

The Treasury

Auckland Light Rail Project Information Release

March 2022

This document has been proactively released by the Treasury on the Treasury website at <https://treasury.govt.nz/publications/information-release/auckland-light-rail-project>

Information Withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act).

Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [25] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [35] 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;
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [25] appearing where information has been withheld in a release document refers to section 9(2)(b)(ii).

Copyright and Licensing

Cabinet material and advice to Ministers from the Treasury and other public service departments are © **Crown copyright** but are licensed for re-use under **Creative Commons Attribution 4.0 International (CC BY 4.0)** [<https://creativecommons.org/licenses/by/4.0/>].

For material created by other parties, copyright is held by them and they must be consulted on the licensing terms that they apply to their material.

Accessibility

The Treasury can provide an alternate HTML version of this material if requested. Please cite this document's title or PDF file name when you email a request to information@treasury.govt.nz.

Reference: T2021/1998

SH-8-4-1-4



Date: 6 August 2021

To: Minister of Finance (Hon Grant Robertson)

Deadline: By 3:30pm, Monday 9 August 2021

Aide Memoire: City Centre to Māngere Project Sponsors meeting 9 August 2021

Purpose

To provide you with background information and advice to support your discussion at City Centre to Māngere (CC2M) rapid transit Project Sponsors meeting, scheduled for Monday 9 August, 3:30-4:15pm, via Zoom.

Attendees for the meeting

Hon Grant Robertson, Minister of Finance
Hon Michael Wood, Minister of Transport
Phil Goff, Mayor of Auckland
Bill Cashmore, Deputy Mayor of Auckland

Leigh Auton, Chair of the CC2M Establishment Unit Board and Tommy Parker, Mobilisation Lead for the Establishment Unit, will attend to speak to the agenda items. Officials from Ministry of Transport, Waka Kotahi and Treasury will also be attending.

The background and purpose of the Project Sponsors is set out in annex two for your reference.

Agenda for 9 August meeting

The Establishment Unit has provided an agenda and papers to your office. Our view is that the Establishment Unit, through these papers, is not seeking the right guidance from Sponsors to enable it to complete the work required to support the issues Cabinet is expecting to consider later this year. Set out below is Treasury commentary focused on the key areas where the Establishment Unit would benefit from your direction. We recommend the meeting is focused on these items.

Suggested talking points are set out in annex one for your reference. Discussions with the Infrastructure Commission Te Waihanga (Te Waihanga) has also informed the content of this Aide Memoire.

Urban form and development

A key objective of the project is achieving good urban development outcomes. It has been well established that this project will require land use change, including zoning changes, to achieve these objectives. These levers sit with Auckland Council.

Our concern is that there is limited ambition for land use change from Auckland Council staff leading this work within the Establishment Unit, with a resulting status quo bias driving the assumptions and analysis.

Whilst land use scenarios are being developed, the level of land use change assumed in these are relatively modest. Without a breadth of land use modelling scenarios that include significant land use change assumptions, you will not be presented with a broad range of choices for achieving good urban outcomes that really highlight the potential value proposition for the project and the key constraints to realising this value.

If you agree, the Establishment Unit would benefit from you being clear that you wish to be presented with the full range of options.

Delivery entity

To deliver the project outcomes, the Delivery entity is expected to be responsible for ensuring the light rail infrastructure and rolling stock is procured, constructed and operated (noting the current assumption is that Auckland Transport will be the operator) and that urban development outcomes are delivered.

Unfortunately, progress on the delivery entity workstream has been stalled on the Establishment Unit's ability to propose a preferred entity form as it requires guidance from the Sponsors regarding your expectations for the entity itself to either directly deliver the urban development outcomes or to facilitate the urban development outcomes to be delivered through partners.

If your preference is the former, the new entity would require all the necessary urban development powers itself to purchase, develop and sell land. These powers are currently held by Auckland Local Government and Kāinga Ora. As the urban development will occur over a number of decades, the entity would need to be enduring beyond the completion of the construction of the light rail assets.

This is compared to an entity that would facilitate urban outcomes through master planning the urban development requirements and contracting with other agencies and entities to deliver the land use changes and urban development. For this partnership model to be successful, the partnership agreements would need to be strong and contain the right incentives to deliver these required outcomes, such as commitments to utilise their powers to implement changes to land use and zoning.

Under both options, the entity will undertake construction management of the transport asset by contracting with private sector contractors (e.g. similar to how City Rail Link Limited was established and operates).

We do not consider there is a strong justification for a new *enduring* entity with all powers to deliver the project itself, given existing entities have this expertise already that can be effectively leveraged.

If the preference is to partner with existing entities, which we recommend is the starting position, the Establishment Unit would benefit from clarity now that this is your expectation.

Other considerations that impact entity form decisions

The intended ownership of the assets and funding arrangements will also influence which parties is involved in governance of the entity and therefore its form.

We understand that the Establishment Unit's working assumptions for the project are that:

- Auckland Transport will own and operate the light rail assets
- The Crown will likely fund 100% of the capital costs of the project

If this is not your expectation or understanding, it would be useful to clarify to the Establishment Unit at this point whether other options are being considered.

Ownership:

The ultimate ownership of the infrastructure assets and/or urban development components are key influences on the form of the entity, sources of ongoing funding and its governance structure upon establishment. For example, if the infrastructure assets are expected to be owned by Auckland Transport upon completion (consistent with the arrangements under CRL), it would be reasonable for the Council / Auckland Transport to be part of the ownership structure of the new entity.

Governance:

The governance composition and structure of the new entity is dependent upon on how the entity is expected to fulfil its project delivery responsibilities i.e. whether the entity is undertaking the infrastructure delivery and urban development itself or managing contracts and partner agreements to deliver. These different functions will require different skill sets to be represented in the governance and management structures of the new entity.

Funding:

Our view is that funding does not need to drive entity form, as there are other ways of having influence and control over the funding other than via direct ownership of the entity. For example, a funding agreement between the entity and the Crown (regardless of whether the Crown is partially or fully funding the project) could contain provisions that provide appropriate controls over the project delivery and governance without requiring the Crown to have an ownership stake in the entity.

Taking the Delivery Entity work forward

At the last Board meeting in July, Treasury and the Ministry of Transport (MoT) requested the development of the advice on delivery entity incorporate Treasury and MoT perspectives, to ensure the Establishment Unit focuses on the required issues to support Government's decision making. This resulted in agreed working arrangements on how to achieve this. While we have been working hard to bring our (Treasury and MoT) views through into the advice to the Board or Sponsors, we are not yet seeing evidence of this happening adequately. Therefore there is a risk that the key issues, as set out above, will not be sufficiently canvassed to enable Sponsors, and Cabinet, to make informed decisions.

To mitigate against this risk, as a Project Sponsor, you can outline your expectation that the Establishment Unit will adequately address the issues of project scope, to inform entity function and form, and provide direction on the degree to which you wish to see partnering options for delivery provided as part of the delivery entity workstream.

Alternatively, you may wish to commission this advice separately. Our view is that advice on the delivery entity is best led independently of the Establishment Unit, as it is difficult for the existing project entity to develop an objective view on its own future functions, form, and structure.

We consider this work would be better jointly led by Treasury, MoT, and Te Waihangā, for the following reasons:

- Infrastructure delivery entity matters need to be considered at a whole of government level, to enable a system view of how we make best use of capability and capacity across various existing entities.
- This work relates closely to other work that you have commissioned from the Treasury about how to leverage expertise across the system to support the delivery of infrastructure.
- There is a need to bring through transport sector entity design policy expertise (from MoT) and experiences (from Te Waihangā).

If you agree, we recommend that you discuss this matter with the Minister of Transport as a matter of urgency and communicate this to the Establishment Unit Board.

Funding and affordability

As set out in previous advice, through the previous parallel process, Waka Kotahi estimated nominal project costs to be at least [25] , covering the construction period and a 30 year operating period, excluding financing costs and land acquisition. In net present value terms, this is [25] (based on a 5% discount rate).

While cost estimations are still being developed, based on the scope of some of the shortlisted options (including, for example, large amounts of tunnelling), there is an emerging risk that costs will be significant higher than previous estimates. We also note that further cost pressures will come from general construction and labour inflationary impacts.

We are concerned that overall affordability of the project is not factoring into analysis or advice from the Establishment Unit. This is evidenced by the lack of discussion of cost implications set out in the Sponsors paper where trade-offs are outlined, although it is good to start to see trade-offs emerge.

It may be timely to remind the Unit of the need to ensure affordability of the project is a key consideration.

Other general matters

Update on progress

It is hard to gauge from the Sponsors' papers, and papers provided to the Board, whether the Establishment Unit is on track to meet its deadlines. If there is time in the meeting, you may wish to remind the Unit that it is important to be transparent if the work will not be completed on time, so Sponsors have sufficient time to determine how this can be managed and provide any necessary direction.

Erana Sitterle, Senior Analyst, National Infrastructure Unit (NIU), [35]
David Taylor, Manager, National Infrastructure Unit (NIU), [39]

Annex One: Suggested talking points

Below are suggested talking points you may wish to refer to.

- The starting position is for the project delivery entity to leverage the powers and expertise of existing entities and partners, and there is not a need for the delivery entity to undertake all delivery functions itself.
- The appropriate governance arrangements will depend on the functions of the entity.
- Funding arrangements do not need to drive entity form decisions, as there are other ways to achieve the right level of Crown control and influence (such as funding agreements).
- We expect to see the full range of land use options and scenarios for the project, to understand what ambitious urban outcomes could involve and the full extent of the potential value proposition for the project.
- It is critical that affordability of the project is a key consideration in analysis and advice.
- It is important that the Establishment Unit is transparent if there is concern that timelines will not be met so Sponsors can determine how this can be managed

Annex Two: Purpose of the CC2M Project Sponsors

The Cabinet Business Committee, authorised by Cabinet to have power to act, had agreed that the Ministers of Transport and Finance (the Ministers) be Project Sponsors for the Establishment Unit, alongside representation from Auckland local government [CBC-21-MIN-0036 refers].

The role of the project sponsors is to:

- Set the strategic direction of the Establishment Unit Board
- Provide direction on other key strategic, policy or systems matters as required
- Maintain political cooperation between central government and Auckland Council with regards to the project
- With the benefit of advice from the Establishment Unit Board, enable Ministers to take back to Cabinet proposed decisions to inform the next stage.

The Minister of Housing should also be consulted on significant matters or decisions.