance Guarantee, or Small Business Cashflow Scheme.

The Government's role in recovery – COVID-19 has impacted a number of sectors in the economy. The Government's response was initially focused on fighting the virus and cushioning the blow, and is now becoming increasingly focused on recovery from the impacts of COVID-19. The fiscal forecasts do not include any individual Government decisions made after 6 August 2020; however, they do include funding set aside to manage the fiscal costs of the response to, and recovery from, COVID-19.

The COVID-19 Response and Recovery Fund – the Government has established the COVID-19 Response and Recovery Fund (CRRF) as a Budget management tool for managing the fiscal impacts of COVID-19. These forecasts assume that the CRRF will be fully allocated by the end of the forecast period. At the date the fiscal forecasts were finalised, $XX.X billion was still available in this budget envelope. To include this budget envelope in the forecasts, the Treasury has had to make judgements about the nature (eg, operating or capital) and timing of the costs. There is a risk that actual costs will differ from those judgements and assumptions used to prepare the fiscal forecasts. There is also a risk that the fiscal costs of the Government's response and recovery may be more or less than what has been reflected in the fiscal forecasts.

Impact on the valuation of the balance sheet – a number of assets and liabilities on the Crown balance sheet are valued using market information (eg, share investments and ACC outstanding claim liability). The impact of COVID-19 is likely to cause some ongoing volatility in the market that will affect the future value of assets and liabilities on the Government's balance sheet.

Contingent liabilities – the effects from COVID-19 may result in costs from some of the Government's existing contingent liabilities converting into expenses during the forecast period. In particular, there is a risk that there may be calls on some uncalled capital facilities and some Crown guarantees and indemnities may be triggered.

Risk of a second wave of infection or an extended border closure – the key fiscal risks associated with COVID-19, which are outlined above, all apply under the main forecast scenario. The main forecast scenario reflects key assumptions that COVID-19 alert level restrictions are maintained at Alert Level 1 until September 2021, border restrictions are in place until 30 September 2021, and the full $50 billion of the COVID-19 Response and Recovery Fund will be allocated by the end of the forecast period.

In addition to the key fiscal risks associated with the main forecast scenario, there are further fiscal risks associated with two of the alternative scenarios outlined in the Economic Outlook chapter: (i) a scenario where there is a second wave of infection in New Zealand, and (ii) a scenario where there is an extended border closure. If there is a second wave of infection, fiscal impacts would be highly dependent on the extent of infection (eg, whether there were to be a small number of cases in a community, a larger number of cases in a region, or multiple clusters spread nationally). If there is a second wave of infection or an extended border closure, the potential types of negative fiscal impacts include:

- costs to deliver any public health response to a second wave of infection;
- negative impacts on tax forecasts and benefit expenses (from economic conditions and/or COVID-19 alert level restrictions);
- costs of any Government policy decisions to support households and firms;
- impact on the valuation of the balance sheet; and
- costs from some of the Government's existing contingent liabilities converting into expenses.

Next page deleted under 18(d) as information is publicly available at
https://www.treasury.govt.nz/publications/efu/pre-election-economic-and-fiscal-update-2020-html#child-25

Balance Sheet Risks

The Government's balance sheet is absorbing a significant shock because of COVID-19, deploying the resilience built up over several economic cycles of responsible fiscal management. In addition, the COVID-19 response has seen some further risks added to the Government's balance sheet, for instance in relation to guarantees provided to businesses. To explain this, and the impact of future risks, it is useful to apply the function or purpose approach to Balance Sheet risks set out in the Fiscal Outlook chapter:

- Social – assets and liabilities held to provide public services.
- Financial – assets and liabilities that finance or prefund government expenditure and obligations for future expenditure.
- Commercial – assets and liabilities of entities with commercial objectives.

Balance Sheet risks are risks that assets and liabilities will not be able to provide public services, finance or prefund future government expenditure and obligations, or achieve commercial objectives. The resilience of the balance sheet refers to its ability to absorb and adapt to shocks and stresses that might otherwise hinder these objectives being achieved.

Sources of (Social) balance sheet risk to public services

Physical assets such as land, buildings, state highways and military equipment are susceptible to external natural hazards, and the quality of asset management in delivering services. The government generally relies on asset management, including built in redundancies (eg, in network capacities), and its ability to re-allocate or repurpose assets (eg, in responding to a crisis) rather than risk transfer instruments such as insurance in managing these risks.

The replacement costs of physical assets are also susceptible to valuation movements through changes in property market conditions, changes in demand and changes in the costs of construction. The PREFU forecasts have incorporated initial valuations, where they have been completed, to 30 June 2020. The valuers have however warned that there is little market evidence to draw on post the COVID-19 lockdown, and current prices may be an unreliable guide to future property prices.

Social insurance and retirement liabilities (eg, Accident Compensation, Veterans' Disability and the Government Superannuation Fund) are prone to volatility through their actuarial valuations, including changes to expectations of future interest rates and inflation rates. These forecasts reflect the significant crystallisation of this risk as a consequence of the recent reduction of interest rates to unprecedented low levels.

The Crown is making significant concessionary lending available to achieve public policy purposes. This lending currently includes student loans, the small business cash flow loans scheme, while the forecasts provide for Progressive Home Ownership Loans. This lending brings counter-party risk, and is also exposes the Crown to risks associated with changes in assumptions of the future value of money, affecting how these future repayments are discounted. Expected credit losses from this lending are closely monitored.

The Crown faces contingent liabilities, for example, indemnities of activities in the public interest, environmental claims and legal proceedings. The government indemnities associated with the Business Finance Guarantee Scheme to support viable businesses represent a significant increase in balance sheet risk. Contingent liabilities are more fully discussed in pages 90 to 99 at the end of this chapter.

Sources of (Financial) balance sheet risk to finance or prefund future government expenditure and obligations

The New Zealand Government remains among the highest-rated sovereigns globally, with the top Aaa foreign-currency rating from Moody's (reaffirmed on 3 April 2020) and AA foreign-currency ratings from Standard & Poor's and Fitch. Moody's has reported: "While the global coronavirus outbreak presents unprecedented challenges to New Zealand's economy, the Government has promptly deployed its fiscal capacity to buffer the impact of the shock. Institutional effectiveness mitigates vulnerabilities related to reliance on external financing and elevated household debt."

The deployment of the Government's fiscal capacity has meant that the balance sheet is now more highly leveraged than previously. Monetary policy activities including a Large Scale Asset Purchase (LSAP) program, foreign exchange swaps to manage short-term interest rate pressures, and lending to the finance sector by the Reserve Bank have expanded the consolidated balance sheet, increasing interest rate, foreign exchange and credit risk.

Financial assets held by ACC and the New Zealand Superannuation Fund are sensitive to financial market volatility, such as movements in interest rates, exchange rates and equity prices. This has been especially apparent from movements in recent weeks that are reflected in the 30 June 2020 estimated actual forecasts. Crown financial institutions set long-term investment strategies based on underlying policy objectives. These strategies aim to look through short-term volatility and take exposures that would offset the impact of long-term social insurance or retirement liabilities.

Liquidity risk: the Crown incurs liquidity risk with respect to its ability to raise cash to meet its obligations. Each agency manages its own specific liquidity risk while the Treasury manages the Crown's liquidity requirements. The LSAP programme instituted by the Reserve Bank provides additional assurance that this risk is managed in the current environment.

Sources of (Commercial) balance sheet risk to meet commercial objectives

A number of commercial entities owned by the Crown have their financial performance and valuations impacted by the commercial environment in which they operate. These forecasts include support packages for Air New Zealand and Airways Corporation where COVID-19 has significantly impacted their commercial environment.

Managing risk into the future

The Crown's exposure to balance sheet risks is unavoidable if it is to pursue its objectives. The general approach that has been taken to identify, measure and treat these risks where practicable, to maintain debt at prudent levels and to hold a healthy level of net worth has enabled the Government to effectively absorb much of the shock of COVID-19.

The build-up and subsequent deployment of that fiscal resilience in response to COVID-19 has underscored the importance of the principles of responsible fiscal management in the Public Finance Act 1989. That deployment is reflected in the reduction of net worth from $146 billion at 30 June 2019, to a forecast $XXX billion as at 30 June 2024.

The forthcoming risk management challenge is to move from absorption to adaptation, as the Government moves from fighting the virus and cushioning the blow, toward kickstarting the economy, resetting the Crown's balance sheet objectives and rebuilding its capacity to absorb shocks in the future.

Specific Fiscal Risks

This statement of specific fiscal risks is required by the Public Finance Act 1989. In addition to the discussion of other types of risks to the economic and fiscal forecasts outlined in this chapter, it sets out (to the fullest extent possible) all government decisions and other circumstances known to the Government that may have a material effect on the fiscal outlook, but are not certain enough in timing or quantum to include in the fiscal forecasts. This section covers:

- how specific fiscal risks are managed
- criteria for inclusion and exclusion of specific fiscal risks, and
- the statement of specific fiscal risks.

The risks disclosed in this chapter reflect those that are known at the date of the finalisation of the fiscal forecasts, 6 August 2020. Although the process for disclosure of specific fiscal risks involves a number of entities, including government departments, the Treasury and the Minister of Finance, there remains a possibility that not every significant risk is identified.

How Specific Fiscal Risks are Managed

A key principle guiding the disclosure of risks is transparency. This means that material risks are disclosed in this section regardless of whether they can be managed through existing funding sources (eg, through prioritisation of funding already available to departments) or the Budget operating and capital allowances (the future new spending built into the fiscal forecasts). This ensures a prudent approach to the disclosure of risks, to improve transparency and to avoid prejudging future decisions by governments about what may or may not be funded from allowances.

The Government has a number of options to manage risks. The risks disclosed in this section therefore may not arise in a way that affects the fiscal forecasts presented in this Economic and Fiscal Update.

1 Reprioritisation

Core Crown expenses for the year ended 30 June 2019 were $87.0 billion, while capital spending for the same period totalled $6.7 billion. This base of expenditure creates significant scope for reprioritisation. Agencies are expected to fund pressures and new activities from within the funding already allocated to them. This could include repurposing low-value expenditure or generating efficiency savings.

2 Budget allowances

The following allowances for new expenditure in future Budgets have been included in the Treasury's fiscal forecasts (Fiscal Outlook chapter) and are reflected in the Government's *Budget Policy Statement*. These may be reviewed at a later date when the fiscal impact of COVID-19 is clearer.

$billions	Budget 2021	Budget 2022	Budget 2023
Operating allowances (per year)	2.4	2.4	2.6
Multi-year capital envelope (total)		4.8	

These allowances are included in the fiscal forecasts to reflect future new spending by the Government and better link the forecasts to the Government's fiscal strategy. The effect of including the allowances in the forecasts is that new spending decisions in future Budgets should not impact the Government's fiscal targets.

The allowances are the main mechanism for the Government to allocate new expenditure for each Budget. The allowances have been set at a level that allows the Government to achieve its broader fiscal and policy objectives and in accordance with the expectation that any new policy initiatives and cost pressures can be managed within these parameters. A self-imposed limit on expenditure also helps to ensure any new spending is targeted to areas of high priority.

3 Policy choices

For a number of risks, the Government has choices around future funding, including how much is funded and the timing of when that funding is provided.

4 COVID-19 Response and Recovery Fund (CRRF)

For risks that materialise in full or in part owing to the impacts of COVID-19, drawing down on the remaining CRRF balance is an additional option for the Government.

Criteria for Inclusion in Either the Fiscal Forecasts or as a Specific Fiscal Risk

Specific criteria based on section 26U of the Public Finance Act 1989 determine what is included in the fiscal forecasts as opposed to what is disclosed as a specific fiscal risk.

Fiscal forecasts	Specific fiscal risks
Matters are incorporated into the fiscal forecasts when: • the matter can be quantified for particular years with reasonable certainty, and • a decision has been taken, or • a decision has not yet been taken but it is reasonably probable[11] that the matter will be approved or the situation will occur.	Matters are disclosed as specific fiscal risks if the likely impact is more than $100 million over the forecast period and either: • a decision has not yet been taken but it is reasonably possible[12] (but not probable) that the matter will be approved or the situation will occur, or • it is reasonably probable or possible that the matter will be approved or the situation will occur, but the matter cannot be quantified or assigned to particular years with reasonable certainty.

[11] For these purposes, 'reasonably probable' is taken to mean that the matter is **more likely than not** to be approved within the forecast period (ie, there is a greater than 50% chance of the matter occurring or being approved).

[12] For these purposes, 'reasonably possible' is taken to mean that the matter **might** be approved within the forecast period (ie, there is a 20% to 50% chance of the matter occurring or being approved).

General Risks Not Included as Specific Fiscal Risks

A range of general risks to the fiscal forecasts exist but are not separately disclosed as specific fiscal risks, including:

- risks from changes to economic assumptions, including as a result of COVID-19, and the most significant of these have been recognised elsewhere in this chapter and Economic and Fiscal Update
- business risks and volatility in the returns from, and valuation of, the Government's investments relating to the broader economic and commercial environment, and
- the costs of future individual natural disasters, individual events resulting from climate change, and other major events (including biosecurity incursions), as their occurrence, nature and timing cannot be predicted. New Zealand will continue to experience natural disasters and for some of these the frequency and/or severity is likely to increase with climate change, for example increased coastal flooding because of sea level rise and extreme weather events. Once such an event does occur, a number of choices arise about how to respond, and when to recognise potential liabilities. Specific risks are disclosed at that point based on the range of possible responses.

Exclusions to Disclosure

The Minister of Finance may determine, under section 26V of the Public Finance Act 1989, that a matter not be included in the fiscal forecasts or a specific fiscal risk not be disclosed, if such disclosure is likely to:

- prejudice the substantial economic interests of New Zealand
- prejudice the security or defence of New Zealand or international relations of the Government
- compromise the Government in a material way in negotiation, litigation or commercial activity, or
- result in a material loss of value to the Government.

Section 26V requires the Minister of Finance, if possible, to avoid withholding the matter, either by making a decision on it before the forecasts are finalised or by disclosing it without quantifying the risk.

Summary Table

The matters listed below are disclosed as specific fiscal risks because they meet the criteria for disclosure. Full descriptions are set out in the next section.

The table below is categorised based on the nature of the risk: policy changes, cost pressures and cross-portfolio risks. Within these categories, the risks have been ordered by portfolio and include the title of the risk, its status and whether it has an impact on revenue, expenses and/or capital expenditure. The status of the risk describes whether the risk reflects a new matter or is changed or unchanged since the *Budget Update*.

Statement of Specific Fiscal Risks as at 6 August 2020

Policy changes by portfolio	Status[13]	Type of risk
ACC		
Impacts of Changes to Accident Compensation Policy Settings	Unchanged	Expenses
Work-related Gradual Process Disease and Infection	Unchanged	Expenses
Biosecurity		
Mycoplasma Bovis Biosecurity Response	Unchanged	Expenses and Revenue
Broadcasting, Communications and Digital Media		
Delivery of the Government's Public Media Outcomes	Unchanged	Expenses and Capital
s9(2)(f)(iv)		
Defence		
Defence Funding Requirements to Deliver New Zealand's Defence Strategy	Unchanged	Expenses and Capital
Disposal of New Zealand Defence Force Assets	Unchanged	Revenue and Expenses

13 *Unchanged* – risks where the nature and/or scale of the risk has not changed substantively since the *Budget Update*.

Changed – risks where the nature and/or scale of the risk has changed substantively since the *Budget Update*.

Education		
s9(2)(f)(iv)		
Early Learning Action Plan 2019-2029	Unchanged	Expenses
Education Workforce Strategy	Unchanged	Expenses
Extension of the Fees-free Tertiary Education Policy	Unchanged	Expenses
Free and Healthy Lunch Programme	New	Expenses and Capital
Reform of Vocational Education (RoVE)	Changed	Expenses and Capital
Replacing Deciles with the Equity Index	New	Expenses
Response to the Tomorrow's Schools Review	Unchanged	Expenses
Finance		
Business Finance Guarantee Scheme	New	Expenses
Deposit Insurance Scheme	Unchanged	Revenue and Expenses
Foreign Affairs		
Official Development Assistance	Unchanged	Expenses
Health		
COVID-19 Vaccine Strategy	New	Expenses
Health and Disability System Review	Changed	Expenses
Primary Care Services	Unchanged	Expenses
Local Government		
Three Waters Infrastructure Investment and Reform Programme	New	Expenses and Capital
Māori Development		
Government Response to WAI262	Unchanged	Expenses
Research, Science and Innovation		
Research and Development Spending Target	Unchanged	Expenses
Revenue		
Potential Tax Policy Changes	Unchanged	Revenue
Taxation of Digital Services	Unchanged	Revenue
Social Development		
Changes to the Welfare System	Unchanged	Expenses
Transport		
Auckland City Rail Link Ownership Issues	Unchanged	Expenses
Light Rail in Auckland	Unchanged	Expenses and Capital
Support for KiwiRail	Changed	Capital
Upper North Island Supply Chain Strategy (UNISCS) – Working Group Recommendations	Unchanged	Expenses and Capital
s9(2)(f)(iv)		

Cost pressures by portfolio	Status[14]	Type of risk
ACC		
ACC Levies	Unchanged	Expenses and Revenue
Non-Earners' Account	Unchanged	Expenses
Climate Change		
Emissions Trading Scheme – Fixed Price Option	Unchanged	Revenue and Expenses
Corrections		
Waikeria Mental Health Unit Operating Funding	New	Expenses
Economic Development		
New Zealand Screen Production Grant – International	Unchanged	Expenses
Education		
Education Operating Cost Pressures	Unchanged	Expenses
Change in Demand for Tertiary Education and Training	New	Expenses
Learning Support	Changed	Expenses
School Transport Services	Unchanged	Expenses
Finance		
Earthquake Commission	Unchanged	Expenses
Goodwill on Acquisition	Unchanged	Expenses
Closure of Tiwai Point	New	Expenses
Foreign Affairs		
Antarctica New Zealand – Redevelopment of Scott Base	Unchanged	Expenses and Capital
Greater Christchurch Regeneration		
Southern Response Earthquake Services Support	Unchanged	Expenses and Capital
Health		
DHB Sustainability	Unchanged	Expenses
Health Capital Pressure	Unchanged	Capital
Health Operating Pressure	Unchanged	Expenses

14 *Unchanged* – risks where the nature and/or scale of the risk has not changed substantively since the *Budget Update*.

Changed – risks where the nature and/or scale of the risk has changed substantively since the *Budget Update*.

Housing		
Divestment and Development of Kāinga Ora – Homes and Communities' Housing	Unchanged	Expenses
Emergency Housing Special Needs Grants	Unchanged	Expenses
Increases to Market Rent	Unchanged	Expenses
KiwiBuild – Fiscal and Delivery Risks	Unchanged	Revenue, Expenses and Capital
Large-scale Housing and Urban Development Projects	New	Expenses and Capital
Managed Isolation and Quarantine	New	Expenses
Tāmaki Regeneration Project	Unchanged	Expenses
Internal Affairs		
Archives New Zealand Storage Capacity	Unchanged	Expenses and Capital
Royal Commission of Inquiry into Abuse in State Care	New	Expenses
Justice		
Legal Aid Demand Pressures	New	Expenses
Police		
Firearms Reform Programme	Unchanged	Expenses
Racing		
Financial Viability of TAB NZ	New	Expenses and Capital
Regional Economic Development		
Provincial Growth Fund	Unchanged	Expenses and Capital
Revenue		
Cash Held in Tax Pools	Changed	Revenue
Research and Development Tax Incentive	Unchanged	Expenses
Small Business Cashflow Scheme	New	Expenses and Capital
Student Loans – Valuation	Unchanged	Expenses
Transformation and Technology Renewal	Unchanged	Expenses
Social Development		
Quarterly Employment Survey Redevelopment	Changed	Expenses
Transport		
Auckland City Rail Link	Unchanged	Expenses and Capital
Transmission Gully	New	Expenses and Capital
Treaty of Waitangi Negotiations		
Relativity Clause	Unchanged	Expenses
Treaty Settlement Forecasts	Unchanged	Expenses
Veterans		
Veterans' Disability Entitlements	New	Expenses

Cross-portfolio specific fiscal risks	Status	Type of risk
Addressing the Gender Pay Gap in the State Sector	Changed	Expenses
Budget 2020 Priority Packages	Unchanged	Expenses and Capital
Changes to Institutional Form of Government Agencies	Unchanged	Expenses
Increasing the Minimum Wage	Unchanged	Expenses
Information and Communications Technology Operating and Capital Pressures	New	Expenses and Capital
New Zealand Upgrade Programme	Unchanged	Expenses and Capital
Non-Government Providers Receiving Funding from the Crown	Unchanged	Expenses
Other Capital Cost Pressures	Changed	Capital
Other Operating Cost Pressures	Changed	Expenses
Outcomes from Other Government Inquiries and Reviews	Unchanged	Expenses
Pay Equity Claims Following the Care and Support Worker Settlement	Unchanged	Expenses
Policy Responses to the 15 March 2019 Terror Attacks	Unchanged	Expenses
Possible Responses to the 2020 Referendums on Cannabis Law Reform and End of Life Choice	Unchanged	Expenses
Services Funded by Third Parties	Changed	Expenses
State Sector Employment Agreements	Unchanged	Expenses
Unexpected Maintenance for Crown-owned Buildings	Unchanged	Capital

Policy Change Risks by Portfolio

The following section outlines risks relating to potential decisions likely to be taken by the Government relating to both new and existing policy settings. Cross-portfolio policy change risks are outlined on pages 86-88.

ACC

Impacts of Changes to Accident Compensation Policy Settings (Unchanged)

The Government has signalled it will review a number of Accident Compensation scheme policy settings. Some of the policy issues identified would require either legislative or regulatory change. These changes could result in a significant fiscal impact.

Work-related Gradual Process Disease and Infection (Unchanged)

Under current legislation, the Government incurs an obligation for Work-related Gradual Process Disease and Infection claims when the claim is made, and an expense is recognised at this point. The liability for commercial accident and sickness insurance contracts would usually be recognised when exposure to conditions that will give rise to a claim occurs. An amendment to legislation would be required to recognise claims at the same time as for commercial contracts. An initial adjustment to the liability and an expense of about $1.5 billion to $2.0 billion would need to be reported if such an amendment were to be enacted.

Biosecurity

Mycoplasma Bovis Biosecurity Response (Unchanged)

The Government and the farming sector have agreed to attempt to eradicate the cattle disease *Mycoplasma bovis*. Government funding has been appropriated, and included in the forecasts, for response activities in 2020/21 only. The timing of farming sector contributions may differ from what is in the fiscal forecasts. The need for government funding to be appropriated for 2021/22 and subsequent years will be considered depending on progress in eradicating the cattle disease.

Broadcasting, Communications and Digital Media

Delivery of the Government's Public Media Outcomes (Unchanged)

The media sector, including both public and privately owned organisations, is under increasing pressure due to international competition, declining revenue shares and changes to the way people access content. The Government has committed to strengthening New Zealand's public media and has commissioned a detailed business case on the viability of a preferred approach. Progress on the business case was paused to enable focus on media COVID-19 response initiatives. A request for Cabinet approval to recommence the business case work is pending. Once business case outcomes are agreed, significant additional investment may be required to deliver on the Government's public media outcomes.

s9(2)(f)(iv)

[redacted]

Defence

Defence Funding Requirements to Deliver New Zealand's Defence Strategy (Unchanged)

In 2018, the Government updated Defence policy settings in the Strategic Defence Policy Statement 2018. These policy settings, and the Defence Capability Plan subsequently agreed by the Government in 2019, provide an indication of future Defence capital and operating funding requirements. However, the precise quantum and timing of actual Defence spending will depend on the approval of future business cases and Budget initiatives.

Disposal of New Zealand Defence Force Assets (Unchanged)

The Government continues to consider the potential to dispose of a number of New Zealand Defence Force assets. Depending on market conditions, the timing of disposal and the sale price received could have either a positive or negative impact on the Government's overall financial position.

Education

s9(2)(f)(iv)

[redacted]

Early Learning Action Plan (Unchanged)

Following public consultation between November 2018 and March 2019 and subsequent Cabinet approval, the Government released *He Taonga te Tamaiti – Every Child a Taonga: Early Learning Action Plan 2019-2029* in December 2019. The estimated cost of the Early Learning Action Plan (ELAP) in the forecast period is approximately $1.2 billion. This estimated cost relates to actions that are indicated in the ELAP as likely to begin within the forecast period, such as improving adult-to-child ratios. To the extent that costs cannot be managed within baselines, further funding may be required.

Education Workforce Strategy (Unchanged)

The Ministry of Education is working in partnership with the Education Workforce Strategy Governance Group to develop a comprehensive Education Workforce Strategy (EWS) for the full education workforce. The aim is for Cabinet to consider the draft EWS in June this year. Post-Cabinet consultation and engagement will follow. An implementation plan will be finalised in early to mid-2021. Initial estimates are that unconstrained implementation, delivering on the full intent of the EWS, will cost more than $100 million.

Extension of the Fees-free Tertiary Education Policy (Unchanged)

The Government has a stated intention to extend its first year fees-free tertiary education and training policy to the first three years of tertiary education fees-free in future parliamentary terms. The behavioural changes from extending the policy, and therefore the impact on future costs, are unquantifiable at this stage.

Free and Healthy Lunch Programme (New)

The Free and Healthy Lunch Programme was a pilot to test different models of delivery to students in selected schools. The programme was expanded to provide lunches to the 25% most disadvantaged students in the country as part of the Governments COVID-19 response. The programme funding (both the pilot and expansion) ends in December 2021. If the Government decides to extend or expand the Programme, then additional ongoing funding will be required.

Reform of Vocational Education (RoVE) (Changed)

The New Zealand Institute of Skills and Technology (NZIST) has been established bringing into one organisation the 16 former Institutes of Technology and Polytechnics. The NZIST may seek significant additional Crown funding in the future for the transformation and management of its national network of education providers, including for the integration of supporting work-based training such as apprenticeships. Design of, and implementation planning for, the vocational education Unified Funding System (UFS) is continuing. The Government has stated an intention to implement the UFS from 1 January 2023, but this and any additional investment is subject to Cabinet decisions.

Replacing Deciles with the Equity Index (New)

The Government has made an in-principle decision to replace school deciles with the Equity Index. The Index provides a more refined measure to understand whether there are socio-economic factors present in the lives of children that can impact educational outcomes. This will inform how the education system can be resourced to provide all children an equitable chance of success. s9(2)(f)(iv)

Response to the Tomorrow's Schools Review (Unchanged)

The Government's response to the Tomorrow's Schools Review has been publicly released. Continued policy development and relevant service and implementation design have begun. Accordingly, future decisions are required on almost all changes, including decisions on changes in investment. The Government has indicated it will consider these changes and new investments over the next three to four Budgets. This is a policy choice of the Government and the costs will be material but unquantifiable at this point for specific financial years. The impact of COVID-19 will lead to continued development work over the long-term with a short-term focus on supporting schools and front-line services.

Finance

Business Finance Guarantee Scheme (New)

As reported under contingent liabilities, the Crown has established a Business Finance Guarantee Scheme (BFGS) with a number of banks to support New Zealand businesses facing hardship as a consequence of COVID-19. The currently assessed fair value of these contracts, and the expense arising, has been quantified and incorporated into the forecasts. The extent of credit losses under this scheme is uncertain. Proposed changes to the BFGS are likely to increase take-up of the scheme, and may impact on credit losses that will be incurred.

Deposit Insurance Scheme (Unchanged)

The Government has announced that by 2023 it plans to introduce a deposit insurance scheme, of $50,000 per depositor per institution, and is consulting on the details. The scheme would have an impact on both expenses and revenue over the forecast period, but is not yet reflected in the fiscal forecasts.

Foreign Affairs

Official Development Assistance (Unchanged)

Each year, New Zealand's Official Development Assistance (ODA) expenditure is measured as a proportion of Gross National Income (GNI). In Budget 2020, Cabinet agreed to increase ODA by $55.589 million in 2020/21, lifting it to 0.31% of GNI from 0.28% of GNI. If Government wants to maintain the ratio at or around 0.31% beyond June 2021, a different level of funding may be required, depending on the scale of the economic impact of COVID-19.

Health

COVID-19 Vaccine Strategy (New)

The New Zealand Government will need a strategy to facilitate developing or obtaining a vaccine for COVID-19. Once a vaccine becomes available, there will be the cost of purchasing it and vaccinating the population to prevent further outbreaks. A vaccine is likely to be 12-18 months away.

Health and Disability System Review (Changed)

The review of the New Zealand Health and Disability System has identified opportunities to improve the performance, structure, and sustainability of the system with a goal of achieving equity of outcomes, and contributing to wellness for all, particularly Māori and Pacific peoples. Until the Government has considered the recommendations and decided which to implement, the costs of implementation will not be known. No decisions will be taken until after a government is formed following the General Election in September 2020.

Primary Care Services (Unchanged)

The Government has signalled the intention to further increase funding for Primary Care services beyond the increase provided in Budget 2020 and in response to COVID-19. The associated implementation details and funding arrangements for any further funding are yet to be finalised.

Local Government

Three Waters Infrastructure Investment and Reform Programme (New)

The Three Waters Review highlighted systemic challenges facing the three waters sector including infrastructure deficiencies, asset management, service delivery, capacity and capability issues, and funding and affordability constraints. In July 2020, the Government made available up to $701.9 million to territorial authorities to support their planned investment programme and large-scale asset replacements. This funding will only be available to territorial authorities that opt in to the proposed three waters service delivery reform programme over the next three years. It is possible that further funding is required in the future to incentivise territorial authorities to support and deliver the reform programme. In addition, the drinking water supply infrastructure assets managed by the Department of Conservation at more than 2,000 sites will need to comply with safe drinking water standards, with significant fiscal implications for the department.

Māori Development

Government Response to WAI262 (Unchanged)

The Waitangi Tribunal's report on the WAI262 claim focuses on the protection of Māori culture and identity, with a particular focus on mātauranga Māori and associated taonga. The Tribunal's recommendations are directed towards a number of government agencies individually, as groups and across sectors. In April 2019, the Government initiated a whole-of-government approach to addressing issues raised in the WAI262 claim and the Tribunal's subsequent report.

Research, Science and Innovation

Research and Development Spending Target (Unchanged)

The Government has a target to increase economy-wide research and development (R&D) expenditure to 2% of GDP over 10 years. While the effect of COVID-19 is likely to decrease GDP, it is also likely to decrease private sector R&D expenditure. It is too soon to assess whether the combined effect of these two factors will further increase the cost to the Crown of achieving the 2% of GDP target.

Revenue

Potential Tax Policy Changes (Unchanged)

The Government has initiated a work programme to progress certain tax measures. These can be viewed on the tax policy website www.taxpolicy.ird.govt.nz. Given the effect of the COVID-19 pandemic on the economy, the focus of the work programme will be on supporting businesses and New Zealanders through this crisis and facilitating the recovery. The fiscal implications of these potential policy changes are unquantified at this stage.

Taxation of Digital Services (Unchanged)

The Government is currently considering options for reform of the international tax framework, in light of the challenges posed by digitalisation and globalisation. The Government's preference is to continue working with the Organisation for Economic Co-operation and Development (OECD) to find a multilaterally agreed solution to these challenges, but the Government will seriously consider a digital service tax if the OECD does not make sufficient progress on a multilateral solution. The revenue impact of any change will depend on the design of the preferred option.

Social Development

Changes to the Welfare System (Unchanged)

The Government has agreed that its vision for the welfare system is to ensure that people have an adequate income and standard of living, are treated with respect and can live in dignity, and are able to participate meaningfully in their communities. Cabinet has agreed to a multi-year policy work programme to deliver on this vision. Any changes agreed to in future will likely have legislative, operational, IT and fiscal implications. Detailed information on the scale of change, implications and associated costs will be provided to Cabinet as part of future decisions.

Transport

Auckland City Rail Link Ownership Issues (Unchanged)

The Government has committed to fund 50% of the costs associated with the City Rail Link project, along with Auckland Council, which has also committed to fund 50% of the project. Both the Crown and Auckland Council have treated the investment for the City Rail Link project as capital expenditure. Depending on the final ownership structure of the City Rail Link, the Crown may need to write off some value from the Crown’s books. Any write-off is likely to be in the range of +/- 20% of the Crown’s investment (ie, there may be a write-up of value), but this depends upon a number of factors including allocation of assets and valuation basis once allocation has been determined. The timeframe for decisions around future ownership has yet to be finalised. The current work plan is for such a decision to be made in late 2020, although the agreement between Sponsors and City Rail Link Limited allows for such a decision to be made as late as 2022.

Light Rail in Auckland (Unchanged)

Cabinet has decided to terminate the parallel process for the Auckland Light Rail project and for any further decisions to be taken after the general election. The Government is still committed to addressing congestion on the city centre to Mangere corridor and, depending on future decisions, Crown funding may be required to support any rapid transit project.

Support for KiwiRail (Changed)

Budget 2020 provided an appropriation of $246 million for below rail (network investment), $421 million to replace ageing rolling stock, and $400 million to support replacement of the ageing interisland ferry fleet and associated landside infrastructure. Further Crown funding is likely to be sought to progress these projects as part of the implementation of the Future of Rail programme.

Upper North Island Supply Chain Strategy (UNISCS) – Working Group Recommendations (Unchanged)

Sapere Research Group has completed its report analysing the Working Group's options for moving freight from the Ports of Auckland. All of the five options analysed had economic costs that outweighed the economic benefits. Cabinet has deferred any decisions on the future location of the Auckland's port until 2021, when officials are expected to give their advice on the Sapere and Working Group reports.

s9(2)(f)(iv)

[redacted]

Cost Pressure and Cost Variance Risks by Portfolio

The following section outlines risks of cost pressures and variance risks of items included in the fiscal forecasts (where applicable). The majority of agencies are likely to face cost pressures in the future owing to changes in demand or costs of inputs used in the delivery of existing services or products. The key drivers of future cost pressures are likely to come from population changes, wage increases (both pay negotiations and progression through pay scales) and price inflation of inputs. Cross-portfolio risks for other operating and capital cost pressures are outlined on pages 86-88.

ACC

ACC Levies (Unchanged)

ACC levies will remain unchanged until at least 2022, with indicative future levy rates for the Work, Earners' and Motor Vehicle accounts included in the forecasts. Final levy decisions are made by the Government and may differ from the forecast levy path. In addition, revenue from the levies set for these accounts may be more or less than that required to cover the cost of claims. If factors such as claims experience, ACC performance, and economic assumptions (particularly discount rates and unemployment rates) differ from the forecasts, ACC's levy revenue, claims costs, and liability may also differ from the forecasts. Any variance will have a corresponding impact on the operating balance.

Non-Earners' Account (Unchanged)

The amount of funding provided by the Crown (and included in the fiscal forecasts) for the Non-Earners' Account may be more or less than is required to cover the cost of future claims. If factors such as claims experience, ACC performance, and economic assumptions (particularly discount rates) turn out differently from what has been forecast, any such variance will have a corresponding fiscal impact.

Corrections

Waikeria Mental Health Unit Operating Funding (New)

The Waikeria Prison Development, including a 500 bed High Security Facility and a 100 bed Mental Health and Addiction Service, is currently under construction. The costs of running the mental health unit still need to be provided for and there is a risk that these cannot be met through baseline expenditure, so further Crown funding may be required.

Climate Change

Emissions Trading Scheme – Fixed Price Option (Unchanged)

The Emissions Trading Scheme (ETS) earns revenue and incurs expenses for the Crown, both of which are uncertain. The uncertainty is partly owing to the future market price of New Zealand Units (NZUs), and the extent to which participants elect to use the Fixed Price Option (FPO). For the latest fiscal forecasts, both revenue and expenses have been valued at the 30 June 2020 market price of $32.10. Under the FPO, participants and eligible persons have an option to meet their obligations by purchasing units directly from the Crown at a fixed price. Should the secondary market price of NZUs exceed the fixed price near the time the surrender obligations are due in May 2021, it is likely that participants and eligible persons would use the FPO. As a result, the Crown would recognise an expense from selling units at below market price and receive cash that would reduce net core Crown debt. Conversely, if the market price of NZUs remains less than the $35 FPO for 2020 emissions it is likely that participants will use the secondary market to fulfil their surrender obligations rather than the FPO. The Climate Change Response (Emissions Trading Reform) Amendment Act 2020 enables the auctioning of units to begin in 2021. Auctioning NZUs will result in cash being paid to the Crown, also reducing net core Crown debt. The extent of this depends on the future price realised for auctioned units, which is inherently uncertain.

Economic Development

New Zealand Screen Production Grant – International (Unchanged)

The New Zealand Screen Production Grant is an uncapped, on-demand grant that incentivises international studios to locate production work in New Zealand by offering them a rebate on their qualifying expenditure. Although potential delays to productions as a result of COVID-19 may offset some of this risk in the near term, there remains a high level of international interest in New Zealand as a place to do screen business over the forecast period. The fiscal forecasts include an estimate of expenditure based on known productions. There nevertheless remains a risk that demand for the Screen Production Grant will exceed what is included in the fiscal forecasts if more large-budget productions choose to locate in New Zealand (in addition to the two existing large-scale productions of *Avatar* sequels and *The Lord of the Rings* television series).

Education

Education Operating Cost Pressures (Unchanged)

The education sector faces significant cost pressures from increasing demand in early childhood education (ECE) and schooling, largely as a result of population growth. Demographic change has an impact on expenditure on ECE subsidies, especially for the 20 hours' fully subsidised entitlement for three- to five-year-olds; the per-pupil component of schools' operational funding; and schools' full-time teaching equivalent entitlement, which is based on staff-to-student ratios. In addition, the Ministry of Education faces compounding departmental operating expenditure pressures due to increasing demand for and price of education services, and other cost pressures experienced by its work programmes. These pressures, which include difficult to control inflationary pressures, represent risks to the extent that they cannot be managed through reprioritisation or new spending set aside in the forecasts. The Government's stated intention is that all pressures are managed through these mechanisms.

Change in Demand for Tertiary Education and Training (New)

There is significant uncertainty on the impact of COVID-19 on unemployment, the reduced net-migration of New Zealand residents, and the scale of the increased enrolments in tertiary education that result. More people aged 18-24 years, and more people unable to find work that enter study instead to upskill or re-train, can both lead to more people enrolling in tertiary education. In Budget 2020, the COVID-19 Response and Recovery Fund provided an additional $334 million, over 2021-2023, to meet increased learner demand. Due to the uncertainty around the impact of COVID-19, learner demand could be higher, or lower, than the available number of funded-places for learners. Updated forecasts and initial enrolments in 2021 will provide an indication of any potential additional financial costs.

Learning Support (Changed)

The Government's Learning Support Action Plan 2019-2025 (the Action Plan) notes the need to better support disabled children and young people, and those with additional learning needs. Some Action Plan priorities, such as strengthening support for neurodiverse learners and those who require alternatives to mainstream schooling and/or are at risk of disengaging from education, may need further funding. In addition, a range of existing learning support services provided and/or funded by the Ministry of Education face volume and price pressures. There is a risk that these pressures cannot be met within existing baselines, and further funding may be required.

School Transport Services (Unchanged)

The cost of Daily School Bus Services makes up approximately half of the total budget for School Transport Services. The Ministry of Education will be going to market for the tender of provision of these services, which could impact the annual expenditure under the new contracts. In addition, the combination of a demand increase of 14% in Specialised School Transport Assistance (prior to COVID-19) and indexation increases will likely lead to further cost increases. To the extent that these pressures cannot be managed within existing baselines, additional funding is likely be required.

Finance

Earthquake Commission (Unchanged)

The Earthquake Commission's (EQC's) independent actuary undertakes half-yearly valuations of the total earthquake liability to the Crown. This includes settled and yet to settle claims (including those in litigation), an estimation of future claims not yet received, insurer finalisation and any associated reinsurance recoveries. Based on these valuations, a profile of the claims yet to settle is included in the fiscal forecasts. There remain risks that EQC's remaining settlement expenditure relating to the Canterbury and Kaikōura earthquakes will differ from (be higher or lower than) forecast. This is because EQC's remaining settlement expenditure relating to the Canterbury earthquakes does not incorporate any liability recognition or provision for costs relating to the over-cap portion of any building claims, whether they are on-sold remedial building claims or otherwise. EQC only recognises expected future costs where it is liable for such costs under the Earthquake Commission Act 1993. The risks include litigation, and the resolution of liability with insurers and reinsurers, in addition to the level of future remedial claims. It is not possible at this stage to fully quantify the potential financial impact or the timing of these risks owing to the uncertainty associated with them, and variation could be material.

Goodwill on Acquisition (Unchanged)

As at 30 June 2019, the Government had goodwill on acquisition of a number of sub-entities totalling $743 million. Since then, the goodwill on acquisition relating to Air New Zealand has been impaired, as a consequence of COVID-19, leaving around $500 million in goodwill. Under New Zealand accounting standards (PBE IPSAS 26), the remaining goodwill items are required to be assessed annually for impairment. If there is any indication that the goodwill may be impaired, the recoverable amount of the cash-generating units to which the goodwill is allocated is required to be estimated. If the recoverable amount is less than the carrying amount of those units, the units and the goodwill allocated to them are regarded as impaired and the Government is required to recognise impairment losses in the operating statement. Such assessments will be conducted at the end of the financial year. The fiscal forecasts currently make no allowance for further such impairment losses.

Closure of Tiwai Point (New)

On 9 July 2020 Rio Tinto Limited announced the closure on or before August 2021 of New Zealand Aluminium Smelters (NZAS) which operates the Tiwai Point Aluminium Smelter in Southland, with the wind down of operations expected to be complete by August 2021. The impacts on electricity generation and transmission companies, which are majority or wholly owned by the Crown, and the need for transitional assistance for the Southland regional economy and workforce are unknown at this stage but could be significant. s9(2)(j) [redacted]

Foreign Affairs

Antarctica New Zealand – Redevelopment of Scott Base (Unchanged)

The infrastructure at Scott Base is approaching the end of its functional life. The indicative cost of redeveloping the Base ranges from $200 million to $290 million over an approximately eight-year period. Budget 2019 provided $19.7 million to Antarctica New Zealand to undertake further design and market testing to confirm costs ahead of seeking full redevelopment costs. In June 2019, Cabinet agreed in principle to the redevelopment of Scott Base and to a specific design option, subject to approval of the final costs, to be sought in a future Budget.

Greater Christchurch Regeneration

Southern Response Earthquake Services Support (Unchanged)

The ultimate cost to the Crown of settling earthquake claims remains subject to uncertainty. Forecasts assume that the actual cost to settle claims will align with the actuary's central estimate of the claims provision. There is a risk that the actual cost could vary from this estimate, which is sensitive to its underlying assumptions such as damage estimates, legal challenges, claims emerging in the future and the forecast profile of claims settlement.

Health

DHB Sustainability (Unchanged)

In recent years, the District Health Board (DHB) sector has been running operating deficits. As a result, a number of DHBs have required additional equity injections from the Government in order to remain solvent. This trend is expected to continue, with the fiscal forecasts reflecting deficits from DHBs of on average $0.6 billion per year over the forecast period. The fiscal forecasts assume that future expenditure growth will be met from future Budget allowances.

There is a significant risk that DHBs' deficits may be higher than what has been included in the fiscal forecasts, which would adversely impact the Government's operating balance and net core Crown debt. In particular, the DHB sector is likely to face significant cost pressures in the future to maintain the delivery of existing services. These cost pressures may increase as a result of the COVID-19 response. DHB expenditure growth is likely to be driven by demographic changes, price inflation of inputs and wage costs (both pay negotiation and progression through pay scales). The Government does have choices for meeting future cost pressures if they eventuate. However, given current policy settings, constraining or reducing expenditure over the forecast period while maintaining existing services would be very difficult. DHBs will be likely to require additional revenue to manage growing deficits. Decisions on the Health and Disability Sector review recommendations will not be taken until after a government has been formed following the September 2020 General Election.

Health Capital Pressure (Unchanged)

These capital pressures mainly relate to DHBs, but also to the Ministry of Health and other parts of the health system. DHBs have submitted updated capital intentions, identifying the indicative need for Crown funding over the next four years. Budget 2020 has provided $750 million for DHBs and Budget 2019 provided $1.7 billion, with a further $300 million being provided through the New Zealand Upgrade Programme. However, the pressures remain significant over the forecast period. These pressures are largely driven by asset condition issues and demographic change (population growth and an ageing population), placing pressure on infrastructure capacity. Information technology capability in the Ministry of Health and other parts of the sector also needs to be addressed because of ageing legacy systems and an inability to leverage new technology. The magnitude of the risk will depend in part on whether the capital expenditure can be incurred at the time forecast in the fiscal forecasts.

Health Operating Pressure (Unchanged)

The health sector is likely to face significant operating pressures within its existing baselines to maintain the delivery of existing health services. The main pressure drivers include demographic changes (both growth and an ageing population), wage costs (both pay negotiations and progression through pay scale), price inflation of inputs and increased operating costs from investment in IT.

Housing

Divestment and Development of Kāinga Ora – Homes and Communities' Housing (Unchanged)

Kāinga Ora's financial forecasts include business-as-usual divestments, acquisitions and the redevelopment of land and housing as part of its asset management strategy. Revenue from land and property divestments is used to help finance new public housing stock. The COVID-19 crisis is expected to disrupt the property market, potentially reducing Kāinga Ora's revenue from divestments, thereby increasing its borrowing and/or Crown funding requirements. Kāinga Ora also faces commercial and financial risks inherent in large-scale build and urban development programmes, the magnitude of which has increased as a result of the adverse impact of COVID-19 on Kāinga Ora's pipeline, international supply chains and the financial viability of its build partners.

Emergency Housing Special Needs Grants (Unchanged)

Emergency Housing Special Needs Grants help individuals and families with the cost of staying in short-term accommodation if they are unable to access a transitional or a public housing place. If demand increases and/or the number of transitional or public housing places does not increase as forecast, this would increase demand for the grants, with associated fiscal costs.

Increases to Market Rent (Unchanged)

Over $1 billion of payments per annum for housing assistance, such as income-related rent subsidies and accommodation payments for transitional housing, are linked to market-based rent levels. Should market rents increase above what is assumed for the forecasts, further funding may be required to maintain current levels of support.

KiwiBuild – Fiscal and Delivery Risks (Unchanged)

Changes in the housing market and economy may have an impact on the costs of delivering homes and associated revenue recycling. If the prices of underwritten houses fall, Crown underwrites may be called, thereby increasing debt, and the value of the portfolio may fall, impacting the operating balance. To achieve programme goals, there may be a need to change policy settings or provide support to developers and/or homebuyers. The Crown also faces general commercial risks associated with development and with implementing a large and evolving programme, which pose fiscal and delivery risks.

Large-scale Housing and Urban Development Projects (New)

A number of large scale housing redevelopment projects are currently being carried out by Kāinga Ora. While a portion of these costs will be met from Kāinga Ora's balance sheet, funding for the additional infrastructure and works needed to support these developments is yet to be agreed between central and local governments.

Managed Isolation and Quarantine (New)

Public health requirements regarding immigration and border control create a risk that demand for Managed Isolation and Quarantine (MIQ) facilities outstrips both current supply and appropriated funding. Current expectations are that facilities may be required for some time, and the establishment of an allocation system will mitigate some of the demand pressures.

Tāmaki Regeneration Project (Changed)

The Tāmaki Regeneration Project involves the replacement of 2,500 old public houses with between 7,500 and 10,500 new public, affordable and market houses (around one-third of which will be public houses). Development involves writing off existing public housing assets. If land sale proceeds are less than the value of write-offs in a given year, there will be a negative impact on the operating balance. The likelihood of this occurring has increased, given the expected impact of COVID-19 on land prices.

Internal Affairs

Archives New Zealand Storage Capacity (Unchanged)

There are capacity and condition issues with the current property portfolio for the storage of New Zealand's documentary heritage. Budget 2019 provided funding to complete the design work and initial shift activities associated with the proposed upgrade and expansion of the physical infrastructure. Budget 2020 provided funding for the development and subsequent lease of the new Wellington Archives New Zealand facility and the land purchase and design for a new Regional Shared Repository (RSR). Further funding will be sought in Budget 2022 for the construction of the new RSR to respond to forecast storage growth up to 2030.

Royal Commission of Inquiry into Abuse in State Care (New)

The Royal Commission of Inquiry into Historic Abuse in State Care and in the Care of Faith-based Institutions was formally established in November 2018 and was only funded for the first phase of its work. Additional funding is likely to be required through Budget 2021 to enable the Royal Commission to complete the second phase of work, following submission of its interim report in late 2020.

Justice

Legal Aid Demand Pressures (New)

Entitlement to legal aid is legislatively mandated and costs are driven by the volume and complexity of cases. The average cost per case has increased as a result of growth in more serious cases. Volumes may also be affected, either positively or negatively, by any future change in justice sector policy settings. The forecasts are based on historic spending levels but there is a risk that additional funding will be required if future costs are higher than forecast.

Police

Firearms Reform Programme (Unchanged)

The Arms Legislation Act 2020 was passed on 24 June 2020. The Act amends the Arms Act 1983 to provide for the establishment of a firearms registry and for other changes including amendments to the licensing regime, increased regulatory oversight, and the development of new offences and penalties. To the extent that the implementation of the changes cannot be managed within baselines, additional funding will be required.

Racing

Financial Viability of TAB NZ (New)

The Government made up to $50 million available for the Racing Industry Transition Agency (now TAB NZ) to support its operations through to 31 July 2020. The work to determine the level of the industry support package revealed that TAB NZ was undercapitalised, and additional support may be needed. In the post-COVID environment, TAB NZ revenue may also be depressed for several years which could have downstream implications for the industry and communities that depend on it. Work is underway to confirm and size this and identify options for addressing any funding requirements.

Regional Economic Development

Provincial Growth Fund (Unchanged)

The Government has committed to a Provincial Growth Fund of $3.0 billion over a three-year period. The capital and operating split and timing of this funding, as set out in the fiscal forecasts, are likely to change, and final capital and operating expense amounts in any year may vary from those forecast.

Revenue

Cash Held in Tax Pools (Changed)

Funds held in tax pools are recognised as a Crown asset. There is a risk that funds held in these pools may be withdrawn by that taxpayer, resulting in a reduction in the Crown's available cash reserves. The risk of withdrawal is larger in economic downturn as taxpayers are more likely to withdraw deposits. Conversely, there is also a risk that tax pool deposits will increase if Inland Revenue's use of money interest rates remain unchanged and the Reserve Bank moves to negative interest rates.

Research and Development Tax Incentive (Unchanged)

The Government has implemented a Research and Development (R&D) Tax Incentive, which allows eligible firms to deduct a percentage of their expenditure on R&D against their tax liability to the Crown. Under certain circumstances, eligible firms may receive a cash payment in place of a tax credit. There is a risk that costs may differ from forecasts owing to the limited availability of data for forecasting purposes on future R&D expenditure, including how firms' R&D expenditure will respond to the subsidy. Additionally, international experience shows that costs of R&D tax credits can be significantly higher than expected if firms recategorise other types of expenditure as R&D in order to claim the credit. Costs may also differ from forecasts as the investment environment can change quickly.

Small Business Cashflow Scheme (New)

The Small Business Cashflow Scheme was introduced to support small-to-medium businesses affected by COVID-19. There is a risk that the value of the lending may differ from what is forecast as the lending under the scheme is dependent on demand until the application closing date of 31 December 2020. As new lending occurs, an initial write-down to fair value is made. This reflects the cost the Crown incurs in making a loan at below-market terms and the risk that borrowers will not repay their loans. The fair value of the scheme will depend on the amount of loans and the assumptions around borrower repayments and defaults over the life of the scheme. The fair value assumptions made to project borrower repayments and discount them to today's dollars rely on volatile factors that are subject to change.

Student Loans – Valuation (Unchanged)

The value of student loans is sensitive to assumptions such as the borrower's future income and general economic factors such as interest rates, unemployment levels, salary inflation and the Consumers Price Index (CPI). As new lending occurs, an initial write-down to fair value is made, and an expense is incurred, reflecting the cost the Crown incurs in making an interest-free loan and the risk that borrowers may not repay their loans. However, the assumptions made at the time of lending rely on volatile factors that are subject to change.

Transformation and Technology Renewal (Unchanged)

The Business Transformation programme agreed by the previous Government in 2015 is reflected in the fiscal forecasts. There are risks that the remaining implementation costs, revenue gains and operating costs savings may differ from forecasts. In addition, changes in government policies could materially affect the programme's costs and benefits.

Social Development

Quarterly Employment Survey Redevelopment (Changed)

Stats NZ is redeveloping the Quarterly Employment Survey, which will change the way average wages are calculated from the current approach. There are several ways in which the new survey will differ, and the exact impact of this is uncertain. New Zealand Superannuation and Veterans' Pension rates are linked to the level of the net average wage, while other main benefit rates (such as Jobseeker Support, Sole Parent Support and the Supported Living Payment) are indexed to annual movements in net wages. Current estimates indicate redevelopment would likely increase costs to the Crown; however, this is unable to be quantified due to ongoing uncertainty.

Transport

Auckland City Rail Link (Unchanged)

The Government has committed to fund 50% of the costs associated with the City Rail Link project, which is estimated to cost $4.4 billion. Based on this estimate, the Government's contribution to the project will be around $2.2 billion. There is a risk that the timing, scope and amount of the government contribution to the project could be different from what is included in the fiscal forecasts.

Transmission Gully (New)

There are ongoing commercial negotiations between Waka Kotahi NZ Transport Agency and the builder of Transmission Gully on the impact of COVID-19 lockdown period on the project. This could lead to a range of possible outcomes, including the potential for additional costs to the Crown.

Treaty of Waitangi Negotiations

Relativity Clause (Unchanged)

The Deeds of Settlement negotiated with Waikato-Tainui and Ngāi Tahu include a relativity mechanism. Now that the total redress amount for all historical Treaty settlements exceeds $1.0 billion in 1994 present-value terms, the mechanism provides that the Crown is liable to make payments to maintain the real value of Ngāi Tahu's and Waikato-Tainui's settlements as a proportion of all Treaty settlements. The agreed relativity proportions are 17.0% for Waikato-Tainui and 16.1% for Ngāi Tahu. There is a risk that the timing and amount of the expense for the relativity payments may differ from the fiscal forecasts. There is also uncertainty on how various disputes concerning the interpretation of the mechanism will be resolved.

Treaty Settlement Forecasts (Unchanged)

The fiscal forecasts include provision for the cost of future Treaty settlements. Given that settlements are finalised through negotiations, there is a risk that the timing and amount of the settlements could be different from the profile included in the fiscal forecasts.

Veterans

Veterans' Disability Entitlements (New)

The fiscal forecasts include a liability for payments to veterans deemed to be in relation to their service rendered. On 28 July 2020 the Minister for Veterans announced new declarations of qualifying operational service, s9(2)(f)(iv) [redacted] The fiscal impacts of this announcement have not been reflected in the fiscal forecasts, as they could not be quantified prior to the forecast finalisation date.

Cross-portfolio Specific Fiscal Risks

Addressing the Gender Pay Gap in the State Sector (Changed)

The Government has made a commitment to addressing the gender pay gap in the core public service. The *Gender Pay Gap Action Plan Progress Report* was released in July 2020, and highlights that good progress has been made towards closing this gap. Fulfilling the remainder of this commitment will involve costs to the Crown.

Budget 2020 Priority Packages (Unchanged)

In the Budget Policy Statement 2020, the Government signalled its intention to focus on five wellbeing priority areas in Budget 2020. As a result of COVID-19, however, packages to address these priority areas were not included in Budget 2020, which focused on funding existing cost pressures and responding to COVID-19. It remains the Government's intention to progress parts of these priority packages, but the timing for doing this is yet to be determined.

Changes to Institutional Form of Government Agencies (Unchanged)

The Government has announced a number of policy commitments that involve changes to the machinery of government. These commitments are likely to involve changes to the composition and structure of existing government departments. Where the additional resourcing and other costs of these changes cannot be met through baseline expenditure, further Crown funding may be required.

Increasing the Minimum Wage (Unchanged)

Government policy decisions to increase the minimum wage to $20 by April 2021 will mean increased costs to State sector employers to the extent their employees receive a direct increase in wages. Where costs cannot be absorbed within baselines without compromising service delivery, funding may be sought.

Information and Communications Technology Operating and Capital Pressures (New)

A number of agencies are facing increasing operating and capital pressures related to ageing information communications technology (ICT) assets and capability that are no longer fit for purpose. In addition, COVID-19 has highlighted the need for some agencies, particularly in the Education sector, to expand existing digital services, in line with increased demand and changed circumstances. This risk is aligned to the necessity for agencies to transition to cloud based solutions in line with Government's Cloud-First policy. These pressures are fiscal risks to the extent that they cannot be managed through existing agencies' existing balance sheets and/or other funding mechanisms as outlined in this chapter.

New Zealand Upgrade Programme (Unchanged)

The New Zealand Upgrade Programme was announced in December 2019. The programme provides funding for significant capital investments. Operating expenses still need to be provided for some projects and there remains a risk regarding the timing of the capital projects that have been reflected in the fiscal forecasts.

Non-government Providers Receiving Funding from the Crown (Unchanged)

The Government is facing ongoing pressure from non-government providers of Crown-funded services to fund a greater proportion of their costs, or to fund cost pressures. This includes providers in the health, disability, welfare, justice, and child protection sectors.

Other Capital Cost Pressures (Changed)

Agencies are likely to face capital expenditure pressures related to replacing ageing infrastructure and other capital requirements driven by demand pressures. These pressures are risks to the fiscal forecasts to the extent they cannot be managed through agencies' existing balance sheets and baselines, new capital spending set aside in forecasts from the multi-year capital allowance, or other funding mechanisms (eg, Crown Infrastructure Partners). The Government's stated intention is that all pressures are managed through these mechanisms.

Other Operating Cost Pressures (Changed)

As in previous years, agencies are likely to face operating expenditure pressures in the future as a result of changes in demand and price of the services they provide or because some of their funding is time-limited. The majority of spending by agencies is not automatically adjusted for increases driven by demand or price pressures. These pressures and those arising from time-limited funding are risks to the fiscal forecasts to the extent they cannot be managed through reprioritisation or new spending set aside in the forecasts. The Government's stated intention is that all pressures are managed through these mechanisms.

Outcomes from Other Government Inquiries and Reviews (Unchanged)

A number of inquiries and reviews (not specifically mentioned elsewhere in this chapter) are underway or have recently released findings across government. At this point it is uncertain what the fiscal impact from the outcomes of these reviews may be.

Pay Equity Claims Following the Care and Support Worker Settlement (Unchanged)

A number of claims have been raised, mainly from workers in the social sectors (including health, education and welfare), in relation to the Equal Pay Act 1972 providing for pay equity (equal pay for work of equal value). The forecasts include an estimate of the expected cost to settle current and future claims; however, there is a risk that the costs may differ depending on the number of further claims that are raised and the outcomes reached from applying the pay equity principles to each particular claim.

Policy Responses to the 15 March 2019 Terror Attacks (Unchanged)

The Government has made a number of responses to the 15 March 2019 terror attacks. Further responses may be needed including policy and legislative amendments. In addition, there are likely to be further costs associated with responding to the Royal Commission of Inquiry into the Attack on Christchurch Mosques on 15 March 2019, which are unable to be quantified at this point.

Possible Responses to the 2020 Referendums on Cannabis Law Reform and End of Life Choice (Unchanged)

The Government has committed to holding referendums on legalising the use of cannabis and on end of life choice at the 2020 general election. The cost of conducting the referendums has been provided for in the forecasts. However, there could be associated impacts on the Government's operating balance should current legal frameworks change as an outcome of the referendums.

Services Funded by Third Parties (Changed)

A wide range of government services are funded through third-party fees and charges. Demand for these services can vary, with a direct effect on revenue received. If revenue collected is lower than the total costs of providing the service, there is a risk that the Government may need to provide additional funding or that changes will be required to the way government services are delivered, which could result in costs to the Crown. As a result of COVID-19 the Government has, through the COVID-19 Response and Recovery Fund, provided additional funding particularly, but not exclusively, to New Zealand's border agencies. If the ongoing impacts of COVID-19 on revenue received from third parties are worse than forecast or last for longer, then further additional government funding may be required.

State Sector Employment Agreements (Unchanged)

All collective agreements in the State sector are due to be renegotiated over the forecast period. As well as direct fiscal implications for the employers of workforces covered by any changes to remuneration, the renegotiation of agreements can have flow-on effects to remuneration in other employers across the sector.

Unexpected Maintenance for Crown-owned Buildings (Unchanged)

There is a possibility that the Crown will incur costs when unexpected maintenance is required for the buildings it owns. Examples include earthquake strengthening for some of the buildings that do not meet modern building standards and maintenance for buildings with weather-tightness issues. The likelihood, timing and fiscal impact of any repairs are uncertain.

Risks Removed Since the *Budget Update*

Portfolio	Title	Reason for expiry
ACC	Legal Claims and Proceedings	A Court of Appeal decision allowing an appeal by ACC against a High Court decision removes the ongoing fiscal risk.
Foreign Affairs	APEC 2021	Owing to COVID-19, the Minister of Foreign Affairs has announced that APEC 2021 will be a virtual event. Accordingly, all costs can now be met from within the existing appropriation.
Greater Christchurch Regeneration	Christchurch Central Recovery Plan – Anchor Projects	As most anchor projects have now been completed or the development expenses are included in the fiscal forecasts, the materiality of this risk is below the threshold for publication.
Housing	Infrastructure Funding and Financing to Improve Housing Affordability	The Infrastructure Funding and Financing Act 2020, to which this risk related, has now been passed.
Housing	Progressive Home Ownership	This has been accounted for in the fiscal forecasts and the launch of the first phase of the Progressive Home Ownership scheme was announced by the Government on 24 July 2020.
Revenue	Loss Continuity	This is now included in the fiscal forecasts. The Government intends to pass legislation on this, and for the policy to apply to the relevant tax year.

Contingent Liabilities and Contingent Assets

Contingent liabilities are possible costs that have arisen from past events, but the amount of the liability, or whether it will eventuate, will not be confirmed until a particular event occurs; or they are present liabilities that are unable to be measured with sufficient reliability to be recorded in the fiscal forecasts.

Typically, contingent liabilities consist of guarantees and indemnities, uncalled capital and legal disputes and claims. The contingent liabilities facing the Crown are a mixture of operating and balance sheet risks, and they can vary greatly in magnitude and likelihood of realisation.

In general, if a guarantee or indemnity qualifies as a financial guarantee contract, or the amount becomes sufficiently reliable to record as a liability, it would reduce the operating balance and net worth. When a contingent liability crystallises, and is settled, there is an increase in net core Crown debt. In the case of some contingencies (eg, uncalled capital) the negative impact would be restricted to net core Crown debt because the cost would be offset by the acquisition of an asset.

Where contingent liabilities have arisen as a consequence of legal action being taken against the Crown, the amount shown is the amount claimed and thus the maximum potential cost. It does not represent either an admission that the claim is valid or an estimation of the amount of any award against the Crown.

Contingent assets are possible assets that have arisen from past events but the amount of the asset, or whether it will eventuate, will not be confirmed until a particular event occurs.

Only contingent liabilities and contingent assets involving amounts of over $100 million are separately disclosed in this chapter. Quantifiable contingencies of less than $100 million are aggregated in the 'other quantifiable' total.

Some contingencies of the Crown are not able to be quantified. We have disclosed unquantifiable contingent liabilities and unquantifiable contingent assets that potentially could have an impact of more than $20 million and are not expected to be remote.[15]

The contingencies have been stated as at 31 May 2020, being the latest set of published contingencies.

[15] 'Remote' is defined as being an item with less than a 10% chance of occurring.

Quantifiable Contingent Liabilities and Contingent Assets

Contingent liabilities

	Status[16]	31 May 2020 ($millions)
Uncalled capital		
Asian Development Bank	Unchanged	3,425
International Monetary Fund – promissory notes	Unchanged	2,126
International Bank for Reconstruction and Development	Unchanged	1,785
International Monetary Fund – arrangements to borrow	Unchanged	716
Asian Infrastructure Investment Bank	Unchanged	595
Other uncalled capital	Unchanged	21
		8,668
Guarantees and indemnities		
New Zealand Export Credit Office guarantees	Unchanged	125
Other guarantees and indemnities	Unchanged	132
		257
Legal proceedings and disputes		
Legal tax proceedings	Unchanged	131
Other legal proceedings and disputes	Unchanged	268
		399
Other quantifiable contingent liabilities		
Unclaimed monies	Unchanged	185
Ministry for Primary Industries - *Bonamia ostreae*	Unchanged	138
Other quantifiable contingent liabilities	Unchanged	216
		539
Total quantifiable contingent liabilities		**9,863**

Contingent assets

		31 May 2020 ($millions)
Legal proceedings and disputes		
Other contingent assets	Unchanged	68
Total quantifiable contingent assets		**68**

The 'Air New Zealand Partnership' contingent liability reported in the *Budget Update* is now expected to be less than $100 million as at 31 May 2020, and has been aggregated into the 'other quantifiable contingent liabilities' total above.

[16] Status of contingent liabilities or assets when compared with the *Budget Update* published on 14 May 2020.

Unquantifiable Contingent Liabilities and Contingent Assets

Contingent liabilities

Indemnities	**Status**
Contact Energy Limited	Unchanged
Earthquake Commission (EQC)	Unchanged
Genesis Energy	Unchanged
Justices of the Peace, Community Magistrates and Disputes Tribunal Referees	Unchanged
Maui Partners	Unchanged
New Zealand Aluminium Smelter and Comalco	Unchanged
New Zealand Local Authorities	Unchanged
New Zealand Railways Corporation	Unchanged
Reserve Bank	Unchanged
Southern Response Earthquake Services Limited (SRES)	Unchanged
Synfuels-Waitara Outfall Indemnity	Unchanged
Westpac New Zealand Limited	Unchanged
Legal claims and proceedings	
Accident Compensation Corporation (ACC) litigation	Unchanged
Canterbury insurance disputes	Unchanged
Ministry for Primary Industries – Biosecurity Act 1993 compensation	Unchanged
Treaty of Waitangi claims	Unchanged
Wakatu	Unchanged
Other unquantifiable contingent liabilities	
Criminal Proceeds (Recovery) Act 2009	Unchanged
Environmental liabilities	Unchanged
Holidays Act 2003 and other relevant legislation	Unchanged
Treaty of Waitangi claims – settlement relativity payments	Unchanged

The ‘Remediation of per- and poly-fluoroalkyl substances contamination’ contingent liability reported in the *Budget Update* has been removed as it is considered to be remote.

Description of Contingent Liabilities

Quantifiable contingent liabilities over $100 million

Uncalled capital

As part of the Crown's commitment to a multilateral approach to ensure global financial and economic stability, New Zealand, as a member country of the organisations listed below, contributes capital by subscribing to shares in certain institutions. The capital (when called) is typically used to raise additional funding for loans to member countries, or in the case of the quota contributions to directly finance lending to members. For New Zealand and other donor countries, capital contributions comprise both 'paid-in' capital and 'callable capital or promissory notes'.

The Crown's uncalled capital subscriptions over $100 million are as follows:

Uncalled capital	**31 May 2020 $millions**	**30 June 2019 $millions**
Asian Development Bank	3,425	3,216
International Monetary Fund – promissory notes	2,126	2,145
International Bank for Reconstruction and Development	1,785	1,654
International Monetary Fund – arrangements to borrow	716	660
Asian Infrastructure Investment Bank	595	551

Guarantees and indemnities

Guarantees are legally binding promises made by the Crown to assume responsibility for a debt, or the performance of an obligation of another party, should that party default. Guarantees generally relate to the payment of money but may require the performance of services.

Indemnities are legally binding promises where the Crown undertakes to accept the risk of loss or damage that another party may suffer and to hold the other party harmless against loss caused by a specific stated event(s).

Business Finance Guarantee Scheme

The Crown has established a Business Finance Guarantee Scheme with a number of banks to support New Zealand businesses facing hardship as a consequence of COVID-19. Under this scheme, the Crown has indemnified approved banks for an amount equal to 80% of the shortfall that arises in relation to a supported loan in default. As these indemnities are financial guarantee contracts, the fair value of the contract, and the expense arising, has been quantified and incorporated into the forecasts.

New Zealand Export Credit Office guarantees

The New Zealand Export Credit Office provides a range of guarantee products to assist New Zealand exporters to manage risk and capitalise on trade opportunities around the globe. The obligations to third parties are guaranteed by the Crown and are intended to extend the capacity of facilities in the private sector.

$125 million at 31 May 2020 ($109 million at 30 June 2019)

Legal proceedings and disputes

Legal tax proceedings

When a taxpayer disagrees with an assessment issued following the dispute process, the taxpayer may challenge that decision by filing proceedings with the Taxation Review Authority or the High Court. This contingent liability represents the maximum liability Inland Revenue has in respect of these cases.

$131 million at 31 May 2020 ($134 million at 30 June 2019)

Other quantifiable contingent liabilities

Unclaimed monies

Under the Unclaimed Money Act 1971, entities (eg, financial institutions, insurance companies) hand over money not claimed after six years to Inland Revenue. The funds are repaid to the entitled owner on proof of identification.

$185 million at 31 May 2020 ($174 million at 30 June 2019)

Ministry for Primary Industries – Biosecurity Act compensation

Under section 162A of the Biosecurity Act 1993, compensation may be payable as a result of the exercise of powers to manage or eradicate organisms. Compensation is payable where there are verifiable losses as a result of the damage or destruction of a person's property or restrictions on the movement of a person's goods. The Ministry has been notified compensation will be sought for *Bonamia ostreae, Mycoplasma bovis* and post entry quarantine (PEQ). These claims can be quantified but do not meet the tests for recognising a provision.

$138 million at 31 May 2020 ($138 million at 30 June 2019)

Unquantifiable contingent liabilities

This part of the statement provides details of the contingent liabilities of the Crown which are not quantified, excluding those that are considered remote, reported by indemnities, legal disputes, and other contingent liabilities.

The indemnities and claims that are disclosed individually, while they cannot be quantified, have the potential to exceed $20 million in costs and are not considered to be remote.

Indemnities

A number of these indemnities are provided to organisations within the Crown's control. If these indemnities were to crystallise, the Crown would compensate the individual entity for the loss and there would likely be an adverse impact on core Crown expenses and core Crown net debt.

Party indemnified	Instrument of indemnification	Actions indemnified
Contact Energy Limited	The Crown and Contact Energy signed a number of documents to settle in full Contact Energy's outstanding land rights and geothermal asset rights at Wairakei	The documents contained two reciprocal indemnities between the Crown and Contact to address the risk of certain losses to the respective parties' assets arising from the negligence or fault of the other party.
Earthquake Commission (EQC)	Section 16 of the Earthquake Commission Act 1993	As set out in the Earthquake Commission Act 1993, the Crown shall fund any deficiency in EQC's assets to cover its financial liabilities on such terms and conditions as the Minister of Finance determines.
Genesis Energy	Genesis acquisition of Tekapo A & B power stations	Indemnity against any damage to the beds of lakes and rivers subject to operating easements.
Justices of the Peace, Community Magistrates and Disputes Tribunal Referees	Section 50 of the District Courts Act 2016, section 4F of the Justices of the Peace Act 1957 and section 58 of the Disputes Tribunal Act 1988	Damages or costs awarded against them as a result of exceeding their jurisdiction, provided a High Court Judge certifies that they have exceeded their jurisdiction in good faith and ought to be indemnified.
Maui Partners	Confidentiality agreements with Maui Partners in relation to the provision of gas reserves information	Any losses arising from a breach of the deed.
New Zealand Aluminium Smelter and Comalco	The Minister of Finance signed indemnities in November 2003 and February 2004 in respect of aluminium dross currently stored at another site in Invercargill	Costs incurred in removing the dross and disposing of it at another site if required to do so by an appropriate authority.

Party indemnified	Instrument of indemnification	Actions indemnified
New Zealand Local Authorities	Section 39 of the Civil Defence Emergency Management Act 2002 – National Civil Defence Emergency Management Plan	The Guide to the National Civil Defence Emergency Management Plan ('the Guide') states that, with the approval of the Minister, the Government will reimburse local authorities, in whole or in part, for certain types of response and recovery costs incurred as a result of a local or national emergency. The Guide was approved and issued by the Director of Civil Defence Emergency Management.
New Zealand Railways Corporation	Section 10 of the Finance Act 1990	Guarantees all loan and swap obligations of the New Zealand Railways Corporation.
Reserve Bank	A letter of indemnity provided by the Crown to the Reserve Bank to cover losses arising from the large-scale asset purchases of New Zealand domestic government bonds	In March 2020, the Crown agreed to indemnify the Reserve Bank in respect of all losses which the Reserve Bank incurs in respect of Indemnified Bonds. The scale of coverage was expanded in May 2020. The Crown may terminate coverage for any additional purchases at any time after 30 September 2021 by giving one day's notice to the Reserve Bank. Otherwise, obligations under this letter of indemnity may be terminated by agreement between the Crown and the Reserve Bank if they both believe the Large Scale Asset Purchases (LSAP) programme is no longer needed as a monetary policy tool. Termination of this indemnity will not release the Crown from any liability in respect of losses occurring after 30 September 2021 in respect of the already purchased Indemnified Bonds. Indemnified Bonds means all New Zealand domestic nominal government bonds, inflation indexed government bonds and Local Government Funding Authority bonds purchased by the Reserve Bank under the LSAP programme prior to 30 September 2021. Included are reinvestments of maturing bonds up to the cap. The cap is 50%, 30% and 30% of the respective markets.

Party indemnified	Instrument of indemnification	Actions indemnified
Southern Response Earthquake Services Limited (SRES)	Deed of Indemnity	SRES continues to work through and settle the claims of AMI residential policyholders that arose from the Canterbury earthquake series. However, it has not proven possible to settle some claims through the normal internal process or with external assistance such as mediation. In light of certain litigation that has arisen, the Minister of Finance provided SRES with a Deed of Indemnity in relation to that litigation on 25 September 2018.
Synfuels-Waitara Outfall Indemnity	1990 sale of the Synfuels plant and operations to New Zealand Liquid Fuels Investment Limited (NZLFI)	The Crown transferred to NZLFI the benefit and obligation of a Deed of Indemnity between the Crown and Borthwick-CWS Limited (and subsequent owners) in respect of the Waitara effluent transfer line which was laid across the Waitara meat processing plant site. The Crown has the benefit of a counter indemnity from NZLFI, which has since been transferred to Methanex Motunui Limited.
Westpac New Zealand Limited	The Domestic Transaction Banking Services Master	The Crown Transactional Banking Services Agreement with Westpac New Zealand Limited dated 24 September 2015. The Crown has indemnified Westpac New Zealand Limited: • for all amounts paid by Westpac New Zealand under letters of credit issued on behalf of the Crown, and • against certain costs, damages and losses to third parties resulting from: - unauthorised, forged or fraudulent payment instructions - unauthorised or incorrect direct debit instructions, or - cheques mistakenly drawn in favour of a third party rather than drawn in favour of the Crown.

Legal claims and proceedings

There are numerous legal actions that have been brought against the Crown. However, in the majority of these actions it is considered a remote possibility that the Crown would lose the case, or if the Crown were to lose it would be unlikely to have greater than a $20 million impact. Based on these factors, not all legal actions are individually disclosed. The claims that are disclosed individually, while they cannot be quantified, have the potential to exceed $20 million in costs.

Accident Compensation Corporation (ACC) litigation

Litigation involving ACC arises mainly from challenges to operational decisions made by ACC through the statutory review and appeal process. No accrual has been made for contingent liabilities, which could arise, as these disputes are issue based and ACC's active management of litigation means that it will be either settling or defending, depending on the merits of the issue in dispute. ACC's Board believes the resolution of outstanding appeals will not have any material effect on the financial statements of ACC and therefore are not material for the Crown.

Canterbury insurance disputes

Southern Response Earthquake Services Limited (SRES) from time to time receives notification of legal claims and disputes in relation to claim settlements as a commercial outcome of conducting its business.

A representative action proceeding was filed against SRES on 29 May 2018. The financial statements make no allowance for the outcome of these proceedings, as the range of possible outcomes cannot be reliably quantified at this time. These claims are being defended because there is a wide range of potential outcomes, and any estimate of a possible obligation resulting from this proceeding would be unreliable.

Ministry for Primary Industries – Biosecurity Act compensation

Under section 162A of the Biosecurity Act 1993, compensation may be payable as a result of the exercise of powers to manage or eradicate organisms. Compensation is payable where there are verifiable losses as a result of the damage or destruction of a person's property, or restrictions on the movement of a person's goods. The Ministry has been notified compensation will be sought for incursions including fruit fly, pea weevil, *Bonamia ostreae*, myrtle rust, *Mycoplasma bovis* and the PEQ response. Due to the complexity and uncertainty of the amount of these claims, any exposure to the Crown is unquantified. To the extent that an obligation can be quantified, an amount is recognised in the Financial Statements of the Government. As at 31 May 2020, a quantified contingent liability of $138 million has been recognised.

Treaty of Waitangi claims

Under the Treaty of Waitangi Act 1975, any Māori may lodge with the Waitangi Tribunal certain claims relating to land or actions counter to the principles of the Treaty. Where the Tribunal finds a claim is well founded, it may recommend to the Crown that action be taken to compensate those affected. The Tribunal can make recommendations that are binding on the Crown with respect to land which has been transferred by the Crown to a State-owned enterprise (SOE) or tertiary institution, or is subject to the Crown Forest Assets Act 1989.

On occasion, Māori claimants pursue the resolution of particular claims against the Crown through higher courts. Failure to successfully defend such actions may result in a liability for historical Treaty grievances in excess of that currently anticipated.

Wakatu

Crown Law is acting for the Attorney-General on behalf of the Crown in right of New Zealand in Proprietors of *Wakatu v Attorney-General (CIV 2010-485-181)*, in which it is claimed that the Crown breached trust, fiduciary and other equitable obligations relating to land transactions in the top of the South Island in the 1840s. The plaintiff seeks the return of land he says the Crown holds on trust for the successors of the original owners and compensation, or other relief, for alleged breach of trust, fiduciary and other equitable obligations. In February 2017, the Supreme Court held that the Crown owed a fiduciary duty in relation to the land transactions concerned, but remitted matters of breach, defences and remedy to the High Court for a further hearing or hearings. The matter is large and complex and could take up to a further 10 years to resolve.

Other unquantifiable contingent liabilities

Criminal Proceeds (Recovery) Act 2009

The Ministry of Justice is responsible for administering the Criminal Proceeds (Recovery) Act 2009. The Act requires the Crown to give an undertaking as to damages or costs in relation to asset restraining orders. In the event that the Crown is found liable, payment may be required.

Environmental liabilities

Under common law and various statutes, the Crown may have a responsibility to remedy adverse effects on the environment arising from Crown activities. Entities managing significant Crown properties have implemented systems to identify, monitor and assess potential contaminated sites.

In accordance with PBE IPSAS 19: Provisions, Contingent Liabilities and Contingent Assets, any contaminated sites for which costs can be reliably measured have been included in the statement of financial position as provisions. Where costs cannot be reliably measured, they are disclosed as an unquantified contingent liability.

Holidays Act compliance

A number of entities have commenced or completed a review of calculations in recent years to ensure compliance with the Holidays Act 2003. Where possible, a provision has been made in these financial statements for obligations arising from those reviews that have been made in the current year or previous years. To the extent that an obligation cannot reasonably be quantified, there is an unquantified contingency. Further work continues to be undertaken by entities to calculate the potential liability. For some entities, there are complexities and this issue is taking longer to resolve (eg, District Health Boards and schools).

Treaty of Waitangi claims – settlement relativity payments – see page 84

Description of Contingent Assets

There are no material quantifiable or unquantifiable contingent assets at 31 May 2020.