TE TAI ŌHANGA
THE TREASURY

Reference: 20220087

10 June 2022

Dear [redacted]

Thank you for your Official Information Act (OIA) request, received on 14 March 2022. You requested the following documents:

Treasury Report T2021/2998: Half Year Update Core Crown Borrowing Programme 2021/22 Update
Treasury Report T2021/3010: National Provident Fund: Aircrew Scheme Employer Contribution Rate
Treasury Report T2021/2743: Controller and Auditor-General - Alteration to 2021 Appropriations in Vote Audit
Treasury Report T2021/2999: Project 20: further approvals
Aide Memoire T2021/2918: Project 20 Cabinet paper
Treasury Report T2021/3046: Updating assumptions and other information about the 2021 Half Year Update Fiscal Strategy Model
Treasury Report T2021/3007: COVID economic support for localised lockdowns over the holiday period
Treasury Report T2021/2813: Northland DHB Community Mental Health budget change approval request
Treasury Report T2021/2755: Lakes DHB Acute Mental Health Facility Redevelopment Budget Change approval request
Treasury Report T2021/3044: Regulatory impact analysis requirements for COVID-19 policies
Treasury Report T2021/3027: Managing the Appropriation for Participation in Dividend Reinvestment Plans for the Mixed Ownership Model Companies
Treasury Report T2021/1733: KiwiRail - Proposal to extend the Core Lease
Joint Report by the Treasury and Ministry of Foreign Affairs and Trade T2021/2984: Options for the Redevelopment of New Zealand House
Treasury Report T2021/3061: Progressive Home Ownership Lending Approvals: Habitat NZ and Doing Good Foundation
Treasury Report T2021/2750: Strong Public Media: Entity form considerations
Aide Memoire T2021/3144: Update on the Transmission Gully Public Private Partnership (PPP) Project
Treasury Report T2022/22: New Zealand's addition to the United States

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'Excepted Foreign States' list
Treasury Report T2022/36: COVID Economic Support in an Omicron Outbreak
Treasury Report T2022/16: 2022 Legislation Programme - Finance Portfolio
Aide Memoire T2022/71: Revising the In-Year Revisions Process

The time to respond was extended by 40 working days.

Information being released

Please find enclosed the following documents:

Item	Date	Document Description	Action
1.	19 November 2021	Treasury Report T2021/2813: Northland DHB Community Mental Health budget change approval request	Release in part
2.	24 November 2021	Treasury Report T2021/2755: Lakes DHB Acute Mental Health Facility Redevelopment Budget Change approval request	Release in part
3.	1 December 2021	Treasury Report: National Provident Fund: Aircrew Scheme Employer Contribution Rate. T2021/3010	Release in part
4.	2 December 2021	Treasury Report: Controller and Auditor-General - Alteration to 2021 Appropriations in Vote Audit. T2021/2743	Release in full
5.	2 December 2021	Treasury Report: Project 20: further approvals. T2021/2999	Release in part
6.	2 December 2021	Treasury Report: Half Year Update Core Crown Borrowing Programme 2021/22 Update. T2021/2998	Release in part
7.	8 December 2021	Treasury Report: Kiwirail- Proposal to extend the Core Lease- T2021/1733	Release in part
8.	8 December 2021	Treasury Report T2021/3044: Regulatory impact analysis requirements for COVID-19 policies	Release in part
9.	8 December 2021	Treasury Report T2021/3027: Managing the Appropriation for Participation in Dividend Reinvestment Plans for the Mixed Ownership Model Companies	Release in part
10.	9 December 2021	Treasury Report T2021/2750: Strong Public Media: Entity form considerations	Release in part
11.	9 December 2021	Treasury Report T2021/3061: Progressive Home Ownership Lending Approvals: Habitat NZ and Doing Good Foundation	Release in full

12.	21 January 2022	Treasury Report T2022/16: 2022 Legislation Programme - Finance Portfolio	Release in part
13.	21 January 2022	Treasury Report T2022/36: COVID Economic Support in an Omicron Outbreak	Release in part
14.	27 January 2022	Aide Memoire T2022/71: Revising the In-Year Revisions Process	Release in full

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 OIA, as applicable:

- confidential information under section 6(a) – to protect the security or defence of New Zealand or the international relations of the Government of New Zealand,
- confidential information under section 6(c) – to protect the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial,
- confidential information under section 9(2)(ba)(ii) – 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 otherwise to damage the public interest,
- 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,
- 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,
- 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,
- sensitive information under 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 documents are or will soon be publicly available on the Treasury website:

Item	Date	Document Description	Website Address
15.	2 December 2021	Treasury Report T2021/3046: Updating assumptions and other information about the 2021 Half Year Update Fiscal Strategy Model	https://www.treasury.govt.nz/publications to be released soon
16.	3 December 2021	Treasury Report: COVID economic support for localised lockdowns over the holiday period. T2021/3007	https://www.treasury.govt.nz/publications to be released soon
17.	14 December 2021	Aide Memoire T2021/3144: Update on the Transmission Gully Public Private Partnership (PPP) Project	https://www.treasury.govt.nz/publications/other-official-information/responses-official-information-act-requests
18.	20 January 2022	Treasury Report T2022/22: New Zealand's addition to the United States 'Excepted Foreign States' list	https://www.treasury.govt.nz/publications to be released soon

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

Information to be withheld

I have decided to withhold the below documents in full under one or more of the following sections of the OIA, as applicable:

- commercially sensitive information, 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, and
- confidential information under section 9(2)(i) – to enable the Crown to carry out commercial activities without prejudice or disadvantage.

Item	Date	Document Description	Decision
19.	2 December 2021	Project 20 Cabinet paper T2021/2918	Withheld in full under section 9(2)(b)(ii)
20.	9 December 2021	Joint Report by the Treasury and Ministry of Foreign Affairs and Trade T2021/2984: Options for the Redevelopment of New Zealand House	Withheld in full under section 9(2)(i)

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

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

Reubhan Swann
Manager, Ministerial Advisory Service

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TE TAI ŌHANGA
THE TREASURY

MINISTRY OF HEALTH
MANATŪ HAUORA

Joint Briefing

Northland DHB Community Mental Health budget change approval request

Date due to MO:	19 November 2021	**Action required by:**	10 December 2021
Security level:		**Health Report number:**	HR 20212119
		Treasury number:	T2021/2813
To:	Hon Grant Robertson, Minister of Finance Hon Andrew Little, Minister of Health		

Contact for telephone discussion

Name	Position	Telephone
Karen Mitchell	Acting Deputy Director-General, Infrastructure	s9(2)(g)(ii)
Monique Fouwler	Acting Director, Capital Investment – Infrastructure	
Catherine Manning	Acting Team Leader, Health & ACC, Te Tai Ōhanga - The Treasury	s9(2)(k)

Minister's office to complete:

☐ Approved ☐ Decline ☐ Noted

☐ Needs change ☐ Seen ☐ Overtaken by events

☐ See Minister's Notes ☐ Withdrawn

Comment:

TE TAI ŌHANGA
THE TREASURY

MINISTRY OF HEALTH
MANATŪ HAUORA

Northland DHB Community Mental Health budget change approval request

Security level: **Date:** 19 November 2021

To: Hon Andrew Little, Minister of Health

Hon Grant Robertson, Minister of Finance

Purpose of report

1. This report requests that you approve additional Crown funding of $11.1 million for Northland DHB's (NDHB) Community Mental Health project.

Summary

2. In June 2020, Joint Ministers approved NDHB's Mental Health Hub project at a total cost of $12.1 million, with a Crown equity contribution of $8.4 million and contribution by NDHB of $3.7 million.

3. NDHB has updated the project budget costs, which have been independently reviewed by a quantity surveyor. The DHB has also re-defined the scope to ensure the facility can still deliver the intended service and meet design standards.

4. The revised project budget is $19.5 million, an increase of $7.4 million.

5. Officials and the Capital Investment Committee support the re-defined project scope given the expected benefits of improved community mental health service provision to Northland's population.

6. Officials and the Capital Investment Committee recommend that you approve additional Crown funding of $11.1 million. This is made up of the:

    a. $7.4 million for the increased project budget and

    b. $3.7 million for NDHB's original self-funding contribution. The DHB is unlikely to be able to contribute any self-funding to the project due to its financial position.

7. The contingency funding for the Health Capital Envelope 2020-2025 appropriation is currently over-committed. Health report (HR20212283 refers) seeks Joint Ministers' approval to reprioritise the ICT and Remediation placeholders in the Health Capital Envelope to make funding available for other projects with short-term funding needs. Once this funding has been reprioritised, officials expect sufficient to be available to fund the Crown funding requirement for this project.

TE TAI ŌHANGA
THE TREASURY

MINISTRY OF HEALTH
MANATŪ HAUORA

Recommendations

The Ministry of Health and The Treasury recommend that you:

	Minister of Health	Minister of Finance

a) **Approve** Northland DHB's budget increase for their Community Mental Health project from $12.1 million to $19.5 million.

b) **Note** in June 2020, Joint Ministers approved a Crown equity contribution of $8.4 million prioritised from the Health Infrastructure Package for Northland DHB's Community Mental Health project.

c) **Note** a paper is currently in development which will seek the approval to reprioritise the ICT and Remediation placeholders in the Health Capital Envelope in order to make funding available for other projects with short-term funding needs.

d) **Agree** to release an additional $11.1 million from the Health Capital Envelope 2020-2025 appropriation to Northland DHB to fund their Community Mental Health project, subject to future Joint Ministers approval to reprioritise the ICT and Remediation placeholders.

e) **Sign and send** the attached letter to Northland DHB.

s9(2)(k)

Karen Mitchell
Acting Deputy Director-General
Infrastructure
Date:

Hon Andrew Little
Minister of Health
Date:

s9(2)(k)

Catherine Manning
Acting Team Leader, Health and ACC
The Treasury
Date: 8/11/2021

Hon Grant Robertson
Minister of Finance
Date:

TE TAI ŌHANGA
THE TREASURY

MINISTRY OF HEALTH
MANATŪ HAUORA

Northland DHB Community Mental Health budget change approval request

Background

1. In June 2020, Joint Ministers approved Northland DHB's (NDHB) Community Mental Health Hub Single Stage Business Case at a total project cost of $12.1 million (20201116 / T2020 /2578 refers). Joint Ministers agreed a Crown equity contribution of $8.4 million, with the remaining $3.7 million self-funded by NDHB.
2. NDHB's project will bring community mental health services currently provided from four separate locations into a single location, Manaia House. The new facility is expected to increase capacity by 60 – 250 patients.
3. The proposed Community Mental Health Hub will consist of three levels.
    a. Ground Floor (Adult Mental Health)
    b. First Floor (Child Mental Health)
    c. Second Floor (Administration).
4. The approved project budget was for the purchase of Manaia House at a cost of $6.0 million, and its fit-out as a Community Mental Health Hub costing $6.1 million.
5. In early 2021, NDHB advised the Ministry of a significant increase in the project budget following its update of costs in the original business case. NDHB had the updated costs independently quantity surveyed (QS).
6. NDHB also advised that elements of the design that it previously removed to reduce costs have been re-incorporated to meet design standards, and to ensure the facility can deliver its intended service.
7. As a result, the estimated total cost for the project has increased by $7.4 million, from $12.1 million to $19.5 million.
8. A table with a breakdown of the costs of the revised budget is provided at Appendix One.

Budget Increase – Analysis

9. The budget increase is mainly attributed by the following components:
    a. Feasibility estimate
    b. Additional staffing requirements
    c. Non-Quantity Surveyor estimate costs

Feasibility estimate

10. The remediation work required at Manaia House included some minor weather-tightness issues identified as part of the due diligence for the building purchase. The fit-out costs were a feasibility estimate and preceded design and investigation work, therefore the quantity surveyor used a standard square metre rate for office fit out.

11. Once NDHB's architects completed the initial concept designs, the floors were more intensively developed than a standard office fit out. Consequently, there are a larger number of rooms which required more partitions, materials, fittings, service connections and other building elements. This has contributed to the overall increase in fit-out costs

Additional staffing requirements

12. From the initial concept design to the current scope, the number of staff accommodated in Manaia House will increase by around 60, from 190 to 250. This includes growth in existing teams, new home-based treatment and crisis teams (around 43 staff in total) and the addition of suicide prevention workers, educators and a new consumer lead, and psychology for older people team.

13. Due to additional staff requirements, the costs of fit out for all three levels has increased as NDHB have replaced the open plan office space with more consultation and meeting rooms, resulting in the more intensive utilisation. This has also contributed to the overall increase in fit-out costs.

Non-Quantity Surveyor estimate costs

14. NDHB has advised that elements of the design that were previously removed to reduce costs have been re-incorporated to meet design standards and to ensure the facility can deliver its intended service. These elements are costs that have been excluded from quantity surveyor's (Rider Levett Bucknall (RLB)) estimates:

    a. Anti-ligature requirements
    b. Escalation costs
    c. NDHB internal costs
    d. Additional fire regress costs
    e. HealthAlliance costs
    f. Business Case development costs

15. Business Case development costs mostly consisted of capitalised staff salaries during 2019 and 2020 calendar years. These costings include project management and coordination work as well as writing of the original business case.

16. Escalation costs have been calculated internally. RLB did not include escalation costs in their estimates because they have not had a project programme. NDHB are currently developing preliminary designs for the project and RLB is now updating their cost estimates accordingly. This also includes a detailed programme for the work to 2024, so RLB's updated estimates will incorporate escalation.

Recommendation of the Capital Investment Committee

17. At its July and August 2021 meetings, the Capital Investment Committee (CIC) considered NDHB's proposal to either de-scope the project to fit in the original project budget or self-fund the increased budget of $7.4 million.

18. Officials and the CIC supported the re-defined scope of the project given its expected benefits of improved care of patients with mental illness in Northland.

19. The CIC agreed with the Ministry's Health Infrastructure Unit (HIU) and the Treasury's view that the full scope of the project should be Crown-funded because NDHB is unlikely to be in a financial position to contribute any self-funding to the project.

20. The CIC recommended an additional $11.1 million from the contingency funding of the Health Capital Envelope 2020-2025 appropriation for the project. The additional funding comprises NDHB's original self-funding contribution of $3.7 million, and the $7.4 million for the budget increase.

Treasury comment

21. The Treasury supports this investment in principle, noting that funding should not be committed until Joint Ministers have reprioritised the Remediation and ICT placeholders.

Next steps

22. Officials and the CIC recommend you sign and forward the attached letter of approval to the Chair of Northland DHB, informing the DHB of your decision.

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MINISTRY OF HEALTH
MANATŪ HAUORA

Appendix One: Breakdown of NDHB's revised capital cost estimated budget of $19.5 million

Table 1 - Estimated capital costs of revised budget

Item	Cost
Architectural fit out	$3,638,000
Services fit out	$4,202,000
Soft fit out (furniture and equipment)	$1,255,000
Design fees 10%	$784,000
Contingency 10%	$1,029,000
Business case development	$200,000
Anti-ligature requirements costs	$675,000
Additional fire regress costs	$200,000
HealthAlliance supply & install	$200,000
Consents	$60,000
Northland DHB Internal Costs (3%)	$529,000
Escalation to 2024	$923,000
Building purchase	$5,823,000
Total cost	**$19,518,000**

Hon Andrew Little

Minister of Health
Minister Responsible for the GCSB
Minister Responsible for the NZSIS
Minister for Treaty of Waitangi Negotiations
Minister Responsible for Pike River Re-entry
Lead Coordination Minister for the Government's Response to the Royal Commission's Report into the Terrorist Attack on the Christchurch Mosques

Harry Burkhardt
Chair
Northland District Health Board
s9(2)(g)(ii)

Dear Harry

Northland DHB Community Mental Health Hub project budget increase

Thank you for submitting Northland DHB's request to increase the budget for the Community Mental Health Hub project. The Minister of Finance and I are pleased to advise that we have approved this budget variation request and will increase the level of investment with a further Crown equity contribution of $11.1 million.

We have agreed that the increase in budget will incorporate elements to meet design standards and ensure the facility can deliver its intended service. Furthermore, we acknowledge your desire to bring community mental health services currently provided from four separate locations into a single location, Manaia House.

Congratulations on securing approval. Please pass on my thanks to your team for their work.

Yours sincerely

Hon Andrew Little
Minister of Health

cc: Dr Nick Chamberlain, Chief Executive, s9(2)(g)(ii)

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TE TAI ŌHANGA
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MINISTRY OF HEALTH
MANATŪ HAUORA

Joint Briefing

Lakes DHB Acute Mental Health Facility Redevelopment Budget Change approval request

Date due to MO:	24 November 2021	**Action required by:**	8 December 2021
Security level:		**Health Report number:**	HR 20212253
		Treasury number:	T2021/2755

To: Hon Grant Robertson, Minister of Finance
Hon Andrew Little, Minister of Health

Contact for telephone discussion

Name	Position	Telephone
Karen Mitchell	Acting Deputy Director-General, Infrastructure	s9(2)(g)(ii)
Monique Fouwler	Acting Director, Capital Investment – Infrastructure	
Catherine Manning	Acting Team Leader, Health & ACC, Te Tai Ōhanga - The Treasury	

Minister's office to complete:

☐ Approved ☐ Decline ☐ Noted

☐ Needs change ☐ Seen ☐ Overtaken by events

☐ See Minister's Notes ☐ Withdrawn

Comment:

TE TAI ŌHANGA
THE TREASURY

MINISTRY OF HEALTH
MANATŪ HAUORA

Lakes DHB Acute Mental Health Facility Redevelopment Budget Change approval request

Security level: **Date:** 24 November 2021

To: Hon Andrew Little, Minister of Health

Hon Grant Robertson, Minister of Finance

Purpose of report

1. This report requests your approval of a budget change for Lakes District Health Board (LDHB) Acute Mental Health Facility redevelopment project. The report also requests your approval of $1.925 million additional Crown capital funding for the project.

Summary

2. In August 2020, Joint Ministers approved LDHB's Acute Mental Health Facility Redevelopment Single Stage Business Case (SSBC).
3. The total project cost was estimated at $31.1 million. The Crown equity contribution was $25.0 million and the remaining $6.1 million was self-funded by the DHB.
4. LDHB has requested additional funding of $1.925 million bringing the total cost of the project to $33.025 million.
5. The Capital Investment Committee (CIC) endorsed the budget increase of $1.925 million for this project at its meeting of 27 September 2021.

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THE TREASURY

MINISTRY OF HEALTH
MANATŪ HAUORA

Recommendations

The Ministry of Health and The Treasury recommend that you:

	Minister of Health	Minister of Finance

a) **Note** in August 2020, Joint Ministers approved Lakes DHB's Acute Mental Health project with a budget of $31.1 million, including a Crown equity contribution of $25.0 million prioritised from the Health Infrastructure Package.

b) **Approve** a budget increase for Lakes DHB's Acute Mental Health project from $31.1 million to $33.025 million to cover budget changes.

c) **Agree** to release an additional $1.925 million from the Health Capital Envelope 2020-2025 appropriation to Lakes DHB to fund their Mental Health project.

d) **Sign and send** the attached letter to Lakes DHB informing them of your decision.

s9(2)(k)

Karen Mitchell
Acting Deputy Director-General
Infrastructure
Date:

Hon Andrew Little
Minister of Health
Date:

s9(2)(k)

Catherine Manning
Acting Team Leader, Health and ACC
The Treasury
Date:

Hon Grant Robertson
Minister of Finance
Date:

TE TAI ŌHANGA
THE TREASURY

MINISTRY OF HEALTH
MANATŪ HAUORA

Lakes DHB Acute Mental Health Facility Redevelopment Budget Change approval request

Background

1. This project was prioritised in September 2019 by Joint Ministers from the Budget 2019 appropriation, with an expected budget of $25 million (HR20191183 refers).
2. The need to invest was driven by existing facilities not being fit-for purpose due to:
    a. a lack of appropriate inpatient facilities
    b. not being suitable to deliver contemporary therapeutic services
    c. not enabling potential of new models of care.
3. LDHB submitted a Single Stage Business Case (SSBC) to the Capital Investment Committee (CIC) in February 2020. The preferred option in the SSBC was a new build on the Boardroom site at Rotorua Hospital. This option was for an increase of six beds (from 14 to 20 beds) and included four shelled beds.
4. The CIC sought additional information regarding the site location. This was provided to the CIC in May 2020, and the Boardroom site location was confirmed.
5. Joint Ministers approved the SSBC in August 2020 (HR20200249/T2020/2489 refers).

Budget Increase Requested to change site location

6. In April 2021, LDHB decided to change the location of the new facility from the preferred Boardroom site to the Rangiuru Street site. The Rangiuru Street site allows more flexibility in design.
7. The change of site was supported by the neighbouring primary school and Te Kōhanga Reo. The decision was also endorsed by the local Pukeroa Oruawhata Trust.
8. In September 2021, LDHB submitted a request for additional Crown funding of $1.925 million to the CIC. This was to cover increased costs arising from the site change.
    a. $0.633 million due to geotechnical challenges with the new site
    b. $1.292 million due to an increase in escalation based on current market conditions.

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MINISTRY OF HEALTH
MANATŪ HAUORA

9. The COVID-19 pandemic has caused increasingly difficult market conditions due to:
    a. border restrictions resulting in potential labour shortages
    b. supply chain disruptions that are driving increased shipping costs and may cause delays if appropriate materials cannot be sourced.

10. The revised costings have been provided by the independent Quantity Surveyor Rider Levett Bucknall (RLB).

Recommendations of the Capital Investment Committee and the Health Infrastructure Unit

11. The CIC and the Health Infrastructure Unit (HIU) support the increased costs of $1.925 million and recommend that the additional cost be funded the Health Capital Envelope 2020-2025 Multi-Year Appropriation.

12. This project will be monitored as part of the Mental Health Infrastructure Programme (MHIP) within the HIU.

Treasury comment

13. The Treasury understands the drivers behind this additional $1.925 million investment and supports it being funded from the Health Capital Envelope.

14. The Treasury notes that the DHB is currently in deficit and therefore that their funding commitment of $6.1 million will effectively transfer to the centre with the establishment of HNZ. Arrangements such as this have been discouraged by Treasury since the April's Health Reform announcement to avoid setting a precedent under which DHBs are encouraged to fund projects without the need to consider the future availability of funding.

Next steps

15. We recommend you sign and forward the attached letter of approval to the Chair of Lakes DHB, informing the DHB of your decision.

Hon Andrew Little
Minister of Health
Minister Responsible for the GCSB
Minister Responsible for the NZSIS
Minister for Treaty of Waitangi Negotiations
Minister Responsible for Pike River Re-entry
Lead Coordination Minister for the Government's Response to the Royal Commission's Report into the Terrorist Attack on the Christchurch Mosques

Dr Jim Mather
Chair
Lakes District Health Board
s9(2)(g)(ii)

Dear Jim

Lakes DHB Acute Mental Health Facility Redevelopment Budget Change approval request

Thank you for submitting Lakes DHB's request to increase the budget for the Acute Mental Health Facility redevelopment project.

The Minister of Finance and I are pleased to advise that we have approved this budget variation request and will increase the level of investment with a further Crown equity contribution of $1.925 million.

We recognise the increase in budget is based on current market conditions in the construction industry.

Congratulations on securing approval. Please pass on my thanks to your team for their work.

Yours sincerely

Hon Andrew Little
Minister of Health

cc: Nick Saville-Wood, Chief Executive, Lakes DHB
s9(2)(g)(ii)
Andrew McCurdie (Acting), Executive Director Finance, Procurement and Supply Chain, Lakes DHB
s9(2)(g)(ii)

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TE TAI ŌHANGA
THE TREASURY

Treasury Report: Controller and Auditor-General - Alteration to 2021/22 Appropriations in Vote Audit

Date:	2 December 2021	**Report No:**	T2021/2743
		File Number:	DH-14-1

Action sought

	Action sought	Deadline
Hon Grant Robertson **Minister of Finance**	Approve the additional expense being incurred under Imprest Supply and forward to the Speaker for his approval.	9 December 2021

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Roger Beyer	Budget Support Specialist, Office of the Government Accountant	s9(2)(k) (wk)	N/A (mob)	✓
Awhi Fleming	Team Leader, Justice, Security and Government Services	s9(2)(k) (wk)	N/A (mob)	

Minister's Office actions (if required)

Refer this report to the Speaker of the House of Representatives for his agreement and signature and **return** the signed report to Treasury.

Note any feedback on the quality of the report	

Enclosure: No

Treasury Report: Controller and Auditor-General - Alteration to 2021 Appropriations in Vote Audit

Purpose of Report

1. This report informs you of the request by the Auditor-General to the Officers of Parliament Committee (OPC) for an increase in his 2021/22 appropriations, fully offset by an underspend in 2020/21, and seeks your approval for the additional expense in 2021/22 to be incurred under Imprest Supply.

Background

2. Section 26E of the Public Finance Act 1989 provides for the budgets of the Officers of Parliament to be determined not by the Government, but by the House of Representatives.

3. On 20 October 2021, the Auditor-General advised OPC that the initial COVID-19 lockdown impacted on the delivery of his work in the 2020/21 financial year and some projects were not able to be completed prior to 30 June 2021. This has enabled him to record a surplus on Crown funded activities of $1.737 million.

4. The Auditor-General advised OPC that it is desirable to complete these projects in 2021/22 and that the estimated cost of this is $1.100 million.

5. On 3 November 2021 OPC agreed with this request and presented its report to the House recommending an increase in Vote Audit of $1.100 million in 2021/22. In due course the House, on the motion of the Leader of the House, will commend to the Governor-General that this increase be included in the Appropriation (2021/22 Supplementary Estimates) Bill.

6. As this increase was not included in the 2021/22 Main Estimates, it is not covered by the Appropriation (2021/22 Estimates) Act and will need to be met from Imprest Supply until the Appropriation (2021/22 Supplementary Estimates) Bill is passed in June 2022.

7. The Controller agreement requires the joint approval of you and the appropriation Minister for any expenditure that is not included in the Main Estimates to be met from Imprest Supply.

8. Your approval and the Speaker's approval is now requested for the additional expense of $1.100 million in Vote Audit, Multi Category Expenses and Capital Expenditure; *Statutory Auditor Function*, to be incurred under Imprest Supply.

9. Given the substantive decision has been made by OPC, this is a necessary technical step and we recommend that you agree.

Recommended Action

It is recommended that you:		**Minister of Finance**	**Speaker of the House of Representatives**
a.	**agree** that the additional expense of $1.100 million in 2021/22 in Vote Audit, Multi Category Expenses and Capital Expenditure; *Statutory Auditor Function* recommended by the Officers of Parliament Committee be incurred under Imprest Supply until the Appropriation (2021/22 Supplementary Estimates) Bill is enacted, and	Agree / not agree	Agree / not agree
b.	**agree** to refer a copy of this briefing to the Speaker for his approval.	Agree/ not agree	-

Awhi Fleming
Team Leader, Justice, Security & Government Services

Hon Grant Robertson
Minister of Finance
Date signed:

Rt Hon Trevor Mallard
Speaker of the House of Representatives
Date signed:

TE TAI ŌHANGA
THE TREASURY

Treasury Report: National Provident Fund: Aircrew Scheme Employer Contribution Rate

Date:	1 December 2021	**Report No:**	T2021/3010
		File Number:	CM-1-3-41-2-2

Action sought

	Action sought	Deadline
Associate Minister of Finance (Hon Dr Megan Woods)	**Note** that the NPF Board has recommended no change to the NPF Aircrew Scheme employer contribution rates for 2022	16 December 2021
	Sign the attached letter to acknowledge this decision	

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Oliver Martin	Senior Analyst, Financial Institutions	s9(2)(k) N/A (mob)	✓
Joseph Sant	Manager, Financial Institutions	s9(2)(g)(ii) (mob)	

Minister's Office actions (if required)

Return the signed report to Treasury.

Send the signed letter to the Chair of the National Provident Fund Board of Trustees

Note any feedback on the quality of the report

Enclosure: Yes (attached)
NPF Aircrew Superannuation Scheme – Employer Contribution Rate FY2022 (Treasury:4591349v1)
NPF Letter to AMoF - Employer Contribution Rate - Aircrew from 1 April 2022 (Treasury:4591732v1)
31 March NPF Aircrew Scheme Actuarial Examination (Treasury:4592003v1)

Treasury Report: National Provident Fund: Aircrew Scheme Employer Contribution Rate

1 The Minister of Finance wrote to you in December 2020 transferring his responsibilities for the National Provident Fund's (NPF's) Aircrew Superannuation Scheme (the Scheme) to you. The transfer was made to avoid a conflict between the Scheme and being a shareholding Minister for the Crown's shares in Air New Zealand.

2 You have now received the attached letter from Simon Tyler, Chief Executive of Annuitas, on behalf of the Board of Trustees of the National Provident Fund, regarding the employer contribution rate for the Scheme.

3 The letter confirms that the NPF Board has determined there should be no change to the employer contribution rate for the Scheme for the next financial year. Therefore, a Ministerial direction is not required to enact this decision. A letter of reply acknowledging the Board's decision is enclosed for you to complete this process.

Background

4 The Scheme is a defined benefit scheme within the NPF. It was closed to new members in 1992 but pre-existing members can continue to contribute, and the liabilities are guaranteed by the Crown. As of 31 March 2021, the Scheme had 28 members and Air New Zealand is the only contributing employer.

Employer contribution rates may only change on direction from the Minister

5 Under Section 44 of the National Provident Fund Restructuring Act 1990 (the Act), the NPF Board is required to notify the Minister as to what action is required to rectify a position where the Scheme has insufficient funds, or excess funds, to provide for the liabilities of the Scheme.

6 The employer contribution rate is the balancing item to rectify expectations of insufficient or excess funds in the Scheme. The employer contribution rate for the Scheme may only change on direction from the Minister. No appropriation is required.

Contribution Rate Changes

7 The NPF Actuary carries out an annual actuarial valuation of the Scheme to assess the ratio of assets to past services liabilities (this ratio is the *funding level*). The Actuary recommends the employer contribution rate that should be applied to the scheme in the following financial year. The objective is for there to be neither a significant surplus or deficit at the time the last contributor ceases to contribute. A funding level of 100% indicates a balance between the assets and the past service liabilities as at the valuation date.

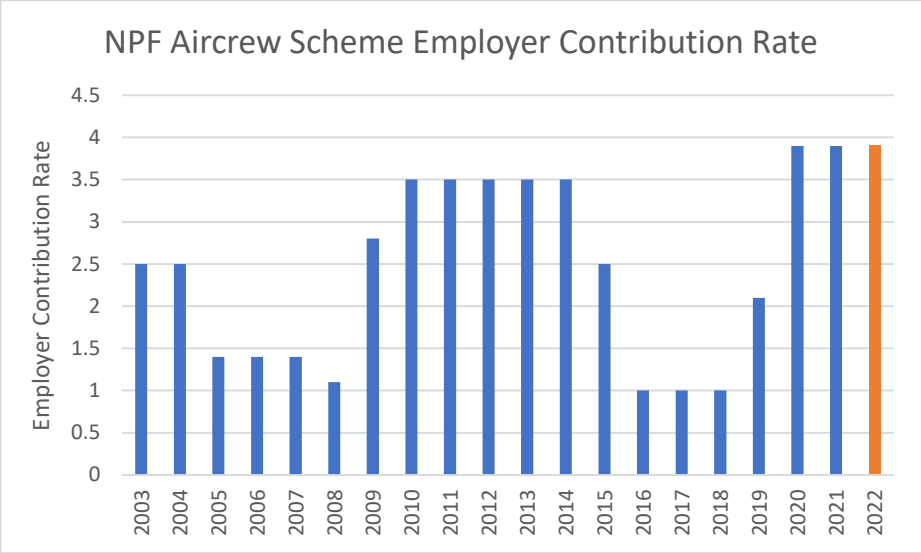
The financial position of the scheme has improved over the last 12 months

8 As of 31 March 2021, the funding level of the Scheme was 105.4% (31 March 2020: 92.5%). This shows that the Scheme has a surplus of assets compared to past service liabilities. The improvement in the funding level is primarily attributed to the Scheme member dynamics differing from the Actuary's previous assumptions, particularly higher salary increases and better than expected investment returns.

Therefore, no changes in the contribution rates are required for 2022/23

9 The Actuary has recommended that the employer contribution rate is maintained at 3.9 times members' contributions (i.e., $3.90 for every $1.00 contributed by the members). The NPF Board has agreed and accepted the Actuary's recommendation.

10 The chart below illustrates historical employer contribution rates to the Scheme for context.



11 The Board's advice to you is consistent with the requirements of section 44 of the Act. The Treasury supports the recommendation of the NPF Actuary and recommends you sign the attached letter noting the Board's decision to maintain the existing the employer contribution rate for the financial year commencing 1 April 2022.

Recommended Action

We recommend that you:

a **note** that the NPF Actuary has recommended that the employer contribution rate is maintained at 3.9 times the members' contributions for the Aircrew Superannuation Scheme, and

b **agree** to sign the attached letter to the Chair of the Board of Trustees of the NPF, noting the Board's decision to maintain the Aircrew Superannuation Scheme's employer contribution rate at current levels for the financial year commencing 1 April 2022.

Agree/disagree.

Joseph Sant
Manager, Financial Institutions

Hon Dr Megan Woods
Associate Minister of Finance

NATIONAL PROVIDENT

AIRCREW SUPERANNUATION SCHEME

Actuarial examination as at 31 March 2021

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1. Executive summary

This report is on the actuarial examination of the Aircrew Superannuation Scheme (Scheme), as at 31 March 2021. It has been prepared for the Board of Trustees (Board) of the National Provident Fund (NPF) and the Minister of Finance.

The main purposes of this report are to report on the financial position of the Scheme and to recommend a rate of employer contribution to apply in the future.

It is a statutory report prepared in accordance with the requirements of clause 54 of the trust deed, section 169 of the Financial Markets Conduct Act 2013 and sections 59A and 68 of the National Provident Fund Restructuring Act 1990.

Members and benefits

At 31 March 2021, there were 26 contributory members. These 26 contributory members comprise 24 pilots, with an average age of 60.8 and an average salary of $347,907, and two cabin crew. These members can elect one of the following benefits:

- a lump sum retirement benefit of 18.5% of their average salary over the last five years for each year of contributory service. This is also known as the member's accrued retirement benefit or "TB"
- a pension of 1.057% of their average salary over the last five years for each year of contributory service. The pension is guaranteed at the full rate for 17.5 years and continues at 50% to a surviving partner following the member's death
- a transfer value of their accrued retirement benefit times "TA/TB" where TA/TB is the ratio of the assets of the Scheme (TA) to the sum of all members' lump sum retirement benefits (TB), with some minor adjustments.

Members can make a former higher salary election, meaning that if their salary reduces, they can elect to continue to contribute and receive benefits based on their salary before the election.

In addition, there are two members who are not contributing and so their benefits are frozen. Non-contributory benefits total $7,000.

Significant events since the previous actuarial examination

In the first half of the triennial period, overseas tourism in New Zealand was at an all-time high and pilot salaries increased rapidly and few members retired. This led to a significant increase in the expected future cost of members' benefits.

Air New Zealand was hit hard by COVID-19 and is now supported by a government provided line of credit of $1.5 billion. The impacts on the Scheme have been:

- significant reduction in the number of contributory members, reducing from 51 at 31 March 2020 to 26 at 31 March 2021
- reduction in salaries, as pilot salaries are influenced by hours flown
- many members moved to part time for a period, although most have returned to full time
- seven pilots have made a former higher salary election.

Treasury forecasts are for the borders to open up next year and for a recovery of the tourism industry. Therefore, it can be expected that Aircrew retirements and salary increases over the next few years should return to more normal levels.

Overall, the financial position of the Scheme, on the funding basis, has improved by $10.1 million since the actuarial examination as at 31 March 2018. The main contributors to the improvement in financial position were:

- $6.1 million improvement from employer contributions, net of employer contribution withholding tax (ESCT), i.e. $9.1 million inclusive of ESCT
- $5.7 million improvement from changes in future salary increase expectations
- $3.6 million improvement from investment returns being higher than expected
- $3.9 million deterioration from membership experience, predominantly members receiving a transfer value higher than their accrued retirement benefit
- $1.7 million deterioration from salary increases being higher than expected.

The balance of the change is made up of less significant items.

Due to the high level if uncertainly at April 2020, the actuarial valuation which would have normally have been undertaken as at 31 March 2020 was undertaken as at 31 August 2020. In this report, I have shown the 31 March 2020 figures, as shown in the financial statements of the Scheme as at 31 March 2020, to give more consistency in the periods between valuations. The valuation assumptions at 31 March 2020 and 31 August 2020 were the same.

The Board reduced the allocation to fixed interest investment from 78.5% to 57.5%, with the balance of the investments being in equities and alternative investments, in the December 2020 review of the asset allocation.

The rate of employer contribution withholding tax increased from 33% to 39% on 1 April 2021. This increases the amount Air New Zealand must pay by 10%, for the Scheme to receive the same amount net of ESCT.

The funding level of the Scheme is expected to have improved since the valuation date. Based on estimated investment returns, the ratio of assets to accrued retirement benefits had increased from 104.1% at 31 March 2021 to 107.3%. A similar level of increase from investment returns exceeding expectation is expected in the funding level.

Current funding level

At 31 March 2021, the funding level was 105.4%. This indicated that on the valuation assumptions, the Scheme had more than sufficient assets to meet the cost of past service liabilities. The TA/TB (essentially assets as a percentage of accrued retirement benefits) was 104.1%. This indicates that at the valuation date the assets were more than the total of all members' accrued retirement benefits.

The vested benefits ratio was 74.6%. This low ratio is because for the vested benefits ratio I allow for each member's right to a pension and at 31 March 2021 the cost of providing a pension is significantly higher than the alternate lump sum retirement benefit. As far as I am aware, only one member has ever elected a pension and the possibility of members electing pensions is not factored into future employer contribution rate recommendations.

Key valuation assumptions

The actuarial valuation projects members' salaries until they are assumed to retire and then calculates their lump sum retirement benefits based on these projected salaries (and actual historic salaries where retirement date is within the five-year averaging period). These payments are then discounted back to the valuation date.

The most financially significant assumptions are the future investment returns for the next 10 years (3.1% pa) and the rate of future salary increases for pilots over the next 10 years (2.9% pa) and that retirees elect a lump sum benefit. The results under some alternate assumptions are shown later in this report.

As mentioned above, the valuation does not allow for members electing a pension, as only one member has elected a pension in the past. Current low term deposit rates could make the pension look more attractive to members than previously and if more members elect a pension in the future, it could lead to a significant reduction in the financial position of the Scheme.

Valuation results – funding basis

The table below shows the valuation results on the funding basis, for this and the previous actuarial examination.

Table 1: Valuation results – funding basis

	31 March 2021 $000	31 March 2018 $000
Total past service liabilities	(46,133)	(108,778)
Net assets	48,630	106,065
Past service deficit	**2,497**	**(2,713)**
Future service liabilities	(5,272)	(14,942)
Members' future contributions	2,617	7,317
Net future service liabilities	**(2,655)**	**(7,625)**
Total service deficit	**(158)**	**(10,338)**
Funding level (net assets/past service liabilities)	105.4%	97.5%
Employer contribution rate (future service only) as multiple of member contributions	1.7	1.6

The above figures are rounded, so they may not appear to add exactly.

The total service deficit is the present value of the amount the employer is expected to have to contribute in the future, exclusive of ESCT. It is calculated on the basis that future experience is as assumed and the assumptions do not change in the future.

Air New Zealand is currently contributing 3.9 time members' contributions. For practical reasons, changes in employer contribution are implemented on the following 1 April, in this case 1 April 2022. On the valuation assumptions, no further employer contributions are expected to be required after 1 April 2022 after allowing for the current rate of employer contributions to continue until then.

Key risks

Although the valuation on the funding basis indicates the Scheme is 105.4% funded and no future employer contributions are required after 1 April 2022, there is a high risk the future is very different to this. The key risks are as follows.

- Investment returns may be significantly less than the 3.1% pa assumed, through a fall in the overseas equity market or an increase in interest rates causing the value of fixed interest investments to fall. There is an over 25% probability the return next year will be negative based on the underlying investment assumptions. Due to the Scheme's negative cashflows, returns in the near future will have a much larger impact on the financial position of the Scheme than investment returns in later years and it is investment returns in the next year which are most important.
- Some members may elect a pension rather than a lump sum benefit. This would very significantly increase the cost to the Scheme of providing these benefits.
- Salaries may increase at a higher rate than assumed.

Investment returns higher than assumed or future salaries lower than assumed will lead to a further improvement in the financial position of the Scheme.

The valuation position is monitored annually, and the employer contribution rate recommendation is reviewed at this time. The TA/TB position is estimated daily.

Recommendations

I recommend:

- the Board advises the Minister that the level of contributions being made to the Scheme is, on the information available to the Board, likely to be in excess of the level of contribution required to provide for the liabilities of the Scheme
- the employer contribution rate be reduced to 1.0 times members' contributions from 1 April 2022, inclusive of ESCT
- there is an actuarial review of the Scheme as at 31 March 2022 to reconsider the employer contribution rate to apply from 1 April 2023
- the Board reviews the investment strategy annually, taking into account the changing circumstances of the Scheme and Air New Zealand and the need to balance the risks and costs between the employer and the Crown
- the Board does not amend the trust deed to increase the benefits payable from the Scheme.

The next statutory actuarial examination is due as at 31 March 2024.

The financial position of the Scheme is sensitive to changes in the assumptions for future salary increases and future investment returns and differences between the actual salary increases and investment returns and the assumptions. Consequently, a significant change in the financial position of the Scheme from one year to the next, as measured using the actuarial assumptions, is possible. Consequently, a further change in the employer contribution rate in the future is likely. The amount and extent of these changes is difficult to project and the effects are managed through annual reviews.

for **PricewaterhouseCoopers Consulting (New Zealand) LP**

Christine Ormrod FNZSA
Actuary to the Board of Trustees of the National Provident Fund
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5 August 2021

2. Introduction

This report is on the actuarial examination of the National Provident Aircrew Superannuation Scheme (Scheme), as at 31 March 2021. It covers the period 31 March 2018 to 31 March 2021. It is a statutory report prepared in accordance with the requirements of clause 54 of the trust deed, section 169 of the Financial Markets Conduct Act 2013 and sections 59A and 68 of the National Provident Fund Restructuring Act 1990.

It is addressed to the Board of Trustees of the National Provident Fund (Board) and the Minister of Finance and has been prepared at the request of the Board. It has been prepared with the knowledge that it will be of interest to Air New Zealand Limited in its role as the contributing employer of the Scheme. Reliances and limitations relating to this report are set out in the Appendix.

The previous actuarial examination was prepared by me, as at 31 March 2018.

I have no conflicts of interest in conducting this actuarial examination.

Purposes

The purposes of this report are to:

- report on the financial position of the Scheme
- recommend a rate of employer contribution to apply in the future
- advise whether the Board should amend the trust deed to increase the benefits payable from the Scheme.

Employer contributions

The following table shows the level of employer contributions expressed as a multiple of contributions made by the member. The employer has made contributions in line with the recommended rates.

All employer contribution rates in this report are inclusive of Employer Superannuation Contribution Tax (ESCT). ESCT up to 31 March 2021 was 33% and from 1 April 2021 is 39%.

Table 2: Employer contribution rates

Period	Multiple of members' contributions	Period	Multiple of members' contributions
1995 – 31 March 2002	Nil	1 April 2010 – 31 March 2015	3.5
1 April 2002 – 31 March 2003	1.4	1 April 2015 – 31 March 2016	2.5
1 April 2003 – 31 March 2005	2.5	1 April 2016 – 31 March 2019	1.0
1 April 2005 – 31 March 2008	1.4	1 April 2019 – 31 March 2020	2.1
1 April 2008 – 31 March 2009	1.1	1 April 2020 – 31 March 2021	3.9
1 April 2009 – 31 March 2010	2.8		

Data

Membership data were supplied by Datacom Connect Limited, the Scheme Administrator, and by NPF Management. Data on whether each member is a pilot or cabin crew is based on historic records.

Data on the assets and revenue was taken from the audited financial statements of the Scheme for the years ending 31 March 2019 to 2021. Information on the investment managers was taken from the NPF website.

No adjustments were made to this data.

I am satisfied the data on the Scheme's membership, assets and revenue are reliable and sufficient for the purposes of the actuarial review, noting the recommendations have taken into account the uncertainty in the data.

Trust Deed

The Scheme is governed by a trust deed dated 28 March 1991, as amended by deeds dated 30 March 1993, 7 September 1993, 29 February 1996, 31 March 1998, 22 August 2006, 21 September 2016, 28 March 2019 and 6 May 2021. The amendment on 28 March 2019 allows for future pensions to be provided via a transfer of the pensioner and pension entitlement to the National Provident Pension Scheme and allowed for existing pension benefits to be similarly provided by a transfer to the National Provident Pension Scheme. The amendment dated 6 May 2021 related to change due to the repeal of the Trustee Act 1956 and the enactment of the Trusts Act 2019.

I am not aware of any discrepancy between the trust deed and the Board's practices since the previous actuarial examination.

Conflicts of interest

I have no conflicts of interest in conducting this actuarial examination.

Certification

This report was prepared in accordance with Professional Standard Number 40 – Actuarial Reporting for Superannuation Schemes – issued by the New Zealand Society of Actuaries. The valuation method and the financial, economic and demographic assumptions have been determined in accordance with the professional judgment of the actuary preparing the report. The financial effect of changes in assumptions has been considered in relation to their impact on the total service surplus rather than the past service surplus as that is more relevant to this Scheme.

3. Valuation results

Current financial position on the funding basis

The results of the actuarial valuation on the funding basis, as at 31 March 2021, are shown below, along with the 31 March results since the previous actuarial examination for comparison. In this report, I have shown the 31 March 2020 figures, as shown in the financial statements of the Scheme as at 31 March 2020, rather than the 31 August 2020 results shown in the actuarial review, to give more consistency in the periods between valuations. The valuation assumptions at 31 March 2020 and 31 August 2020 were the same.

Since 31 March 2018, the assumptions for future investment returns, future salary increases and the provision for future administration expenses have been changed, see section 8. Valuation assumptions. The financial effects of changes in the assumptions over this period are shown in section 4. Scheme experience.

Table 3: Financial position of the Scheme – funding basis

Valuation date	31 March 2021	31 March 2020	31 March 2019	31 March 2018
	$000	$000	$000	$000
Past service liabilities				
Retirement	(44,928)	(91,621)	(110,873)	(106,544)
Death	(395)	(738)	(910)	(912)
Administration expenses	(804)	(988)	(1,141)	(1,286)
Non contributory	(7)	(36)	(36)	(36)
Total past service liabilities	**(46,133)**	**(93,383)**	**(112,960)**	**(108,778)**
Net assets	48,630	86,412	103,930	106,065
Past service surplus /(deficit)	**2,497**	**(6,971)**	**(9,030)**	**(2,713)**
Future service liabilities				
Retirement	(5,139)	(9,467)	(13,556)	(14,650)
Death	(41)	(74)	(104)	(115)
Administration expenses	(92)	(102)	(139)	(177)
Total future service liabilities	(5,272)	**(9,642)**	**(13,799)**	**(14,942)**
Members' future contributions	2,617	4,844	6,851	7,317
Net future service liabilities	(2,655)	**(4,799)**	**(6,948)**	**(7,625)**
Total service deficit	**(158)**	**(11,769)**	**(15,978)**	**(10,338)**
Funding level (net assets/past service liabilities)	105.4%	92.5%	92.0%	97.5%
Employer contribution rate (future service only) as multiple of member contributions	1.7	1.5	1.5	1.6

1. The above figures are rounded and so may not appear to add exactly.
2. The employer contribution rate (future service only) is the multiple of member contributions required to meet net future service liability including ESCT.
3. The benefits valued are those payable on retirement and death, as described in Section 9: Summary of benefits and contributions.
4. The present value of a total service deficit is the amount the employer is expected to have to contribute in the future, excluding ESCT.

The ratio of the value of net assets to the value of past service liabilities is known as the funding level. A funding level of 100% indicates a balance between the net assets and past service liabilities on the funding assumptions. The funding level of 105.4% shows that the Scheme had a surplus of assets compared to past service liabilities (calculated using the funding assumptions), as at 31 March 2021.

Current financial position on the Minimum Risk Rate basis

The Minimum Risk Rate (provided to me by NPF Management) is used for Board reporting, disclosure in the financial statements and determining whether the investment strategy is adding value compared to the additional risk being taken. Under the Minimum Risk Rate basis, the value of the liabilities is the present value of the estimated benefit payments, assuming investment returns are the same as can be earned on a portfolio of New Zealand Government bonds with the same average duration as the past service liabilities.

The value of the liabilities as at 31 March 2021, on the Minimum Risk Rate basis, is shown below with similar figures for 31 March 2018 given for comparison. The 2018 figures used net of tax risk free forward rates. Since 31 March 2018, the assumptions for future investment returns, future salary increases and the provision for future administration expenses have been changed, see section 8. Valuation assumptions.

Table 4: Financial position of the Scheme – Minimum Risk Rate basis

Valuation dates	31 March 2021	31 March 2018
Value of	$000	$000
Past service liabilities	(50,608)	(111,712)
Net assets	48,630	106,065
Past service deficit	**(1,978)**	**(5,647)**
Future service liabilities	(6,074)	(15,456)
Members' future contributions	2,812	7,489
Net future service liabilities	**(3,262)**	**(7,966)**
Total service deficit	**(5,240)**	**(13,613)**
Ratio of net assets to past service liabilities	96.1%	94.9%

The notes under table 4 also apply to this table.

Sensitivity of results to changes in the assumptions

The results are sensitive to future investment returns over the next 10 years (assumed to be 3.1% pa) and the rate of future salary increases for pilots over the next 10 years (assumed to be 2.9% pa). They are not particularly sensitive to when members are assumed to retire, within a reasonable range.

Future investment returns

The results on the Minimum Risk Rate basis show the sensitivity to future investment returns. The results inclusive of future service costs are shown below.

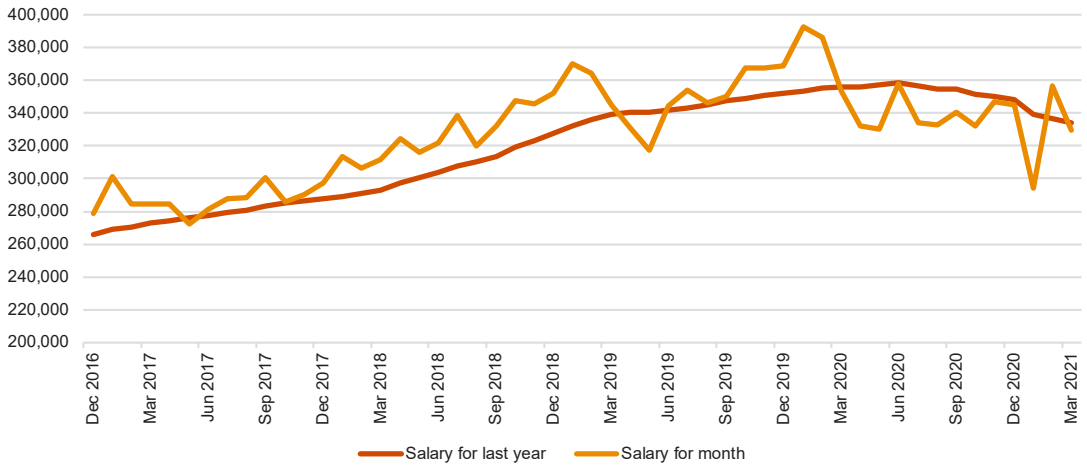
Table 5: Sensitivity results – change in future investment returns

Future investment returns/discount rate assumed	Valuation assumptions	Minimum Risk Rate
Value of	$000	$000
Past service surplus / (deficit)	2,497	(1,978)
Net future service liabilities	(2,655)	(3,262)
Total service deficit	**(158)**	(5,240)
Change in total service deficit	-	(5,082)
Additional employer contribution required, inclusive of ESCT		(8,332)

Future salary increases

Pilot salaries are volatile and hard to predict. 24 of the 26 members are pilots. The following figure shows the historic salaries of the current members.

Figure 1: Average full-time equivalent salary



Below I show the valuation results if members' future salary increases are assumed to apply from a base of the greater of the valuation salary used, see page 18, and the highest annual earnings for the last five years ending on 31 March and future promotional increases are as assumed in 2018.

Table 6: Sensitivity results – change in future salary increases

Member salaries assumed	Valuation assumptions	Higher base salary
Value of	$000	$000
Past service surplus / (deficit)	2,497	(3,774)
Net future service liabilities	(2,655)	(3,154)
Total service deficit	**(158)**	**(6,928)**
Change in total service deficit	-	(6,770)
Additional employer contribution required, inclusive of ESCT		(11,099)

Date of retirement

The following shows that the results are not particularly sensitive the retirement rates assumed.

Table 7: Sensitivity results – change in retirement date assumption

Retirement assumption	Valuation assumptions	Valuation assumptions with 100% retirement at age 65	No retirement to age 65 and 100% retirement at age 65
Value of:	$000	$000	$000
Past service surplus / (deficit)	2,497	2,138	2,897
Net future service liabilities	(2,655)	(2,213)	(3,297)
Total service deficit	**(158)**	**(75)**	**(400)**
Change in total service deficit	-	83	(242)
Additional employer contribution required, inclusive of ESCT		136	(397)

TA/TB ratio

Members may transfer out of the Scheme and receive a benefit equal to their accrued retirement benefit multiplied by the TA/TB ratio.

The TA/TB ratio is calculated as:

$$\text{TA/TB} = \frac{\text{net assets}}{\text{total of all members' accrued retirement benefits}}$$

A TA/TB ratio of greater than 100% indicates that net assets are greater than the total of all members' accrued retirement benefits.

The TA/TB ratio calculated as at 31 March 2021 was 104.1%.

Although the TA/TB and funding level are close at 31 March 2021, they can be different due to the different calculations.

Vested benefits

All members are entitled to a retirement benefit. The value of vested benefits has been determined as the greater of:

- the lump sum retirement benefit the member would have been entitled to, if the member had retired and elected a lump sum retirement benefit
- the cost to the Scheme of transferring the pension entitlement to the National Provident Pension Scheme, if the member had retired and elected a pension retirement benefit
- the transfer value the member would have been entitled to, if the member had transferred out of the Scheme.

To determine the cost of transferring the pension entitlements to the National Provident Pension Scheme, and to determine whether this exceeds the lump sum entitlements on a member by member basis, we have assumed all members are married. This results in a vested benefits ratio of 74.6%. This is likely to over-estimate the value of vested benefits in the table below. If all members were assumed to be single, the vested benefits ratio would increase to 81.0%.

The following table shows the value of vested benefits as at 31 March 2021, with the results for the previous three years shown for comparison.

Table 8: Vested benefits

Valuation date	31 March 2021	31 March 2020	31 March 2019	31 March 2018
	$000	$000	$000	$000
Vested benefits	(65,168)	(104,041)	(123,007)	(109,515)
Net assets	48,630	86,412	103,930	106,065
Deficit	**(16,537)**	**(17,629)**	**(19,077)**	**(3,450)**
Vested benefits ratio	74.6%	83.1%	84.5%	96.8%

As at 31 March 2021, the value of net assets was less than the value of vested benefits. This is due to the value of each member's pension benefit being greater than the value of their transfer benefit.

Position on wind-up

The Scheme may be wound-up, in whole or part, at the direction of the Minister of Finance, after consultation with the Board. The Court, on application from the Financial Markets Authority, may order the winding up of the Scheme under section 211 of the Financial Markets Conduct Act 2013.

By 31 March 2027, the Scheme is projected to have fewer than five members, so wind-up in the not too distant future is reasonably likely.

On wind-up, the assets of the Scheme will be allocated pro rata between the members and other beneficiaries, on a basis that takes account of their interests and periods of membership in the Scheme. All benefits are paid in lump sum form. The term "interests and periods of membership" is not defined in the trust deed of the Scheme.

If the Scheme had been wound up on 31 March 2021 and the assets allocated in proportion to "accrued retirement benefits" as that term is defined for the purposes of calculating transfer values, the lump sum payments to members would have been similar to their transfer values. The payments would have been less due to the need to meet the costs associated with wind-up.

Members are entitled to a pension if they retire. If the Scheme had been wound up on 31 March 2021 and the assets allocated in proportion to the accrued retirement benefits, the cash payment would have been insufficient to purchase an annuity equal to their pension entitlement. The reason for this is that, in the Scheme, all pensions are converted to lump sums using a factor of 17.5. The cost of purchasing a pension from the National Provident Pension Scheme would be greater than this.

Under section 60 of the National Provident Restructuring Act 1990 (**Act**), the Crown guarantees the benefits payable from the Scheme.

Requirements of the National Provident Fund Restructuring Act 1990

Section 44 of the Act requires that if the Board becomes aware that the level of contributions being made to the Scheme is:

- unlikely to be sufficient to provide for the liabilities of the Scheme; or
- likely to be in excess of the level of contributions required to provide for the liabilities of the Scheme

the Board shall give notice to that effect to the Minister, with a statement of the Board's view as to what action would be required to rectify the position.

The Minister and the Board must be reasonably satisfied, having regard to the financial position of the Scheme, that any increase or decrease in the level of contributions:

- is necessary to ensure the Scheme is not in a deficit or surplus, or to reduce such deficit or surplus, taking into account the Scheme's projected liabilities, the value of the assets and projected future contributions to the Scheme
- will result in contributions being at a level which, on reasonable assumptions, is likely to achieve neither a surplus nor a deficit at the time the last member ceases to contribute.

Recommended employer contribution rate

The objective is to have a relatively stable employer contribution rate. Due to the nature of the Scheme, this is increasingly difficult.

For practical reasons, employer contributions are changed from the following 1 April, i.e. any employer contribution rate change will be effective 1 April 2022.

The valuation results show that, as at 31 March 2021, the funding level of the Scheme was 105.4% and the employer contribution rate, determined by reference to only future service benefits is 1.7 times the members' contributions. By 1 April 2022, allowing for the current the employer contribution rate of 3.9 times members' contributions and other experience to be as assumed, no future employer contribution is expected to be required after 1 April 2022. That is, the valuation results indicates the current employer contribution of 3.9 times members' contributions is likely to be more than sufficient to provide for the liabilities of the Scheme.

There is uncertainty in the employer contribution rate required. While the "best estimate" projection is that no future employer contributions will be required after 1 April 2022, higher salary increases or lower investment returns than assumed could lead to employer contributions being required in the future. Future salary increases remain highly uncertain, with the move back towards a more open economy, and future investment returns are always uncertain.

I recommend the Board advises the Minister that the level of contributions being made to the Scheme is, on the information available to the Board, likely to be in excess of the level of contribution required to provide for the liabilities of the Scheme and the employer contribution rate is decreased to 1.0 times the members' contribution, with effect from 1 April 2022. By this time the funding level is expected to have increased to 109.0% and the ratio of net assets to all members' accrued benefits (TA/TB) is expected to have increased from 104.1% to 105.0%.

The members are all close to retirement and the scheme funding and theoretical contribution rates in the future are likely to remain volatile, as investment returns and salary increases fluctuate.

In my opinion, based on the information currently available and reasonable assumptions, a contribution rate of 1.0 times members' contributions from 1 April 2022 combined with a reconsideration of this rate as part of the actuarial review as at 31 March 2022, is appropriate to ensure the Scheme is not in a significant deficit or surplus, takes into consideration the objective of a relatively stable employer contribution rate and results in contributions being at a level which is expected to achieve neither a significant surplus nor deficit at the time the last member ceases to contribute.

Next valuation

I recommend that there is an annual actuarial review of the Scheme as at 31 March 2022 to reconsider the employer contribution rate recommendation.

The next triennial actuarial examination of the Scheme is due as at 31 March 2024. There will be a full review of all the assumptions prior to this actuarial examination.

Projected ratios

If the experience of the Scheme is in line with the valuation assumptions and the employer contributes at the rate recommended in this report, then the TA/TB ratio and funding level are projected to be as follows over the next three years:

Table 9: Projected ratios

	31 March 2021 actual	31 March 2022 projected	31 March 2023 projected	31 March 2024 projected
TA/TB ratio	104.1%	105.0%	103.7%	105.8%
Funding level	105.4%	109.0%	109.9%	111.3%

Members may elect a pension and for all members the cost to the Scheme of purchasing that pension is greater than the cost of the member's lump sum retirement benefit of transfer benefit. Consequently, the vested benefits ratio is expected to remain below 100%.

Benefit increases

The Board has the power to amend the trust deed to increase the benefits provided by the Scheme. There remains significant uncertainty in the future financial position of the Scheme.

I recommend the Board does not amend the trust deed to increase benefits.

4. Scheme experience

The financial position of the Scheme, on the funding basis, has improved by $10.1 million since the actuarial examination as at 31 March 2018. The ratio of assets to past service liabilities (the funding level) increased from 97.5% to 105.4% as a result.

The change in the total service deficit has been analysed in the following way:

- interest assumed on the total service deficit at the start of the period
- employer contributions paid
- Scheme experience being different from that assumed
- changes in the assumptions.

The financial effect of these factors is shown below.

Table 10: Analysis of the Scheme experience – funding basis

	1 April 2018 to 31 March 2021	Year ended 31 March		
		2021	2020	2019
	$ million	$ million	$ million	$ million
Total service deficit at the start of the period	**(10.3)**	**(11.8)**	**(16.0)**	**(10.3)**
Interest assumed on deficit at the start of the period	(0.9)	(0.3)	(0.4)	(0.2)
Employer contributions	6.1	2.4	2.4	1.3
Effect of Scheme experience				
Salary increases	(1.7)	2.6	0.7	(5.0)
Membership experience	(3.9)	1.3	(1.5)	(3.7)
Investment performance	3.6	6.8	(4.0)	0.8
Administration expenses	0.0	0.0	0.0	0.0
Changes in assumptions				
Future investment returns	1.3	1.1	(1.1)	1.3
Salary increases	5.7	(2.4)	8.1	0.0
Administration expenses	0.3	0.1	0.1	0.1
Rounding/unexplained	(0.4)	0.0	(0.1)	(0.3)
Total service deficit at the end of the period	**(0.2)**	**(0.2)**	**(11.8)**	**(16.0)**

Interest assumed on the deficit at the start of the period

The liabilities, and therefore the deficit, are discounted back to the valuation date. Therefore, the effect of assumed investment earnings on the deficit needs to be taken into account between valuations. This causes the deficit to increase over time.

Employer contributions

Employer contributions are contributions received by the Scheme from the employer during the year. They reduce the amount to be funded in the future.

Effect of Scheme experience being different from assumed

Salary increase experience ($1.7 million deterioration)

Salary increases were higher than assumed for the year ended 31 March 2019 and lower than assumed for years ended 31 March 2020 and 31 March 2021. This has increased the deficit/amount to be funded by $1.7 million over the last three years. In addition, some of the amount shown under membership experience below will be related to salary increases being higher/lower than expected. The following table shows the average increases in salaries for contributory members, compared to the increases assumed.

Table 11: Change in valuation salary between 31 March 2018 and 31 March 2021

Period	Pilots			Cabin Crew		
	Assumed % pa	Actual % pa	Number	Assumed % pa	Actual % pa	Number
Year ended 31 March 2019	5.0	11.9	52	2.0	1.9	7
Year ended 31 March 2020	5.0	3.3	44	2.0	1.5	7
Year ended 31 March 2021	0.0	(8.9)	24	0.0	5.5	2
1 April 2018 to 31 March 2021	**3.3**	**1.7**		**1.3**	**3.0**	

Membership experience ($3.9 million deterioration)

Membership experience has led to an increase in the amount to be funded of $3.9 million.

The number of exits has been close to expected over the three year period. The $3.9 million deterioration has therefore been predominantly from members receiving a transfer value rather than their lump sum retirement benefit and therefore receiving a greater benefit than assumed by the valuation process. The $3.9 million is 5.6% of the transfer value payments made during the three years.

Table 12: Actual compared to expected exits

Period	Actual exits	Assumed exits
Year ended 31 March 2019	4	11.6
Year ended 31 March 2020	8	12.8
Year ended 31 March 2021	25	13.9
1 April 2018 to 31 March 2021	**37**	**38.3**

Investment performance ($3.6 million improvement)

The Scheme's investment returns are shown below, net of tax and investment expenses. The "assumed" figure relates to the investment return assumed in the previous year's actuarial valuation. Over the three years, the investment return, net of tax and expenses, has been higher than assumed and this has improved the financial position of the Scheme by $3.6 million.

Table 13: Investment return (net of tax and investment expenses)

Period	Assumed % pa	Actual % pa
Year ended 31 March 2019	2.40	3.19
Year ended 31 March 2020	2.70	(1.49)
Year ended 31 March 2021	2.40	13.27
1 April 2018 to 31 March 2021	**2.50**	**4.81**

The per annum return i is calculated using the following formula:

$$i = \frac{(2 \times I)}{FV_0 + FV_1 - I}$$

where:

i = the annual rate of return

I = investment gains in the year, net of tax and expenses

FV_0 = fair value of assets at the start of the year

FV_1 = fair value of assets at the end of the year

Administration expenses (insignificant impact)

Administration expenses, incurred and assumed over the three years ended 31 March 2021, are shown below before tax. The "assumed" figure relates to administration expenses assumed for the previous year's actuarial valuation.

Table 14: Administration expenses

Period	Assumed $000	Actual $000
Year ended 31 March 2019	228	222
Year ended 31 March 2020	222	208
Year ended 31 March 2021	208	197
1 April 2018 to 31 March 2021	**658**	**627**

Administration expenses have been less than assumed. However, the impact on the Scheme has not been significant.

Effect of changes in the actuarial assumptions

Future investment returns ($1.3 million improvement)

There has been an increase in the future investment returns assumed over the three-year period to 31 March 2021. The increase in future investment return assumption has resulted in a $1.3 million improvement in the financial position of the Scheme.

The changes in future investment return assumptions are detailed on page 27.

Salary increases ($5.7 million improvement)

Salary increase and pilot promotion assumptions were decreased to zero as at 31 March 2020, to reflect the impact of COVID-19 on members' salaries and members' ability to make a former higher salary election.

With the opening of the borders, I have added back provision for future salary increases, although at a lower rate than previously as it is expected to take some years for the aviation industry to recover fully.

These changes in the salary increases assumed have reduced the value of the liabilities by $5.7 million.

Future administration expenses ($0.3 million improvement)

The allowance for administration expenses is calculated as the dollar amount of the prior year administration costs through until the end of the year in which the Scheme is projected to have fewer than five members. As annual administration expenses reduced, the provision for future administration expenses has reduced by $0.3 million.

5. Membership data

Data was provided in respect of 26 contributory members and two non-contributory members, a total of 28 members.

Each item of data required for the valuation was checked for reasonableness. All member data was reconciled back to, or compared with, the data used for the valuation used for the financial statements as at 31 March 2021 or data provided for the previous year, as relevant. Exit payments were reconciled back to the financial statements.

A member's salary used in the valuation is the maximum of the base salary provided by Datacom Connect Limited and the salary implied by the member's most recent fortnightly contribution (contribution divided by contribution rate). Seven members have made a former higher salary election.

On 27 April 2020, a number of members moved from full-time to part-time employment, with part-time percentages of 50% and 86%. As at 31 March 2021, only one member remains on part-time employment. For the purposes of the valuation, I have assumed this remaining member will remain on the latest part time percentages advised until they exit. I have determined full time equivalent salary for the period since 27 April 2020 by scaling up contributions made by the relevant part-time percentage.

Contributory members - member details

Contributory members are categorised into pilots and cabin crew for the purposes of the actuarial examination. The following table provides a summary by category.

Table 15: Contributory member details for pilots and cabin crew

Age range	Number	Average past contributory service[1]	Average salary
		years	$
Pilots			
57 – 59	13	29.9	338,686
60 – 65	11	30.5	358,804
All	**24**	**30.2**	**347,907**
Cabin crew			
60 – 64	2	31.7	

1. Average contributory service includes only the part year in the case of part time contributory service

Non-contributory members

At 31 March 2021, there were two non-contributory members.

Extinguished liabilities

The liability for three non-contributory members was extinguished in 2006. None have been reinstated and no liabilities have been extinguished since then.

Change in membership

The change in membership in respect of members and pensioners, as in the Trustee's reports and financial statements, is shown in the following table.

Table 16: Change in membership for members and pensioners

	Contributory members	Non-contributory members	Pensioners	Total
Members at 31 March 2018	**63**	**2**	**1**	**66**
Exits	(4)	0	(1)	(5)
Members at 31 March 2019	**59**	**2**	**0**	**61**
Exits	(8)	0	0	(8)
Members at 31 March 2020	**51**	**2**	**0**	**53**
Exits	(25)	0	0	(25)
Members at 31 March 2021	**26**	**2**	**0**	**28**

One of the members who left in the year ending 31 March 2021 had both contributory and non-contributory membership and is included in the contributory column above.

6. Assets and investments

Investment strategy

The Board is advised by Russell Investment Group Ltd on the investment strategy. The investment strategy is summarised by the Board's *Statement of Investment Policies, Standards and Procedures* – the most recent being dated May 2021. The asset allocation was last reviewed in December 2020.

The investment parameter that there is no more than a 50% chance that in five years' time the past service coverage ratio will be less than 100%.

The investment objective is to maximise the investment return, after tax and expenses, in excess of the discount rate used by the Actuary to value the liabilities, over the next five years, subject to the investment parameter.

The strategic asset allocation of the Scheme at each valuation date is shown in the table below.

Table 17: Strategic asset allocation

Unit	31 March 2021 %	31 March 2020 %	31 March 2019 %	31 March 2018 %
F (Fixed interest – global)	57.5	39.5	39.5	40.0
F2 (Fixed interest – New Zealand)	0.0	39.0	39.0	40.0
E (New Zealand equities)	7.5	2.5	2.5	2.5
O (Overseas equities)	30.0	16.0	16.0	17.5
A (Alternatives)	5.0	3.0	3.0	0.0
Total	**100.0**	**100**	**100.0**	**100.0**

From time to time the Scheme's asset allocation may be varied from its strategic asset allocation in response to relative valuation signals. These positions are expected to add returns over time and are referred to as dynamic asset allocation. The current limits that each exposure may be tilted away from its strategic allocation is shown below.

Table 18: Dynamic asset allocation tilting limits

	%
Equities/Fixed Interest	0
Foreign Currency	+/-8
NZ Equities/Global Equities	0
Cash/Fixed Interest	0

The Scheme's portfolio is rebalanced towards target (strategic asset allocations adjusted for any temporary dynamic asset allocation positions) on a monthly basis. To avoid excessive transaction costs from maintaining the exact asset allocation selected, the Scheme's allocation to unit funds is permitted to deviate from the target allocation by the following rebalancing ranges.

Table 19: Rebalancing ranges

Unit	%
C (Cash)	+/-2
F (Fixed interest – global)	+/-5
E (New Zealand equities)	+/-2
O (Overseas equities)	+/-5
A (Alternatives)	+/-2

The F unit contains global fixed interest investments. The hedging policy is that all overseas fixed interest investments are 100% hedged.

All benefit payments are guaranteed by the Crown and so members are fully protected from the effects of adverse investment returns. As a result, the investment strategy does not affect the security of members' benefits. However, the investment strategy does impact the employer's contributions and potentially the Crown guarantee.

In my opinion, the investment strategy is appropriate for the Scheme, in relation to the form and incidence of the expected liabilities.

However, I recommend the Board reviews the investment strategy annually, taking into account the changing circumstances of the Scheme and Air New Zealand and the need to balance the risks and costs between the employer and the Crown.

Financial data

Financial data was taken from audited financial statements for the years ending 31 March 2019 to 31 March 2021, in addition to detailed financial information supplied by Datacom Connect Limited, the administrator of the Scheme. For each year, benefit payments were reconciled to the amounts shown in the membership data. I am satisfied with the sufficiency and reliability of the financial data for the purposes of this actuarial examination.

Investment assets

The investment assets of the Scheme are held as units in a master trust, called the Global Asset Trust, created under the Act. There is a separate unitised fund for each asset class. The assets are shown in the financial statements at fair value.

The investment managers appointed by the Board to manage the assets held on behalf of the Scheme, as at 31 March 2021, are:

Fixed interest managers	Brandywine Global Investment Management, LLC
	Pacific Investment Management Company LLC
New Zealand equity managers	Devon Funds Management Limited
	Harbour Asset Management Limited
Overseas equity managers	Arrowstreet Capital Limited Partnership
	Lazard Asset Management, LLC
	T. Rowe Price Australia Limited
Alternative managers	AQR Capital Management, LLC
Foreign exchange hedging managers	Bank of New Zealand Limited

The net assets of the Scheme at 31 March 2021, as shown in the financial statements, are summarised in the following table.

Table 20: Net assets at 31 March 2021

	$000	Actual asset allocation %	Strategic asset allocation %
Investment units			
F (Fixed interest – global)	21,774	55.1	57.5
E (New Zealand equities)	2,795	7.1	7.5
O (Overseas equities)	12,651	32.0	30.0
A (Alternatives)	2,266	5.7	5.0
	39,486	**100.0**	**100.0**
Other assets			
Cash	9,131		
Net current receivables	14		
	9,145		
Net assets	**48,630**		

The figures above are rounded, so they may not appear to add exactly.

As at 31 March 2021, the assets of the Scheme were invested in accordance with the investment strategy in force at the time.

In my opinion, the assets of the Scheme as a whole are suitable for the purposes of the Scheme.

Consolidated financial statement

A simplified consolidated financial statement for the period since the last actuarial examination is shown in the following table.

Table 21: Consolidated financial statements

	1 April 2018 to 31 March 2021	Year ended 31 March		
		2021	2020	2019
	$000	$000	$000	$000
Net assets at the start of the period	106,065	86,412	103,930	106,065
Income				
Member contributions	4,548	935	1,719	1,894
Employer contributions	6,062	2,375	2,418	1,269
Investment income (net of investment expenses)	10,143	8,355	(1,466)	3,254
Tax rebate	126	45	42	39
	20,879	**11,710**	**2,713**	**6,456**
Expenditure				
Transfers paid to other schemes	(70,197)	(45,247)	(17,956)	(6,994)
Retirement lump sums	(6,114)	(4,048)	(2,066)	-
Pension payments	(1,375)	-	-	(1,375)
Administration expenses	(628)	(197)	(208)	(222)
	(78,314)	**(49,492)**	**(20,230)**	**(8,591)**
Net assets at the end of the period	**48,630**	**48,630**	**86,412**	**103,930**

Insurance

The Scheme does not insure any of the benefits payable on death or disability and in my opinion the Scheme does not require such insurance as, in most cases, the assets held by the Scheme in respect of a member are similar to the value of the benefit payable on death or disablement. Additionally, the assets are sufficiently liquid to enable benefits on death and disablement to be paid, and benefit payments are guaranteed by the Crown.

7. Valuation approach

Funding objectives

The funding objectives are to:

- determine a relatively stable employer contribution rate, and
- fund the liabilities of the Scheme over the future membership of the existing members.

Valuation method

I have used the valuation method known as the attained age valuation method. Using the attained age valuation method, the basic employer contribution rate is determined by reference to future service benefits only (that is, based on benefits according to attained age) and this is then adjusted to take account of any past service surplus or deficit.

If there is a past service deficit, then this would normally be amortised, or paid off, over a set number of years, or over the remaining period of membership of the existing members. If there is a past service surplus, then this can be used to reduce the employer contribution rate to a lower amount over the remaining period of membership of existing members, or to reduce the employer contribution rate by a set amount for a set number of years.

Thus, when a scheme has a past service surplus, this valuation method can result in a level employer contribution rate, or a lower contribution rate (possibly zero) for a set period increasing to a higher contribution rate, or an indefinite employer contribution holiday.

If the actuarial assumptions are borne out in practice, then the future funding level will tend to 100% over the longer term.

In my opinion, the use of the attained age valuation method is consistent with the requirement of Section 44 of the Act that any increase or decrease to the employer contribution rate should:

> *"… result in contributions being at a level which, on reasonable assumptions, is likely to achieve neither a surplus nor a deficit in the trust fund of the … aircrew superannuation scheme at the time that the last member to that Scheme ceases to so contribute".*

Valuation process

The valuation process involves the projection, on a year by year basis, of the benefit payments expected in respect of current contributory members. Members' benefit payments are estimated in respect of their incidence according to assumed rates of death and retirement, and in respect of their amounts according to the assumed rates of salary progression.

The liability for any member, who left prior to the valuation date, is taken as the estimate of their benefit payment. The liability for non-contributory members is taken as the amount of their accrued retirement benefit. In addition, the liability for any member who is identified as exiting shortly is taken as their actual benefit payment, where advised, or an estimate of their benefit payment.

There is assumed to be no future liability in respect of those members whose liability has been extinguished.

Variance expected between the actual future liabilities and the value of future liabilities shown in this report

The employer contribution rate required to meet net future service liabilities, before any adjustment because of past service surplus or deficit and, to a lesser extent, the value placed on the past service surplus or deficit, are reasonably resilient to a change in actuarial assumptions and to normal changes in member demographics. Thus, the attained age valuation method usually results in a reasonably stable employer contribution rate (for future service only), which can then be adjusted from time to time because of changes in the past service surplus or deficit.

Investment returns and salary increases can vary significantly from year to year. As the past service liabilities are many times larger than the value of future members' contributions, this volatility in investment returns and salary increases leads to volatility in the past service surplus/(deficit), which leads to volatility in the employer contribution rate.

In the long term, the net assets required will depend on the actual experience of the Scheme, because the following relationship must exist:

	employer's future contributions net of withholding tax
equals	benefits paid to beneficiaries
plus	expenses and taxes paid by the Scheme
less	net assets at the valuation date
less	future investment income
less	members' future contributions.

The value placed on liabilities is an estimate, in the sense that there is uncertainty as the amount and timing of these future payments and income. In general, this uncertainty arises from four sources:

- the model used will not be an entirely accurate representation of actual events, as there are always uncertainties which are not known at the valuation date and so cannot be allowed for. Also, various simplifying assumptions are inevitable
- past randomness in the experience, lack of data and trends over time mean that it is not possible to determine the assumptions applicable to future experience with complete precision
- even if the assumptions could be determined "accurately" there will be random variations of actual experience from that assumed
- any errors in the data will introduce uncertainty.

Changes

There have been no changes to the funding objectives, valuation methodology or processes since the actuarial examination as at 31 March 2018.

Materiality

We have not applied any materiality level to our calculations; however, all figures have been rounded to the nearest $1,000.

8. Valuation assumptions

For the valuation, best estimate assumptions are adopted, which neither deliberately overstate nor understate expectations.

Key assumptions

The most financially significant assumptions are:

- the future investment return assumed over the next 10 years
- the future salary increases assumed over the next 10 years for members
- whether retirees take a pension or a lump sum.

Changes in assumptions

The economic assumptions are reviewed in depth each year. The other assumptions are reviewed at least triennially, with the most recent review as at 31 March 2021.

The following assumptions have changed since the actuarial examination as at 31 March 2018:

- rate of investment return, see below
- method of calculating salary at the valuation date, see page 28
- salary inflation, see page 28.

In addition, the methodology used to determine the allowance for future administration expenses results in a change in the annual expenses assumed each year.

The financial effect of these changes is shown in Section 4: Scheme experience.

Expected future investment return – funding basis

The assumed future investment return of the Scheme is calculated by:

1 determining the net of tax expected investment returns, volatilities and correlations for each of the investment units

2 applying these to the asset allocation expected to apply in the future

3 adjusting the result to allow for investment expenses

4 adjusting the result to allow for the impact of the expected volatility.

The return is rounded to one decimal place.

The net of tax expected investment returns, volatilities and correlations are advised by NPF Management, as at 31 March 2021.

I have assumed the Board's latest strategic asset allocation will apply for the remainder of the life of the Scheme.

NPF Management considers that the active managers should add sufficient returns to cover at least the unit expenses, including active management fees. The same assumption is adopted here and there is no reduction in the returns for investment expenses.

I am satisfied the assumptions are reasonable.

The assumed future investment returns after tax and investment expenses for each investment unit and the asset allocation are shown below.

Table 22: Unit investment returns and asset allocation

Unit	Assumed after tax return		
	First 10 years	After 10 years	Asset allocation
	% pa	% pa	%
F (Fixed interest – global)	1.5	2.6	57.5
E (New Zealand equities)	4.9	5.2	7.5
O (Overseas equities)	4.5	5.3	30.0
A (Alternate)	1.4	2.2	5.0

Thus, the assumed future investment returns are calculated as follows:

Table 23: Future investment return assumption at 31 March 2021

	First 10 years	After 10 years
	% pa	% pa
Gross geometric return	2.80	3.73
Allowance for investment expenses (net of tax)	-	
Adjustment for correlations	0.30	0.30
Scheme return, net of tax and investment expenses	**3.1**	**4.0**

The investment return assumptions and the previous three years' assumptions are shown in the following table:

Table 24: After-tax investment returns assumed

	31 March 2021	31 March 2020	31 March 2019	31 March 2018
	%	%	%	%
First 10 years	3.10	2.40	2.70	2.40
After 10 years	4.00	3.30	3.60	3.70

Minimum Risk Rate

The" Minimum Risk Rate" is used for Board reporting, disclosure in the financial statements and determining whether the investment strategy is adding value compared to the additional risk being taken. The Minimum Risk Rate is provided by NPF Management and is calculated by interpolating between the two duration nearest New Zealand Government bond rates. The undiscounted average term of the past service liabilities is 3.7 years and the Minimum Risk Rate is 0.49% pa net of tax.

Administration expenses

The allowance for administration expenses is calculated as the dollar amount of the prior year administration costs through until the end of the year in which the Scheme is projected to have fewer than five members. No reduction in administration fee as the number of members reduces is assumed, as a significant

proportion of NPF's costs are fixed and the Scheme will need to continue to contribute its share of the costs. There will be wind up costs and these are assumed to be allowed for implicitly in the assumption. The current and prior assumptions as well as the resulting provisions are shown in the following table.

Table 25: Administration expense assumptions

Valuation date	31 March 2021	31 March 2020	31 March 2019	31 March 2018
Annual administration costs, before tax	197,473	207,824	222,294	228,219
Tax rate	28%	28%	28%	28%
Until	31 March 2028	31 March 2028	31 March 2028	31 March 2028
Provision	896,105	1,090,359	1,280,784	1,462,854

Salary at the valuation date

A member's salary used in the 2021 actuarial examination is the maximum of the base salary provided by Datacom Connect Limited and the salary implied by the member's most recent fortnightly contribution (contribution divided by contribution rate). For the 2018 actuarial examination, salary was taken as the greater of base salary as advised and earnings in the prior year. In the intervening years, the method to determine salary has varied, with the objective of determining the most reliable base for future salary increases taking into account the information available at the time. Further information is available in the relevant reports.

Future salary increase assumption

The salary increase assumption is one of the more important assumptions and is reviewed regularly.

At 31 March 2018 and 31 March 2019 pilot salaries were assumed to increase with inflation and promotion and cabin crew salaries were assumed to increase with inflation.

Salary increase and pilot promotion assumptions were decreased to zero as at 31 March 2020 to reflect the impact of COVID-19 on pilots' salaries and members' ability to make a former higher salary election. With the opening of the borders, I have added back provision for future salary increases, although at a lower rate than previously as it is expected to take some years for the aviation industry to recover fully. At 31 March 2021, pilot salaries are assumed to increase with inflation and promotion (at a lower level than previously) and cabin crew salaries are assumed to increase with inflation.

Table 26: Inflation assumption

Age	31 March 2021 %	31 March 2020 %	31 March 2019 %	31 March 2018 %
First 10 years	1.9	0.0	2.0	2.0
After 10 years	2.0	0.0	2.0	2.0

Table 27: Sample pilot promotion increases assumed

Age	31 March 2021 %	31 March 2020 %	31 March 2019 %	31 March 2018 %
55	1.0	0.0	3.2	3.2
60	1.0	0.0	2.9	2.9
65	1.0	0.0	2.5	2.5
70	1.0	0.0	2.2	2.2

Resignation

I assume that no members will take a resignation benefit, as all members are now over the age at which they could receive a retirement benefit.

Transfer

The assumptions for the actuarial review are intended to be best estimates of the assumed future experience, as if the transfer option did not exist. The reason for excluding the transfer value option is that the transfer benefit is a proportionate share of the assets of the Scheme from time to time. The amount of the assets is, in part, determined by the contributions paid by the employer.

Therefore, the transfer benefit cannot be used to determine the contributions to be paid by the employer, or the calculations become circular.

The transfer benefit is allowed for in the projection of the TA/TB ratio shown on page 12.

Mortality

Members are assumed to experience mortality at 25% of the rates shown in the New Zealand Life Tables 2012-2014 (total population). Sample rates are shown in the following table.

Table 28: Sample assumed mortality rates

Age	Male %	Female %
55	0.11	0.08
60	0.17	0.12
65	0.27	0.18
70	0.48	0.33

These are the same mortality rates as used for the actuarial examination as at 31 March 2018.

The lump sum benefit is assumed to be paid in each case and no provision is made for child pensions as the value is not significant.

Whether retirees take a pension or a lump sum

As far as I am aware, only one retiree has elected a pension and the valuation assumes members will take a lump sum retirement benefit. The vested benefits calculation allows for the possibility of members electing a pension.

Retirement

The retirement rates are based on historic experience and are shown in the following table. They are the same as those assumed in the actuarial examination at 31 March 2018.

Table 29: Retirement rates assumed

Age	Retirement rate %	Age	Retirement rate %
55	6	63	33
56	7	64	33
57	8	65	33
58	9	66	33
59	10	67	33
60	11	68	33
61	12	69	33
62	13	70	100

In addition, I assume that members will retire after reaching 40 years membership. This is because the rate at which benefits accrue to members halves after 40 years membership and the limited experience to date indicates that members who reach 40 years membership tend to retire shortly thereafter.

All members are assumed to elect the lump sum benefit.

New members

The Scheme is closed to new members and no allowance is made for new members to join the Scheme.

Net assets

The value of net assets has been taken at fair value as shown in the financial statements provided.

As the economic assumptions used to value the Scheme's liabilities are intended to be best estimate assumptions, I consider it appropriate to bring the Scheme's assets into account at fair value, as in the financial statements.

In my opinion, the basis for valuing the assets is compatible with the basis used to value the liabilities.

To the best of my knowledge no contingent liabilities have been, nor need be, allowed for in the determination of the value of the assets.

Reinstatement of extinguished liabilities

The Board may extinguish the liabilities of the Scheme for a person who has been a missing person for at least five years, provided the Board has used reasonable endeavors to locate the person. The liabilities in respect of three members were extinguished in 2006. I have not made any provision for the reinstatement of these liabilities as the amounts are not significant.

9. Summary of benefits and contributions

Benefits

Retirement benefit

Retirement benefits are available from age 50. Members can choose either:

- a pension of 1/70th of Final Average Salary for each year of contributory service, reduced by 26%, or
- a lump sum of 18.5% of Final Average Salary for each year of contributory service.

Only half of any contributory service in excess of 40 years is included.

Final Average Salary is the average salary over the five years preceding retirement.

Death benefits

The death benefit is a lump sum equal to the normal retirement benefit based on service and Final Average Salary at the date of death. Alternatively, a spouse may elect a pension of one-half of the member's accrued pension.

A pension of $78 pa is paid to any child under the age of 16 until that child obtains age 16, or to age 18 as long as the child remains at school.

Resignation benefit

The resignation benefit is a refund of the member's contributions without interest.

Transfer benefit

Members may transfer out of the Scheme and receive a benefit equal to their accrued retirement benefit times the ratio of net assets to the total of all members' accrued benefits.

Contributions

Member contributions

Contributory members of the Scheme contribute 8.75% of salary.

Employer contributions

The Scheme trust deed provides that the employer contribution rate is 1.75 times members' contributions, or such other amounts as may be determined by the Board.

Extinguishing of liabilities

The Board may extinguish the liabilities of the Scheme for a person who has been a missing person for at least five years, provided the Board has made reasonable endeavours to locate the person.

Appendix A: Reliances and limitations

Terms of reference

This report is prepared under the agreement dated 20 December 2018 between the Board of Trustees of the National Provident Fund (the **Board**), PricewaterhouseCoopers Consulting (New Zealand) LP and Christine Ormrod (the **Actuary**). It is issued by Christine Ormrod FNZSA, Director, PricewaterhouseCoopers New Zealand in her capacity as Actuary to the Board.

Distribution of our work and reference to our work

No onwards distribution of this report to third parties, other than as required by law, is permitted by us. There may be requests for our report to be copied to other third parties. We will be happy to consider these requests, as and when they arise. Any distribution of this report must be of its entirety, as individual sections of this report could be misleading if considered in isolation from each other.

PricewaterhouseCoopers' responsibilities

Our responsibilities and liabilities are limited to the Board, and exist only in the context of its use of our report for the purposes set out in Section 2. We make no representation as to the suitability of this report for any other purpose. No liability or responsibility will be accepted by us in relation to the use of our report for any other purpose. We will not accept any liability or responsibility to any other party.

Data

The calculations are based on member and financial data provided by Datacom Connect Limited and the Board, including audited financial statements. In preparing this report, I have relied on, and assumed the accuracy and completeness of this data. I reviewed the data for overall reasonableness, but I have not verified all of the information provided to me, nor have I carried out anything in the nature of an audit. Accordingly, I express no opinion on the total reliability, accuracy or completeness of the information provided to us and upon which we have relied. I have no reason to believe that the information provided to me is not appropriate for the purpose for which it is used.

We reserve the right, but will be under no obligation, to review or amend our report, if any additional information which was in existence on the date of this report was not brought to our attention, or subsequently, comes to light.

Context

This report must be read in its entirety. Individual sections of this report could be misleading if considered in isolation from each other.

For more information, go to www.pwc.co.nz.

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NATIONAL PROVIDENT

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23 November 2021

Hon Megan Woods
Associate Minister of Finance
Parliament Buildings
WELLINGTON

Dear Minister

NATIONAL PROVIDENT FUND
EMPLOYER CONTRIBUTION RATE - AIRCREW SUPERANNUATION SCHEME

The purpose of this letter is to confirm the Board has reviewed the actuarial examination for the Aircrew Superannuation Scheme (the **Scheme**) as at 31 March 2021 and has determined there should be no change to the employer contribution rate to the Scheme of 3.9 times the rate of members' contributions (i.e. $3.90, including withholding tax, for every $1.00 contributed by the members). This rate came into effect based on 1 April 2020, based on the actuarial review of the Scheme as at 31 March 2019.

BACKGROUND

Section 44

Section 44 of the National Provident Fund Restructuring Act 1990 provides:

> *(1) If the Board becomes aware that the level of contributions being made to either the DBP contributors scheme or the aircrew superannuation scheme is, on the information available to the Board, -*
>
> *(a) unlikely to be sufficient to provide for the liabilities of that scheme; or*
>
> *(b) likely to be in excess of the level of contributions required to provide for the liabilities of the scheme,*
>
> *the Board shall give notice to that effect to the Minister, with a statement of the Board's view as to what action would be required to rectify the position.*
>
> *(2) The Minister may, by notice in writing to the Board, direct the Board to increase or decrease the contributions required to be made by any corporate contributor to the DBP contributors scheme or the aircrew superannuation scheme…*
>
> *(5) Any notice under sub-section (2) shall specify the date on which such increases or decreases are to be implemented, but that date shall not be less than 3 months after the date of the notice.*

Specific commentary on the review of the Scheme and the employer contribution rate is provided below.

AIRCREW SCHEME

Attached as **Appendix 1** to this letter is a copy of the actuarial examination of the Scheme at 31 March 2021 undertaken by Christine Ormrod of PricewaterhouseCoopers Consulting (New Zealand) LP.

Employer contribution rate
Historical employer contribution rates (inclusive of employer superannuation contribution withholding tax (**ESCT**)) for the Scheme are follows:

Effective Date	Employer Contribution Rate
1995 to 31 March 2002	zero
1 April 2002	1.4 x contributors' contributions
1 April 2003	2.5 x contributors' contributions
1 April 2005	1.4 x contributors' contributions
1 April 2008	1.1 x contributors' contributions
1 April 2009	2.8 x contributors' contributions
1 April 2010	3.5 x contributors' contributions
1 April 2015	2.5 x contributors' contributions
1 April 2016	1.0 x contributors' contributions
1 April 2017	1.0 x contributors' contributions
1 April 2018	1.0 x contributors' contributions
1 April 2019	2.1 x contributors' contributions
1 April 2020	3.9 x contributors' contributions

As noted in the table above, the current employer contribution rate (inclusive of ESCT) is 3.9 times contributor contributions.

Changes to the employer contribution rate for the Scheme may occur:

- as the Scheme matures; and
- according to movements in the actual rate of investment return on the Scheme's assets; and
- with changes in the actuarial assumptions (including salary assumptions).

As at 31 March 2021, the ratio of net assets to past service liabilities (the **funding level**) of the Scheme was 105.4% (31 March 2020: 92.5%; (see page 7 of the enclosed valuation report).

A funding level of 100% indicates a balance between the assets and the past service liabilities. This means as at 31 March 2021 the value of the net assets of the Scheme was greater than the value of the past service liabilities.

In her report (refer Appendix 2), the Actuary recommends the employer contribution rate is reduced from 3.9 times to 1.0 times contributors' contributions (*i.e. $1.00, including employer superannuation contribution tax, for every $1.00 contributed by the members*) for the year commencing 1 April 2022 and that the rate is reviewed again next year.

The overall objective is for there to be neither a significant surplus nor deficit at the time the last contributor ceases to contribute.

At its October 2021 meeting, the Board agreed to engage directly with Air New Zealand regarding the future of the scheme and the future employer contribution rate.
In the meantime, the Board agreed to recommend to the Minister the employer contribution rate remain at 3.9 times member contributions due to concerns regarding changes in the environment since the date of the examination, for example:

- the potential for volatility in future investment returns;

- the decline in the membership over the last 12 months (31 October 2021 – 25 members; 31 March 2021 - 28 members; 31 March 2020 - 54 members); and
- the uncertainty created, particularly for Air New Zealand as the only employer contributor to this scheme, by Covid-19.

Ongoing Review
The next actuarial review of the Scheme will be completed as at 31 March 2022. The Board regularly monitors the funding level of the Scheme. If the funding level of the Scheme changes significantly in the meantime, the Actuary will be requested to advise whether her recommendation remains valid and, if not, to update the review and make a new recommendation as to the appropriate employer contribution rate.

CONSULTATION WITH OFFICIALS

A copy of this letter and a copy of the Actuary's report on the Scheme have been sent to Oliver Martin at the Treasury.

RECOMMENDATION

The Board seeks your confirmation the employer contribution rate to the Aircrew Scheme is to remain at the current rate of 3.9 times contributors' contributions.

Please do not hesitate to contact me if you require any further information.

Yours sincerely

S R Tyler
CHIEF EXECUTIVE

Copy to:

Oliver Martin
Senior Analyst, Financial Institutions
The Treasury, No 1 The Terrace
WELLINGTON

Hon Dr Megan Woods
MP for Wigram
Minister of Housing
Minister of Energy and Resources
Minister of Research, Science and Innovation
Associate Minister of Finance

Edward Schuck
Chair
Board of Trustees of the National Provident Fund
P O Box 3390
WELLINGTON 6140
ejschuck@gmail.com

Dear Edward

National Provident Fund Aircrew Superannuation Scheme – Employer Contribution Rate FY2022

I have received a letter from Simon Tyler, Chief Executive of Annuitas, dated 23 November 2021 advising of the Board's recommendations with respect to the employer contribution rates to apply to the Aircrew Superannuation Scheme for the next financial year.

I **note** that no changes have been recommended to the current employer contribution rates, which will remain at 3.9 times the rate of member's contributions, and as such no further action is required from me at this time.

Yours sincerely

Hon Dr Megan Woods
Associate Minister of Finance

cc: Simon Tyler
Chief Executive
Annuitas Management Limited
STyler@annuitas.co.nz

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Project 20: further approvals

Date:	2 December 2021	**Report No:**	T2021/2999
		File Number:	SE-1-3-21

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Agree** to Air NZ selling its four 777-200ER aircraft, subject to a number of conditions **Agree** to the Crown releasing its security over these aircraft and sign but do not date the attached deed poll **Agree** to Air NZ retaining the net proceeds of this sale **Agree** to replace the current minimum domestic services requirements with a simpler requirement that reflects the new 'traffic light' framework	7 December 2021
Associate Minister of Finance (Hon David Parker)	**Note** the contents of this report	7 December 2021

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Juston Anderson	Principal Advisor, Commercial Performance	s9(2)(k)	✓
Maureena van der Lem	Manager, Commercial Performance		

Minister's Office actions

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: Yes - Release Deed Poll -777-200s (Treasury:4592374v1)

Treasury Report: Project 20: further approvals

1. This report seeks your approval for Air New Zealand (Air NZ) to sell four Boeing 777-200ER aircraft and to retain the net proceeds from the sale, and for changes to the minimum domestic services that Air NZ is required to meet under the terms of the Crown Standby loan Facility, CSF-1.

2. Air NZ has confirmed that these are the final two approvals you will be requested to give until at least mid-January 2022 (unless for some unexpected reason an urgent approval is required before then).

Sale of the 777-200ERs

3. Air NZ owns four Boeing 777-200ER aircraft. These are the oldest widebody aircraft in the fleet, with an average age of 15.5 years – significantly older than Air NZ's 777-300ER aircraft at an average of 9.2 years and its 787 aircraft at an average of 4.8 years. They are also the least fuel-efficient and the most expensive aircraft for Air NZ to operate. These limitations have contributed to the aircraft being in long-term storage since the beginning of the COVID-19 pandemic.

4. These four 777-200ER aircraft will not return to service with Air NZ, as Air NZ's current recovery forecasts do not require the use of the aircraft to deliver its proposed future long-haul network. Instead the network will be delivered by Air NZ's current 777-300ER and 787-9 aircraft, and by the new 787 aircraft Air NZ has on order, which will progressively replace the 777-300ERs between 2024 and 2027.

5. Air NZ plans to sell the 777-200ER aircraft and has recently completed a request for proposals process, carried out on its behalf by a Florida-based aircraft sales broker which specialises in "late life" aircraft such as the 777-200ER.

6. This process resulted in s9(2)(b)(ii) credible offers to buy the aircraft, their three spare engines and surplus parts. Other offers were discounted by Air NZ for a number of reasons, including price. Air NZ now wishes to proceed to a "best and final offer" process and then execute a sale agreement with one of the s9(2)(b)(ii) potential buyers.

7. s9(2)(b)(ii)

8. All s9(2)(b)(ii) potential purchasers have been subject to a "Know Your Customer" due diligence process by Air NZ, which has included reviewing the company background and ownership structure, senior management and owner background, trade and sanction compliance, intended use and location of operation for the aircraft, and bank information, source of funding and credit standing.

9. The s9(2)(b)(ii) non-binding offers received to date range from s9(2)(b)(ii) Each of the s9(2)(b)(ii) potential buyers has set out different conditions of sale, and these will result in slightly different costs of sale in each case. These costs of sale are expected to be approximately s9(2)(b)(ii) Therefore, Air NZ expects to receive net proceeds of around s9(2)(b)(ii) which is around NZ s9(2)(b)(ii) at current exchange rates. s9(2)(b)(ii) s9(2)(b)(ii)

10. Under the terms of CSF-1, Air NZ requires your approval to sell these aircraft, the spare engines and surplus parts. Air NZ is seeking approval, and we recommend you give approval, on the following conditions:

    a. the sale being concluded with s9(2)(b)(ii)

    b. the gross sale price being equal to or above the lowest indicative offer already received from these s parties of s9(2)(b)(ii)

    c. the sale being in compliance with all applicable laws and company governance processes

    d. the sale considers and minimises any potential reputational risk for Air NZ, and

    e. the transaction being executed no later than 28 February 2022.

11. Under CSF-1, the proceeds of the sale are required to be applied in repayment of the facility, unless the proceeds are reinvested or committed to be reinvested in accordance with the current Approved Operating Finance Plan, or if the Crown agrees otherwise.

12. Air NZ has requested approval to retain the net sales proceeds for general corporate purposes. We recommend you give this approval.

13. All other matters being equal, allowing Air NZ to retain the proceeds would:

    a. slightly delay the time at which it has drawn down $850m of CSF-1 from the Crown

    b. therefore, slightly delay the point at which it can begin drawing on the redeemable shares proposal (should Cabinet agree to the proposal in December 2021), and

    c. therefore, slightly reduce the amount of redeemable shares that Air NZ will draw ahead of its planned capital raise.

14. We advise that this is a preferable outcome to the Crown receiving around s9(2)(b)(ii) in repayment of the current CSF-1 balance.

15. We also recommend you sign but do not date the attached release deed poll, releasing the Crown's security over these aircraft. We will hold this and then date and send it to Air NZ only once it confirms the sale has gone ahead and your conditions have been satisfied.

Minimum domestic service levels

16. Since it was established in March 2020, CSF-1 includes minimum domestic service levels that Air NZ must meet. These minimum levels are specified for each domestic airport that Air NZ operates from, and vary based on the Alert Level that each airport is operating under. As a result of these permutations, the minimum domestic services definition takes up three pages of CSF-1. You have previously needed to approve several amendments to minimum service levels.

17. The Government has decided that all of New Zealand will move to the COVID-19 Protection Framework (traffic light settings) at 11:59pm on Thursday 2 December 2021, and that Auckland boundary settings will change on 15 December 2021; after this date and until 17 January 2022, travel out of Auckland is allowed for any reason, but anyone leaving Auckland will need to be fully vaccinated or have a negative test within 72 hours of departure.

18. In circumstances where there is no Alert Level, CSF-1 states that the minimum domestic services that Air NZ must provide are:

    a. are at least one return flight per day to each Domestic Destination other than Auckland, Wellington, Christchurch and Dunedin, and

    b. at least two return flights per day to each of Auckland, Wellington, Christchurch and Dunedin for passengers and cargo.

19. **"**Domestic Destination" is defined in CSF-1 as the 20 airports that Air NZ flew to prior to COVID-19: Keri Keri, Whangarei, Auckland, Tauranga, Hamilton, Rotorua, Taupo, New Plymouth, Palmerston North, Napier, Gisborne, Wellington, Blenheim, Nelson, Hokitika, Christchurch, Timaru, Dunedin, Queenstown and Invercargill.

20. Air NZ has confirmed that under the COVID-19 Protection Framework it can deliver the minimum services outlined in paragraph 17 above (and in fact expects to very significantly exceed them). One option is, therefore, to leave the minimum service levels specified in CSF-1 unchanged.

21. However, a simpler and more enduring option would be to remove all references to the Alert Level framework from CSF-1 and replace this detail with a much shorter set of minimum services that reflects the new traffic light system.

22. We therefore propose the Alert Level minimum services definitions are replaced with:

    "during the period of CSF-1 Air NZ must maintain at least one return flight per day to each Domestic Destination" (with the definition of Domestic Destination unchanged)

23. This replicates the definition that would effectively apply under the current CSF-1, except without the requirement for Air NZ to fly twice per day from Auckland, Wellington, Christchurch and Dunedin. In our view there is no need for this additional requirement, as Air NZ is currently and will continue to operate considerably more than two flights per day from these cities to meet demand.

24. In our view there is not any need for additional conditions to deal with the re-establishment of regional travel boundaries or temporary lockdowns affecting domestic travel. At the moment, it would be difficult to draft clauses that deal with the myriad of circumstances that might apply, and Air NZ has a good track record of working co-operatively with the Government to reduce services where necessary because of measures to protect New Zealanders from COVID-19.

25. Other aspects of the minimum services requirements will be unchanged:

    a. international minimum service levels will remain in place

    b. Air NZ must obtain the consent of the Crown (acting reasonably) to any reductions to the minimum services, for example, if meeting those service levels is not appropriate for some reason, such as establishment of a regional travel boundary, and

    c. Air NZ is not required to operate any one flight to a Domestic Destination if it is not operationally practical to do so (for example, because of engineering issues with an aircraft).

26. If you agree to changes to the minimum services definition, these will be reflected in CSF-1 in two weeks, when you sign the amendments to incorporate the other changes that are part of the redeemable shares proposal (if that proposal is agreed by Cabinet).

Recommended action

We recommend that you:

a **agree** to Air NZ selling its four owned Boeing 777-200ER aircraft, three spare engines and surplus parts subject to the following conditions:

1. the sale being concluded with s9(2)(b)(ii)
2. the gross sale price being equal to or above the lowest indicative offer already received from s9(2)(b)(ii)
3. the sale being in compliance with all applicable laws and company governance processes
4. the sale considers and minimises any potential reputational risk for Air NZ, and
5. the transaction being executed no later than 28 February 2022

Agree/disagree.
Minister of Finance

b **agree** to the Crown releasing its security over the same four Boeing 777-200ER aircraft, and **sign** but do not date the attached release deed poll

Agree/disagree.
Minister of Finance

c **agree** to Air NZ retaining the net proceeds of the sale of its four Boeing 777-200ER aircraft for general corporate purposes

Agree/disagree.
Minister of Finance

d **agree** to replace the current minimum domestic services requirement for Air NZ under CSF-1 with the following:

"during the period of CSF-1 Air NZ must maintain at least one return flight per day to each Domestic Destination" (with the definition of Domestic Destination unchanged).

Agree/disagree.
Minister of Finance

Maureena van der Lem
Manager, Commercial Performance

Hon Grant Robertson
Minister of Finance

Hon David Parker
Associate Minister of Finance

DEED POLL made on

By The Sovereign in Right of New Zealand, acting by and through the Minister of Finance (*the Secured Party*)

In favour of Air New Zealand Aircraft Holdings Limited (*the Debtor*)

BACKGROUND

A The Debtor has granted a security interest in the Released Property to the Secured Party under a General Security Deed dated 3 June 2020 (as amended or amended and restated from time to time) between, among others, the Debtor and the Secured Party (the *Agreement*).

B Financing statement number FG78KHA3P6P74Y29 (the *Financing Statement*) has been registered in the Personal Property Securities Register in respect of the above.

NOW THIS DEED POLL RECORDS as follows:

1 With effect from the date of this deed poll, the Secured Party releases the property detailed under the heading "Released Property" below (the *Released Property*) from all security interests granted to the Secured Party under the Agreement, but without prejudice to:

(a) any other rights, powers and remedies of the Secured Party under the Agreement; and

(b) any security interest, charge or other encumbrance under the Agreement in respect of any other property.

2 The Secured Party will promptly (and in any event not later than one week following the date of this deed poll) register a financing change statement to remove the Released Property from the Financing Statement.

3 For the purposes of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017, this deed poll is for the benefit of, and is intended to be enforceable by, the Debtor and any person entitled to give a written demand to the Secured Party pursuant to section 162(b) of the Personal Property Securities Act 1999.

4 The Debtor shall pay the Secured Party's reasonable costs in connection with this deed poll and the financing statement change detailed above.

RELEASED PROPERTY

The Aircraft (as defined in the Agreement) with the details described below, the Related Aircraft Assets in respect of each of those Aircraft (each as defined in the Agreement), the three Rolls-Royce Trent 895 spare engines and 772 surplus spare parts relating to those Aircraft (as defined in the Agreement):

Registration Mark	ZK-OKB
Manufacturer Serial Number	34376
Make	Boeing
Model	B777-200ER
Class	Aeroplane
Year	2005
Item description	**-**

Registration Mark	ZK-OKC
Manufacturer Serial Number	34377
Make	Boeing
Model	B777-200ER
Class	Aeroplane
Year	2006
Item description	**-**

Registration Mark	ZK-OKF
Manufacturer Serial Number	34378
Make	Boeing

Model	B777-200ER
Class	Aeroplane
Year	2006
Item description	**-**

Registration Mark	ZK-OKH
Manufacturer Serial Number	34379
Make	Boeing
Model	B777-200ER
Class	Aeroplane
Year	2007
Item description	**-**

EXECUTED AND DELIVERED AS A DEED POLL by the Secured Party

The Sovereign in right of New Zealand, acting by and through the Minister of Finance

_____

Name:

in the presence of:

_____

Name:

Occupation:

Address:

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Half Year Update Core Crown Borrowing Programme 2021/22 Update

Date:	2 December 2021	**Report No:**	T2021/2998
		File Number:	DE-3-1-2-1-0

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Approve** a revised NZ$20 billion New Zealand Government Bond (NZGB) programme for 2021/22 **Agree** that the proposed borrowing is necessary or expedient in the public interest for the purposes of section 47 of the Public Finance Act 1989 **Agree** to a briefing to key credit rating agencies on the highlights of HYEFU 2021 immediately prior to the release on 15 December 2021	10 December 2021

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Emma Clarke	Senior Strategist, Funding Strategy and Engagement, NZDM	s9(2)(k)	N/A (mob)	✓
Kim Martin	Head of Funding Strategy and Engagement, NZDM		s9(2)(g)(ii)	
Andrew Hagan	Executive Director of Capital Markets			

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: Half Year Update Core Crown Borrowing Programme 2021/22 Update

Executive Summary

The purpose of this report is to seek your approval for the update to the New Zealand Government Bond (NZGB) programme for the 2021/22 fiscal year alongside HYEFU 2021.

Following the Budget Economic and Fiscal Update (BEFU) 2021, notwithstanding the near-term impacts of the recent COVID-19 resurgence, the economic and fiscal outlook has continued to improve. Market conditions have been relatively stable, although higher than usual uncertainty remains.

The fiscal starting position (June-2021) is NZ$9 billion better than forecast at BEFU 2021, and the overall underlying forecast cash flows have improved by NZ$23 billion[1] relative to BEFU 2021 for the period from June-2021 to June-2025. In addition, the transition to the recently approved NZ$20 billion liquidity buffer[2], of which NZ$15 billion is cash and liquid financial assets, is incorporated. These changes reduce the forecast core Crown borrowing programme by NZ$32 billion over the equivalent forecast period at BEFU 2021.

We are seeking your approval for forecast NZGB issuance for the 2021/22 fiscal year of NZ$20 billion, NZ$10 billion lower than you approved at Budget 2021. Similarly, forecast NZGB issuance for the subsequent fiscal years have all been reduced by NZ$7 billion (Table 1). As per standard practice, the next fiscal year (2025/26) has been added to the forecast period. This has been set at NZ$10 billion.

Table 1: HYEFU 2021 core Crown borrowing programme

Year ending 30 June (face value)	2022	2023	2024	2025	2026	Total
Gross NZGB issuance (NZ$ billion)	20	18	18	18	10	84
Forecast T-Bills on issue (NZ$ billion)	4	3	3	3	3	n/a
Change in NZGB issuance (relative to BEFU)	-10	-7	-7	-7	n/a	-31
Change in T-Bills on issue (relative to BEFU)	-1	-1	-1	-1	n/a	n/a

In addition, we have reduced short-term Treasury Bill (T-Bill) forecasts to NZ$3 billion, our long-run level of core T-Bills on issue. The exception is in 2021/22, where T-Bills on issue are forecast to be NZ$4 billion. The reason for this exception is that T-Bills on issue are currently around NZ$7 billion, and it will take several months to reach our new long-run level. The lower level of forecast future T-Bill issuance, combined with the maturity profile of T-Bills already issued, leads us to expect T-Bills on issue will be NZ$4 billion at 30 June 2022.

Due to current challenges in the Inflation-Indexed bonds (IIB) market, we have made changes to the IIB tender issuance strategy with the aim of promoting a more vibrant market. These changes include taking a more flexible approach to tender issuance, being more responsive to changes in demand, and implementing a change to our tender mechanism.

We are currently engaging with the RBNZ on their intentions related to any unwind of NZGB holdings purchased through the Large Scale Asset Purchase programme. New Zealand Debt

[1] Underlying cash flows may differ from those represented in the fiscal forecasts for a range of reasons, for example Reserve Bank flows and eliminations.

[2] Treasury Report T2021/1124 refers.

Management and the RBNZ have a stated public commitment to collaborate closely to ensure the efficient functioning of the NZGB market.

In line with past practice, **your agreement is sought for the Treasury to offer key credit rating agencies confidential briefings on the highlights of HYEFU on 15 December 2021**. These will occur around the time the HYEFU lock-up is held.

A regular media statement released alongside HYEFU will provide an update on the borrowing programme over the forecast period. A draft of this statement is included in the Appendix.

For internal risk management purposes and to ensure that actual funding activities are consistent with the funding strategy[3] set out in this report, we set a Value-at-Risk (VaR) limit for the funding portfolio. s9(2)(i)
s9(2)(i)

[3] The funding strategy is the expected underlying composition of the forecast borrowing programme and the approach to execution.

Recommended Action

We recommend that you:

a **approve** a NZ$20 billion New Zealand Government Bond (NZGB) programme for 2021/22, NZ$10 billion lower than you approved at BEFU 2021

Approve/disapprove.
Minister of Finance

b **agree** that the proposed borrowing is necessary or expedient in the public interest for the purposes of section 47 of the Public Finance Act 1989

Agree/disagree.
Minister of Finance

c **agree** to a briefing of key credit rating agencies on the highlights of HYEFU 2021, immediately prior to the release on 15 December 2021

Agree/disagree.
Minister of Finance

d **note** a gradual transition will be taken to reach the new NZ$20 billion liquidity buffer you approved in September 2021. It is expected to be reached by April 2023

e s9(2)(i)

f **note** the regular draft media statement regarding the borrowing programme, to be released at HYEFU

g **note** the changes to be made to Inflation-Indexed Bond (IIB) tender issuance, including a more flexible approach and a change to a single-price auction method

h **note** an Advisory Note on the changes to the IIB tender issuance strategy will be published alongside HYEFU, and

i **note** information on the new liquidity buffer will be communicated alongside HYEFU via an 'NZDM Insights' publication.

Andrew Hagan
Executive Director, Capital Markets

Hon Grant Robertson
Minister of Finance

Treasury Report: Half Year Update Core Crown Borrowing Programme 2021/22 Update

Background

1 Only the Minister of Finance has the power to borrow on behalf of the Crown. Through a series of instruments called "borrowing agent warrants" (the Warrants), the Minister of Finance has appointed borrowing agents to act on his or her behalf.

2 However, in practice, the Minister must still approve all borrowing. As often as required, the Executive Director of Capital Markets recommends a borrowing programme to the Minister of Finance for approval.

3 Section 47 of the Public Finance Act (the Act) empowers the Minister to borrow money on behalf of the Crown if it appears to the Minister to be necessary or expedient to do so. Therefore, before approving, you should consider whether or not borrowing in accordance with the recommended borrowing programme would be "necessary or expedient in the public interest" for the purposes of section 47 of the Act. Appendix 1 sets out factors that officials consider are relevant to this assessment.

Forecast Borrowing Programme

4 The continued improvement in New Zealand's economic outlook has led to lower forecast funding requirements relative to those forecast at BEFU 2021. As well as an improvement in the starting position (end-June 2021) of NZ$9 billion, forecast funding requirements (over the equivalent forecast period 2021/22 to 2024/25) are about $23 billion lower than forecast at BEFU 2021 (Table 2). The key driver is higher tax revenue, consistent with the improvement in the economic outlook, although this is partially offset by higher government spending.

Table 2: Funding requirements relative to HYEFU 2021 ($ billion) (negative indicates less funding is required)

Funding requirement ($billion)	2021/22	2022/23	2023/24	2024/25	Total
Change since BEFU	-2	-5	-2	-15	-23

5 In addition, we have incorporated the newly approved NZ$20 billion liquidity buffer, comprising the NZ$5 billion CSA overdraft facility with the RBNZ and NZ$15 billion of cash and liquid assets. Current cash and liquid asset balances are circa NZ$40 billion; however, BEFU 2021 forecasts showed a decline to circa NZ$22 billion by the end of the forecast period. Therefore, the newly approved liquidity buffer sees a further NZ$7 billion reduction of funding required over the forecast period.

6 As a result, the forecast borrowing programme has decreased in each year of the period. The borrowing programme includes issuance of both New Zealand Government Bonds (NZGB) and Treasury Bills (T-Bills). Relative to BEFU 2021, forecast issuance of both NZGBs and T-Bills have been reduced by NZ$32 billion by the end of June 2025.

7 **We are seeking your approval for a $NZ20 billion NZGB programme in 2021/22,** NZ$10 billion lower than you approved for BEFU 2021. Around NZ$15 billion of NZGBs will have been issued by end-December 2021, leaving circa NZ$5 billion of NZGB issuance remaining for 2021/22.

8 The forecast NZGB programmes in 2022/23, 2023/24, and 2024/25 have each been reduced by NZ$7 billion, to NZ$18 billion. The 2025/26 forecast NZGB programme has been added to the forecast period, which is set at NZ$10 billion, consistent with pre-pandemic NZGB programmes.

9 Forecasts for T-Bills on issue at end-June are reduced across the forecast horizon. T-Bills on issue are forecast to be NZ$4 billion in 2021/22 and NZ$3 billion for the remaining forecast period. NZ$3 billion is our core funding assumption for T-Bills, in order to retain market presence and solid functioning of this short-term funding source. This is around NZ$1 billion higher than pre-pandemic levels, as higher overall levels of debt outstanding, as well as larger and more frequent bond maturities, requires slightly greater depth in short-term funding markets.

10 That said, we will continue to take a flexible approach to T-Bill issuance to respond to short-term cash requirements and, at times, take advantage of relative prices when it is economic to do so. Intra-year, T-Bills on issue may vary from NZ$3 billion up to NZ$10 billion. s9(2)(i)
s9(2)(i)

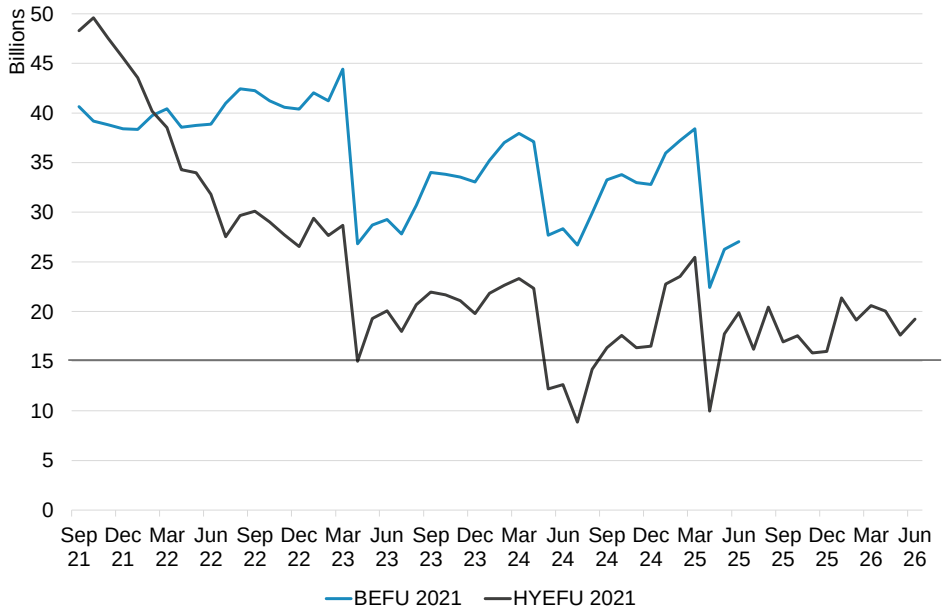
Table 3: Forecast Core Crown borrowing programme

Year ending 30 June (face value)	2022	2023	2024	2025	2026	Total
Gross NZGB issuance (NZ$ billion)	20.0	18.0	18.0	18.0	10.0	84.0
NZGB maturities and repurchases (NZ$ billion)	2.4	15.5	13.8	14.9	11.9	58.5
Net NZGB issuance (NZ$ billion)	17.6	2.5	4.2	3.2	-1.9	25.5
NZGBs outstanding (NZ$ billion)	144.8	147.3	151.5	154.7	152.8	n/a
NZGBs outstanding (% of GDP)	40%	37%	37%	35%	33%	n/a
Forecast T-Bills on issue (NZ$ billion)	4.0	3.0	3.0	3.0	3.0	n/a
Change in NZGB issuance (relative to BEFU)	-10.0	-7.0	-7.0	-7.0	n/a	-31.0
Change in T-Bills on issue (relative to BEFU)	-1.0	-1.0	-1.0	-1.0	n/a	n/a

11 The newly approved liquidity buffer is forecast to be reached in April 2023, following the NZGB 2023 maturity (Figure 1). This transition is relatively gradual, as appropriate to maintain a smooth borrowing programme. It would be impossible to rapidly reach this level without temporarily ceasing NZGB issuance to the market or buying back a large portion of the outstanding portfolio. We considered taking a longer time horizon to reach the new liquidity buffer. However, we concluded there is already contingency built into the buffer size to cover near-term economic uncertainties, and a more gradual transition would lead to challenges communicating the new buffer to market participants.

12 There are short periods (a few months), intra-year, where the liquidity buffer is forecast to temporarily fall below NZ$15 billion. These are around the time of bond maturities. Over these periods, we intend to increase issuance of short-term funding instruments (T-Bills and European Commercial Paper (ECP)) to provide funding to cover the temporary dip in the liquidity buffer. We see this as preferable to maintaining elevated levels of NZGBs on issue to cover these short-term dips.

Figure 1: Treasury's monthly forecast cash balance[4] and marketable security holdings (NZ$ billion)



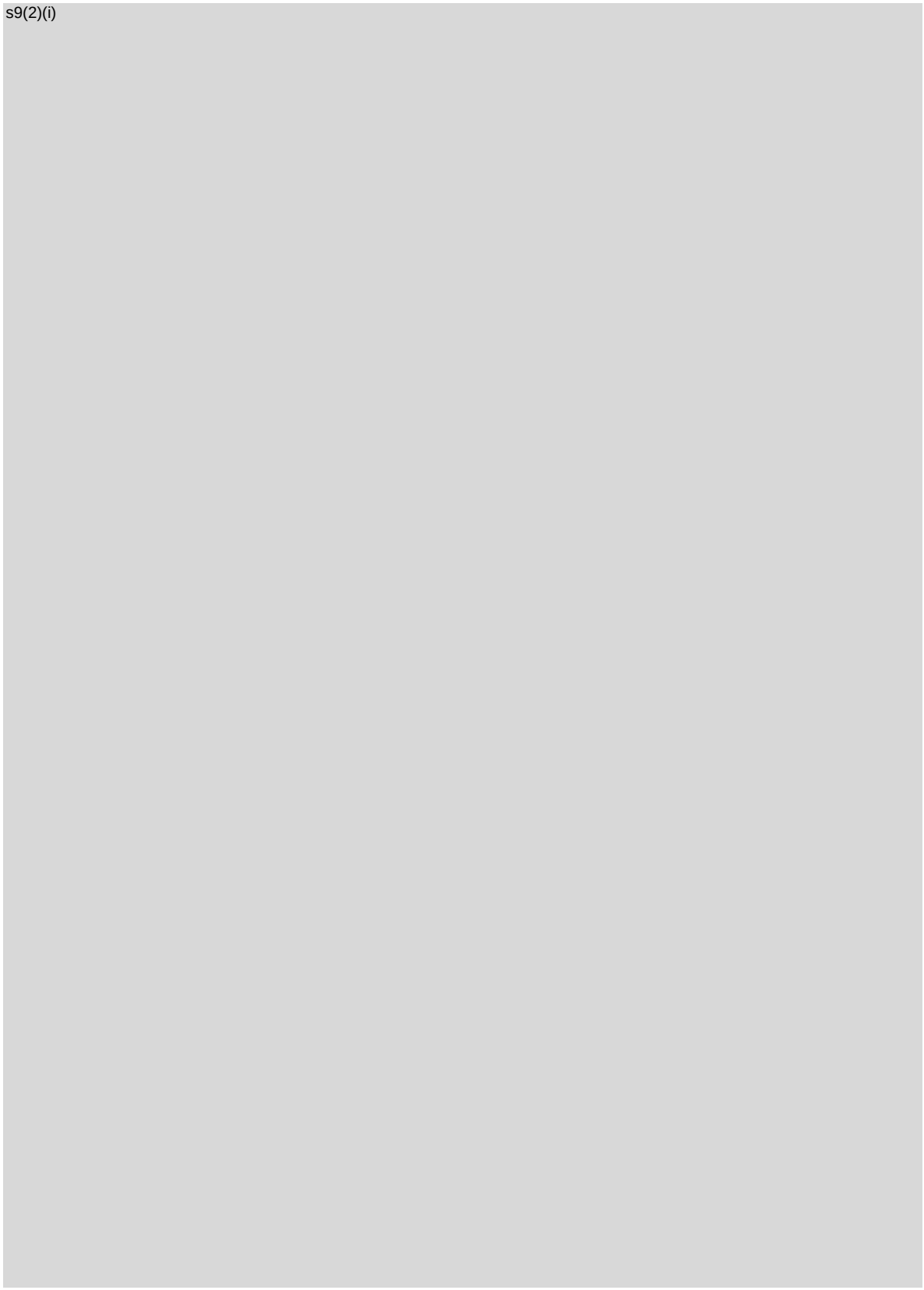
s9(2)(i)

[redacted]

[4] This includes NZDM and departmental cash sweep

s9(2)(i)

[redacted]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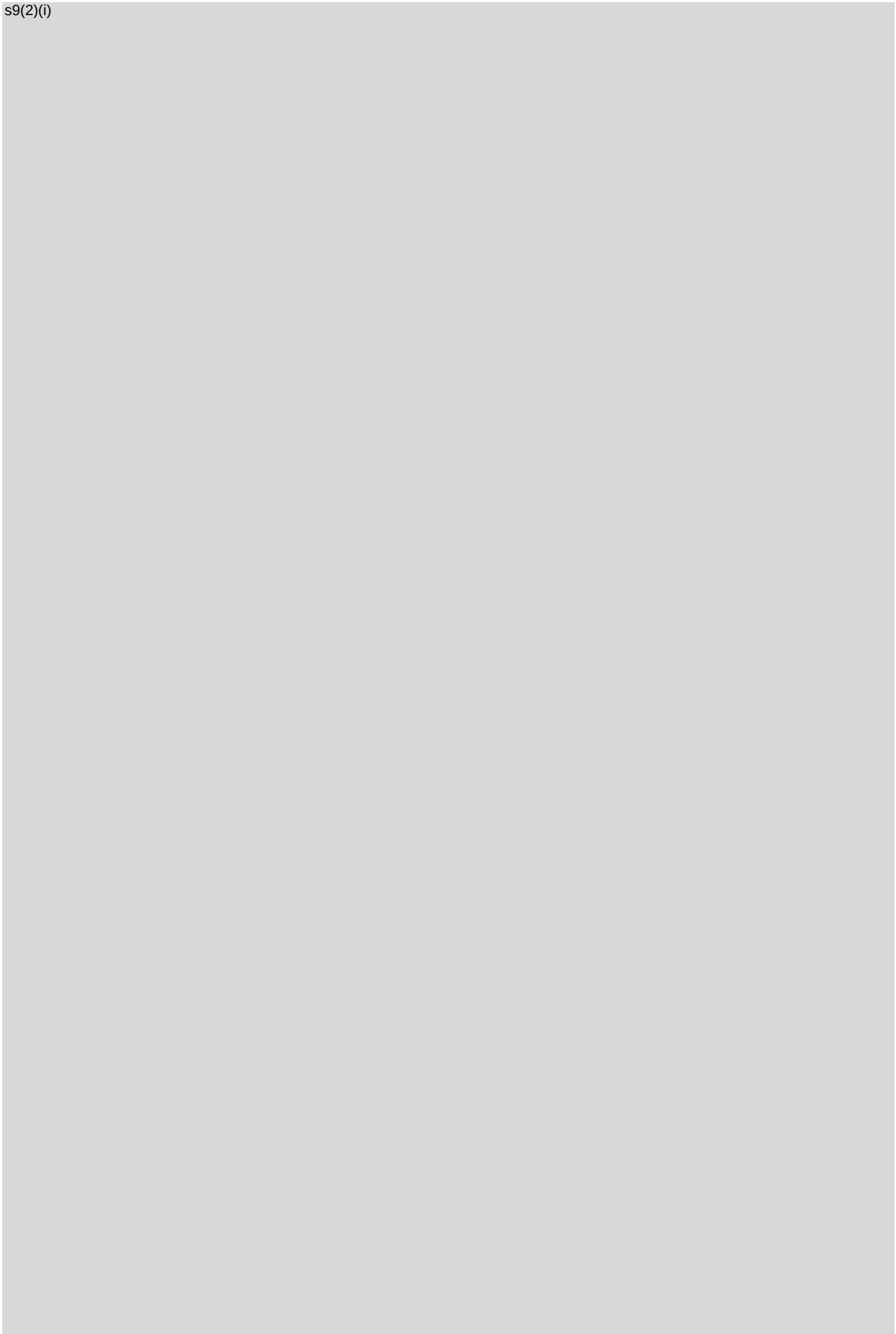
s9(2)(i)



s9(2)(i)

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s9(2)(i)

Communication Regarding the Borrowing Programme

36 In line with past practice, approval is sought for the Treasury to provide key credit rating agencies (Fitch Ratings, Moody's Investor Ratings and S&P Global Ratings) with a confidential briefing on the highlights of HYEFU on 15 December 2021, shortly before its release. This briefing supports the Crown's reputation for transparency and ensures rating agencies can incorporate any changes promptly and accurately into their ratings methodology.

37 A regular media statement released alongside HYEFU 2021 will provide an update on the core Crown borrowing programme over the forecast period. The media statement is included below. As noted above, an Advisory Note advising market participants on changes to the IIB issuance strategy will also be published.

38 In addition, further information on the new liquidity buffer will be communicated via an NZDM Insights publication. These publications are targeted to market participants and will cover, at a high level, the rationale for changing the buffer and how the liquidity buffer was sized as outlined in Treasury Report T2021/1124. In addition, the expected transition and composition of the liquidity buffer will be discussed.

39 Both the Advisory Note and the NZDM Insights will be shared with your office, on a 'no surprises' basis, ahead of publication.

RBNZ's Large Scale Asset Purchase programme

40 The Reserve Bank of New Zealand (RBNZ) have publicly stated they expect to gradually manage down their holdings of NZGBs purchased through the Large Scale Asset Purchase programme. They will provide details early next year. We are currently engaging with the RBNZ on their intentions related to any unwind of NZGB holdings. New Zealand Debt Management and the RBNZ have a stated public commitment to collaborate closely to ensure the efficient functioning of the NZGB market.

MEDIA STATEMENT

15 December 2021

2021/22 New Zealand Government Bond Programme Decreased to NZ$20 Billion

In conjunction with the *Half-Year Economic and Fiscal Update 2021*, the Treasury has updated the forecast core Crown borrowing programme.

The forecast 2021/22 New Zealand Government Bond (NZGB) programme has been set at NZ$20 billion, a decrease of NZ$10 billion from that published at the *Budget Economic and Fiscal Update 2021(BEFU)*. The forecast NZGB programmes for 2022/23 to 2024/25 have been decreased by NZ$7 billion in each year, to NZ$18 billion.

The 2025/26 year has been added to the forecast period, with a NZ$10 billion NZGB programme.

Treasury Bills (T-Bills) on issue at the end of 2021/22 are forecast to be NZ$4 billion. T-Bills on issue have been lowered by NZ$1 billion, to NZ$3 billion, in the remainder of the forecast years.

Forecasts – New Zealand Government Bonds and Treasury Bills

Year ending 30 June (face value)	2022	2023	2024	2025	2026	Total
Gross NZGB issuance (NZ$ billion)	20.0	18.0	18.0	18.0	10.0	84.0
NZGB maturities and repurchases (NZ$ billion)	2.4	15.5	13.8	14.9	11.9	58.5
Net NZGB issuance (NZ$ billion)	17.6	2.5	4.2	3.2	-1.9	25.5
NZGBs outstanding (NZ$ billion)	144.8	147.3	151.5	154.7	152.8	n/a
NZGBs outstanding (% of GDP)	40%	37%	37%	35%	33%	n/a
Forecast T-Bills on issue (NZ$ billion)	4.0	3.0	3.0	3.0	3.0	n/a

Further Details

- Given the decreased borrowing programme, it is no longer expected that a second new NZGB will be introduced, via syndication, in 2021/22.
- Issuance into inflation-indexed bonds is now expected to be between NZ$400 million and NZ$1 billion in 2021/22, subject to market conditions. A more flexible approach to inflation-indexed bond tender issuance will be taken, and a single-price auction mechanism utilised. Further guidance on the IIB tender issuance strategy is provided in an Advisory Note.
- Forecast financial asset balances are lower than at BEFU, though still high relative to history. Further guidance on the expected level of enduring balances is provided in the latest NZDM Insights.
- There are plans to commence a repurchase programme of the 15 April 2023 nominal bond before 30 June 2022. Repurchase activities will be dependent on portfolio requirements and market conditions.
- A flexible approach to T-Bill issuance will continue to be taken in the annual borrowing programme. In 2021/22, the forecasts show current expectations of T-Bills on issue at fiscal year-end. Actual issuance of T-Bills may vary from forecast, based on actual short-term cash needs and an assessment of relative costs. Subsequent fiscal years show a revised, base forecasting assumption of T-Bills on issue of $3 billion. Intra-year, T-Bills on issue are expected to vary from NZ$3 billion to NZ$10 billion during normal market conditions.
- As previously announced, the tender schedule for the month of January 2022 will be published at 8am (NZT) on 16 December 2021.

Appendix 1. Approval under the Borrowing Agent Warrant

Only the Minister of Finance has the power to borrow on behalf of the Crown. Section 47 of the Public Finance Act (the Act) empowers the Minister to borrow money on behalf of the Crown if it appears to the Minister to be necessary or expedient to do so. This includes borrowing by way of issuing securities (sections 56 and 63 of the Act).

Through a series of instruments called “borrowing agent warrants” (the Warrants), the Minister of Finance has appointed borrowing agents to act on his, or her, behalf. Borrowing agents consist of key Treasury personnel (in practice, predominantly from the Capital Markets directorate).

The Warrants authorise the borrowing agents to borrow money by issuing various debt securities (for example, NZGBs and EMTN), and to sign the necessary documents to do so. In some cases, the authority is to issue products up to a certain dollar amount under a particular programme (for example, the limit for EMTN is US$8,000,000,000).

However, in practice, the Minister must still approve all borrowing. As often as required, the Executive Director of Capital Markets recommends a borrowing programme to the Minister of Finance for approval. Normal practice is for NZDM to update the borrowing programme in conjunction with Economic and Fiscal Updates (EFU). The 2021/22 NZGB programme was approved at BEFU 2021.

Before giving approval, you should consider whether or not borrowing in accordance with the recommended borrowing programme would be “necessary or expedient in the public interest” for the purposes of section 47 of the Act. The following paragraphs set out factors that officials consider are relevant to this assessment. You may decide to ignore these factors, or take into account other factors you consider relevant, and you may give such weight to the factors referred to below as you deem fit. You should make an independent decision and are not bound to accept the assessment below. The following contains legal advice and parts of it are subject to legal professional privilege.

The Act does not define ‘the public interest’. However, it is generally accepted that the public interest is broadly equivalent to the concept of the public good and can cover a wide range of values and principles relating to the public good, or what is in the best interests of society. In the context of the Act, the public interest should be viewed in a New Zealand context, that is, in the interest of the New Zealand public.

You have already made decisions at the 2021 Budget and 2021 Half Year Update on spending and tax settings for the 2021/22 fiscal year. Given the severe global impact of COVID-19, and necessary public health and economic response, these decisions contributed to a core Crown cash deficit. Borrowing, through issuing New Zealand Government Securities is a well-established means of funding the Crown’s cash deficit, thus achieving public interest outcomes.

The recommended borrowing programme for 2021/22 has been set, to not only cover the core Crown cash deficit, but to enable the maintenance of the approved liquidity buffer. An alternative, would be to borrow only sufficient funds to meet the forecast cash deficit, allowing for no liquidity buffer. We advise it is prudent to maintain a liquidity buffer to mitigate risks should funding requirements increase rapidly relative to forecasts. This helps to ensure cash is on hand to fund public good outcomes, if necessary. We believe this in in the interest of the New Zealand public.

Given the above, officials’ view is that the proposed borrowing is necessary or expedient in the public interest for the purposes of section 47 of the Act.

TE TAI ŌHANGA
THE TREASURY

Treasury Report: KiwiRail – Proposal to extend the Core Lease

Date:	8 December 2021	**Report No:**	T2021/1733
		File Number:	SE-2-13-1

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Indicate** your comfort for KiwiRail's proposal to extend the Core Lease to progress to external consultation	31 January 2022
Minister for State Owned Enterprises (Hon Dr David Clark)	**Indicate** your comfort for KiwiRail's proposal to extend the Core Lease to progress to external consultation	31 January 2022

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Michael Moore	Principal Advisor, Commercial Performance	s9(2)(g)(ii)	✓
Maureena van der Lem	Manager, Commercial Performance		

Minister's Office actions

Return the signed report, and any feedback from Ministers, to the Treasury.

Note any feedback on the quality of the report

Enclosure: Annex 1: KiwiRail Briefing to the Treasury - Core Lease Extension May 2021 (Treasury:4588951v1)

Treasury Report: KiwiRail – Proposal to extend the Core Lease

Purpose

1. This report informs shareholding Ministers of KiwiRail Holdings Limited's (KiwiRail's) proposal to extend the lease on core rail land (the Core Lease) by 100 years (to now terminate in 2170). It advises of the proposed approach to consultation, which includes engagement with iwi, and asks you to indicate your comfort with the proposed next steps.

2. You will need to approve any extension to the Core Lease, following consultation.

Background

3. KiwiRail currently leases rail land from the Crown, via New Zealand Railways Corporation (NZRC), through an agreement known as the Core Lease. NZRC and the Crown are, jointly, the lessor under the Core Lease. The land is leased to KiwiRail for $1 per annum.

4. The original lease for rail land between NZRC and KiwiRail, signed in December 1991, was varied and restated in February 2013 with a termination date of 31 December 2030. It contained a right of renewal for a further 40 years, which was exercised in February 2014, resulting in a current final termination date of 31 December 2070.

5. KiwiRail is now seeking to extend the Core Lease by 100 years (to terminate on 31 December 2170) to support its commercial property aspirations. Attached as **Annex 1,** for your reference, is a briefing that KiwiRail sent to the Treasury in May 2021, which proposed the extension and expanded on earlier discussions between KiwiRail and the Treasury on this matter.

6. KiwiRail's view was that the process would take three to six months to complete. However, the Treasury's view was that the consultation process needed to be expanded and strengthened considerably. Since May 2021, we have sought further information to support the commercial case and have had discussions with KiwiRail and Te Arawhiti to strengthen the processes for engagement with iwi.

Rationale for seeking an extension

7. KiwiRail proposes to extend the Core Lease to maximise the commercial benefits of rail land. The maximisation of commercial benefits is consistent with 2013 Restated Core Lease, which states that KiwiRail has an exclusive right to utilise and enjoy the full commercial benefits of the Crown's rail land.

8. KiwiRail has stated that extending the Core Lease by 100 years will enable rail land to be considered by investors on a near-freehold basis, thus providing more certainty and incentives for external investors to partner with KiwiRail to develop the Crown's rail land. This will, in turn, potentially improve KiwiRail's ability to generate property revenue and maximise the commercial benefits of this rail land. We agree that the proposal would likely provide commercial benefits to KiwiRail.

9. In KiwiRail's view, there are limited risks associated with the extension. s9(2)(j) This briefing first considers the commercial case, then addresses that consultation process and other next steps.

The commercial case

10. The driver for the Core Lease extension is the increased commercial return from developments on the Crown's railway land. While this will also expose KiwiRail to commercial risks, the impact of 'locking up' rail land for a much longer period needs to be understood. This is addressed under "Process to manage broader risks" section below.

Commercial benefits can be readily identified, although difficult to quantify their magnitude

11. KiwiRail's initial engagement with officials on this proposal (in early 2020) provided only limited evidence of commercial benefit. Consequently, to support its commercial case, KiwiRail engaged Ernst and Young (EY) to provide a strategic assessment of its proposal to extend the Core Lease. This assessment, and KiwiRail's briefing of 3 May 2021 **(Annex 1)**, collectively identify the benefits as follows:

    a. Near-freehold rail land will incentivise external investors to partner with KiwiRail for development purposes.

    b. Land on a longer lease tenure generates a greater present value, which results in KiwiRail needing to contribute less capital to a joint venture, while maintaining a 50 per cent ownership in the joint venture.

    c. A longer lease tenure will lengthen the revenue generation phase of the development, which will increase the total revenue that KiwiRail obtains from the developed site. This will, in turn, aid KiwiRail in recovering the costs of capital invested into the rail network.

    d. KiwiRail's near-term focus for property opportunities is on developing and improving rail-side freight facilities. This will provide better access to the rail network and improve the productivity of rail freight transport.

    e. Investment in rail-side freight facilities will enable a greater and more rapid modal shift of freight from road to rail, which aligns with the interests of the Government in delivering public benefits such as reduced emissions and traffic congestion.

12. While these benefits are reasonable to expect, it is difficult to quantify their cumulative magnitude, in terms of the total commercial benefit to be derived from an extension of the Core Lease. In its May 2021 briefing **(Annex 1)**, KiwiRail assesses the commercial value of a lease extension to be at least s9(2)(j) This is based on the assessment that under the current 49-year remaining lease term, additional upfront capital contribution by KiwiRail for identified development projects at Otahuhu (Rail Link), Gracefield, Frankton and Spring Creek would result in a potential reduction in total NPV of s9(2)(j) These sites represent the first of over 20 projects that KiwiRail has identified in its development pipeline.

13. We have sought further information from KiwiRail to support its assessment. Because many of the projects cited are early in their development cycle, it is difficult to determine an overall quantum of the commercial benefit at either a project or company-wide level. However, we assess that there is sufficient evidence to support the commercial benefit of an extension of at least 60 years (i.e. to at least 2130). KiwiRail is seeking a 100-year extension as development opportunities are likely to be at least ten years away, and this extension would avoid KiwiRail having to repeatedly extend the lease.

While benefits are identifiable, risks are less clear

14. From a commercial perspective, property development will come with commercial risks. However, KiwiRail will be developing property on railway land irrespective of the extension of the Core Lease, so the extension does not introduce new risk per se. More likely, the increased involvement of commercial partners can mitigate risks assuming fair contractual arrangements.

15. Notwithstanding that the property business has the potential to contribute to improved commercial performance from KiwiRail, there is a risk that it may divert resources, including capital, from KiwiRail's core business activities. To mitigate this, we expect rigorous focus from KiwiRail on its core business activities. We advise that, from the Crown's perspective, there should be a clear expectation that property developments are funded from the balance sheet rather than through Crown capital injections – directly or indirectly.

16. Shareholding Ministers have limited influence over KiwiRail's investment decisions. External legal expertise has advised that KiwiRail is not required to seek shareholding Ministers' consent[1] when entering into a development partnership (i.e. when subleasing rail land to an external investor). s9(2)(g)(i)

Process to manage broader risks

17. Broader risks lie around the potential use of the land. Other parties, iwi in particular, may have a longer-term interest in the Crown's railway land and some development activity risks falling outside the permitted use of land, that of being "held for railway purposes".

Risk of rail land being deemed as no longer "held for railway purposes"

18. Under sections 40 to 42 of the Public Works Act 1981 (the PWA), it is required that, where land is identified as surplus (i.e. not required for public work), the "offer back obligation" is triggered and the land should be offered back for sale to the original owner or their successor.

19. The New Zealand Railways Corporation Restructuring Act 1990 (the Restructuring Act) excludes the PWA, providing that as long as land is held and utilised for railway purposes, the offer back obligation is not triggered unless NZRC proposes to sell rail land that Ministers have consented to sell.

20. Therefore, a risk exists that KiwiRail uses or develops rail land outside of railway purposes, in which the PWA exclusion no longer applies and KiwiRail loses its leasehold interest in the land. Furthermore, KiwiRail will bear costs incurred by the lessor for any litigation brought by a third party.

21. The phrase "held for railway purposes" is not defined in the statute. External legal advice provided by Russell McVeagh suggested that this phrase would capture uses such as warehousing for key customers of the rail network, tourism offerings for rail passengers and car parking for staff.

22. Officials will continue to engage with KiwiRail to ensure that it is testing this definition for each of its proposed developments.

[1] Notwithstanding that consultation expectations set out in the Treasury's Owner's Expectations document and the major transaction approval requirements of the Companies Act 1983 still apply.

Engagement to address impacts on iwi

23. s9(2)(j)

24.

25. s9(2)(j) and have developed a two-step process that better addresses the Crown's requirement to adhere to Treaty principles, specifically in this case, the principle of good faith:

    a. An initial letter from KiwiRail to iwi providing an overview of what is proposed, in particular setting out the aspirations and joint opportunities a longer-term lease could provide. This would be followed up with a phone call with individual iwi to assess their level of comfort and identify if there were any concerns regarding the approach.

    b. A second letter from KiwiRail outlining the formalities associated with providing notice s9(2)(j)

26. In our assessment there would have been some risk in proceeding directly to Step 2, in particular the risk that a 100-year extension in effect moves the 'goal posts' on RFRs; the character of the redress provided to iwi (being the future potential opportunity that RFRs provide) would be altered. For this reason, it is particularly important that the Crown approaches the matter in good faith in order to reduce this risk. We also consider that engaging with iwi in this more comprehensive way has the prospect of reducing litigation risk.

27. Based on this, KiwiRail provided a redrafted Engagement Strategy which Te Arawhiti is yet to provide feedback on. We will continue to work with KiwiRail on the basis that a Te Arawhiti-supported Engagement Strategy is a prerequisite of proceeding with the engagement process.

Do alternative options exist?

28. s9(2)(j) and 9(2)(f)(iv)

29. While there is no clear case for these alternatives, we will continue to work with KiwiRail to understand whether, in the context of feedback from the engagement process, that these, or other, alternatives could be further considered.

Next steps

30. Provided Te Arawhiti and KiwiRail agree on the Engagement Strategy, the first letter is likely to be sent early in 2022, with in-person engagement taking place over the first quarter of the year.

31. In the second quarter of 2022, KiwiRail will finalise legal documentation to give effect to the extension and seek the approval of shareholding Ministers, and the Boards of KiwiRail and NZRC.

32. We invite you to indicate if you wish to discuss any matters raised in this briefing, or on the extension of the Core Lease.

Recommended action

We recommend that you:

a **note** that KiwiRail Holdings Limited's proposal to extend the Core Lease is about to move to external consultation phases, including engagement process with iwi and other affected parties

b **note** that final decisions to sign a variation of the Core Lease will occur only after a Te Arawhiti-approved engagement process with iwi

c **indicate** your comfort for KiwiRail's proposal to extend the Core Lease to progress to external consultation.

Agree/disagree.
Minister of Finance

Agree/disagree.
Minister for State Owned Enterprises

Maureena van der Lem
Manager, Commercial Performance

Hon Grant Robertson
Minister of Finance

Hon Dr David Clark
Minister for State Owned Enterprises

External Briefing

To	Michael Moore, The Treasury	**3 May 2021**
From	Olivia Poulsen, Executive General Manager Property, KiwiRail	

SUBJECT: EXTENSION OF CORE LEASE BETWEEN THE NEW ZEALAND RAILWAYS CORPORATION AND KIWIRAIL LIMITED

PURPOSE

1. This briefing provides further information to support a Treasury Report to the shareholding Ministers for KiwiRail Holdings Limited recommending an extended tenure of the national rail estate Core Lease to 150 years.

2. Longer tenure will fully realise the commercial benefit of the land, maximising KiwiRail's ability to accrue value to the shareholder through higher revenue generated from rail-related activities on the land. The extended tenure maximises the ability of KiwiRail to partner and invest for future growth, delivering improved value through existing assets.

3. To support this discussion and provide more detail on the rationale and benefits of the proposed extension, KiwiRail have commissioned EY to provide a strategic assessment of the rationale for and benefits of the extension. A copy of that assessment is attached as Appendix 1.

BACKGROUND

4. The current Core Lease was entered into in 2013 as part of the establishment of KiwiRail Holdings Limited and expires on 31 December 2070 (current unelapsed tenure 49 years).

5. The New Zealand Railways Corporations Act 1981 (NZRC Act) gives the New Zealand Railways Corporation (NZRC) the power to administer Crown land held for railway purposes and act as the Crown's agent in respect of that land. NZRC is not expected to derive any return from the land and is not expected to operate a rail business. NZRC has leased the railway land to KiwiRail through the Core Lease and entered into a management agreement with KiwiRail, which enables KiwiRail to enjoy the commercial benefit of the land, subject to the ongoing requirement that it be held for rail purposes. The Board of NZRC has confirmed that NZRC supports an extension to the Core Lease as consistent with the purpose of the lease and the relationship between NZRC and KiwiRail.

6. In October 2020, KiwiRail wrote to shareholding Ministers seeking support to extend the Core Lease. Ministers identified this proposal as a priority to be addressed early in the current term of Parliament and requested that KiwiRail work with Treasury to build

the case for the extension and enable Ministers to take a decision. We understand shareholding Ministers expect to receive a recommendation via a Treasury Report.

7. The key benefit to a longer tenure is that it enables KiwiRail to fully benefit from the freehold rights on the land. This is vital if KiwiRail is to realise the objective of operating a commercially sustainable rail operation with successful business units. This extension will attain greater value from the property business unit in alignment with the intent of the lease, being an ongoing right to utilise Crown Land for rail purposes and to do so in a way that realises a commercial return on the rail estate.

8. In addition, the extension will ensure sufficient lease tenure to recover the costs on the capital programme of investments into the rail network. These are long-term fixed infrastructure assets for which the Crown expects to attain resilient and reliability benefits. For example, the current track is depreciated over 40-50 years (suitable under the existing Core Lease) while tunnels and bridges will be depreciated over 75-200 years (unsuitable). The extension enables proper treatment of assets funded by the Crown through its rail capital programme.

TREASURY CONSIDERATIONS

9. Treasury raised three high-level considerations regarding the proposed extension in September 2020. These considerations have been addressed in Appendix 1.

10. First, that the business proposition for an extension needs to test the reasonableness of the length of term and provide evidence on any adverse impacts of the current residual 50-year lease term. An analysis of the impacts of the current residual term on value and benchmarking of the proposed new term against market is included in the EY assessment.

11. Second, that a legal assessment should be undertaken to ensure that any perceived risks associated with a longer lease term are addressed, in particular that an extension to the tenure of the existing lease would not preclude the Crown in taking future policy decisions relating to railway land. We consider that the variation would not meaningfully alter the Crown’s right to take future policy decisions as ultimate owner.

12. Third, we understand Treasury believe consideration needs to be given to timing, particularly in the context of the Cabinet decision to review KiwiRail’s organisational form. We consider that the lease on Crown land would continue to be needed by any entity charged with responsibility for the railways irrespective of entity form. Amendment of the lease, if required to facilitate this, would be by agreement between the parties which we would expect to follow the practice over the last 25 years of the lease. In all those cases the changed circumstances have led to mutual agreement that the lease should be amended. The Crown's funding relationship with KiwiRail, and KiwiRail's dependence on NZRC's agreement to acquisition or disposition of lease land is likely to facilitate such future agreement.

13. KiwiRail propose that Russell McVeagh is instructed to act for the Crown on this acting under a Chinese wall arrangement (as they did in 2012 when the lease was restructured). Russell McVeagh have confirmed they are willing to advise again on this basis and, given their familiarity with the complexities of the documentation, we propose, with the consent of all parties, that a similar approach is implemented.

COMMERCIAL OPPORTUNITIES

14. This proposal is supported by known commercial opportunities with investment partners.

15. KiwiRail anticipates a need to work in partnership with strategically aligned investors, such as NZ Super Fund, ACC and iwi development organisations to secure further capital for developing a range of property projects including, most notably, the Regional Freight Hub in Palmerston North. This inter-modal hub, which has been seeded with a $40 million investment through the Provincial Growth Fund, is designed to set a new standard for freight logistics in New Zealand and have considerable economic benefits for the city and wider Manawatu. Our early market engagement with potential co-investors indicates that, to deliver appropriate returns to development partners and meet their development thresholds, tenure in excess of 100 years will be required. The current Core Lease term of 50 years does not provide a viable term for developing significant vertical or horizontal infrastructure. A letter from Ngai Tahu supporting this position is included as an appendix to the EY assessment.

16. At the smaller end of the scale, KiwiRail is working with the Goodman Property Trust on developing its vacant Kiwi Street site in Otahuhu as rail-enabled warehousing for a freight partner. As discussions progress, it is clear that the value implications of not being able to provide long term tenure to a potential development partner are significant. The valuation advice we have received is that the discount rate to be applied to KiwiRail's investment on a 50-year term, as compared to 100-year (which is valued as freehold) lease tenure of 6.75%, generates a land value gap of $311/m2 or approximately $10 million on this single site. The significant drop in (residual) land value for the 50-year ground lease is a direct flow through of the lower estimated 'as if complete' development value of the asset and flows through to a significantly lower percentage of total return on development flowing through to KiwiRail without top up capital.

	50 year tenure	**100 year tenure**	**Differential**
Residual land value ($000)	2,770	12,761	**9,991**
Land value ($/m2)	86	397	**311**
Total project cost ex land ($000)	31,706	32,065	**359**
Completion value (15% profit on cost)	39,650	51,550	**11,900**
Land value/total project cost	8%	28%	**10%**

17. A similar analysis would apply to any partnered development opportunity and is also likely to deter otherwise strategically aligned investors. KiwiRail has identified several opportunities in the coming decade to utilise partnered development on rail land to maximise commercial property revenue and deliver wider benefits from its land.

18. While external analysis has not been undertaken on the land value impact to the other potential developments, similar NPV calculations based on a similar cap rate / revenue profile have been completed. The additional upfront capital contribution required by KiwiRail in the case of the 50-year remaining lease term across our identified 5-10 year development pipeline (excluding the Palmerston North regional hub) would result in NPV erosion to KiwiRail of approximately $30-40 million. Therefore, it is clear that the extent of property development that can be delivered, and in turn the benefit that can be delivered to KiwiRail, freight partners and communities, for a given investment depends on the Core Lease tenure.

19. The development and provision of rail served sites across the country is also a key enabler of modal conversion from road to rail as the ability to directly access the corridor for significant freight volumes delivers significant cost savings to strategically aligned customers. With freight rail being a strategic investment priority for KiwiRail and the Government, the near-term focus for property opportunities is on developing and improving rail-side freight facilities to enable freight partners to easily access the rail network and improve productivity of rail freight transport.

20. Any major upgrade of the Wellington Station building is also likely to require 100-year plus tenure, to justify the significant base remediation costs required to address the seismic challenges of the building and allow suitable accounting treatment of the investment by the Crown or third party investors.

21. All these investments will contribute to the wellbeing of New Zealand and New Zealanders. Together with investment partners, the developments will unlock new commercial opportunities that support sustainable economic growth, productivity, and employment and incomes. In turn, these activities will support households, reducing material hardship, improving mental health, and generating secondary economic activity through household purchases. The variation to the core lease will significantly improve the value of an existing asset for the benefit of the shareholder and for New Zealand more broadly.

NEXT STEPS

22. KiwiRail has submitted two documents for Treasury to review: a draft variation agreement to the Core Lease prepared by Russell McVeagh and a strategic assessment prepared by Ernst and Young.

23. We will schedule a meeting with you to occur within the next fortnight to ensure Treasury is afforded an opportunity to ask further questions and to agree the timeline for progressing a decision to shareholding Ministers.

24. The process will take three to six months to complete. The following steps are required of KiwiRail to give effect to the change in Core Lease terms:

    (a) **May:** Presentation of the key considerations and draft variation agreement to Treasury.

    (b) **June:** Approval sought from shareholding Ministers via Treasury to proceed with an extension.

    (c) **July-August:** Secure internal approvals (NZRC and KiwiRail board) and engage LINZ as Crown agent and Te Arawhiti to issue notices to iwi with rights of first refusal on rail land under Treaty of Waitangi settlements (both in effect and in negotiation) prior to entry into a Core Lease variation (noting that the rights will be unaltered).

    (d) **September-October:** Enter into a Deed of Extension between shareholding Ministers, NZRC and KiwiRail.

25. As outlined above, to support shareholding Ministers with considering the extension, KiwiRail proposes engaging Russell McVeagh to prepare advice for NZRC / the Crown under a “chinese walls” arrangement to accompany the final agreement for eventual signing. It is anticipated this advice would include confirmation that the extension of the Core Lease is consistent with the statutory powers of NZRC and supports the future development of the railways.

REQUEST

26. KiwiRail requests that the Treasury:

    a. **Note** the Core Lease extension is intended to drive greater commercial value through existing assets in alignment with the intent established under the existing Core Lease and support modal shift from road to rail.

    b. **Note** the process to be engaged to ensure iwi with rights of first refusal on railway land will be notified of the intention to vary the Core Lease and that the right of first refusal will not be materially impacted.

    c. **Progress** the proposal to provide shareholding Ministers with the considerations relating to an extension of the Core Lease in late May 2021 and to recommend that the extension be executed.

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Regulatory impact analysis requirements for COVID-19 policies

Date:	8 December 2021	**Report No:**	T2021/3044
		File Number:	SH-11-2-7-1

Action sought

	Action sought	Deadline
Hon Grant Robertson **Minister of Finance**	**Discuss** this report with officials on 13 December 2021	13 December 2021

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Harry Chapman	Senior Analyst, Regulatory Strategy	s9(2)(k) (wk)	N/A (mob)	✓
Erin King	Manager, Regulatory Strategy	s9(2)(g)(ii) (wk)	s9(2)(g)(ii) (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: Regulatory impact analysis requirements for COVID-19 policies

Executive Summary

Cabinet has created special exemptions from regulatory impact analysis (RIA) requirements where policies are urgently responding to an emergency, in recognition of the need for quick decision making in these situations. Following the creation of these exemption provisions in mid-2020, the Treasury has approved a significant number of exemption applications for urgent COVID-19 related policies (over 40).

We have an emerging concern about the number of COVID-19 emergency exemptions still being applied for at this stage of the pandemic response. It is now harder to make the case that policy responses in the context of COVID-19 are truly 'urgent'. If a proposal is exempted from RIA, there is a risk that Ministers may not have access to sufficient analysis of costs and benefits, alternative options, risks and implementation challenges.

We have assessed whether it is appropriate to continue granting emergency exemptions for most COVID-19-related proposals. Given the fact that the COVID-19 response is moving into a new phase where it needs to be embedded as part of our business as usual policy process, we intend to change our approach in the second quarter of 2022, which may lead to us declining a larger proportion of requests for emergency exemptions.

Recommended Action

We recommend that you:

a **note** the Treasury intends to take a new approach to assessing emergency exemptions from RIA requirements from the second quarter of 2022, and as a result we are likely to decline a larger proportion of them from that date.

Noted

b **discuss** this report with officials at the Weekly Agency Meeting on 13 December 2021, including your views on whether the second quarter of 2022 is an appropriate time to change our approach, and how best to support a transition back to the usual standards of policy analysis with Ministers and key government agencies.

Discussed

Erin King
Manager, Regulatory Strategy

Treasury Report: Regulatory impact analysis requirements for COVID-19 policies

Purpose of Report

1. To inform you of our proposed approach to granting exemptions from regulatory impact analysis (RIA) requirements for COVID-19 policies from the second quarter of 2022.

Analysis

Cabinet has exempted regulatory changes responding to an emergency from RIA requirements

2. The RIA system supports and informs the Government's decisions on proposals involving regulatory change by encouraging a systematic and evidence-informed approach to policy development.

3. From March 2020, Cabinet suspended RIA requirements for COVID-19 related proposals. This suspension was lifted in June 2020, when Cabinet instead created a series of exemptions from RIA requirements that could be granted in emergency situations [Cabinet Office Circular CO (20) 2]. The most commonly used exemption ground is where proposals are *intended to mitigate the short-term impacts of an emergency, or the direct actions taken to the protect the public in response to that emergency, and where the proposal is required urgently to be effective (rendering impact analysis unfeasible)*.

4. The intention behind the emergency exemption grounds is that there is a public interest in quick policy-making responding to the short-term impacts of emergencies. It is necessary to recognise the reality of emergency situations and avoid encumbering policy-making with products which are impossible to produce in the time available.

The COVID-19 response has generated a high volume of regulatory changes, and we have been erring on the side of granting exemptions…

5. The response to COVID-19 has resulted in large number of regulatory changes, and many of them have had significant impacts. The policy work to design and implement this regulation has often occurred at an extremely fast pace, with policy agencies under significant pressure. As such, we have provided a large number of emergency exemptions to agencies: approximately 93 since the start of the pandemic and 43 since the new emergency exemption grounds were created in June 2020.

6. The proposals we have exempted are consistent with the intention behind the emergency exemption ground being established. However, now that we are two years into the pandemic, it is harder to make the case that all policy responses are truly 'urgent' and could not have been anticipated in time to prepare adequate analysis. Rather, COVID-19 is now an enduring feature of our policy context and needs to be embedded as part of our business as usual policy process.

7. When we receive exemption applications from agencies we scrutinise them to determine whether they meet the RIA requirements set out in the Cabinet circular. Over the past few months, we have been erring on the side of providing emergency exemptions where decisions are needed urgently to be effective. This was due to the time pressures that agencies face, and the likelihood that no RIS would have been provided in the absence of an exemption being granted.

8. Even when we exempt papers from RIA requirements, we sometimes add a comment for Ministers into the impact analysis section of the paper. These comments outline concerns with the analysis in the paper or require impact analysis to be provided in future rounds of Cabinet consideration or after implementation of the policy. For example, in early November we exempted an earlier Cabinet paper on the medium risk pathway for *Reconnecting New Zealanders with the World* on the condition that DPMC completed impact analysis before Cabinet made final decisions this month.

…but providing exemptions does generate risks, which are difficult to mitigate

9. We have an emerging concern about the number of COVID-19 emergency exemptions being applied for this far into the pandemic response. We consider the speed and uncertainty associated with COVID-19 response decisions increases the likelihood of unintended consequences and subsequent regulatory failures. The absence of a RIS is a symptom of rushed regulatory processes – agencies do not have the time to prepare a RIS – but also exacerbates the risks associated with these rushed processes.

10. In particular, where exemptions are granted, we are concerned that Ministers may not have access to policy agencies' free and frank advice on the costs and benefits of the Minister's preferred approach, as well as alternative options, risks, and implementation challenges. Exemptions may also mistakenly lead to the impression that the paper contains adequate analysis (i.e. that there would be no benefit in providing a RIS).

11. In the context of COVID-19 we sometimes process papers that meet the exemption criteria but which have obvious gaps in analysis or fail to identify significant risks. As noted above, we can attempt to highlight these risks in our feedback to agencies and in our comments in the impact analysis section of Cabinet papers, and in some cases our feedback appears to generate positive impacts. However, the RIA system is limited in the extent to which it can mitigate risks without the support of agencies and Ministers.

We intend to continue with our current approach in the short term…

12. Given the large number of recent emergency exemption applications, we have been assessing whether our current approach remains appropriate. We intend to continue erring on the side of providing exemptions for this phase of the COVID outbreak (ie, the transition away from the elimination strategy) where decisions are needed urgently to be effective.

13. We considered whether to decline more exemption requests in the short term but thought it would be likely that many Cabinet papers would still go to Cabinet as planned without a RIS. This is because policy agencies are unlikely to have the resources to prepare a RIS and still meet Ministers' deadlines. Therefore declining an exemption will make little difference to the end result in terms of impact analysis, but risk eroding our relationships and goodwill for RIA.

14. We will continue to try and mitigate the risks of no RISs, including identifying whether a RIS could be prepared later in the Cabinet approvals process, or whether a post-implementation review would be valuable. We will also work with DPMC to better understand the pipeline of COVID-19 proposals.

… but we intend to take a different approach to emergency exemptions from the second quarter of 2022

15. With the recent introduction of the COVID Protection Framework and the planned opening of New Zealand's border in early 2022, the Government's policy response to COVID-19 is moving into a new phase in 2022. Although there is a high degree of uncertainty about the development of the virus in the near future, we consider this new phase will be less focussed on urgent, short-term responses to the COVID-19 emergency and more focussed on embedding COVID-19 management into the Government's approach to the recovery and its other priorities.

16. Given the risks above, and the move to a new phase in the Government's pandemic response, fewer proposals are going to meet the 'urgency' criteria in the Cabinet circular. Therefore, it is likely that, to the extent agencies still apply for emergency exemptions, we will start declining a larger proportion of them. A transition back to 'business as usual' RIA requirements is needed, and setting a future date for this transition allows us to signal ahead of time that a change is coming. We consider the second quarter of 2022 is the appropriate time to make this transition.

17. In practical terms, we can change our approach by taking the position that policies are no longer 'required urgently to be effective' and therefore ineligible for an exemption under the Cabinet circular. This approach would not prevent us from granting an emergency exemption if it met the criteria for an exemption.

18. As part of the transition, we will be working to ensure:

    - the transition to this new approach is smooth: for example, moving to a new approach will need to be carefully managed given we will have provided exemptions for similar papers in the past.
    - Ministers understand what is happening and why: Ministers will need to understand the drivers behind more exemptions being declined and the likelihood that more Cabinet papers will fail to meet RIA requirements. Ministers may need to allow more time for impact analysis or provide agencies with additional resources in order to produce RIA at pace. This may require reprioritising from other Government priorities. We are interested in your views on how to support a transition back to usual processes, including with Ministers.
    - the integrity of the system is maintained: if the number of COVID-19 papers was still significant after the change in approach, a large number of non-compliant papers could normalise bad practice, even though it would at least be clear that the papers do not have adequate analysis. This is closely linked to the above two risks, and will need to be carefully managed through communication with agencies and Ministers.

There is a wider set of options available in the medium term

19. In the medium term we have more choices, including exploring changes to the Cabinet Office Circular and providing more formal guidance to provide greater clarity around the use of exemptions. We will keep exploring these options.

20. We have also started a wider review of the RIA system to assess whether it is meeting its purpose and objectives and remains fit for purpose. This review will be an opportunity to address other known issues with the RIA system. We will keep you informed about this review and seek your views next year.

21. In addition, we are in the final stages of developing a new online system for RIA administration. This system will generate systematic data on compliance with RIA requirements among agencies and will allow us to more easily determine if certain agencies or portfolios are seeking a large number of COVID-19 exemptions.

Next Steps

22. We would like to discuss this report with you at the Weekly Agency Meeting on Monday 13 December.

23. We are particularly interested in your views on whether the second quarter of 2022 would be an appropriate time to change our approach to emergency exemptions, and how best to support a transition back to the normal standards of policy analysis with Ministers and key government agencies.

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Managing the Appropriation for Participation in Dividend Reinvestment Plans for the Mixed Ownership Model Companies

Date:	8 December 2021	**Report No:**	T2021/3027
		File Number:	SE-1-3

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Agree** to either: a. take a paper to Cabinet seeking a delegated authority for joint Ministers to make changes to the size of the Dividend Reinvestment Plans appropriation, or b. have joint Ministers agree to increase the appropriation under the existing delegated authority from Cabinet	20 December 2021

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Juston Anderson	Principal Advisor, Commercial Performance	s9(2)(k)	✓
Maureena van der Lem	Manager, Commercial Performance		
John Toomath	Deputy Chief Financial Officer		

Minister's Office actions

Return the signed report to the Treasury.

Note any feedback on the quality of the report

Enclosure: No

Treasury Report: Managing the Appropriation for Participation in Dividend Reinvestment Plans for the Mixed Ownership Model Companies

1. This report advises you of unappropriated expenditure in Vote Finance and recommends you agree to steps to address this.

Unappropriated expenditure

2. Vote Finance includes a multi-year appropriation (MYA) of $80m for the Crown to acquire new shares in Air New Zealand, Genesis Energy, Mercury NZ and Meridian Energy, as a result of the Crown's participation in any dividend reinvestment plans (DRPs) carried out by the companies. The term of the appropriation is 14 February 2018 to 30 June 2022.

3. As of 14 October 2021, a total of $58.654m had been incurred against this appropriation, as a result of the Crown participating in Genesis Energy's DRP, leaving a balance of $21.346m.

4. On 15 October 2021 Meridian Energy paid a dividend, with its DRP active. As a result, the Crown received $113.4m of cash and $33.093m of new shares. This $33.093m was a charge against the DRP appropriation – taking the total to $91.747m - and as a result, $11.747m was unappropriated. This unappropriated expenditure will require validation by Parliament.

How did this occur?

5. The MYA was originally agreed by yourself, the Minister for State Owned Enterprises (Rt Hon Winston Peters) and the Associate Minister of Finance (Hon Dr David Clark) in February 2018 (T2018/52 refers), in line with a prior Cabinet decision in July 2017. We recommended, and Ministers agreed, that the appropriation should be for $80m. This figure was recommended on the basis that, at that point, only Genesis Energy was expected to have an active DRP.

6. Genesis Energy's DRP was active from April 2018 until September 2020, when it was suspended. At that point, with no other company having an active DRP, no further expenditure against the appropriation was anticipated.

7. In February 2021 Meridian Energy provided shareholding Ministers with a "no surprises" briefing on its potential introduction of a DRP. On 30 March 2021 Meridian Energy announced it had established a DRP, which would be active for its next dividend payment in October 2021.

8. At that point it was clear that the remaining $21.347m in the DRP appropriation would not be sufficient.

9. However, due to an oversight on our part, we did not seek approval for an increase in the DRP appropriation at this time. We apologise for this oversight.

What needs to happen now?

10. The DRP appropriation needs to be increased to reflect the expenditure that has occurred to date (although the expenditure will still be unappropriated) and to cover any further expenditure that is forecast to occur until the expiry of the appropriation on 30 June 2022.

11. A new appropriation also needs to be established to allow for any future use of a DRP by the specified companies from 1 July 2022 onwards.

Who has the authority to make these changes?

12. Joint Ministers agreed the current MYA under delegated authority from Cabinet in July 2017 (CAB-17-MIN-0384 refers). The relevant recommendations from the Cabinet Minute are as follows:

    - *Recommendation 14*: authorised shareholding Ministers and the Associate Minister of Finance (Hon Simon Bridges) to agree the appropriation that may be required for the Crown to participate in Genesis Energy's DRP, following the completion of the due diligence process and finalisation of the agreement with Genesis Energy;

    - *Recommendation 15*: noted that the estimated size of an appropriation for participation in a DRP (if one is required) is uncertain but the current estimate is between $5 million and $20 million in 2017/18, between $15 million and $40 million in 2018/19 and between $5 million and $20 million in 2019/20;

    - *Recommendation 23*: noted that the scope of the appropriation for participation in Genesis Energy's DRP, if one is required, will cover participation in any DRPs by the other three companies, although none of these three companies have said they are currently considering DRPs.

13. Recommendation 14 above was not time limited. Therefore, our view is that joint Ministers (yourself, the Minister for State Owned Enterprises and an Associate Minister of Finance) could agree to the creation of a new MYA, from 1 July 2022 onwards, for the Crown's participation in DRPs. The term of the existing MYA cannot be extended.

14. However, the Cabinet minute is ambiguous about the authority to increase the current MYA because it did not have a paragraph giving explicit authorisation to joint Ministers to increase the MYA after it was agreed.

15. After reviewing the advice given to the current and previous Governments and the decisions of Ministers, it is clear that the intention was for the delegated authority to allow joint Ministers to make changes in the size of the MYA, should the initial amount that it was established with be incorrect – for example, should any of the other companies choose to implement DRPs. T2017/2129 (to the previous government) stated that "the amount of the appropriation will be amended in future Baseline Updates as more information becomes available on expected or actual spending against it".

16. It was clear that there was no intention by Ministers in a previous Government (who took the paper to Cabinet in July 2017 that resulted in CAB-17-MIN-0384) that changes to the size of this appropriation would require further Cabinet decisions.

17. This is because:

    - Cabinet (under a previous government) agreed to a policy of participating in any DRPs implemented by any of the four companies, in order to maintain the Crown's 51% shareholding.
    - The need for an appropriation is a consequence of this policy decision.
    - The amount of the appropriation depends on decisions taken by the companies as well as decisions by the other shareholders of the companies to participate in DRPs, and those decisions will change over time as companies activate and then suspend their DRPs and the many tens of thousands of other shareholders make their individual participation decisions.
    - The impact of those decisions can only be estimated, so whatever amount is set for the appropriation is likely to need to change.

- Changes in the appropriation for participation in the DRP do not impact on the Government's capital spending provision, as changes in dividends from commercial entities owned by the Crown are normally not managed against the Government's fiscal allowances.
- s9(2)(b)(ii), 9(2)(i) and 9(2)(j)
-

18. You confirmed in December 2017 that you are comfortable with the policy of the Crown participating in DRPs and you do not wish to seek a Cabinet decision to change this policy (T2017/2633 refers). You also took a paper to Cabinet in 2018 to extend the policy to cover Mercury NZ, which (under a previous government) had chosen not to sign a DRP participation agreement with the Crown.

19. As a result of the above, our view is that there is no reason to seek a Cabinet decision every time the appropriation needs to be increased – for example, when one of the companies decides to activate its DRP. Unless Cabinet wished to reverse the policy decision to participate in DRPs, the increase in the appropriation needs to be agreed, and is fiscally neutral. Instead our view is that changes to the appropriation should be treated as a technical or forecasting change, required for compliance with current Government policy, and actioned as part of a Baseline Update process.

20. However, while this was clearly the intent, the Cabinet Minute (from a previous government) is not explicit that joint Ministers have this authority.

21. This authority is also not explicitly provided in Cabinet Office Circular CO(18)2 "Proposals with Financial Implications and Financial Authorities". This circular states that fiscally neutral adjustments must be transfers between appropriations or between appropriations and departmental capital; departmental capital injections fully offset by departmental capital withdrawals; or increases to appropriations fully offset by increases in third party funding, within a single financial year. While we believe the increase in the appropriation is fiscally neutral, it does not fit into any of these circumstances (we note that from an accounting perspective third party dividend revenue is recognised for the same value as the Crown's additional investment in shares).

22. Arguably the increase to the appropriation could fit within the category of technical adjustments, as it is "necessary to give effect to policy and funding decisions already taken by Cabinet" and it is not a significant policy issue, a controversial matter, a proposal that affects the government's financial position (it is a non-cash transaction so there is no increase in net core Crown debt, and dividends from State-owned enterprises are outside of core Crown activities) or an important financial commitment.

23. Given this, you have two choices:

    - Take a paper to Cabinet seeking a clear delegated authority for joint Ministers to make changes to the size of the DRP appropriation, or
    - Take a broad interpretation of the current Cabinet minute, taking into account the technical nature of the appropriation, the fact that changes to it do not impact on the Government's capital spending provision, and that participation in DRPs is fiscally neutral, and have joint Ministers agree to increase the appropriation under the existing delegated authority from Cabinet and the guidance in Cabinet Office Circular CO(18)2 *(**Treasury's recommendation**)*.

24. This is a decision for you to take, as it is your judgement about what matters require the attention of your Cabinet colleagues and what matters can be dealt with by joint Ministers. However, we are comfortable that the wording of the existing Cabinet Minute is sufficient for joint Ministers to deal with this matter, should you be comfortable that it does not need to go to Cabinet.

25. If you prefer to take a paper to Cabinet, this would deal with:

- increasing the current appropriation to account for expenditure to 30 June 2022
- establishing a new appropriation from 1 July 2022, and
- giving joint Ministers the delegated authority to change the size of both appropriations, as and when required as a result of decisions of the companies.

26. The paper would need to go to Cabinet in February or March 2022, as there is a chance that Meridian Energy's DRP will still be active when it makes its next dividend payment in April 2022. This should become clear when Meridian Energy announces its half-year results in February 2022.

27. If you prefer that joint Ministers take decisions on these matters, under the existing delegated authority from Cabinet, then:

- we will report to joint Ministers in February 2022 recommending an increase in the current appropriation
- we will submit a technical Budget initiative seeking the establishment of a new appropriation, from 1 July 2022, and
- any future changes to either the current or the new appropriation can be dealt with by joint Ministers as and when required.

Process for section 26C of the Public Finance Act

28. Spending in excess of appropriation is unlawful, and the Public Finance Act 1989 (PFA) contains some provisions for remedying unappropriated expenditure. The unappropriated expenditure of $11.747m exceeds 2% of the $80.000m appropriation which is the limit for section 26B, and so the remediation is through section 26C.

29. Under section 26C, the unappropriated expenditure requires validation in the Appropriation (Confirmation and Validation) Act. A statement relating to the unappropriated expenditure will be included in the Treasury's and the Government's annual financial statements and in the report that the Minister of Finance is required to present to the House on the introduction of the Appropriation (Confirmation and Validation) Bill (6C(2) and 26D of the PFA).

30. The decision you make will enable the Treasury to progress the necessary steps for section 26C and fulfil the reporting requirements of the PFA.

Recommended action

We recommend that you **agree** to either:

a take a paper to Cabinet seeking delegated authority for joint Ministers to make changes to the size of the Dividend Reinvestment Plan appropriation

Agree/disagree.

OR

b have joint Ministers agree to increase the appropriation under the existing delegated authority from Cabinet and the guidance in Cabinet Office Circular CO(18)2 ***(the Treasury's recommendation)***

Agree/disagree.

John Toomath
Deputy Chief Financial Officer

Maureena van der Lem
Manager, Commercial Performance

Hon Grant Robertson
Minister of Finance

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Strong Public Media: Entity form considerations

Date:	9 December 2021	**Report No:**	T2021/2750
		File Number:	CM-1-3-78-3-3

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Agree** your preferred entity form, role and monitoring arrangements in the new public media entity proposed through the Strong Public Media programme **Refer** this report to the Minister for Broadcasting and Media **Discuss** this report with the Minister for Broadcasting and Media, if required	16 December 2021

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Eva Parker	Analyst, Commercial Performance	s9(2)(k)	N/A (mob)	✓
Maureena van der Lem	Manager, Commercial Performance		N/A (mob)	

Minister's Office actions

Forward this report to the Minister for Broadcasting and Media's office, and **return** the signed report to the Treasury

Note any feedback on the quality of the report

Enclosure: Yes (attached)

Treasury Report: Strong Public Media: Entity form considerations

Executive summary

Cabinet will consider the Strong Public Media (SPM) business case (the business case) in February 2022. The draft Cabinet paper recommends the proposed new public media entity (the entity) be established as an Autonomous Crown Entity (ACE), focused on delivering a set of public media outcomes. The entity would be expected to supplement Crown funding with commercial revenue to maximise its delivery of public media outcomes.

Entity form discussions have indicated the decision between an ACE and Crown Entity Company (CEC) recommendation would be finely balanced.

The entity's form determines the Minister of Finance's (and the Treasury's) extent of oversight of the entity's commercial discipline and incentives. This report seeks your preference on the entity's form, your role and monitoring arrangements for the entity.

You previously agreed you consider it important that the Treasury's commercial capability be brought to the monitoring of the entity to support its generation of commercial revenue to deliver public media outcomes and to manage the potential fiscal risk to the Crown [T2021/2281 refers and was referred to the Minister for Broadcasting and Media for his consideration].

The business case forecasts that the entity's commercial revenue will continue to be an important contributor to the funding of public of media outcomes. If the entity fails to generate the forecast commercial revenue, it is likely to increase the cost to the Crown, decrease available funds for the long-run delivery of public media outcomes and reduce the long-term sustainability of the entity.

s9(2)(g)(i)

Should you wish to have a formal role in the entity, reflecting the fiscal risk to the Crown as well as an interest in the public media outcomes, two options were identified during the business case development:

Option 1: Establish the entity as an ACE with additional provisions to indicate where there is a role for the Minister of Finance *(the draft Cabinet paper recommendation)*

- The Minister for Broadcasting and Media would be the entity's responsible Minister, and the Minister of Finance would have joint responsibility with the Minister for Broadcasting and Media for the entity's board appointments, to ensure it has an appropriate collective skillset. Additional provisions could be added to further refine the Minister of Finance's role.

Option 2: ***Establish the entity as a CEC*** *(the Treasury's recommendation)*

- The Minister for Broadcasting and Media would be responsible for the entity's delivery of public media outcomes per its enacting legislation, while providing a wider ambit of responsibilities for both the Minister of Finance and Minister for Broadcasting and Media as the entity's shareholding Ministers under the Companies Act 1993, regarding its commercial discipline and incentives.

Limiting the Minister of Finance's oversight to joint responsibility for board appointments, as proposed under the ACE, is unlikely to provide oversight of the entity's commercial discipline and manage the fiscal risk to the Crown.

To ensure the Minister of Finance has oversight of the entity's commercial discipline, additional provisions would need to be included in its enacting legislation to specify the Minister's scope of responsibilities. s9(2)(f)(iv) s9(2)(f)(iv) The drafting of these provisions would require detailed legal consideration to avoid unintended consequences, which is a risk when creating bespoke provisions.

To support these additional provisions, we consider monitoring arrangements similar to those detailed in the Treasury's Owner's Expectations document would be appropriate and could be reinforced through Letters of Expectations.

Alternatively, to avoid the creation of and risks associated with bespoke provisions, the entity could be established as a CEC. The CEC is an established entity form in the Crown's entity framework that already provides both Ministers oversight of the entity's commercial discipline and requires the company to act in accordance with the Companies Act 1993.

The CEC also provides a greater level of operational independence. We note that both entity forms would provide the same level of editorial independence in its enacting legislation.

The Treasury's view is that, with the commercial disciplines under a CEC, a CEC is likely to reduce the long-term cost to the Crown, increase the long-run delivery of public media outcomes and the long-term sustainability of the entity. A CEC would also be more consistent with the existing RNZ, TVNZ and some other international public media entity models.

Recommended action

We recommend that you:

Either (the draft Cabinet paper recommendation)

a **indicate** your preferred entity form is an Autonomous Crown Entity (ACE), with the Minister for Broadcasting and Media as responsible Minister, additional provisions included in its enacting legislation to indicate where there is a role for the Minister of Finance, and the Ministry for Culture and Heritage (MCH) and the Treasury as primary and secondary monitors respectively

Agree/disagree.

and

i **indicate** your preference is that the draft Cabinet paper directs officials to include additional provisions in the entity's enacting legislation to provide the Minister of Finance oversight of the entity's commercial discipline and incentives

Agree/disagree.

or (the Treasury's recommendation)

b **indicate** your preferred entity form is a Crown Entity Company, with the Minister for Broadcasting and Media as the Minister responsible for its delivery of public media outcomes, and the Minister of Finance and Minister for Broadcasting and Media as shareholding Ministers

Agree/disagree.

and (the Treasury's recommendation is the Treasury as primary and MCH as secondary)

i **indicate** by circling your preferred primary and secondary monitor for the entity

Primary: MCH / The Treasury *Secondary: MCH / The Treasury*

and

c **refer** this report to the Minister for Broadcasting and Media

Refer/not referred.

d **discuss** this report with the Minister for Broadcasting and Media if your preferences differ to those in the draft Cabinet paper

Agree/disagree.

Maureena van der Lem
Manager, Commercial Performance

Hon Grant Robertson
Minister of Finance

Treasury Report: Strong Public Media: Entity form considerations

Purpose of report

1. This report seeks your preference on entity form, your role and monitoring arrangements for the new public media entity (the entity) proposed through the Strong Public Media (SPM) programme.

Proposed entity function

2. We understand Cabinet will consider the SPM business case (the business case) in February 2022. The draft Cabinet paper seeks agreement to establish the entity, which would focus on delivering a set of public media outcomes outlined in its charter:
    - A strong, distinctive Aotearoa/New Zealand identity;
    - A valued, visible, and flourishing te reo Māori me ngā tikanga Māori;
    - An inclusive, enriched and connected society; and
    - A healthy, informed participative democracy.

Commercial revenue to support the delivery of public media outcomes

3. The entity would be not-for-profit but would be expected to supplement Crown funding with commercial revenue to ensure it maximises its delivery of public media outcomes.

4. The business case forecasts that the entity's commercial revenue will continue to be an important contributor to the funding of public of media outcomes. The business case forecasts commercial revenue will constitute at least 50 percent of the entity's long-term funding.

5. If the entity fails to generate its forecast commercial revenue, it would increase its cost to the Crown and reduce the entity's long-term sustainability as it would require additional Crown funding sooner and/or would need to reduce its delivery of public media outcomes.

6. If the entity can maintain commercial revenues, or they decline by a slower rate than in the business case (which includes a rate of decline in excess of what historically has been observed) then the entity's long-term sustainability would increase and it would have more options in the future, including to increase its contribution to the public media outcomes.

Entity form considerations

The entity's form should reflect its proposed function

7. The entity's form should reflect its proposed function – to deliver on public media outcomes.

8. In January 2020, Cabinet noted the most appropriate entity form would be an Autonomous Crown Entity (ACE) or a Crown Entity Company (CEC), and agreed the entity's form would be considered through the business case (CAB-20-MIN-0004 refers). Entity form discussions have indicated the decision between an ACE and CEC recommendation would be finely balanced.

9. An ACE:
    - has primarily non-commercial functions but can also have commercial functions;
    - is subject to the Crown Entities Act 2004 and its own legislation;
    - has a responsible Minister; and
    - must "have regard to" policy that relates to the entity's functions and objectives if directed by Minister.

10. A CEC:

- is a company owned by the Crown to further policy objectives – a CEC can have a commercial objective, such as providing the Crown a return on its capital investment, however, this is not necessary;
- is subject to the Crown Entities Act 2004, the Companies Act 1993, and in some cases, its own legislation;
- has two shareholding Ministers, one of which must be the Minister of Finance; and
- Ministers do not have the power to direct a CEC on matters of policy unless specifically provided in another Act. A CEC provides an entity with slightly more operational independence than an ACE. The Ministry for Culture and Heritage (MCH) notes that operational and editorial independence are foundational principles for public media entities internationally and in New Zealand [BR2021/495 refers].

11. RNZ and Television New Zealand Ltd (TVNZ) are CECs and are subject to the Companies Act 1993, the Crown Entities Act 2004 and their own Acts.

12. There are examples of media entities overseas that are companies receiving a mix of public funding and commercial revenue, including the Australian Broadcasting Corporation (ABC), British Broadcasting Corporation (BBC) and Raidió Teilifís Éireann (RTE) in Ireland.

The draft Cabinet paper recommends the entity is an ACE with additional provisions

13. The draft Cabinet paper seeks agreement for the entity to be established as an ACE on the basis that this form would be most suited to the primarily non-commercial, public media focus of the entity, and that it would signal a move away from a predominantly commercial focus.

14. The ACE recommendation appears largely predicated on the entity's revenue weighting shifting in future to less commercial revenue to more Crown funding.

15. There is a high level of uncertainty as to when, or if, commercial revenues will decline. The actual rate of decline will depend on market dynamics and the incentives and expectations of the entity and the focus placed on achieving those objectives.

16. The working assumption is that the Minister for Broadcasting and Media would be the entity's responsible Minister, and consequently, the Minister of Finance would not ordinarily have a role in the entity. It is proposed additional provisions be included in the entity's enacting legislation to indicate the Minister of Finance's role.

17. Key considerations regarding three entity form options – a CEC, an ACE with standard provisions (included for completeness but not recommended by the Treasury or the draft Cabinet paper) and an ACE with additional provisions – are summarised in **Annex One**.

The entity should be incentivised to maintain commercial discipline to support the delivery of public media outcomes

18. Although the generation of commercial revenue is often portrayed to be at the cost of delivering public media outcomes, the reality can be quite different. For example, TVNZ's commercial performance has generated an audience of scale and allowed for significant investment in New Zealand content. TVNZ funds approximately $100 million of New Zealand content per annum from its commercial revenue, and the commercial revenue also funds the operation of the company itself.

19. In a modern, free-to-view broadcasting environment, viewers can watch content when they wish, rather than being limited by the broadcast schedule. This allows wider audiences to be reached without cannibalising traditional, high-value broadcast revenue opportunities. Revenue generated can be used to further public media outcomes.

20. Although the entity's commercial revenue expectation is secondary to delivering public media outcomes, and it is intended to be not-for-profit, the entity still needs to be appropriately incentivised and monitored to maintain commercial discipline in order to manage fiscal risk to the Crown.

21. Ultimately, the actual commercial revenue generated will depend on market dynamics, and the entity's effort to maintain existing revenue streams and the creation of new revenue streams [T2021/2281 refers].

Options to ensure a formal role for the Minister of Finance in the entity

22. The entity's form determines the Minister of Finance's oversight of its commercial discipline and incentives, and therefore, it is important to consider what the enduring role, if any, of the Minister of Finance (and the Treasury as advisor to the Minister) in the entity might be.

23. We understand MCH intends to seek a $1 million per annum baseline funding increase to support its monitoring capacity and capability, and that this new funding would be for all monitoring, including that of the entity's charter and commercial performance. s9(2)(i) s9(2)(i) .

24. You previously agreed you consider it important that the Treasury's commercial capability be brought to the monitoring of the entity to support its generation of commercial revenue to deliver public media outcomes and to manage the potential fiscal risk to the Crown [T2021/2281 refers and was referred to the Minister for Broadcasting and Media for his consideration].

25. The Treasury and Minister of Finance would have some visibility through budget responsibilities, and any additional requests from the entity for Crown funding would be considered against other priorities.

26. s9(2)(i)

27. Should you wish to have a formal role in the entity, reflecting the fiscal risk to the Crown as well as an interest in the public media outcomes, two options were identified during the business case development:

Option 1: Establish the entity as an ACE with additional provisions to indicate where there is a role for the Minister of Finance *(the draft Cabinet paper recommendation)*

- The Minister for Broadcasting and Media would be the entity's responsible Minister, and the Minister of Finance would have joint responsibility with the Minister for Broadcasting and Media for the entity's board appointments, to ensure it has an appropriate collective skillset. Additional provisions could be added to further refine the Minister of Finance's role.

Option 2: ***Establish the entity as a CEC*** *(the Treasury's recommendation)*

- The Minister for Broadcasting and Media would be responsible for the entity's delivery of public media outcomes per its enacting legislation, while providing a wider ambit of responsibilities for both the Minister of Finance and Minister for Broadcasting and Media as shareholding Ministers under the Companies Act 1993, regarding its commercial discipline and incentives.

Strengthening Option 1

28. Limiting the Minister of Finance's oversight to joint responsibility for board appointments, as proposed under the ACE, is unlikely to provide oversight of the entity's commercial discipline and manage the fiscal risk to the Crown.

29. To ensure the Minister of Finance has oversight of the entity's commercial discipline, additional provisions would need to be included in the entity's enacting legislation to specify the Minister's scope of responsibilities.

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

31. The drafting of these provisions would require detailed legal consideration to avoid unintended consequences, which is a risk when creating bespoke provisions, relative to the use of existing forms which already include these provisions.

32. To support these additional legislative provisions, we consider monitoring arrangements similar to those detailed in the Treasury's Owner's Expectations document would be appropriate. This could include formal processes for, amongst other things:

    - business planning, including providing three-year financial forecasts;
    - reporting against forecasts on a quarterly basis; and
    - consultation on significant investments and providing post-investment reviews.

33. This could be supported by Letters of Expectations which could reinforce how the entity would be monitored with respect to its performance (for example, the entity is expected to meet the expectations in the Treasury's Owner's Expectations document).

Using the established Option 2

34. Alternatively, to avoid the creation of and risks associated with bespoke provisions, the entity could be established as a CEC. A CEC is an established entity form in the Crown's entity framework that already provides, through the role as shareholders, both Ministers oversight of the entity's commercial discipline and requires it to act in accordance with the Companies Act 1993.

35. A CEC also provides a greater level of operational independence. We note that both entity forms would provide the same level of editorial independence in its enacting legislation.

36. The Treasury's view is that, with the commercial disciplines under a CEC, a CEC is likely to reduce the long-term cost to the Crown, increase the long-run delivery of public media outcomes and the long-term sustainability of the entity. A CEC would also be more consistent with the existing RNZ, TVNZ and some other international public media entity models.

37. If the entity is a CEC, there is risk that stakeholders perceive the company has commercial objectives that might distract from its contribution to the public media outcomes. The entity would be required through its enacting legislation to deliver against the public media outcomes specified in its charter and would have a responsible Minister for those policy outcomes. Shareholding Ministers could further encourage this public media outcome focus through Letters of Expectations, reiterating that Crown funding be supplemented with commercial revenue with a goal to maximise its delivery of these outcomes.

Entity monitoring arrangements

Greater focus on Government public media outcomes

38. If Cabinet agrees to progress with the establishment of the entity, this would require significant new Crown investment in public media. It is important monitoring arrangements are strengthened to ensure the investment makes measurable achievement towards the public media outcomes, including the creation of public media content and increasing access to underserved audiences. Given these are policy outcomes, MCH is likely to be best placed to monitor this – a similar arrangement to how RNZ is monitored now, with the Treasury focusing on entity performance.

Minister of Finance's role

39. If the entity is an ACE with additional provisions or a CEC, the Minister of Finance would have a formal role in the entity and, therefore, the Treasury would have a monitoring role ranging from supportive (in the case of an ACE with additional provisions) to more substantive (in the case of a CEC).

40. If the entity is an ACE with additional provisions, MCH would be the entity's primary monitor, reflecting the Minister for Broadcasting and Media's role as responsible Minister.

41. If the entity is a CEC, and the Minister of Finance and Minister for Broadcasting and Media are shareholding Ministers, we consider the Treasury, with its commercial monitoring capability, would be best placed to be the entity's primary monitor from a shareholder perspective. As the media policy agency, we consider MCH to be best placed to monitor and advise, from a policy perspective, on the delivery of public media outcomes as the entity's secondary monitor.

Engagement with MCH and the Public Service Commission

42. We informed MCH and the Public Service Commission (PSC) of this report.

43. MCH's comments are attached in **Annex Two**. Among other comments, MCH notes that, in its view, the rationale for an ACE remains (that is, the form is more suited to the entity's non-commercial, public media focus) and it would be helpful in signalling a move away from a predominantly commercially-focused entity. MCH also notes that PSC advises an ACE provides sufficient flexibility to provide for the Minister of Finance to have a statutory role in relation to the entity if desired.

Next steps

44. If your preferred role and entity form differ from the recommendation in the draft Cabinet paper (that is, you prefer either an ACE with standard provisions or a CEC), you may wish to discuss this with the Minister for Broadcasting and Media.

45. If your preferred entity form is reflective of that in the draft Cabinet paper (that is, you prefer an ACE with additional provisions), we recommend the draft Cabinet paper directs officials to include additional provisions in the entity's enacting legislation to provide the Minister of Finance oversight of the entity's commercial discipline and incentives.

46. We will continue to work with MCH to ensure any required changes are reflected in the Cabinet paper.

Annex One: Entity form considerations

	Crown Entity Company	Autonomous Crown Entity (ACE) with standard provisions	ACE with additional provisions
Ministerial involvement	Shareholding Ministers (Minister of Finance and Minister for Broadcasting and Media) based on Companies Act and may also have a Responsible Minister if specified in the entity's own legislation	Responsible Minister (Minister for Broadcasting and Media)	Responsible Minister (Minister for Broadcasting and Media) Minister of Finance with specific legislative provision(s)
Legislation	Entity's own legislation Crown Entities Act 2004 Companies Act 1993	Entity's own legislation Crown Entities Act 2004	
Board member appointments/removals	Shareholding Ministers	Responsible Minister	Responsible Minister Minister of Finance with specific legislative provision(s)
Entity performance	Charter delivery – Minister responsible for public media outcomes Operational efficiency – Shareholding Ministers	Charter delivery – Responsible Minister Operational efficiency – Responsible Minister	Charter delivery – Responsible Minister Operational efficiency – Less clear
Operational independence	Shareholding Ministers are not able to direct the entity on policy matters unless specified in legislation Can be strengthened through charter	If directed by the Responsible Minister, the entity must "have regard to" policy matters relating to its functions and objectives Can be strengthened through charter	
Monitor(s)	*Either* Primary: MCH Secondary: The Treasury *Or* Primary: The Treasury Secondary: MCH	MCH	Primary: MCH Secondary: The Treasury

Annex Two: Ministry for Culture and Heritage comment

Manatū Taonga agrees with Treasury that a new public media entity would need to earn revenue to support its delivery of public media outcomes – this was a key component of the business case - and that effective monitoring and oversight arrangements are critical to support this.

However, it is also important that the establishing legislation for a new entity gives the board clear direction on relative priorities - in particular, that the primary focus of the entity would be on delivery of public media outcomes, with generation of commercial revenue a secondary objective. That is, the entity would not be 'TVNZ with a charter,' and would not have the strong commercial focus of TVNZ.

In this context, Manatū Taonga's view is that there seems to be no compelling reason to revisit the previously agreed position that the new public media entity be established as an Autonomous Crown Entity (ACE) because:

- the original rationale for an ACE form – that this form is more suited to the non-commercial public media focus of a new entity whose commercial revenue will diminish over time – still stands
- Te Kawa Mataaho – Public Service Commission's advice is that there is sufficient flexibility within the ACE form to provide for the Minister of Finance to have a statutory role in relation to the entity if he wishes and/or for other arrangements to be put in place to ensure Treasury has sufficient visibility of the entity's commercial performance. Based on that advice, establishing the new entity as an ACE does not therefore create any additional risks as the paper seems to suggest, not is it inconsistent with the Crown entities framework – and consideration of the Minister of Finance's ongoing role and the guiding public media outcomes defined through a charter would be "bespoke" elements of the new entity's legislation under either entity form
- ongoing discussions with stakeholders have underlined the importance of clearly communicating that the new entity will not either be an expanded RNZ or TVNZ with a charter, but a new entity focused on public media outcomes and supported by commercial revenue. In Manatū Taonga's view, the ACE form will be helpful in clearly signalling a move away from a predominantly commercially-focused entity.

Manatū Taonga notes Treasury's previous view that an ACE form is workable so long as the monitoring function brings the necessary experience to ensure maintenance of commercial discipline and minimisation of cost/risk to the Crown.

We support Treasury's proposal that monitoring arrangements similar to those detailed in the Treasury's Owner's Expectations document would be appropriate and could be further reinforced through Letters of Expectations. We propose working with Treasury in the establishment phase (assuming Cabinet agrees to proceed with the proposal) to identify in detail how such monitoring arrangements would work.

We are also keen to work with Treasury to better understand the specific levers required to ensure the Minister of Finance has the desired oversight of the entity (noting that Ministerial oversight and monitoring arrangements are different things) and to identify how these levers can best be provided through the entity's legislation and operating model/monitoring framework. s9(2)(f)(iv)

s9(2)(f)(iv)

Drafting instructions to support the proposed characteristics of the new entity in the ACE form, including the Charter are well advanced and MCH is confident any further requirements identified to support the Minister of Finance's role within the legislation could be easily accommodated without significant legal effort or risk.

We understand that there are currently other ACEs with mixed commercial and non-commercial objectives where Treasury plays a monitoring role (such as the Public Trust and Lotteries Commission) that could provide helpful examples of how statutory and operational arrangements can be organised to best support effective delivery.

TE TAI ŌHANGA
THE TREASURY

Treasury Report: Progressive Home Ownership Lending Approvals: Habitat NZ and the Doing Good Foundation

Date:	9 December 2021	**Report No:**	T2021/3061
		File Number:	SH-18-1

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Agree** to grant loans to Habitat for Humanity New Zealand Limited and the Doing Good Foundation. **Agree** to the delegations for the loans. **Return** the signed report and delegation instrument to Treasury. **Refer** a copy of this report to the Minister of Housing.	15 December 2021

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Alex Smith	Senior Analyst, Housing and Urban Growth	s9(2)(k)	s9(2)(k)	✓
David Taylor	Manager, National Infrastructure Unit		N/A (mob)	

Minister's Office actions (if required)

Return the signed report and delegation instrument to Treasury.

Refer a copy of the report to the Minister of Housing.

Note any feedback on the quality of the report

Enclosure: Yes (attached) Progressive Home Ownership Delegations Habitat NZ and Doing Good Foundation

Treasury Report: Progressive Home Ownership Lending Approvals: Habitat NZ and Doing Good Foundation

Executive Summary

In 2019, Cabinet agreed to establish a $400 million Progressive Home Ownership (PHO) Fund to be implemented in phases. Implementation of Phase 1 (the pilot phase) is complete, and the rollout of Phase 2 is now underway. As part of the Phase 2 implementation, this paper seeks your agreement to provide four loans at a total of $3.31 million, to Habitat for Humanity New Zealand Limited (Habitat NZ) and the Doing Good Foundation (DGF). The intent is for these loans to be repaid over a 15-year term. The key loan terms are consistent with those previously agreed in Phase 1 and Phase 2. They have been reviewed by the Minister of Housing, who has now requested that they be submitted to you for consideration (BRF21/22111189 refers). The loans are:

- Up to $585,000 of lending to the DGF for two recently completed and occupied dwellings in Tauranga. If approved, this would be the first loan to the DGF from the PHO Fund.
- Up to $2.725 million of lending to Habitat NZ to deliver nine homes across Auckland, Rotorua and Christchurch. Habitat NZ has already received PHO Fund loans through Phase 1 and Phase 2.

We consider that provision of these loans, under the key loan terms proposed, to be necessary or expedient in the public interest. This report also seeks a delegation from you, to allow officials to give effect to your decisions in this report.

Funding for these loans has already been agreed by Cabinet and appropriated within Vote Housing and Urban Development.

Ministry of Housing and Urban Development (HUD) officials have provided the information in this report on the entities, and proposed loan structure and key terms of the loan agreements. Treasury officials have not reviewed the draft loan agreements.

This paper also includes a brief update on how implementation of the PHO Fund has been progressing. It signals an intention to delegate overarching approvals of PHO Fund loans up to a particular amount to the Chief Executive of HUD in early 2022.

Recommended Action

We recommend that you:

a **note** that Habitat for Humanity New Zealand Limited and the Doing Good Foundation each require loans to be given to them to provide home ownership support products as part of the Government's Progressive Home Ownership Fund;

b **note** that under section 65L of the Public Finance Act 1989, the Minister of Finance may, on behalf of the Crown, give a loan if it appears to the Minister to be necessary or expedient in the public interest to do so;

c **note** that in the circumstances, Treasury considers giving loans to Habitat for Humanity New Zealand Limited and the Doing Good Foundation, under the key loan terms summarised in this report, to be necessary or expedient in the public interest;

d **note** that under section 65P any lending under section 65L must be made from a capital expenditure appropriation, or other authority, approved by Parliament for the purpose;

e **note** the requirement for a capital expenditure appropriation outlined in recommendation d is met;

f **agree** that it appears to you to be necessary or expedient in the public interest to lend money to the Doing Good Foundation on the key loan terms summarised in this report;

Agree/disagree.

g **agree** to provide a loan of up to $585,000 in value to the Doing Good Foundation under section 65L of the Public Finance Act 1989;

Agree/disagree.

h **agree** that it appears to you to be necessary or expedient in the public interest to lend money to Habitat for Humanity New Zealand Limited on the key loan terms summarised in this report;

Agree/disagree.

i **agree** to provide loans of up to $2.725 million in value to Habitat for Humanity New Zealand Limited under section 65L of the Public Finance Act 1989;

Agree/disagree.

j **agree** to delegate to the Secretary to the Treasury your powers in sections 65L, 65O and 65Q of the Public Finance Act 1989 to implement your decisions on the giving of the loans under the key loan terms summarised in this report, including signing any loan and security agreements on behalf of the Crown, making and receiving payments, taking security, and doing all other acts or things required to exercise or perform the Crown's rights and obligations under or in relation to the loans;

Agree/disagree.

k **approve** the Secretary to the Treasury sub-delegating the powers referred to in recommendation (j) above, to the Chief Executive of the Ministry of Housing and Urban Development;

Approve/not approved.

l **sign** the attached delegation instruments and **return** a copy of the signed instrument to the Treasury;

Signed/not signed.

m **note** that we intend to seek your delegated approval of PHO Fund loans to providers up to a particular amount in early 2022, subject to further work on feasibility;

n **refer** a copy of this report to the Minister of Housing;

Refer/not referred.

David Taylor
Manager, National Infrastructure Unit

Hon Grant Robertson
Minister of Finance

Treasury Report: Progressive Home Ownership Lending Approvals: Habitat NZ and Doing Good Foundation

Purpose of Report

1. This report seeks your agreement to provide the following two loan facilities (four individual loans), totalling $3.31 million, and subsequent delegations as part of the implementation of Phase 2 of the Progressive Home Ownership (PHO) Fund's Provider pathway:

    - Up to $585,000 of lending to the Doing Good Foundation (DGF) for two homes in Tauranga. DGF is a new provider and is yet to receive a loan from the PHO Fund.

    - Up to $2.725 million of lending to Habitat for Humanity New Zealand Limited (Habitat NZ) for 9 homes across Manurewa (Auckland), Rotorua and Christchurch. Habitat NZ has so far received $22.13 million in loans from the PHO Fund to support the delivery of 73 homes.

2. This report also signals that in Q1 of 2022 we intend to seek your approval to an overarching decision to enable delegated approvals PHO loans under a particular amount.

Background

PHO implementation to date

3. In 2019, Cabinet made $400 million available for the delivery of progressive home ownership schemes, as part of the Government Build Programme Reset [CAB-19-MIN-0444 refers]. Cabinet further agreed to take a staged approach to establish the Fund and agreed that the Fund will be delivered through three pathways: the Provider pathway, Te Au Taketake (iwi and Māori provider pathway), and First Home Partner (previously referred to as the Direct to Households pathway).

4. Under Phase 1, $38.8 million in loans were granted to providers. The implementation of Phase 2 is now underway, and to date you have approved a further $16.58 million in loans (T2021/2350 refers). As of September 2021, 53 households have been housed under the scheme in Auckland, Hamilton and Queenstown. HUD will shortly sign contracts with providers under for the most recently agreed loans, bringing the total number of contracted places to 216.

5. In August 2021, you approved a loan of up to $187 million to Kāinga Ora to deliver the First Home Partner pathway. This included the approval of delegations to the Chief Executive of HUD to implement this loan (BRF20/21071042 refers). The pathway went live on 5 October 2021. Funding is yet to be committed.

Loan 1: $585,000 to DGF

6. The proposed lending of up to $585,000 to DGF will be used to reimburse DGF for two new-build homes in Tauranga. The homes are part of a larger subdivision. One is a three-bedroom unit with a market valuation of $725,000, and the other is a five-bedroom unit with a market value of $780,000. HUD has confirmed that both homes meet the PHO Fund's eligible home criteria, and are already occupied by families in DGF's rent-to-buy programme.

7. DGF has offered to provide either a first ranking or second ranking mortgage security over the freehold titles of the properties being funded.

Loan 2: $2.725 million to Habitat NZ

8. The proposed lending of up to $2.725 million for Habitat NZ will support nine households into homeownership through supporting the development of nine rent-to-buy homes through Habitat NZ affiliates, with an average contribution of $302,000 per place. This comprises:

    - Six two-bedroom homes in Manurewa (Auckland) through Habitat for Humanity Northern, which has a conditional sale and purchase agreement on a turn-key arrangement with Built for Kiwis Limited (a subsidy of Mike Greer Commercial). Funding would be made available at the following milestones: 10% to cover a deposit payment once the contract to acquire the dwellings becomes unconditional, and 90% on completion of the houses.

    - One three-bedroom home in Rotorua through Habitat for Humanity Central (Habitat Central), which has a build agreement with Steel Frame Construction Limited for development on a Bellington Road site owned by Habitat Central. Funding would be made available at the following milestones: a 50% payment on 'Lock Up', and 50% on completion of the build contract. HUD has confirmed the affiliate has sufficient reserves to fund progress payment milestones through to completion.

    - Two three-bedroom homes in Christchurch through Habitat for Humanity Christchurch (Habitat Christchurch), which has a build contract with Naylor Love Canterbury Limited for development on a Rollesby Street site owned by Habitat Christchurch. Funding will be made available at the following milestones: 50% payment on 'Lock Up' and 50% on completion of the build contract.

9. While the loan facility is to Habitat NZ, HUD has advised that it will use three separate loan agreements (one for each affiliate). Each agreement will have Habitat NZ as the borrower and one affiliate as the security provider and guarantor. Security will be taken in the name of the Sovereign as required by section 65Q of the Public Finance Act.

10. The security from each affiliate consists of a limited recourse guarantee backed by a second mortgage over the properties purchased using the funds, as security for the loan. The limited recourse guarantee provides the link between the borrower (Habitat NZ) and each affiliate and limits the guarantee to the amount owed by Habitat NZ under the loan agreement.

Key loan terms of this proposed lending

11. The intent is for these loans to be repaid over a 15-year term. HUD has advised that the key terms of these loans will be the same as the loans agreed through Phase 1 and Phase 2 to date. These have been summarised below:

    - Loan facility/ies of up to the stated cap to acquire or develop the stated number of dwellings. Amount of funding per location and dwelling to be agreed on a case by case basis within the overall loan facility cap.

    - Dwellings to be used as part of an agreed home ownership support product by the borrower, recipients must be 18 years or older, a New Zealand citizen or permanent resident, and be a first home buyer or second chancer as agreed by Cabinet.

    - For any developments where the borrower first needs to acquire the land and construct the dwellings, to be drawn down in up to three development milestones:

at settlement of the acquisition of the land, when the dwelling is weathertight, and on practical completion. If the borrower already owns the land they want to develop, the loan is to be drawn down on two milestones: when the dwelling is weathertight, and on practical completion.

- For any turn-key developments where the borrower pays a deposit (to be held in a solicitor's trust account pending settlement), the funds are to be drawn down on two milestones: when payment of the deposit is due, and then on settlement of the sale of the dwelling to the borrower.
- Funds not disbursed for the purchase of a property for the benefit of a household within three months of drawdown must be repaid immediately.
- Funds held for six months from the sale of a property must be immediately repaid unless used to purchase another property for the benefit of a household as part of an agreed home ownership support product.
- Term of 15 years.
- All outstanding moneys are required to be repaid no later than 30 June 2037.
- Security will be taken by the Crown.
- No interest to be paid by the borrower unless in default.
- Default interest of five percent per annum will apply to outstanding amounts in the event of non-repayment of the loan after 15 years.
- Any capital gains made through application of the loan and retained by the borrower to be used for further progressive home ownership purposes.
- The Crown may assign any or all of its rights and obligations under any of the transaction documents to any person, but the borrowers can only do so with the agreement of the Crown.

Appropriation

12. Any lending under section 65L must be made from a capital expenditure appropriation, or other authority, approved by Parliament for the purpose.

13. This requirement for a capital expenditure appropriation is met: there is a suitable non-departmental capital expenditure appropriation for this purpose already established within Vote Housing and Urban Development.

Your power under section 65L of the Public Finance Act 1989 to give a loan on behalf of the Crown

14. Section 65L of the Public Finance Act (PFA) empowers you, as the Minister responsible for the administration of the Act, to give a loan to a person or organisation if it appears to you to be "necessary or expedient in the public interest" to do so, and to give such a loan on any terms and conditions that you think fit.

Officials' assessment is that the lending outlined in this report is "necessary or expedient in the public interest"

15. It is a matter for you to decide whether it appears to you that it is necessary or expedient in the public interest to lend money to Habitat NZ and DGF under the key loan terms under section 65L of the Public Finance Act 1989 (PFA). In making that assessment, you should consider the amount of the lending and the terms of the loan, including the risks of the lending, and of default.

16. The following paragraphs set out factors that officials consider are relevant to that assessment. You may decide to ignore these factors, or take into account other factors you consider relevant, and you may give weight to the factors referred to below as you deem fit. You are not bound to accept the assessment below: it is your subjective view that is important in deciding whether to make the loans, but your decision needs to be based on reasonable grounds.

17. In brief, we consider that it is open to you to form the view that the requested loans, on the key loan terms summarised, meet the "public interest test" in section 65L of the PFA.

Public interest

18. "Public interest" is not defined in the PFA, but its ordinary meaning can include the general welfare of a populace considered as warranting recognition or protection, or something in which the public (as a whole) has a stake. Public interest can also refer to a sub-section of the public – it need not refer to everyone. The High Court has accepted that it is too narrow to say that recognition of "private" humanitarian concerns (as in personal and particular to the individual) are not relevant to a public interest assessment.

Necessary or expedient

19. The words "necessary or expedient" take their ordinary meaning, and the word "expedient" as an alternative to "necessary" – "expedient" meaning "fitting, suitable, desirable or convenient" – conveys a relatively low threshold. In our opinion, it is open for you to take the view that making these loans is expedient in the public interest to ensure that the Fund can be successfully delivered and meet important public interest outcomes. You might also take the view that there is no current viable alternative to the Crown provision of loans for home ownership support without incurring additional fiscal costs and significantly delaying the implementation of a high priority Government housing initiative (providing for the outcomes as outlined in the benefits section below).

Benefits

20. The PHO Fund is a targeted initiative to increase opportunities for people to access home ownership who would not have otherwise been able to. An aim of the Fund is to address housing affordability issues for priority groups (including Māori, Pacific peoples, and families with children) who have an aspiration for home ownership in areas where housing affordability issues are most severe. Officials consider there is a public interest in promoting home ownership as a path to financial independence, security of tenure, and – in the case of this loan – supporting the construction of new homes (warm, dry, and secure).

21. *The proposed lending of up to $585,000 to DGF* will be used to reimburse DGF for two new-build homes in Tauranga, where affordable homes are increasingly needed: the

median house price in Tauranga is now $900,000 (REINZ Residential Statistics Report October 2021).

22. DGF is a registered not-for-profit based in the Bay of Plenty (BOP), and formerly operated as Habitat for Humanity BOP. We understand that a key benefit of this loan is that it would enable DGF to release capital for other affordable housing projects in the Bay of Plenty region. It would also support the sustainability of DGF as a recently-independent provider. We note this is a relatively small amount of funding, and would enable the provider to build trust with HUD (and position it well for undertaking future developments) while limiting the Crown's total exposure.

23. HUD has confirmed that both homes meet the PHO Fund's eligible home criteria, and are already occupied by families in DGF's rent-to-buy programme. We understand that one of these families has children with serious disabilities, which limit suitable housing options.

24. This loan would provide an average contribution of $292,500 per place. This is an increase from the average contribution of approximately $233,000 per Provider pathway place supported in Phase 1, but is less than the average contribution of approximately $331,000 per Provider pathway place supported through Phase 2 so far. We understand that this increase in the Crown's contribution is driven by rising house prices, and there is a real risk that as prices continue to increase, the number of households that the PHO Fund can support into homeownership will be reduced.

25. *The proposed lending of up to $2.725 million for Habitat NZ* will support households, who would otherwise likely be unable to buy their own homes, into homeownership through supporting the development of nine rent-to-buy homes through Habitat NZ affiliates, with an average contribution of $302,000 per place. This is made up of:

    - six two-bedroom homes in Manurewa (Auckland)
    - one three-bedroom home in Rotorua, and
    - two three-bedroom homes in Christchurch.

26. We understand that households for these homes are yet to be identified, but that the Habitat for Humanity Northern and Habitat for Humanity Central have referral partnerships with Penina Trust (a Pacific peoples Community Housing Provider) and Fordlands Community House to ensure that eligible households within the PHO Fund's priority cohorts (Māori, Pacific peoples and families with children) are identified. HUD has advised that Habitat for Humanity Christchurch will begin actively promoting this development to identify suitable households for these two homes shortly.

No current viable alternatives to a loan

27. As part of Phase 1, HUD officials considered whether there were viable alternatives to providing loans, including through grants, and concluded that loans were, on balance, the most feasible and cost-efficient option. Funding Phase 2 through loans is consistent with the approach taken in Phase 1.

Risks and mitigations

28. In deciding whether the provision of these loans is necessary or expedient in the public interest, you may also wish to consider potential risks, and whether the proposed mitigation measures are likely to be sufficient.

29. The maximum potential loss to the Crown for the DGF lending is the entirety of its value of $585,000.

30. The maximum potential loss to the Crown for the Habitat NZ lending is the entirety of its value of $2.725 million.

31. HUD has identified a number of risks associated with these loans, as well as mitigation measures for each applicable risk (see Annex B of the HUD briefing BRF21/22111189 and in Annex 1 of this report for your ease of reference). In relation to DGF, only item 1 applies due to the outstanding subdivision and the need to create separate unit titles for the properties. HUD has advised that it has put relevant mitigation measures in place. In relation to Habitat NZ, all the items apply. HUD has advised that it will implement the relevant mitigation measures and build clauses into the loan agreements to further reduce risk.

Assessment of risks and benefits against the public interest threshold

32. In light of the above, officials consider that it is open for you to take the view that loans to DGF and Habitat NZ on the key loan terms summarised in this report is necessary or expedient in the public interest as:

    a. there is a public interest in giving these loans as they will ensure that the Fund can be successfully delivered and meet important public interest outcomes, including addressing housing affordability issues for households (including Māori, Pacific peoples, and families with children) who have an aspiration for home ownership in areas where housing affordability issues are most severe;

    b. the benefits of the proposed loans appear to outweigh the risks when the mitigations in place to guard against the risk of the loans not being repaid are taken into account; and

    c. there are currently no viable alternatives to these loans when it comes to the provision of a fiscally-neutral progressive home ownership scheme by the Crown.

Delegation and sub-delegation of powers relating to the giving of these loans under the Public Finance Act

33. There are some decisions that may need to be taken over the life of these loan (for example, changes to security requirements throughout the development phase). For administrative simplicity, we recommend the Chief Executive of MHUD have the power to implement your decisions on the giving of any loan facility. This will include signing any loan agreement and other security documents on behalf of the Crown, making and receiving payments, taking security, and undertaking other acts or things required to exercise or perform the Crown's rights and obligations under or in relation to loan arrangements.

34. Under clause 5 of schedule 6 of the Public Service Act 2020, you are able to delegate your powers in sections 65L, 65O, and 65Q of the Public Finance Act 1989 to the Secretary to the Treasury. Under clause 2 of schedule 6 of the Public Service Act 2020, the Secretary to the Treasury is able to sub-delegate powers that you have delegated to another public service employee, provided that sub-delegation is approved by you.

35. The Chief Executive of MHUD is ultimately responsible for delivery of the scheme agreed by Cabinet and is, in our view, the appropriate holder of the sub-delegation given by the Secretary to the Treasury. This sub-delegation would not allow further sub-delegation below the Chief Executive of HUD (i.e. the Chief Executive of MHUD would not be able to delegate this power to anyone else).

36. The sub-delegation will be subject to the conditions that the key loan terms of the Grant and Loan Facility Agreement match those summarised in paragraph 11 above

Delegating approvals of future lending

37. To date, we have sought your approvals of, and subsequent delegations for, individual PHO Fund loans as needed. We are conscious that many of these loans are relatively small in quantum, and that funding for these loans has already been appropriated. As such, we recommend that in early 2022, we seek your overarching delegated approval to grant loans to PHO Fund providers up to a particular amount, subject to further work being completed on the quantum of delegated approvals, conditions of the approval, reporting requirements, and general workability.

Next steps

38. We recommend that you agree to the recommendations in this paper and sign the attached delegation instrument.

39. Should any of the key loan terms for any loan document summarised in this report be changed in a material way, the variances will be submitted to you for consideration before the relevant loan is executed.

40. We will seek your decision to delegate lending approvals to the CE of HUD in Q1 2022, subject to further analysis on risks and workability.

Annex 1: Risks

Risk	Mitigation
The PHO Provider becomes insolvent before completion of the dwellings	HUD completes appropriate due diligence checks on the PHO Provider before providing funding to ensure that: • asking them to undertake the activity will not create unmanageable solvency pressure on them • there are no underlying solvency issues that the PHO Provider needs to address. The covenant reporting requires the PHO Provider to reconfirm and regular intervals that the many warranties and representations that they have confirmed upon entry into the loan agreement.
The PHO Provider cannot find eligible persons to acquire the dwellings using their respective PHO Product, which means they still need to complete settlement of the purchase, but without all the Crown funding they anticipated.	Each PHO Provider provides regular reporting to HUD regarding the demand from eligible persons to buy the dwellings they are acquiring/constructing, which provides HUD with advance notice of demand. Our Grant and Loan Facility Agreements will milestone payments so that no payments will be made unless that demand is confirmed. HUD completes appropriate due diligence checks on the PHO Provider before providing funding to ensure that if the demand for all the dwellings earmarked for support through the Fund is not coming from persons eligible for the PHO scheme, they can confirm that they can complete the settlement of these property transactions with independent funding.
There is a downward shift in house prices between commencing and completing developments that may mean that the bank refuses to provide as much funding to the PHO Provider, which means that the PHO Provider needs to find additional funding to complete the settlements of the dwellings.	Considering the potential impact that COVID-19 may have on the property market, we are asking all PHO Providers (as part of our due diligence activities) to confirm the amount of contingency in their budgets for each site. We have also included a clause in our Grant and Loan Facility Agreement that if there is a sustained downward shift in property prices that is having a negative impact on their ability to offer dwellings to eligible persons using their PHO Product, the parties will meet to discuss options.
There is a significant upwards or downwards shift in house prices between commencing and completing developments that may cause an increase in the price of the house, that could result in the bank refusing to provide as much funding to the household as the bank initially pre-approved, which means: • for a shared equity product, either the price of the dwelling needs to reduce or the PHO Provider contribution towards the purchase price of the dwelling needs to increase, which likely means a longer time before the household can buy out the PHO Provider's share of the house. • for a Rent to Buy product, the household may need to stay 'renting' the property for a little longer before transitioning to outright ownership of the house.	We will actively assess this with the PHO Providers and will look to build in sufficient mitigation so that there is no loss of the government contribution and that households: • are not pushed towards negative equity (in a decreasing property market); or • can still afford to take full ownership of the house within the 15 years period of the Crown loan to the provider (in an increasing property market).

In a turn-key development, the landowner/developer becomes insolvent.	Ensure that any contracts that Phase 1 Providers enter to acquire turnkey land and dwelling packages include standard clauses that record that any money paid under that contract is paid to a solicitor's trust account and held as stakeholder for the landowner/developer and only released on settlement of the transaction. That is standard practice and protects any money the buyer pays from insolvency of the landowner/developer. The Grant and Loan Facility Agreement includes clauses that allow the PHO Provider to repay the money for that development to the Crown if it cannot be used for another 'approved' development within six months of the funding becoming available again (upon cancellation of the contract).
In a turn-key development, the landowner/developer uses a sunset clause to cancel the contract with the PHO Provider (eg in order to sell the dwelling for a higher price), which means the PHO Provider loses the houses in that development (but not their money).	The inclusion of sunset clauses can be beneficial and detrimental for PHO Providers. Beneficial if things are taking too long and they want to cancel their contract and get their money back. Detrimental if the sunset clause is used as described in the risk column. The inclusion of a sunset clause will be actively discussed with the PHO Provider. Including a clause that records that any money paid under that contract is paid to a solicitor's trust account and held as stakeholder for the landowner/developer and only released on settlement of the transaction, ensure that the only thing lost if time, not money. The Grant and Loan Facility Agreement includes clauses that allow the PHO Provider to repay the money for that development to the Crown if it cannot be used for another 'approved' development within six months of the funding becoming available again (upon cancellation of the contract).
Where a PHO Provider owns land and is contracting out construction, the PHO Provider and the building contractor fall out, or the building company becomes insolvent.	There will be some delay as the parties work through the contractual position, but the PHO Provider can ask another building company to complete the works. There will almost certainly be additional cost incurred as the PHO Provider finds an alternative building contractor. In that situation, the Crown requires the PHO Provider to: • advise via its regular progress reporting whether any issues with the building contractor are occurring, and if so, what action they are taking to resolve the situation • provide an updated cost to complete the dwellings, with an updated project plan, budget and timeline • confirm that any additional costs can either be passed on to the household via an increased sale price for the dwelling or that they can secure non-Crown funding to cover any cost increases.

TE TAI ŌHANGA
THE TREASURY

Treasury Report: 2022 Legislation Programme - Finance Portfolio

Date:	21 January 2022	**Report No:**	T2022/16
		File Number:	LA-8-1-5-2022

Action Sought

	Action Sought	Deadline
Hon Grant Robertson **Minister of Finance**	**Agree** to submit the attached Finance portfolio bids, in the order of priority set out in this report, for inclusion in the 2022 Legislation Programme.	10:00am on Friday, 28 January 2022 (the deadline for requests ('bids') from Ministers to be submitted to the Cabinet Office).

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
Luke Borthwick	Policy Support, Legal	N/A (wk)	s9(2)(g)(ii)	✓
Yi Nicholl	Deputy Treasury Solicitor and Manager, Legal	N/A (wk)		

Contact for Telephone Discussion about Individual Bills

Treasury Bills			
Name of Bill	**Contact Name**	**Position**	**Telephone**
Appropriation (2021/22 Supplementary Estimates) Bill	Simon Duncan	Manager, Budget Management	s9(2)(k)
Appropriation (2022/23 Estimates) Bill	Simon Duncan	Manager, Budget Management	
Imprest Supply (First for 2022/23) Bill	Simon Duncan	Manager, Budget Management	
Imprest Supply (Second for 2022/23) Bill	Simon Duncan	Manager, Budget Management	

Appropriation (2020/21 Confirmation and Validation) Bill	Simon Duncan	Manager, Budget Management	s9(2)(k)
Appropriation (2022/23 Supplementary Estimates) Bill	Simon Duncan	Manager, Budget Management	
Appropriation (2023/24 Estimates) Bill	Simon Duncan	Manager, Budget Management	
Imprest Supply (First for 2023/24) Bill	Simon Duncan	Manager, Budget Management	
Imprest Supply (Second for 2023/24) Bill	Simon Duncan	Manager, Budget Management	
Appropriation (2021/22 Confirmation and Validation) Bill	Simon Duncan	Manager, Budget Management	
s9(2)(f)(iv)			
Overseas Investment Act Amendment Bill	Sarah Key	Senior Analyst, International	
Reserve Bank of New Zealand Bills			
Financial Market Infrastructures (Distress Management) Amendment Bill	Victoria Learmonth	Manager, Dynamic Policy	
Deposit Takers Bill	David Hargreaves	Manager, Policy Projects	
Insurance (Prudential Supervision) Amendment Bill	Cavan O'Connor-Close	Manager, Financial Policy	

Actions for the Minister's Office staff (if required)

Check the Minister has signed and dated the covering letter.

Send a hard copy of the Finance portfolio bids (15 in total) and the signed covering letter to the Cabinet Office reception (for attention of the Legislation Coordinator) by 10.00am on Friday 28 January 2022. (The Minister does not need to sign each individual bid; he only needs to sign the covering letter).

Return the signed report and a copy of the signed covering letter to the Treasury.

Note that the Treasury will send electronic copies of all the bids and the covering letter to the Legislation Coordinator in the Cabinet Office, as required by CO (21) 1.

Refer relevant parts of this report to relevant Associate Ministers at the Minister's discretion; in particular noting that Minister Parker has delegations for overseas investment policy.

Note any feedback on the quality of the report	

Enclosure: Yes (attached)

Treasury Report: 2022 Legislation Programme - Finance Portfolio

Executive Summary

Cabinet Office Circular CO (21) 1 invited all Minsters to submit requests ("bids") to the Cabinet Office for bills to be included in the 2022 Legislation Programme by 10:00am on Friday 28 January 2022.

CO (21) 1 asks Ministers to consider legislative priorities not only for the 2022 parliamentary year, but also signal their highest priority legislative intentions for the entirety of the remained of the 53rd Parliament. Where a Minister is submitting more than one bid in a portfolio, the covering letter must rank all bids for legislation in the 53rd Parliament in that portfolio.

This report recommends that you approve the attached 15 bids relating to the Finance Portfolio and requests that you sign and submit to the Cabinet Office the attached covering letter to have the bids included in the 2022 Legislative Programme.

The Treasury is responsible for 12 of the bids:

1. Appropriation (2021/22 Supplementary Estimates) Bill
2. Appropriation (2022/23 Estimates) Bill
3. Imprest Supply (First for 2022/23) Bill
4. Imprest Supply (Second for 2022/23) Bill
5. Appropriation (2020/21 Confirmation and Validation) Bill
6. Appropriation (2022/23 Supplementary Estimates) Bill
7. Appropriation (2023/24 Estimates) Bill
8. Imprest Supply (First for 2023/24) Bill
9. Imprest Supply (Second for 2023/24) Bill
10. Appropriation (2021/22 Confirmation and Validation) Bill

s9(2)(f)(iv)

12. Overseas Investment Act Amendment Bill

The Reserve Bank of New Zealand is responsible for three of the bids:

13. Deposit Takers Bill
14. Insurance (Prudential Supervision) Amendment Bill
15. Financial Market Infrastructures (Distress Management) Amendment Bill

Recommended Action

We recommend that you:

a **note** that the Cabinet Office Circular CO (21) 1 invited all Ministers to submit requests for bills to be included in the 2022 Legislation Programme. The requests must be delivered to the Cabinet Office by 10.00am on Friday 28 January 2022;

b **note** that the legislation bids for appropriation and imprest supply legislation are in a different format to other legislation bids and that this format has been previously agreed with the Cabinet Office;

c **agree** that the Finance portfolio bids will be ranked as follows:

Bill	**PCO Priority Requested**	**Ranking Within Portfolio**
Appropriation (2021/22 Supplementary Estimates) Bill	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Appropriation (2022/23 Estimates) Bill	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Imprest Supply (First for 2022/23) Bill	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Imprest Supply (Second for 2022/23) Bill	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Appropriation (2020/21 Confirmation and Validation) Bill	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Appropriation (2022/23 Supplementary Estimates) Bill	For 2023: 1 (must be passed as a matter of law in 2023)	1=
Appropriation (2023/24 Estimates) Bill	For 2023: 1 (must be passed as a matter of law in 2023)	1=
Imprest Supply (First for 2023/24) Bill	For 2023: 1 (must be passed as a matter of law in 2023)	1=
Imprest Supply (Second for 2023/24) Bill	For 2023: 1 (must be passed as a matter of law in 2023)	1=

Appropriation (2021/22 Confirmation and Validation) Bill	For 2023: 1 (must be passed as a matter of law in 2023)	1=
s9(2)(f)(iv)		
Overseas Investment Act Amendment Bill	For 2022: 3 (to be passed in the year if possible)	3
Deposit Takers Bill	s9(2)(f)(iv)	
Insurance (Prudential Supervision) Amendment Bill	s9(2)(f)(iv)	
Financial Market Infrastructures (Distress Management) Amendment Bill	s9(2)(f)(iv)	

Yi Nicholl
Deputy Treasury Solicitor and Manager, Legal

Hon Grant Robertson
Minister of Finance

Treasury Report: 2022 Legislation Programme - Finance Portfolio

Purpose of Report

1. This report attaches 15 bids relating to the Finance portfolio for your consideration and recommends that you sign and submit to the Cabinet Office the attached covering letter to have them included in the 2022 Legislation Programme. 12 bids relate to bills for which the Treasury is responsible and three bids relate to bills for which the Reserve Bank of New Zealand is responsible.

Analysis

2. Cabinet Office Circular CO (21) 1 invited all Ministers to submit requests ("bids") for bills to be included in the 2022 Legislation Programme. Bids must be delivered to the Cabinet Office by 10.00am on Friday 28 January 2022. Ministers are required to assign their bids a priority, depending on how quickly bills are intended to progress.

3. CO (21) 1 asks Ministers to consider legislative priorities not only for the 2022 parliamentary year, but also signal their highest priority legislative intentions for the entirety of the remained of the 53rd Parliament. Where a Minister is submitting more than one bid in a portfolio, the covering letter must rank all bids for legislation in the 53rd Parliament in that portfolio.

4. The bids for appropriation and imprest supply legislation are in a different format to the other legislation bids. This is a simplified template and has been previously agreed to by the Legislation Coordinator in the Cabinet Office.

5. Where a Minister is submitting more than one bid in a portfolio, the Minister must submit the bids under a covering letter. The covering letter must rank all the bids in the portfolio. The following table explains the proposed bids in the Finance portfolio and ranks them in a suggested order within the portfolio:

Bill	**Explanation**	**PCO Priority Requested**	**Ranking Within Portfolio**
Appropriation (2021/22 Supplementary Estimates) Bill	This Bill seeks Parliament's approval for changes to appropriations the Government has decided since the Appropriation (2021/22 Estimates) Act was finalised for introduction. In the meantime, the changes will have been met under Imprest Supply.	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Appropriation (2022/23 Estimates) Bill	This Bill seeks Parliament's approval	For 2022: 1 (must be passed	1=

	for each line item of Government spending as set out in the Estimates of Appropriations for 2022/23.	as a matter of law in 2022)	
Imprest Supply (First for 2022/23) Bill	This Bill provides the sole financial authority from the start of the 2022/2023 financial year until the Appropriation (2022/23 Estimates) Bill is passed.	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Imprest Supply (Second for 2022/23) Bill	This Bill will provide the financial authority required to ensure the Government has sufficient supply until 30 June 2023 for decisions taken after the Appropriation (2022/2023 Estimates) Bill is passed.	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Appropriation (2020/21 Confirmation and Validation) Bill	This Bill will confirm and validate financial matters and other unappropriated expenses for the financial year ending 30 June 2021.	For 2022: 1 (must be passed as a matter of law in 2022)	1=
Appropriation (2022/23 Supplementary Estimates) Bill	This Bill seeks Parliament's approval for changes to appropriations the Government has decided since the Appropriation (2022/23 Estimates) Act was finalised for introduction. In the meantime, the changes will have been met under Imprest Supply.	For 2023: 1 (must be passed as a matter of law in 2023)	1=
Appropriation (2023/24 Estimates) Bill	This Bill seeks Parliament's approval for each line item of Government spending as set out in the Estimates of Appropriations for 2023/24.	For 2023: 1 (must be passed as a matter of law in 2023)	1=
Imprest Supply (First for 2023/24) Bill	This Bill provides the sole financial authority	For 2023: 1 (must be passed	1=

	from the start of the 2021/2022 financial year until the Appropriation (2023/24 Estimates) Bill is passed.	as a matter of law in 2023)	
Imprest Supply (Second for 2023/24) Bill	This Bill will provide the financial authority required to ensure the Government has sufficient supply until 30 June 2024 for decisions taken after the Appropriation (2022/2023 Estimates) Bill is passed.	For 2023: 1 (must be passed as a matter of law in 2023)	1=
Appropriation (2021/22 Confirmation and Validation) Bill	This Bill will confirm and validate financial matters and other unappropriated expenses for the financial year ending 30 June 2022.	For 2023: 1 (must be passed as a matter of law in 2023)	1=
s9(2)(f)(iv)			
Overseas Investment Act Amendment Bill	Amends the Forestry related provisions in the Overseas Investment Act 2005	For 2022: 3 (to be passed in the year if possible)	3
Deposit Takers Bill	The Deposit Takers Bill will modernise the framework for the prudential regulation and supervision of deposit taking institutions (such as banks and non-bank deposit takers) by the Reserve Bank of New Zealand. It will also establish a Depositor Compensation Scheme	s9(2)(f)(iv)	

	that will compensate eligible depositors on the occurrence of a payout event.		
Insurance (Prudential Supervision) Amendment Bill	The Bill will amend the Insurance (Prudential Supervision) Act 2010	s9(2)(f)(iv)	
Financial Market Infrastructures (Distress Management) Amendment Bill	Amends the Financial Market Infrastructure Act 2021		

6. CO (21) 1 asks Ministers to approach their proposals in light of the Government's overall priorities and coalition arrangements. This includes ensuring that timeframes allow for adequate consultation with coalition parties from an early stage, if necessary.

7. The ranking of bids within the Finance portfolio is a decision for you, and the suggested order (set out above) is for you to review and decide on. The order has been suggested taking into account the Government's overall priorities, coalition agreements and proposed timelines.

8. Please note CO (21) 1 asks Ministers to consider legislative priorities not only for the 2022 parliamentary year, but also signal their highest priority legislative intentions for the entirety of the remained of the 53rd Parliament. This means some bills intended for 2023 are included. These are marked as being "For 2023" in the table above.

Next Steps

9. Once you have signed and dated the covering letter, your office will need to submit the letter and one hard copy of each bid to the Legislation Coordinator in the Cabinet Office.

10. The Treasury will provide the Legislation Coordinator with an electronic copy of the bids and the letter, as required by Cabinet Office Circular CO (21) 1.

11. You may wish to consider referring this report to relevant Associate Ministers, noting that Minister Parker has delegation for overseas investment policy.

Office of the Minister of Finance

Cabinet Legislation Committee

Appropriation (2021/22 Supplementary Estimates) Bill: Request for priority in the 2022 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Appropriation (2021/22 Supplementary Estimates) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. The Appropriation (2021/22 Supplementary Estimates) Bill seeks Parliament's approval for changes to appropriations the Government has decided on since the Appropriation (2021/22 Estimates) Bill was finalised for introduction. In the meantime the increases will have been met under imprest supply.

2. It is not known whether any aspects of the Bill are likely to be contentious. However, all Appropriation Bills raise issues of confidence.

3. The contents of the 2021/22 Supplementary Estimates will be finalised during the 2022 Budget process.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all expenditure to be in accordance with an appropriation or other statutory authority.

5. The suggested priority is category 1. It is essential that legislation be enacted in the 2021/22 financial year because expenditure under imprest supply must be appropriated in an Appropriation Act before the end of the financial year.

Timeline

6. The proposed timing for the legislation is as follows:

Step	Proposed Date	Consistency Assurance
Policy approvals obtained from Cabinet	April 2022	Happens as part of the 2022 Budget process
Final drafting instructions given to PCO	Late April 2022	
Introduction	Budget Day (customarily May)	
First Reading	After Budget Day	SO 351(1)
Report Back from Select Committee	N/A	SO 296(2), SO 350
Enactment	Before 30 June 2022	
Commencement	Before 30 June 2022	

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Appropriation (2021/22 Supplementary Estimates) Bill will seek Parliament's approval for changes to appropriations the Government has decided on since the Appropriation (2021/22 Estimates) Bill was finalised for introduction;

b **approve** the inclusion of the Appropriation (2021/22 Supplementary Estimates) Bill in the 2022 legislation programme, with a priority of 1 – must be passed as a matter of law in 2022;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by late April 2022;

d **note** that the Bill should be introduced no later than Budget Day 2022; and

e **note** that the Bill should be passed no later than late June 2022.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Appropriation (2022/23 Estimates) Bill: Request for Priority in the 2022 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Appropriation (2022/23 Estimates) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. The Appropriation (2022/23 Estimates) Bill seeks Parliament's approval for each line item of Government spending as set out in the Estimates of Appropriations for 2022/23.

2. It is not known whether any aspects of the Bill are likely to be contentious. However, all Appropriation Bills raise issues of confidence.

3. Appropriations will be decided by Cabinet during the 2022 Budget process.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all Government expenditure to be in accordance with an appropriation or other statutory authority.

5. The suggested priority is category 1. It is essential that legislation be enacted in 2022. Non-passage would result in the Crown being unable to spend public money and incur expenses and capital expenditure.

Timeline

Step	Proposed Date	Consistency Assurance
Policy approvals obtained from Cabinet	April 2022	The Budget is customarily delivered in May.

Final Drafting instructions given to PCO	Late April 2022	
Introduction	May 2022 (Budget Day)	Required by law to be introduced by 31 July (s12 PFA).
First Reading	May 2022 (Budget Day)	SO 341(2)
Report Back from Select Committee	N/A	SO 296(2)
Enactment	September 2022	SO 349 requires the debate on the question for the third reading of the main Appropriation Bill to be completed within four months after Budget day.
Commencement	September 2022	Day after Royal assent

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Appropriation (2022/23 Estimates) Bill will seek Parliament's approval for each line item of Government spending as set out in the Estimates of Appropriations for 2022/23.

b **approve** the inclusion of the Appropriation (2022/23 Estimates) Bill in the 2022 legislation programme, with a priority of 1 – must be passed as a matter of law in 2022;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by late April 2022;

d **note** that the Bill should be introduced on Budget Day 2022; and

e **note** that the Bill should be passed no later than four months after Budget Day 2022.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Imprest Supply (First for 2022/23) Bill: Request for Priority in the 2022 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Imprest Supply (First for 2022/23) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. This Imprest Supply Bill provides the sole financial authority from the start of the 2022/23 financial year until the Appropriation (2022/23 Estimates) Bill is passed and comes into force.

2. All imprest supply bills automatically raise issues of confidence.

3. The contents of the Imprest Supply (First for 2022/23) Bill will be finalised in June 2022.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all expenditure to be in accordance with an appropriation or other statutory authority.

5. The suggested priority is category 1. It is essential that legislation be enacted in the period under consideration because non-passage would result in the Crown being unable to expend public money or incur expenses for Government policies from 1 July 2022.

Timeline

Step	Proposed Date	Consistency Assurance
Policy approvals obtained from Cabinet	N/A	
Final Drafting instructions given to PCO	Early June 2022	

Introduction	June 2022	
First Reading	June 2022	
Report Back from Select Committee	N/A	SO 296(2)
Enactment	Before 30 June 2022	Must occur before the beginning of new financial year
Commencement	1 July 2022	1 July 2022

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Imprest Supply (First for 2022/23) Bill will provide interim supply for the first few months of the 2022/23 financial year in advance of the passing and coming into force of the Appropriation (2022/23 Estimates) Bill.

b **approve** the inclusion of the Imprest Supply (First for 2022/23) Bill in the 2022 legislation programme, with a priority of 1 – must be passed as a matter of law in 2022;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by early June 2022;

d **note** that the Bill should be introduced no later than June 2022; and

e **note** that the Bill should be passed with the Appropriation (2022/23 Supplementary Estimates) Bill no later than the end of June 2022.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Imprest Supply (Second for 2022/23) Bill: Request for Priority in the 2022 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Imprest Supply (Second for 2022/23) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. The Bill will provide the financial authority required to ensure the Government has sufficient supply until 30 June 2023 for decisions taken after the Appropriation (2022/23 Estimates) Bill is finalised.

2. All imprest supply bills automatically raise issues of confidence.

3. The contents of the Imprest Supply (Second for 2022/23) Bill will be finalised in August 2022.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all Government expenditure to be in accordance with an appropriation or other statutory authority.

5. The suggested priority is category 1. It is essential that legislation be enacted in the period under consideration because non-passage would result in the Crown being unable to spend public money or incur expenses for Government policies not provided for in the 2022/23 Estimates.

Timeline

Date	Proposed Step	Consistency Assurance
Policy approvals obtained from Cabinet	N/A	

Final Drafting instructions given to PCO	August 2022	
Introduction	September 2022	
First Reading	September 2022	SO 339(2)
Report Back from Select Committee	N/A	SO 296(2) and 339(1)
Enactment	With the Appropriation (2022/23 Estimates) Bill	
Commencement	With the Appropriation (2022/23 Estimates) Bill	Day after receiving Royal Assent

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Imprest Supply (Second for 2022/23) Bill will provide interim supply for decisions taken after the Appropriation (2022/23 Estimates) Bill is finalised;

b **approve** the inclusion of the Imprest Supply (Second for 2022/23) Bill in the 2022 legislation programme, with a priority of 1 – must be passed as a matter of law in 2022;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by late August 2022;

d **note** that the Bill should be introduced no later than September 2022; and

e **note** that the Bill should be passed with the Appropriation (2022/23 Estimates) Bill no later than four months after Budget Day 2022.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Appropriation (2020/21 Confirmation and Validation) Bill: Request for Priority in the 2022 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Appropriation (2020/21 Confirmation and Validation) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. This Bill will confirm and validate financial matters and other unappropriated expenses for the financial year ending 30 June 2021. It can also include unappropriated expenses for earlier years.

2. This Bill is unlikely to be contentious. However, all appropriation bills raise issues of confidence.

3. The contents of the Appropriation (2020/21 Confirmation and Validation) Bill will be finalised in early February 2022.

Need for legislation

4. Legislative action is needed to
    a. confirm the making of the Public Finance (Transfer between Outputs) Order 2021, under section 26A of the Public Finance Act 1989 (which authorises the Governor-General, by Order in Council, to direct limited fiscally neutral transfers between output expense appropriations or multi-category appropriations that include only categories of output expenses within the same Vote)

    b. confirm the unappropriated expenses and capital expenditure approved by the Minister of Finance under section 26B of the Public Finance Act 1989, and

    c. validate, as required by section 26C of the Public Finance Act 1989, expenses and capital expenditure that are not appropriated and not approved under section 26B.

d. validate as required by section 26CA of the Public Finance Act 1989 capital injections that have not been authorised by Parliament.

4. The suggested priority is category 1. It is essential that legislation be introduced by 2022 because non-passage would result in the Crown being in breach of the law

Timeline

Step	Proposed Date	Consistency Assurance
Policy approvals obtained from Cabinet	N/A	
Final Drafting instructions given to PCO	Early February 2022	
Introduction	February 2022	
First Reading	March 2022	SO 355(2)
Report Back from Select Committee	N/A	SO 296(2), SO 356
Enactment	Before Budget Day 2022	SO 357(5) and 358.
Commencement	Before Budget Day 2022	Day after receiving Royal Assent.

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Appropriation (2020/21 Confirmation and Validation) Bill will confirm and validate financial matters for the financial year ending 30 June 2021 and other unappropriated expenses.

b **approve** the inclusion of the Appropriation (2020/21 Confirmation and Validation) Bill in the 2022 legislation programme, with a priority of 1 – must be passed as a matter of law in 2022;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by early February 2022;

d **note** that the Bill should be introduced no later than February 2022; and

e **note** that the Bill should be passed before Budget Day 2022.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Appropriation (2022/23 Supplementary Estimates) Bill: Request for Priority in the 2023 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Appropriation (2022/23 Supplementary Estimates) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. The Appropriation (2022/23 Supplementary Estimates) Bill seeks Parliament's approval for changes to appropriations the Government has decided on since the Appropriation (2022/23 Estimates) Bill was finalised for introduction. In the meantime the increases will have been met under imprest supply.

2. It is not known whether any aspects of the Bill are likely to be contentious. However, all appropriation bills raise issues of confidence.

3. The contents of the Appropriation (2022/23 Supplementary Estimates) Bill will be finalised during the 2023 Budget process.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all expenditure to be in accordance with an appropriation or other statutory authority.

5. The suggested priority is category 1. It is essential that legislation be enacted in the 2022/23 financial year because expenditure under imprest supply must be appropriated in an appropriation Act before the end of the financial year.

Timeline

The proposed timing for the legislation is as follows:

Step	Proposed Date	Consistency Assurance
Policy approvals obtained from Cabinet	April 2023	Happens as part of the 2023 Budget process
Final drafting instructions given to PCO	Late April 2023	
Introduction	Budget Day (customarily May)	
First Reading	After Budget Day	SO 351(1)
Report Back from Select Committee	N/A	SO 296(2), SO 350
Enactment	Before 30 June 2023	
Commencement	Before 30 June 2023	

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Appropriation (2022/23 Supplementary Estimates) Bill will seek Parliament's approval for changes to appropriations the Government has decided on since the Appropriation (2022/23 Estimates) Bill was finalised for introduction;

b **approve** the inclusion of the Appropriation (2022/23 Supplementary Estimates) Bill in the 2023 legislation programme, with a priority of 1 – must be passed as a matter of law in 2023;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by late April 2023;

d **note** that the Bill should be introduced no later than Budget Day 2023; and

e **note** that the Bill should be passed no later than late June 2023.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Appropriation (2023/24 Estimates) Bill: Request for Priority in the 2023 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Appropriation (2023/24 Estimates) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. The Appropriation (2023/24 Estimates) Bill seeks Parliament's approval for each line item of Government spending as set out in the Estimates of Appropriations for 2023/24.

2. It is not known whether any aspects of the Bill are likely to be contentious. However, all Appropriation Bills raise issues of confidence.

3. Appropriations will be decided by Cabinet during the 2023 Budget process.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all Government expenditure to be in accordance with an appropriation or other statutory authority.
5. The suggested priority is category 1. It is essential that legislation be enacted in 2023. Non-passage would result in the Crown being unable to spend public money and incur expenses and capital expenditure.

Timeline

Step	**Proposed Date**	**Consistency Assurance**
Policy approvals obtained from Cabinet	April 2023	The Budget is customarily delivered in May.

Final Drafting instructions given to PCO	Late April 2023	
Introduction	May 2023 (Budget Day)	Required by law to be introduced by 31 July (s12 PFA).
First Reading	May 2023 (Budget Day)	SO 341(2)
Report Back from Select Committee	N/A	SO 296(2)
Enactment	September 2023	SO 349 requires the debate on the question for the third reading of the main Appropriation Bill to be completed within four months after Budget day.
Commencement	September 2023	Day after Royal assent

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Appropriation (2023/24 Estimates) Bill will seek Parliament's approval for each line item of Government spending as set out in the Estimates of Appropriations for 2023/24.

b **approve** the inclusion of the Appropriation (2023/24 Estimates) Bill in the 2023 legislation programme, with a priority of 1 – must be passed as a matter of law in 2023;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by late April 2023;

d **note** that the Bill should be introduced on Budget Day 2023; and

e **note** that the Bill should be passed no later than four months after Budget Day 2023.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Imprest Supply (First for 2023/24) Bill: Request for Priority in the 2023 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Imprest Supply (First for 2023/24) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. This Imprest Supply Bill provides the sole financial authority from the start of the 2023/24 financial year until the Appropriation (2023/24 Estimates) Bill is passed and comes into force.

2. All imprest supply bills automatically raise issues of confidence.

3. The contents of the Imprest Supply (First for 2023/24) Bill will be finalised in June 2023.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all expenditure to be in accordance with an appropriation or other statutory authority.

5. The suggested priority is category 1. It is essential that legislation be enacted in the period under consideration because non-passage would result in the Crown being unable to expend public money or incur expenses for Government policies from 1 July 2023.

Timeline

Step	Proposed Date	Consistency Assurance
Policy approvals obtained from Cabinet	N/A	

Final Drafting instructions given to PCO	Early June 2023	
Introduction	June 2023	
First Reading	June 2023	
Report Back from Select Committee	N/A	SO 296(2)
Enactment	Before 30 June 2023	Must occur before the beginning of new financial year
Commencement	1 July 2023	1 July 2023

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Imprest Supply (First for 2023/24) Bill will provide interim supply for the first few months of the 2023/24 financial year in advance of the passing and coming into force of the Appropriation (2023/24 Estimates) Bill.

b **approve** the inclusion of the Imprest Supply (First for 2023/24) Bill in the 2023 legislation programme, with a priority of 1 – must be passed as a matter of law in 2023;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by early June 2023;

d **note** that the Bill should be introduced no later than June 2023; and

e **note** that the Bill should be passed with the Appropriation (2023/24 Supplementary Estimates) Bill no later than the end of June 2023.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Imprest Supply (Second for 2023/24) Bill: Request for Priority in the 2023 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Imprest Supply (Second for 2023/24) Bill
Proposed ranking	1st equal
Small/Medium/Large	Small
Complexity of clauses	Low
Priority	1=

Policy

1. The Bill will provide the financial authority required to ensure the Government has sufficient supply until 30 June 2024 for decisions taken after the Appropriation (2023/24 Estimates) Bill is finalised.

2. All imprest supply bills automatically raise issues of confidence.

3. The contents of the Imprest Supply (Second for 2023/24) Bill will be finalised in August 2023.

Need for legislation

4. Legislative action is needed to implement the policy because section 22 of the Constitution Act 1986 and section 4 of the Public Finance Act 1989 require all Government expenditure to be in accordance with an appropriation or other statutory authority.

5. The suggested priority is category 1. It is essential that legislation be enacted in the period under consideration because non-passage would result in the Crown being unable to spend public money or incur expenses for Government policies not provided for in the 2023/24 Estimates.

Timeline

Date	Proposed step	Consistency assurance

Policy approvals obtained from Cabinet	N/A	
Final Drafting instructions given to PCO	August 2023	
Introduction	September 2023	
First Reading	September 2023	SO 339(2)
Report Back from Select Committee	N/A	SO 296(2) and 339(1)
Enactment	With the Appropriation (2023/24 Estimates) Bill	
Commencement	With the Appropriation (2023/24 Estimates) Bill	Day after receiving Royal Assent

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Imprest Supply (Second for 2023/24) Bill will provide interim supply for decisions taken after the Appropriation (2023/24 Estimates) Bill is finalised;

b **approve** the inclusion of the Imprest Supply (Second for 2023/24) Bill in the 2023 legislation programme, with a priority of 1 – must be passed as a matter of law in 2023;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by late August 2023;

d **note** that the Bill should be introduced no later than September 2023; and

e **note** that the Bill should be passed with the Appropriation (2023/24 Estimates) Bill no later than four months after Budget Day 2023.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

Cabinet Legislation Committee

Appropriation (2021/22 Confirmation and Validation) Bill: Request for Priority in the 2023 Legislation Programme

Summary

Minister	Finance
Department	The Treasury
Department Contact	Simon Duncan, Manager – Budget Management, s9(2)(k)
Title	Appropriation (2021/22 Confirmation and Validation) Bill
Proposed Ranking	1st equal
Small/Medium/Large	Small
Complexity of Clauses	Low
Priority	1=

Policy

1. The Bill confirms and validates financial matters for the financial year ending 30 June 2022 and other unappropriated expenses.

2. It is unlikely that any aspects of the Bill will be contentious. However, all appropriation bills raise issues of confidence.

3. The contents of the 2021/22 Confirmation and Validation Bill will be finalised in early February 2023.

Need for legislation

4. Legislative action is needed to

   a confirm the making of the Public Finance (Transfer between Outputs) Order 2022, under section 26A of the Public Finance Act 1989 (which authorises the Governor-General, by Order in Council, to direct limited fiscally neutral transfers between output expense appropriations within the same Vote)

   b confirm the unappropriated expenses and capital expenditure approved by the Minister of Finance under section 26B of the Public Finance Act 1989, and

   c validate, as required by section 26C of the Public Finance Act 1989, expenses and capital expenditure that are not appropriated and not approved under section 26B.

   d validate as required by section 26CA of the Public Finance Act 1989 capital injections that have not been authorised by Parliament.

5. The suggested priority is category 1. It is essential that legislation be enacted in 2023 because non-passage would result in the Crown being in breach of the law.

Timeline

Date	Proposed Step	Consistency Assurance
Policy approvals obtained from Cabinet	N/A	
Final Drafting instructions given to PCO	Early February 2023	
Introduction	February 2023	SO 355(2)
First Reading	March 2023	SO 355(2)
Report Back from Select Committee	N/A	SO 296(2), SO 356
Enactment	Before Budget Day 2023	SO 357(5) and 358.
Commencement	Before Budget Day 2023	Day after receiving Royal Assent

Recommendations

The Minister of Finance recommends that the committee:

a **note** that the Appropriation (2021/22 Confirmation and Validation) Bill confirms and validates financial matters for the financial year ending 30 June 2022 and other unappropriated expenses;

b **approve** the inclusion of the Appropriation (2021/22 Confirmation and Validation) Bill in the 2023 legislation programme, with a priority of 1 – must be passed as a matter of law in 2023;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by early February 2023;

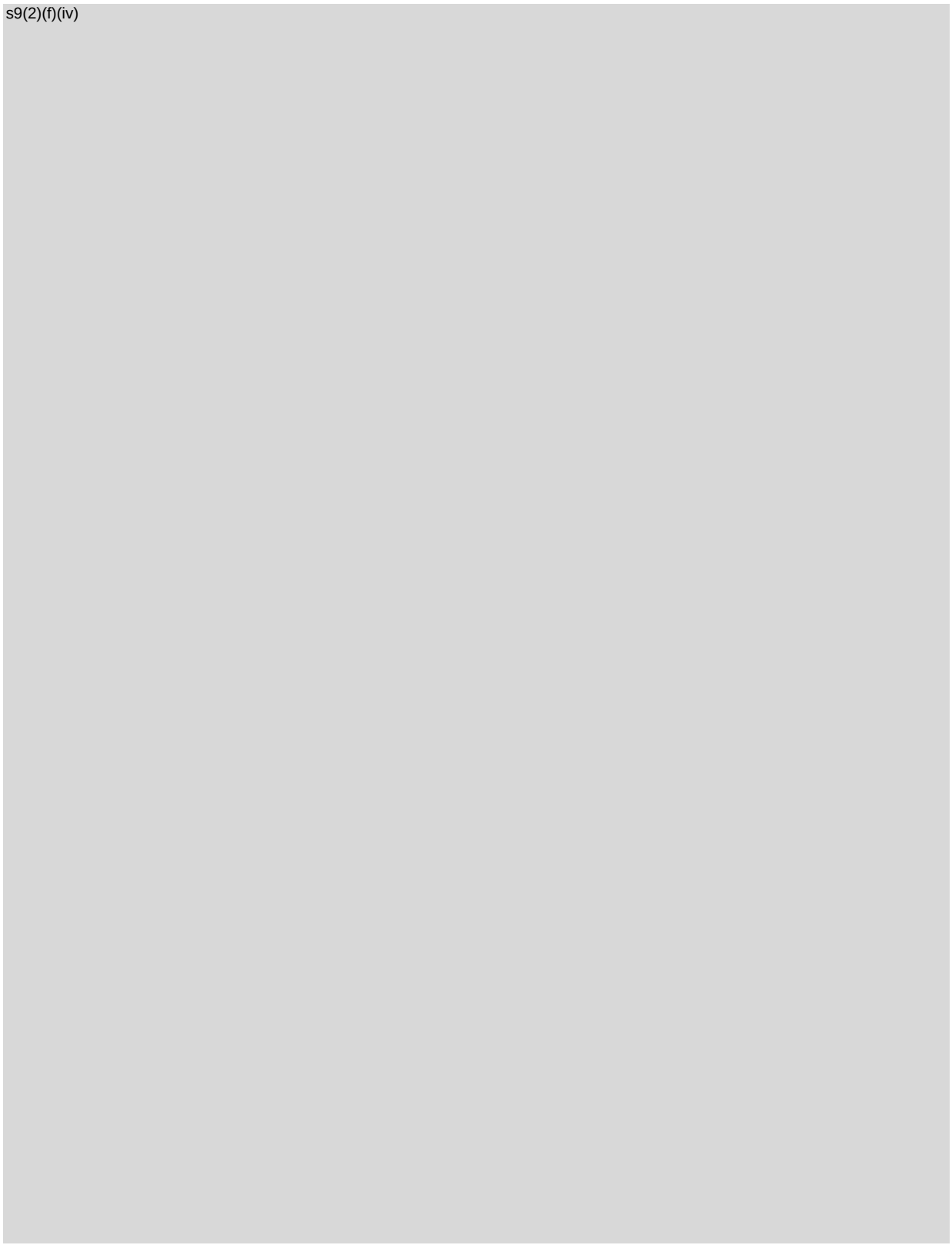
d **note** that the Bill should be introduced no later than February 2023 and

e **note** that the Bill should be passed before Budget Day 2023.

Hon Grant Robertson
Minister of Finance

Office of the Minister of Finance

s9(2)(f)(iv)



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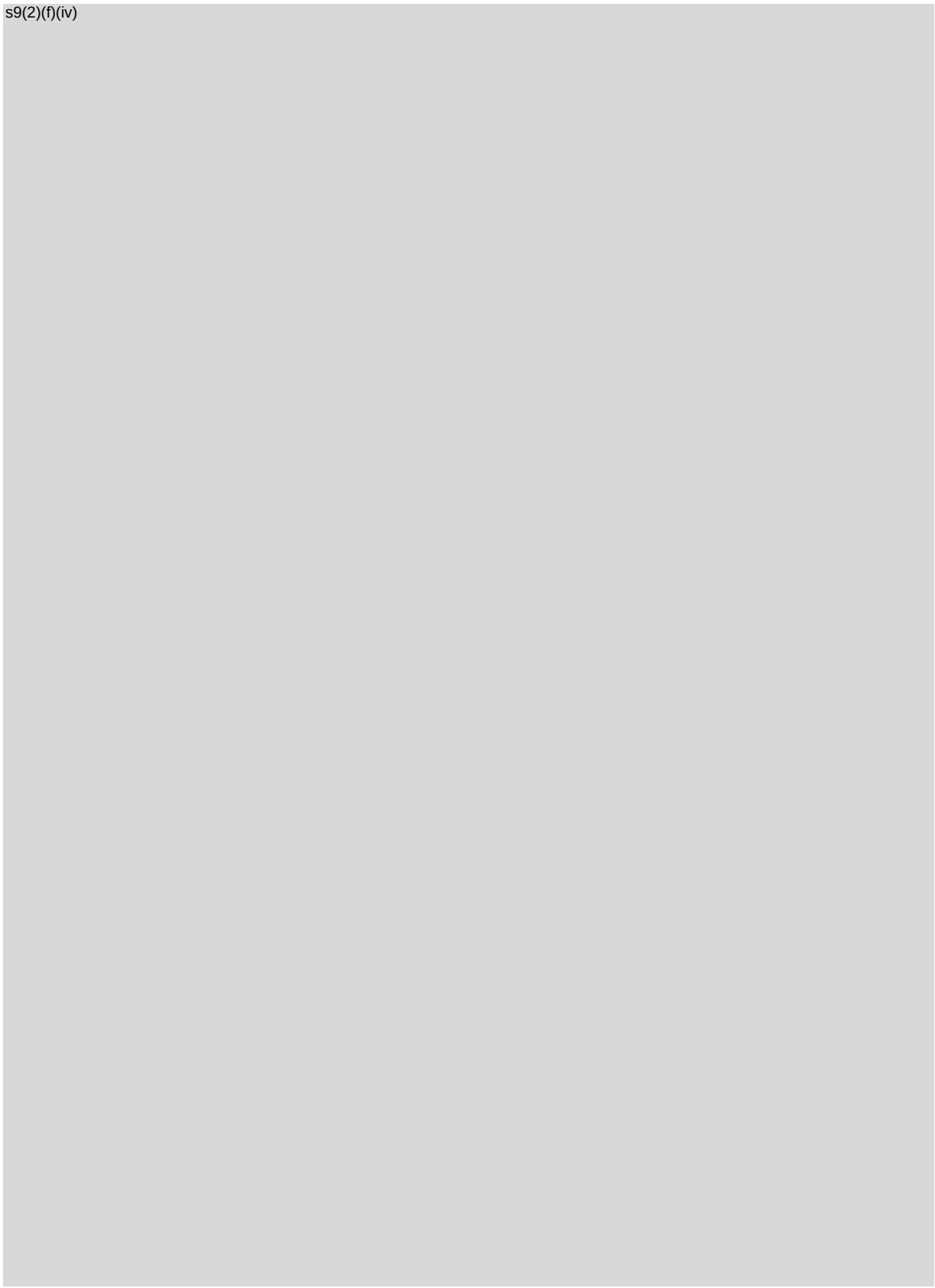

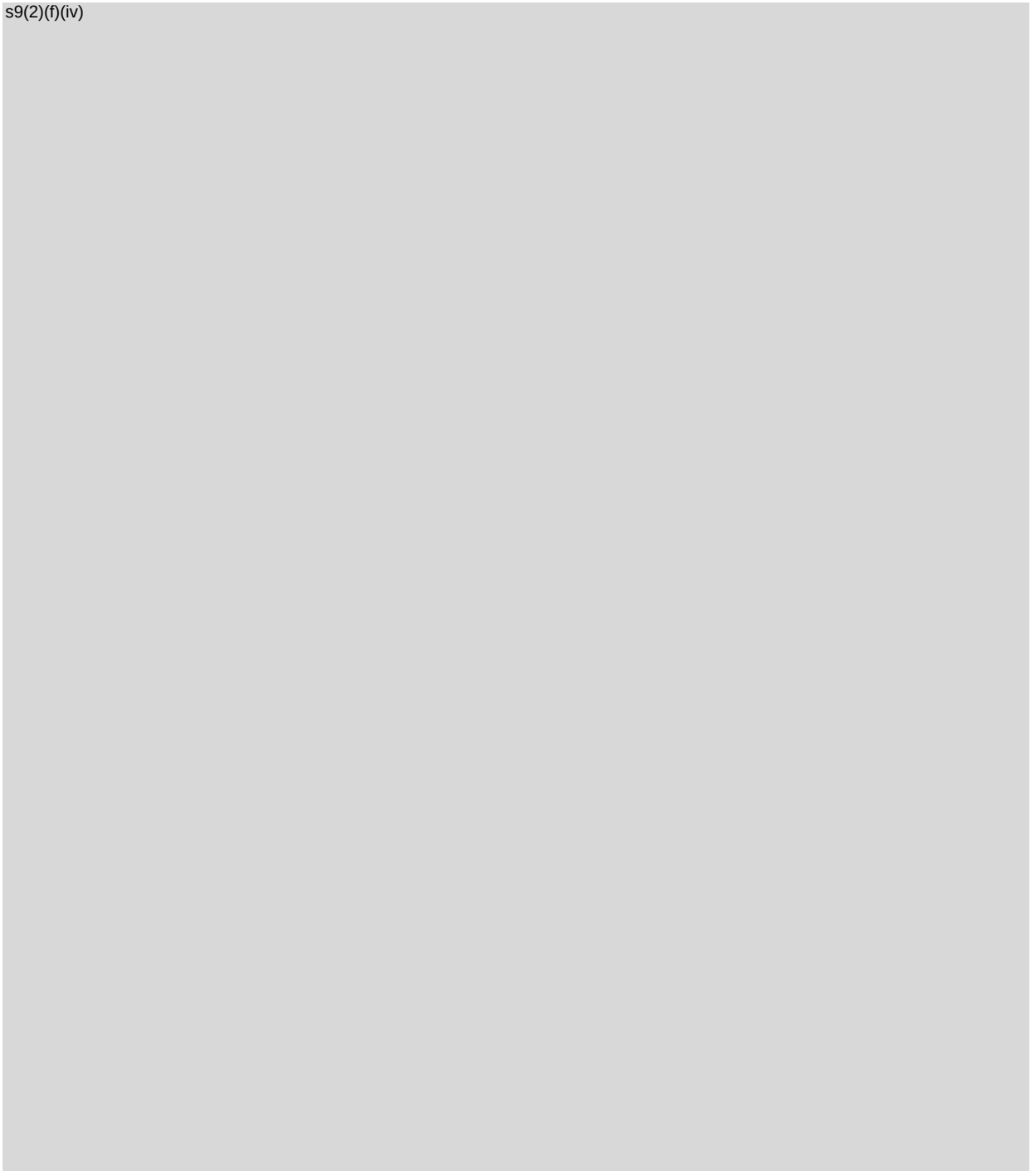
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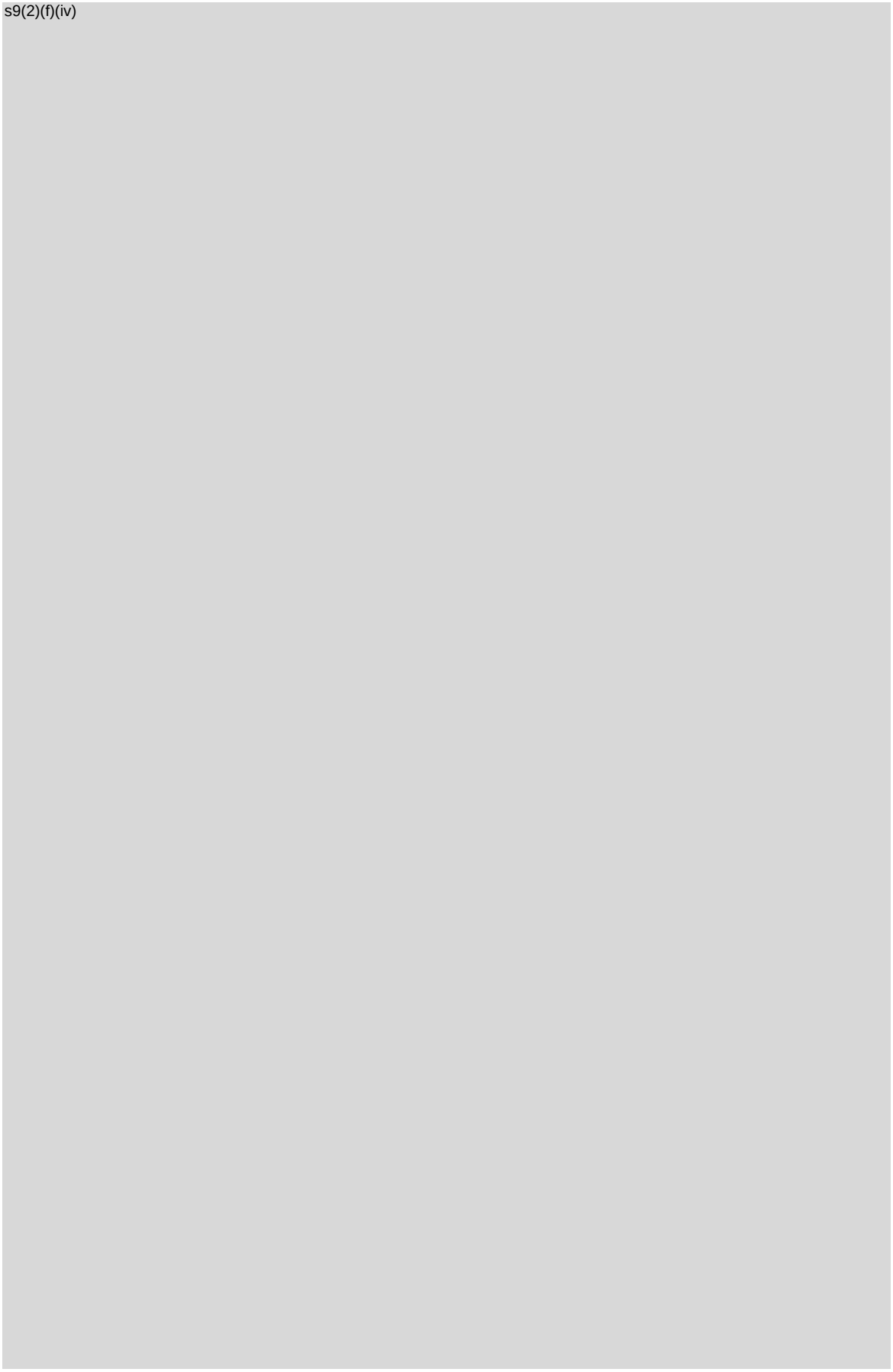
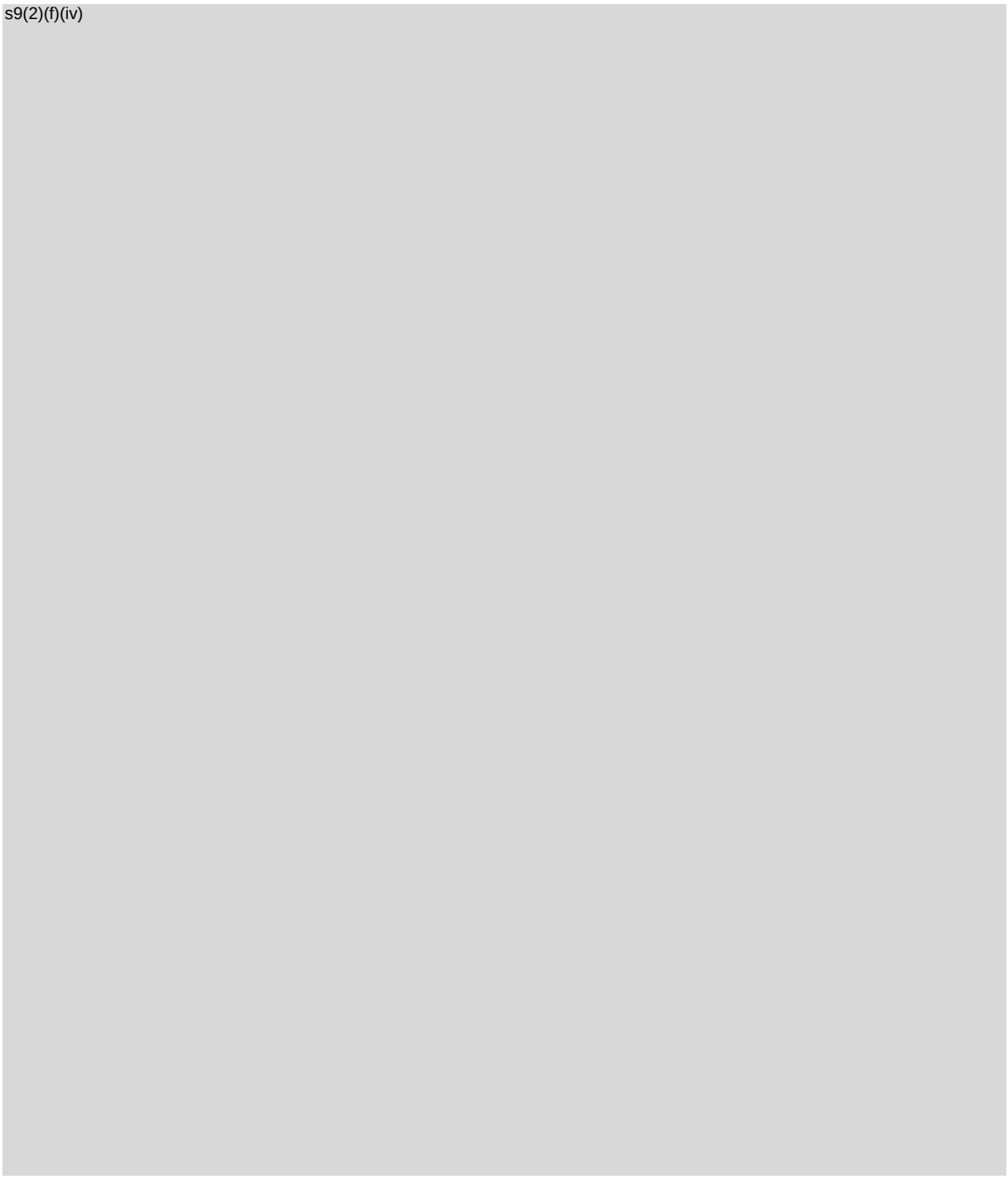

s9(2)(f)(iv)


s9(2)(f)(iv)

Office of the Associate Minister of Finance

Overseas Investment Amendment Bill: Request for Priority in the 2022 Legislation Programme

Summary

1. Summary of information for this Bill is as follows:
    a the portfolio of sponsoring Minister; *Associate Minister of Finance, Hon David Parker*

    b the department responsible (include a departmental contact name and phone number); *the Treasury, Sarah Key, Senior Analyst,* s9(2)(k)

    c the title of the proposed Bill (or the Bill in which these legislative changes are to be included); *the Overseas Investment Amendment Bill*

    d the proposed ranking of the Bill within the bids from this portfolio; *3*

    e whether the Bill is estimated to be small/medium/large and whether of low/medium/high complexity; *the Bill is expected to be of small size and medium complexity*

    f the proposed priority; *priority 3 (to be passed if possible in 2022).*

Policy

2. This Bill (the Bill) amends the forestry-related provisions of the Overseas Investment Act 2005 (the Act). The Bill's purpose is to:
    a ensure that the overseas investment screening regime is able to manage and protect against current and emerging concerns or risks from overseas investment in forestry to New Zealanders' wellbeing and to ensure proposed overseas investments in land for conversions to forestry demonstrate benefits, and

    b improve the operation and effectiveness of the Act's forestry-related provisions, consistent with the Overseas Investment Act Forestry Review Terms of Reference.

3. These changes are consistent with the Act's purpose, recognising that it is a privilege for overseas persons to own or control sensitive New Zealand assets.

4. The Bill will ensure that proposed overseas investments in land for conversions to forestry demonstrate benefits by removing forestry conversions from the Act's 'special forestry test'[1], and instead requiring that forestry conversions go through the Benefit to New Zealand Test. The Bill will also make more technical and minor changes to the Act to improve the operation and effectiveness of the Act's forestry-related provisions.

[1] The special test relating to forestry activities under the Act is commonly known as the special forestry test.

5. Cabinet will consider the final policy decisions in February 2022.

6. s6(a)

Need for legislation

7. Screening of overseas investment is governed by the principal Act. Changes to the screening regime therefore require legislative action.

8. The suggested priority of the Bill for inclusion in the 2022 Legislation Programme is category 3 (to be passed if possible in 2022) because these amendments are necessary to manage the wellbeing impacts and risks posed by some forestry conversions by overseas investors.

Compliance

9. It is expected the Bill will comply with:

    c the principles of the Treaty of Waitangi;

    d the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

    e the principles and guidelines set out in the Privacy Act 2020

    f the relevant international standards and obligations; and

    g the *Legislation Guidelines (2018 edition),* which are maintained by the Legislation Design and Advisory Committee.

Binding on the Crown

10. The Principal Act binds the Crown.

Consultation

11. Targeted engagement on proposals to improve the operation and effectiveness of the forestry-related provisions of the Act was undertaken during May-August 2021, followed by policy development from August 2021. During the targeted engagement, officials met with lawyers, iwi groups, investors, and environmental and recreation interest groups that have had the most experience with the forestry-related provisions of the Act, to understand how they are functioning.

12. Due to the timing of policy development work, there has been no broad consultation on the proposal to remove forestry conversions from the special forestry test nor on the minor and technical changes to improve the operation and effectiveness of the Act's forestry-related provisions. However, ahead of Cabinet's consideration of the Cabinet paper, Government conducted targeted engagement with Māori to seek feedback on the proposal to remove forestry conversions from the special forestry test. During this engagement, officials advised that government will be proposing minor and technical legislative changes to improve the operation and effectiveness of the 2018 changes to

the forestry-related provisions of the Act. This was not, however, the key focus of the targeted engagement. Officials have engaged with relevant government agencies on the proposals.

13. Officials will also engage with a wider group of Māori, and potentially the forestry industry and other interest groups, post the public announcement of these changes.

14. Officials intend to engage the Legislation Design and Advisory Committee for advice in early 2022.

15. No further consultation is anticipated ahead of Cabinet decision-making.

16. There will not be an exposure draft of the Bill released for consultation.

Associated regulations

17. Amendments to the Overseas Investment Regulations 2005 will be made in order to support amendments to the Act within 6 months of the Bill being enacted and will be brought into force at the same time as the corresponding amendments to the Act. The amendments bring the regulations up to date and provide detail to support the implementation and operation of the Bill.

Timeline

Step	Proposed Date	Consistency Assurance
Final policy approvals obtained from Cabinet.	9 or 16 February 2022	Not applicable
Date on which final drafting instructions were or will be sent to the Parliamentary Counsel Office or other drafter.	Mid-March 2022	
Date by which the Bill will be released for exposure draft (if an exposure draft is planned).	No exposure draft will be released	Not applicable
Date by which the Bill will be provided to the Ministry of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990.	Late-April 2022	

Dates on which the Bill will be before LEG and Cabinet for approval for introduction.	LEG – 19 May 2022; CAB 23 May 2022	
Date by which any policy decisions for associated regulations will be before Cabinet.	Policy approvals anticipated as part of the February 2022 Cabinet paper. Any very minor or technical policy approvals for associated regulations will be delegated to joint Ministers or sought as part of the LEG paper.	Not applicable
Date requested for introduction of the Bill.	31 May 2022	Not applicable
Date of report back from select committee.	October 2022	A select committee process of 4 months is anticipated. Ministers prioritise timely legislative change.
Date on which final policy approvals will be obtained from Cabinet for any substantive SOP to Bill (if already introduced)	No further policy approvals for SOPs are anticipated being sought.	Not applicable
Date on which final drafting instructions were or will be sent to the Parliamentary Counsel Office or other drafter for any substantive SOP to Bill (if already introduced).	No further policy approvals for SOPs are anticipated being sought.	Not applicable
Date by which final drafting instructions for any associated regulations will be sent to the Parliamentary Counsel Office.	September 2022	

Date of enactment.	November 2022	
Date of commencement.	Staggered commencement	Most of the majority of the Bill will come into force in May 2023 (6 months after enactment). Some provisions may commence at an earlier date.

Recommendations

18. The Associate Minister of Finance recommends that the Committee:

a **note** that the Overseas Investment Amendment Bill will ensure proposed overseas investments in land for conversions to forestry demonstrate benefits, and will improve the operation and effectiveness of the Act's forestry-related provisions;

b **approve** the inclusion of the Overseas Investment Amendment Bill in the 2022 Legislation Programme, with a priority of 3, to be passed if possible in 2022;

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by mid-March 2022;

d **note** that the Bill should be introduced no later than 31 May 2022;

e **note** that the Bill should be passed no later than November 2022.

Authorised for lodgement

Hon David Parker
Associate Minister of Finance

Deposit Takers Bill: Request for Priority in the 2023 Legislation Programme

Summary

2 Give the following details about the bid for legislation:

a the portfolio of sponsoring Minister; *Finance*

b the department responsible (include a departmental contact name and phone number); *Reserve Bank of New Zealand, David Hargreaves, Manager, Policy Projects (*s9(2)(k)

c the title of the proposed Bill (or the Bill in which these legislative changes are to be included); *Deposit Takers Bill*

d s9(2)(f)(iv)

e whether the Bill is estimated to be small/medium/large and whether of low/medium/high complexity; *The Bill is expected to be large and of high complexity*

f s9(2)(f)(iv)

Policy

3 The Deposit Takers Bill will modernise the framework for the prudential regulation and supervision of deposit taking institutions (such as banks and non-bank deposit takers) by the Reserve Bank of New Zealand. It will also establish a Depositor Compensation Scheme that will compensate eligible depositors on the occurrence of a payout event.

4 On 6 November 2017 Cabinet noted that the Reserve Bank of New Zealand Act 1989 would be reviewed in two phases [CAB-17-MIN-0495 refers]. On 16 May 2018 Cabinet agreed to the terms of reference for phase 2 of the Review, covering reforms to the institutional arrangements of the Reserve Bank, and a comprehensive review of the financial policy provisions of the Reserve Bank of New Zealand Act 1989. [DEV-18-MIN-0082 refers].

5 The Reserve Bank of New Zealand Act 2021, the first product of the Phase 2 review, was enacted in August 2021 and will fully come into force on 1 October 2022. The Deposit Takers Bill, the second product of Phase 2 review, will cover prudential regulation of deposit takers and the Depositor Compensation Scheme.

6 Cabinet made decisions in April 2021 (DEV-21-MIN-0076~0079) and additional decisions in Oct 2021 (DEV-21-MIN-0204) regarding the objectives of the Bill, principles for decision-making, licensing and supervision, enforcement, a deposit insurance scheme (now named as a Depositor Compensation Scheme) and crisis management. Regulatory Impact Statements supporting the Cabinet decisions were published in April and Oct 2021 respectively. The Minister of Finance made a series of decisions (RBNZ and Treasury joint report #5853 and #5888) under Cabinet delegation on details of the Bill.

7 Certain aspects of the Bill may be contentious (for example, the coverage limit for the Depositor Compensation Scheme, or the definition of deposit taking activities requiring licensing under the Bill).

8 There are no outstanding policy issues at present. Should additional policy issues emerge during consultation on the exposure draft of the Bill, Cabinet decisions on these issues will be sought around March 2022.

Need for legislation

9 The Bill will replace the remaining parts of the Reserve Bank of New Zealand Act 1989, such as those providing for prudential regulation of banks, replace the Non-bank Deposit Takers Act 2013, and establish the depositor compensation scheme. These measures cannot be achieved without legislation.

10 It is recommended that the Bill receive a priority 4 on the 2022 Legislation Programme (to be referred to select committee in 2022). It is desirable that the legislation be enacted in the period under consideration.

11 Reform of the Reserve Bank of New Zealand Act 1989 is a significant policy goal for the Government. Policy development and consultation has been underway since 2018, and progress will be significantly delayed if the Bill is not introduced as scheduled. The changes that will be included in the Deposit Takers Bill are substantial. Introducing the Bill to the House in 2022 will provide more certainties for the industry and allow the Reserve Bank to develop relevant regulations and consult the industry as soon as the Bill is enacted.

12 The Bill will have substantial impacts on relevant legislation. For example, the Public Finance Act will need to be updated to enable the usage of public funds in financial crisis.

13 The Reserve Bank of New Zealand Act 1989 was recently amended by the Reserve Bank of New Zealand Act 2021. The Non-bank Deposit Takers Act 2013 has not been amended recently. Legislation is required now because the changes in the Deposit Takers Bill are outside the scope of the amendments made in the Reserve Bank of New Zealand Act 2021 (and would also have been too large to include within that Act).

Compliance

14 It is expected that the Bill will comply with all of the following:

a the principles of the Treaty of Waitangi;

b the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

c the principles and guidelines set out in the Privacy Act 2020;

d the relevant international standards and obligations; and

e the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Binding on the Crown

15 The Act will bind the Crown.

Consultation

16 A joint review team of the Reserve Bank and the Treasury worked on the development of the Bill until May 2021. Subsequently final policy work on the review was moved back to Reserve Bank and overseen by a joint Steering Committee between the two agencies.

17 An Independent Expert Advisory Panel has supported the policy work, including participating in Steering Committee meetings and providing independent advice to the Minister of Finance.

18 There has been an extensive public consultation process for phase 2 of the Review.

a Three rounds of consultation documents have been released:

i. Consultation Document 1 – Reserve Bank Act Review: Safeguarding the future of our financial system

ii. Consultation Document 2A - The role of the Reserve Bank and how it should be governed

iii. Consultation Document 2B - The Reserve Bank's role in financial policy: tools, powers and approach

iv. Consultation Document 3 - Further consultation on the prudential framework for deposit takers and depositor protection

b Submissions have been received from banks, insurers, non-bank deposit takers, industry associations, and individuals. Summaries of these submissions are available on the Review webpage published on the Treasury's website.

c In addition, there have been numerous workshops and bilateral meetings with stakeholders that have occurred across the three rounds of consultation, including with stakeholders who may not have made a formal written submission. The Review has also reached out to a broader number of stakeholders via the use of surveys (e.g. on the public's understanding of depositor protection).

19 Relevant government departments and other public bodies were, and will continue to be, consulted during policy development:

20 Agencies consulted to date include:

i. The Department of Prime Minister and Cabinet;

ii. The Ministry of Business, Innovation and Employment;

iii. The Financial Markets Authority;

iv. The Commerce Commission;

v. The Ministry of Justice;

vi. The Office of the Privacy Commissioner.

20 Feedback from this consultation process has been reflected in several design aspects of the Bill.

21 The Legislation Design and Advisory Committee has been, and will continue to be, consulted during the development of the Bill.

22 An exposure draft together with a commentary document was published for consultation in Dec 2021 and the consultation will close in Feb 2022. The Reserve Bank will engage with relevant stakeholders during the consultation period and will incorporate feedback into the Bill and obtain further Cabinet decisions for any material changes to the draft Bill.

23 Consultation will be required with government caucus, the Green Party to give effect to the cooperation agreement, and other parties represented in Parliament.

Associated regulations

24 Associated regulations are likely to be required for a number of matters under the Bill. These may include regulations setting out detailed aspects of the design of the Depositor Compensation Scheme, elaborating on detailed aspects of the deposit takers regulatory regime, and establishing fees. The Financial Market Conduct Act regulations will also be updated to reflect the new disclosure requirements on licensed deposit takers under the Depositor Compensation Scheme.

25 The regulations may be large, and potentially of high complexity. Policy decisions on the regulations are likely to be sought in late 2022, and the regulations are likely to be considered by the Cabinet Legislation Committee in August 2023 and Gazetted in September 2023.

Timeline

Step	Proposed Date	Consistency Assurance
Date on which final policy approvals were, or will be, obtained from Cabinet	April & Oct 2021	The Reserve Bank and Treasury have jointly lead most policy work on the Bill, and a steering group including Reserve Bank and Treasury officials oversees the project and agrees policy recommendations on the design of the new deposit taker and deposit insurance regimes. There has been an extensive public consultation process involving three separate consultation papers covering aspects of the Bill. In April 2021, Cabinet made a number of decisions relating to the Bill [DEV-21-MIN-0076, 0077, 0078,

		and 0079] Specifically to prudential framework for regulating and supervising deposit takers, deposit insurance, crisis management and resolution. In Oct 2021, Cabinet made [DEV-21-MIN-0204] related to crisis management, and temporary high balances under the Depositor Compensation Scheme. The Bill had a priority 4 on the 2021 Legislation Programme (to be referred to select committee in 2021), but did not proceed due to the complexity of issues raised during the policy development and drafting processes. The Reserve Bank considers that the proposed timelines can be met this year.
Date on which final drafting instructions were or will be sent to Parliamentary Counsel Office or other drafter	May – Nov 2021	
Date by which the Bill will be released for exposure draft	December 2021	
Date by which the Bill will be provided to the Ministry of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990	May 2022	
Dates on which the Bill will be before LEG and Cabinet for approval for introduction	May 2022	
Date by which any policy decisions for associated regulations will be before Cabinet	Late 2022	Associated regulations are likely to be required for a number of matters under the Bill. These may include regulations setting out detailed aspects of the design of the Depositor Compensation Scheme, elaborating

		on detailed aspects of the deposit takers regulatory regime, and establishing fees and forms. Policy decisions on associated regulations are not being sought prior to the first reading to avoid the risk of having to revisit these decisions at a later date (given the size and complexity of the regulations, and the scope for them to be affected by technical changes to the Bill during the Parliamentary process)
Date requested for introduction of the Bill	May-June 2022	
Date of report back from select committee	December 2022	
Date by which final drafting instructions for any associated regulations will be sent to the Parliamentary Counsel Office	February 2023	Instructions for the regulations will be sent before the Committee of the whole House stage.
Date of enactment	May 2023	
Date of commencement	This may occur in two stages: Provisions to set up Depositor Compensation Scheme: late 2023 Rest of the Bill: Early 2026	The legislative provisions for the Depositor Compensation Scheme will commence late-2023, 6 months after the Act is enacted. The rest of the Bill will commence at a later date to allow industry and the Reserve Bank to transition into the new regime. Decisions are yet to be sought on final commencement dates.

Recommendations

26 The Minister of Finance recommends that the Committee:

a **note** that the Deposit Takers Bill will update the framework for the prudential regulation of deposit takers, and establish a Depositor Compensation Scheme;

b **approve** the inclusion of the Deposit Takers Bill in the 2022-2023 Legislation Programme, s9(2)(f)(iv)

c **note** that the Bill should be introduced to Parliament no later than May-June 2022;

d **note** that the Bill should be passed no later than May 2023.

Authorised for lodgement

Hon Grant Robertson
Minister of Finance

Insurance (Prudential Supervision) Amendment Bill: Request for Priority in the 2023 Legislation Programme

Summary

1 Give the following details about the bid for legislation:

a the portfolio of sponsoring Minister; *Finance*

b the department responsible (include a departmental contact name and phone number); *Reserve Bank of New Zealand, Cavan O'Connor-Close, Manager, Financial Policy, Financial System Policy and Analysis,* s9(2)(k)

c the title of the proposed Bill (or the Bill in which these legislative changes are to be included); *Insurance (Prudential Supervision) Act Amendment Bill*

d s9(2)(f)(iv)

e whether the Bill is estimated to be small/medium/large and whether of low/medium/high complexity; *At this stage, the expectation is that the Bill will be of medium size and medium or high complexity*

f s9(2)(f)(iv)

Policy

2 The Insurance (Prudential Supervision) Act 2010 (IPSA) provides for the licensing and prudential regulation of insurers by the Reserve Bank. Since IPSA was enacted the Reserve Bank has accumulated considerable experience of the operation of the legislation; international guidelines and approaches to insurance regulation and supervision have been updated; and significant change is taking place to the regulatory frameworks for the other sectors supervised by the Reserve Bank (the Financial Market Infrastructures Act 2021 and the forthcoming Deposit Takers Bill) and to the Reserve Bank's purposes and governance (the Reserve Bank of New Zealand Act 2021). This Bill will amend the IPSA to reflect the Reserve Bank's experience in operationalising the prudential regime for insurers, and to (where appropriate) create greater alignment between IPSA and other sectoral Acts within the Reserve Bank's mandate.

3 Cabinet agreed the terms of reference for a review of IPSA in 2016 (EGI-16-MIN-0018 and CAB-16-MIN-0072 refer). The review was put on hold in 2018 to reprioritise resource to the review of the Reserve Bank of New Zealand Act 1989, but was restarted in October 2020. Public consultation on issues for reform will be ongoing through 2021-2022. An options paper outlining proposed reforms will be taken to Cabinet in early 2023 and then be put out for public consultation. Final policy approvals will be sought from Cabinet early in the second half of 2023.

4 Policy work on the review is at an early stage, but the Bill may make various changes to IPSA. For example, an expansion of the Reserve Bank's powers to issue standards relating to corporate governance and risk management; enhanced policyholder protection; an enhanced ability for the Reserve Bank to supervise corporate groups; changes to the solvency regime empowering a more graduated early response framework to insurer difficulties; and changes to the Reserve Bank's

enforcement tools to align better with the Financial Market Infrastructures Act 2021 and forthcoming Deposit Takers Bill.

5 As consultation with industry is at an early stage, it is uncertain at the moment if any aspects of the Bill are likely to be contentious.

6 No policy issues have yet been agreed, and final policy decisions from Cabinet are not expected to be sought until mid-2023.

Need for legislation

7 Legislation is the only effective means by which to achieve the policy outlined above, as any legislative changes are likely to require amendments to IPSA.

8 It is recommended that the Bill receive a priority 5 on the legislation programme (instructions to be provided to PCO in 2023). The insurance industry is of high importance to the New Zealand economy and this Bill may contain significant upgrades to the regulatory framework.

9 The proposal is for amending legislation. IPSA has not been substantively amended in the last year, and is not expected to be substantively amended by other legislation in the near future.

Compliance

10. It is expected the Bill will comply with:

a the principles of the Treaty of Waitangi;

b the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

c the principles and guidelines set out in the Privacy Act 2020

d the relevant international standards and obligations; and

e the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Binding on the Crown

10 The Act will bind the Crown.

Consultation

11 An initial round of public consultation was carried out in 2017.Two further rounds of consultation have been carried out over 2021. Three further rounds are planned for 2022 and 2023, followed by an exposure draft of the Bill in 2023.

12 A reference group for the IPSA review is in place, including representatives from The Treasury, Ministry of Business, Innovation and Employment, Financial Markets Authority, and Commerce Commission. This reference group will continue to be consulted throughout the policy development and drafting process.

13 Design advice on the Bill will be sought from the Legislation Design and Advisory Committee (LDAC).

14 Consultation will be required with government caucus, the Green Party to give effect to the cooperation agreement, and other parties represented in Parliament.

Associated regulations

15 The nature, scale, and timing of any regulations is not yet clear, and will depend upon policy decisions made during the review.

Timeline

Step	Proposed Date	Consistency Assurance
Date on which final policy approvals were, or will be, obtained from Cabinet.	June 2023	Cabinet agreed the terms of reference for a review of IPSA in 2016 (CAB-16-MIN-0072; EGI-16-MIN-0018). The review was put on hold in 2018 to reprioritise resource to the review of the Reserve Bank of New Zealand Act 1989, but was restarted in October 2020. Public consultation on issues for reform will be ongoing through 2021-2022. An options paper outlining proposed reforms will be taken to Cabinet in early 2023 and then be put out for public consultation.
Date on which final drafting instructions will be sent to the Parliamentary Counsel Office.	July 2023	
Date by which the Bill will be released for exposure draft.	November 2023	
Date by which the Bill will be provided to the Ministry of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990.	March 2024	

Dates on which the Bill will be before LEG and Cabinet for approval for introduction.	April 2024	
Date by which any policy decisions for associated regulations will be before Cabinet	n/a	Unclear at this stage what associated regulations may be required
Date requested for introduction of the Bill.	May 2024	
Date of report back from select committee	November 2024	
Date by which final drafting instructions for any associated regulations will be sent to the Parliamentary Counsel Office	n/a	Unclear at this stage what associated regulations may be required.
Date of enactment.	April 2025	
Date of commencement.	June 2026	

Recommendations

16 The Minister of Finance recommends that the Committee:

a **note** that the Insurance (Prudential Supervision) Act Amendment Bill will update the framework for the prudential regulation of insurers;

b **approve** the inclusion of the Insurance (Prudential Supervision) Act Amendment Bill in the 2022 Legislation Programme, s9(2)(f)(iv) s9(2)(f)(iv)

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by July 2023;

d **note** that the Bill should be introduced no later than May 2024;

e **note** that the Bill should be passed no later than April 2025.

Authorised for lodgement

Hon Grant Robertson
Minister of Finance

Financial Market Infrastructures (Distress Management) Amendment Bill: Request for Priority in the 2023 Legislation Programme

Summary

1. Give the following details about the bid for legislation:
    a the portfolio of sponsoring Minister; *Finance*
    b the department responsible (include a departmental contact name and phone number); *Reserve Bank of New Zealand, Victoria Learmonth, Manager, Dynamic Policy, Financial System Policy and Analysis,* s9(2)(k)
    c the title of the proposed Bill (or the Bill in which these legislative changes are to be included); *Financial Market Infrastructures (Distress Management) Amendment Bill*
    d s9(2)(f)(iv)
    e whether the Bill is estimated to be small/medium/large and whether of low/medium/high complexity; *Currently uncertain: the Bill may be of medium length and complexity*
    f s9(2)(f)(iv)

Policy

2. The Financial Market Infrastructures Act 2021 (the Act) provides for the prudential regulation of financial market infrastructures (FMIs) such as payment systems, securities settlement systems, and central counterparties.
3. The Act provides the regulators[2] with the power to recommend that systemically important FMIs be designated. It also provides the regulators with the power to:
    a issue legally binding standards for designated FMIs to comply with;
    b use a range of graduated investigation and enforcement powers to incentivise compliance;
    c exercise certain distress management powers, including powers to direct the operator of a designated FMI, and remove and replace its directors; and
    d recommend that a designated FMI be placed into a statutory management regime tailored to the characteristics of FMIs.
4. The Act also provides the regulators with information gathering powers in respect of both designation and non-designated FMIs. In addition, non-systemically important FMIs have

[2] The Act provides that the Reserve Bank and the Financial Markets Authority acting jointly are the regulators of all FMIs except payment systems, where the Reserve Bank is the sole regulator.

the option to apply for designation, if they wish to be covered by the regime in order to have the benefits of the legal protection it provides.[3]

5. Work to implement the Act is ongoing, and is expected to be complete in early 2023.

6. The development of the Act coincided with policy work on the forthcoming Deposit Takers Bill. Cabinet agreed in December 2018 [CAB-18-MIN-0634.01 refers] that following the completion of phase 2 of the review of the Reserve Bank of New Zealand Act 1989 (which resulted in the Deposit Takers Bill) report backs be made to Cabinet on whether any amendments to the Financial Market Infrastructures Bill (as the Act then was) were necessary in relation to any of the following matters:

    a The requirement for Ministerial consent before directions may be issued;

    b Aspects of the statutory management regime, including creditor safeguards in statutory management and the statutory manager's powers to act contrary to the interests of creditors on financial stability grounds;

    c Whether the statutory management regime could be better tailored to FMIs and whether any other aspects of crisis planning could be improved based on any implementation experience to date.

7. It has not been feasible to progress these report backs while the Deposit Takers Bill has still been under development (as they raise issues about the extent to which aspects of the Act should be amended to align with the Deposit Takers Bill). However, it is expected that the final content of the Deposit Takers Bill is likely to be sufficiently certain by the second half of 2022 for policy work on these report backs to commence.

8. No aspects of the Bill are likely to be contentious.

9. No policy decisions have yet been made on the content of the Bill. Policy decisions are expected to be sought from Cabinet in March 2023.

Need for legislation

10. The distress management regime for FMIs is set out in the Act. Legislation is necessary as any changes to this regime will require amendments to the Act.

11. It is recommended that the Bill receive a priority 5 on the legislation programme (instructions to be provided to PCO in 2023). It is desirable that the legislation be enacted in the period under consideration.

12. The Act received the Royal assent on 10 May 2021. The Bill is needed to fulfil report backs previously agreed by Cabinet [CAB-18-MIN-0634.01 refers] but which cannot be completed until the final design of the Deposit Takers Bill is sufficiently certain.

Compliance

13. The Bill is expected to comply with all of the following:

    a the principles of the Treaty of Waitangi;

[3] For example, where a system is designated, transactions undertaken through the system cannot be challenged or unwound despite any enactment or rule of law to the contrary (the only exception to this is in certain circumstances where, amongst other things, one party to the transaction becomes insolvent).

b the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

c the principles and guidelines set out in the Privacy Act 2020;

d the relevant international standards and obligations; and

e the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Binding on the Crown

14. The Act will bind the Crown.

Consultation

15. No consultation has been undertaken on the Bill to date. Consultation on the Bill is expected to be complete by early 2023.

16. The Bill will be referred to the Legislation Design and Advisory Committee.

17. It is likely that an exposure draft of the Bill will be released.

18. Consultation will be required with government caucus, the Green Party to give effect to the cooperation agreement, and other parties represented in Parliament.

Associated regulations

19. At this stage it is not expected that the Act will require any associated regulations.

Timeline

Step	Proposed Date	Consistency Assurance
Date on which final policy approvals were, or will be, obtained from Cabinet.	March 2023	Policy work on the Bill is yet to commence.
Date on which final drafting instructions were or will be sent to the Parliamentary Counsel Office or other drafter.	April 2023	
Date by which the Bill will be released for exposure draft (if an exposure draft is planned).	August 2023	
Date by which the Bill will be provided to the Ministry	November 2023	

of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990.		
Dates on which the Bill will be before LEG and Cabinet for approval for introduction.	December 2023	
Date by which any policy decisions for associated regulations will be before Cabinet.	n/a	No associated regulations are currently expected to be necessary
Date requested for introduction of the Bill.	December 2023	
Date of report back from select committee.	June 2024	
Date by which final drafting instructions for any associated regulations will be sent to the Parliamentary Counsel Office.	n/a	No associated regulations are currently expected to be necessary
Date of enactment.	December 2024	
Date of commencement.	December 2024	

Recommendations

20. The Minister of Finance recommends that the Committee:

a **note** that the Financial Market Infrastructures (Distress Management) Amendment Bill will make a variety of technical amendments to the distress management regime in the Financial Market Infrastructures Act 2021;

b **approve** the inclusion of the Financial Market Infrastructures (Distress Management) Amendment Bill in the 2023 Legislation Programme, s9(2)(f)(iv) s9(2)(f)(iv)

c **note** that drafting instructions will be provided to the Parliamentary Counsel Office by April 2023;

d **note** that the Bill should be introduced no later than December 2023;

e **note** that the Bill should be passed no later than December 2024.

Authorised for lodgement

Hon Grant Robertson
Minister of Finance

TE TAI ŌHANGA
THE TREASURY

Treasury Report: COVID Economic Support in an Omicron Outbreak

Date:	21 January 2022	**Report No:**	T2022/36
		File Number:	SH-1-6-1-3-3

Action sought

	Action sought	Deadline
Hon Grant Robertson **Minister of Finance**	Discuss with officials in the week commencing Tuesday 25 January Provide comments on the report and draft Cabinet paper material	25 January 2022

Contact for telephone discussion

Name	Position	Telephone		1st Contact
Amy Spittal	Graduate Analyst, Economic Policy	s9(2)(k)	s9(2)(g)(ii)	
Ken Tsang	Senior Analyst, Economic Policy			✓
John Beaglehole	Manager, COVID Economic Supports			

Minister's Office actions

Return the signed report to Treasury.

Note any feedback on the quality of the report	

Enclosure: Yes (annex)

Treasury Report: COVID Economic Support in an Omicron Outbreak

Executive Summary

On 1 February 2022, Cabinet is due to consider a paper on responding to Omicron, which will also include the approach to economic supports. This report seeks your feedback on the Treasury's initial view on economic supports in an Omicron outbreak.

Given elimination is unlikely to be an option once Omicron has spread in the community, the Treasury considers that the public health response should weight economic considerations more heavily than previously. Managing an Omicron outbreak through Red or 'Red Plus' settings is likely to have less of a disruptive economic impact than more frequent use of localised lockdowns.

Based on experience overseas, we expect the main economic impacts of an Omicron outbreak to be on the supply side, resulting from significant pressure on supply chains and workforce disruption due to absenteeism. It will be important to manage public health settings (e.g. isolation periods) to minimise workforce disruption to essential services.

Demand impacts are likely to be concentrated in firms reliant on face-to-face interaction, either as COVID-19 Protection Framework (CPF) settings are tightened, or as consumers adjust their behaviour based on perceived risk.

We recommend that support in an Omicron outbreak primarily focusses on the financial needs of individuals required to self-isolate. Omicron will have a significant impact on some individuals and communities, and it is important to ensure that households be able to meet their needs if required to isolate. Demand for the COVID-19 Leave Schemes is likely to increase considerably in an Omicron outbreak. The Care in the Community model will also experience significant strain. Officials will provide advice on ways to ensure these schemes remain appropriate for Omicron.

We recommend that no additional business support is provided. Significant fiscal stimulus has been provided through the August Delta outbreak, and Budget 2022 investments may have further stimulatory effects. Further support could exacerbate inflationary pressures, create precedents that are unsustainable in the long-term, and impede the transition to a more COVID-resilient economy.

If Ministers wish to provide business support, we recommend the following options are considered (in order of preference):

1. Providing flexibility on tax payment and debt. Inland Revenue is able to offer this to firms experiencing financial difficulty, and this is a common method of crisis support.
2. Loan-based measures that help see firms through short dips in cashflow. The Small Business Cashflow Scheme (SBCS) has already been extended to 31 December 2023. Officials are considering what changes to the SBCS are possible for an Omicron outbreak.
3. Heavily targeted grants to businesses that are most affected. This option should only be considered if the economic impact is much worse than expected.

We expect that upcoming funding requests for the public health response will exceed the remaining COVID-19 Response and Recovery Fund (CRRF) balance, and an Omicron outbreak would put even more pressure on the CRRF. We are therefore interested in your preferences for topping up the CRRF in the coming months.

Recommended Action

We recommend that you:

a **note** that given the shift away from an elimination strategy, The Treasury considers it prudent to place greater weighting on economic factors when considering the public health response to Omicron.

b **note** that if an Omicron outbreak is managed using the COVID-19 Protection Framework, the Treasury considers it appropriate to focus on supporting individuals with the burden of public health restrictions.

c **note** that the Treasury does not see a need for further business support in response to Omicron, especially in the context of labour market tightness and inflationary pressure.

d **note** that officials will provide advice in early February on ways to ensure the Short-Term Absence Payment (STAP) and COVID Leave Support Scheme (LSS) are fit for purpose in an Omicron environment.

e **note** that the Minister for Social Development is updating Cabinet next week on Care in the Community.

f **note** that if further business support is desired, liquidity measures such as tax deferrals could be implemented quickly.

g **note** that loan-based support could also be used and that officials will provide more advice on loan-based support options in February.

h **note** that a heavily targeted COVID-19 Support Payment could also be introduced, but is only recommended if the economic impact of Omicron is worse than expected.

i **note** that upcoming funding requests for the COVID-19 public health response are expected to exhaust the remaining balance of the COVID-19 Response and Recovery Fund (CRRF).

j **indicate** your preferences for the Ministry of Health's funding request for the Public Health response to COVID-19 before April 2022 and replenishing the CRRF, including any areas where you like further advice.

k **discuss** this report with officials and **provide feedback** on the attached draft content for the DPMC-led Omicron strategy Cabinet paper in the week beginning 25 January 2022.

John Beaglehole
Manager, COVID Economic Supports

Hon Grant Robertson
Minister of Finance

Treasury Report: COVID Economic Support in an Omicron Outbreak

Purpose of Report

1. Cabinet is due to consider a paper on the approach to managing Omicron in the community on 1 February 2022. DPMC has requested material on the potential approach to economic support in response to an Omicron outbreak.
2. To inform the drafting of this Cabinet material, this report seeks your feedback on the proposed approach to economic supports under Omicron. As context, this paper also provides updated information on the expected economic and fiscal impacts of an Omicron outbreak. Draft Cabinet paper material is attached in Annex 1. Annex 2 provides additional economic and business insights as well as uptake of economic support measures.
3. We also seek direction on your preferences for replenishing the COVID-19 Response and Recovery Fund.

The public health and economic context remain fluid

Omicron has changed the public health context

4. The dominance of the Omicron variant overseas has significantly changed the public health context. Omicron is much more transmissible than Delta and evidence suggests it causes less severe illness for most people. In a highly vaccinated population, there can be a higher rate of asymptomatic illness.
5. Without public health interventions, case numbers are likely to follow a steep and narrow infection curve. We understand that the Ministry of Health's strategy for responding to Omicron includes the following steps:
    a Initially seeking to keep Omicron out of the community while we prepare our community protections (e.g. boosters) and the Testing, Tracing, Isolation and Quarantine (TTIQ) system;
    b Stamping out any small-scale incursions that may occur, to avoid a widespread outbreak if at all possible. We understand this may include localised lockdowns if appropriate;
    c Swiftly moving to either a 'Red' or a bespoke 'Red Plus' (e.g., tighter gathering limits and more masking) setting nationwide under the COVID-19 Protection Framework (CPF) to flatten the curve of any Omicron outbreak;
    d Rapidly shifting our resources to manage the impact of an Omicron outbreak while protecting those most at risk of severe illness; and
    e Moving back into 'pandemic as usual' management approach once we are past the peak of the outbreak, including ongoing regular CCPF assessments and changes to settings across the country as required.
6. The cost/benefit calculation of public health measures has changed because:
    a Evidence suggests Omicron causes less severe illness for most people;
    b New Zealand now has a highly vaccinated population, although we are in the early stages of the booster and paediatric rollout, and Māori booster rates are much lower than the general population. Evidence suggests that three doses of Pfizer provide substantial protection against hospitalisation;

c The shift to a ‘minimisation and protection’ strategy, rather than elimination, means that outbreaks are inevitable; and

d There are significant economic and social costs to continuing to delay border reopening.

7. Given elimination is unlikely to be an option once Omicron is spreading in the community, Treasury considers that the public health response should weight economic considerations more heavily than before. From an economic perspective, managing an Omicron outbreak through Red or ‘Red Plus’ (such as stricter gathering limits and mandatory mask wearing) settings is likely to have less of a disruptive economic impact than more frequent use of lockdown measures.

8. Detailed modelling on the effectiveness of localised lockdowns modelling is forthcoming from Te Pūnaha Matatini. Given the current lack of evidence about the effectiveness of lockdowns overseas, this modelling will be heavily assumptions based.

We expect the main economic impact to be on the supply side

9. Based on international experience, we expect the economic shock to be short and sharp, so a relatively swift bounce back can be expected.

a Experience overseas shows that the main economic impacts of Omicron are significant pressure on supply chains and workforce disruption due to staff needing, or choosing, to isolate.

b Demand impacts are likely to be concentrated on some sectors (e.g. hospitality, events, tourism, accommodation). Even if lockdown-type restrictions are not imposed, it is likely that consumers will adjust their behaviour based on perceived risk, meaning that businesses reliant on face-to-face interaction will likely experience a drop in revenue. ‘Red Plus’ settings, such as reducing gathering limits, are also likely to disproportionately impact these sectors.

10. It will be important to manage public health settings to enable business continuity in essential services, in the face of widespread absenteeism (there is work underway on this point). Officials are working on regulatory flexibility for critical services, including altering the definitions of close contacts, required isolation periods, and testing regimes to minimise workforce disruption to essential services (e.g., transport, healthcare, essential retail, and distribution). Easing these requirements would also reduce pressure on current supports measures such as the Leave Support Scheme (LSS) and Short-Term Absence Payment (STAP), if these were to continue. Work is also underway on how Rapid Antigen Tests can be made available for those services.

11. MBIE is developing guidance to businesses on how to plan for an Omicron outbreak. It will be important to give businesses as much certainty as possible about the public health settings that are likely to be used to manage an Omicron outbreak, to improve business confidence and preparedness.

Our economic position is strong, following a strong holiday season and a period of significant fiscal and monetary stimulus

12. If the overall public health response seeks to minimise, where possible, further economic disruption, there will be less of a need to provide economic supports, thereby reducing the fiscal and macroeconomic impacts of an Omicron outbreak.

13. We are in a position of economic strength, with stronger-than-expected economic activity, record-low unemployment and significant inflationary pressure. The latest high frequency data indicates that economic activity continues to improve since the August Delta outbreak (Annex 2). There is already a lot of stimulus in the economy, and Budget 2022 investments may have further stimulatory effects. The Treasury is therefore cautious about providing additional economic support unless necessary.

Objectives for economic supports in responding to Omicron

14. We have applied the following objectives in advice on COVID-19 economic supports:
    a Support the public health response by supporting compliance and social licence for public health restrictions;
    b Reduce the social and economic disruption associated with outbreaks;
    c Support a transition to a COVID-19 resilient economy;
    d Share the burden in an equitable and fair way; and
    e Manage the macroeconomic and fiscal implications associated with providing economic support (including via a timely, temporary, targeted focus for spending).
15. Following the shift to the CPF and in a context of higher vaccination rates, we previously advised that greater weighting is placed on objectives (c) and (e). We consider the weighting of focus on objectives (c) and (e) holds in the context of an Omicron outbreak, and with a view to the potential for ongoing COVID outbreaks.
16. The transition objective has become even stronger in the context of outbreaks that are harder to control via public health measures compared to previous variants. Some forms of economic support, particularly grants to businesses, can create disincentives for businesses to transition to an operating environment where COVID-19 is endemic, while stoking inflationary pressure.
17. It is still important to ensure compliance with public health restrictions. However, the implications have changed in the evolving public health response (and in particular the move away from Alert Level lockdowns). Public health restrictions are likely to be more individually targeted (e.g. isolation requirements), meaning that support to worker and household incomes will remain particularly important. Conversely, the case for widespread income support to help most workers stay at home is lower. Reducing social and economic disruption is also still important, alongside equitable burden sharing, but workforce attachment is less relevant given the tight labour market. All of these factors point towards focussing support primarily on the financial needs of individuals who are sick or required to self-isolate.

Support for individuals in an Omicron environment

An Omicron outbreak is likely to have a significant impact on individuals and communities, so support for individuals should be prioritised – but the LSS and STAP may not be fit for purpose

18. Omicron will have a significant impact on individuals and communities, and it is important to ensure that households will be able to meet their needs if required to isolate and their employers are not able to provide support. We consider that the COVID-19 Leave Schemes (the LSS and STAP) are the appropriate mechanisms to provide support to households.
19. Officials from the Treasury, MSD and MBIE are considering what changes are necessary to ensure the COVID-19 Leave Schemes are fit for purpose in an Omicron environment. Officials will be better placed to advise once decisions have been made on the approach to testing and self-isolation requirements in an Omicron outbreak, and will provide this advice in early February. At this stage, officials are exploring options including making the LSS more targeted (by limiting the eligibility criteria), and the ongoing role of the STAP in a medium–to–high case scenario.
20. The existing COVID-19 Leave Schemes were not designed to be ‘high use’, meaning there are substantial operational and integrity challenges in an Omicron environment.

a *Operational risks:* The anticipated increase in applications for the COVID-19 Leave Schemes (as suggested by recent MoH Omicron case scenarios) will put significant pressure on the Schemes, which to date have experienced a comparatively lower uptake compared to the WSS and CSP. MSD is updating modelling on the Schemes' ability to accommodate increased case numbers, and what changes may be needed to keep the Schemes operational s6(c)

b *Integrity considerations:* There are important integrity questions to consider with an increased uptake of the COVID-19 Leave Schemes, which are currently based on a 'high trust' approach. s6(c) It could also raise equity concerns that disproportionately impacts vulnerable workers, as increasing the compliance burden may deter certain employers from applying.

21. Funding is also an issue. As at 19 January 2022, there is $146.311 million remaining in the Leave Support Scheme appropriation which funds the COVID-19 Leave Schemes. Based on Omicron case scenarios, there is likely to be a significant uptake in the Schemes compared to current levels which will deplete the remaining funding and necessitate a significant top-up.

22. We are working on initial costings based on current Omicron case assumptions but several unknowns (including a confirmed public health response strategy) make it difficult to produce precise costings.

23. Under the high case scenario (5,000 – 50,000 per day) the fiscal cost of the Schemes under current settings would become significant. For example, costs could reach at least $50 million per week just for the LSS with 350,000 people self-isolating (which is feasible with 25,000 COVID-19 cases per day). Demand for STAP is highly uncertain as it will depend on the approach to testing and self-isolation requirements. However, STAP costs are expected to rise substantially, if the STAP is used to respond to an Omicron outbreak.

The Care in the Community scheme faces similar challenges

24. There are similar operational challenges for the Care in the Community (CiC) Scheme in a significant Omicron outbreak. We consider appropriately resourcing and targeting CiC should be a focus, to ensure it targets welfare support to the most vulnerable individuals and households impacted by Omicron.

25. The CiC welfare support will also likely be impacted by essential services supply chain disruption and workforce impacts, although we understand MSD is working with CiC providers to assist with their business continuity plans. MSD has provided content to DPMC to provide information on CiC capacity in an Omicron scenario, and how it might adapt to higher case numbers than assumed when the Scheme was first established. s9(2)(g)(i) Any scaling up will likely require additional funding.

26. Unlike the COVID-19 Leave Schemes which are administered via employers, the CiC welfare support is accessible to individuals and households who are not or only casually employed. For those who cannot access CiC because they are not COVID-19 positive but are required to self-isolate, existing MSD support such as hardship grants are available.

27. We understand the Minister for Social Development is providing an update to Cabinet next week on CiC.

Support for businesses in an Omicron outbreak

The Treasury does not see a case for more business support in response to Omicron

28. If the CPF is used to manage an outbreak, the Treasury sees no need for additional business support. This is especially as the economic impact of restrictions is expected to be limited as businesses should be able to operate (albeit with some relatively minor restrictions) under all levels of the CPF. We expect this to hold even if Red level restrictions are increased through non-lockdown measures (e.g. mask-wearing and gathering limits).

29. Apart from mitigating firms' costs, broad-based support would not alleviate the supply-side and workforce disruption we have seen Omicron cause in other countries. The significant level of recent economic support and the current tightness of the labour market also reduce the immediate need for any additional broad-based support.

If business support is desired, tax-based measures could provide fast liquidity

30. If Ministers wish to provide some form of support, tax-based measures such as tax deferrals could be a way to provide liquidity quickly.

31. Inland Revenue (IR) remains able to offer flexibility on tax payment and debt to firms, including entering into instalment arrangements for firms experiencing financial difficulty and therefore unable to pay their tax when it is due. That provides cashflow support for financially distressed firms. However, the power for IR to remit Use of Money Interest (UOMI) for those firms affected by COVID-19 expires on 25 March 2022. That can be extended by an Order in Council, and IR will report to Ministers shortly.

Loan-based measures could also be used to provide liquidity

32. In a context of a short period of intense disruption, the provision of a loan may also be an appropriate form of support. Loans could provide liquidity to support businesses through a short period before activity recovers through pent up demand. While a loan does create inflationary pressure, repayment means that it would be relatively less than would be caused by grant-based support.

33. The Small Business Cashflow Scheme (SBCS) is currently available for eligible SMEs and has seen $1.9 billion lent out. However, some changes will likely be necessary to ensure the maximum number of SMEs benefit in an Omicron outbreak.

34. We previously advised you [T2021/2884] on the spectrum of options and are working with IR on developed more detailed proposals. We will advise you in early February on changes to the following:

    a Repayment terms, including ways to account for firms' means and stretched balance sheets;

    b Relaxing rules to let firms take multiple loans to manage extended or repeated periods of uncertainty; and

    c Integrity, including attributing liability to owners or directors.

35. In the meantime, we are planning to discuss some of the key design issues with business to understand which changes to the SBCS would have the greatest impact.

36. Unlike the CSP (see below), the SBCS is less flexible and if changes are required, they may take longer to implement (depending on the changes, it could take up to 4-6 weeks or longer to implement).

As a last resort, a heavily targeted COVID-19 Support Payment could be provided

37. If the impacts of an Omicron outbreak are significantly worse than expected, support could be provided through a single round of the COVID-19 Support Payment (CSP) (previously the Resurgence Support Payment).

38. To improve targeting, the revenue drop, base rate, FTE cap and comparator period could be amended to target the payment to those firms (and implicitly sectors) that have experienced the largest actual revenue decline as a result of consumer behaviour and/or staff absences. The CSP is not constrained to covering fixed costs, it can also be used to help cover wage costs; however, IR cannot compel recipients to pass on the amount to employees.

39. At this point, we do not recommend use of the Wage Subsidy Scheme (WSS). The tight labour market means that a key objective of the WSS (supporting labour attachment) is not a current concern. If lockdown restrictions were required for a prolonged period, there could be a case for the WSS in supporting compliance with public health restrictions.

This greater focus on supporting individuals aligns with the approach in other countries that are currently responding to Omicron outbreaks

40. In countries currently facing Omicron outbreaks, there appears to be limited appetite for broad-based business support. For example, Ireland has reintroduced the COVID-19 Pandemic Unemployment Payment for employees and the self-employed who lose their employment as a result of public health restrictions from December 2021.

41. The United Kingdom has not provided any broad-based support in response to Omicron, instead providing targeted one-off grants to the hospitality and leisure sectors as well as statutory sick-pay for SMEs.

42. Despite calls from business and the opposition, the Victorian government has not indicated any appetite for support. We understand New South Wales will announce some support shortly, and will update you when we have any further information.

Managing the fiscal impact

43. s9(2)(f)(iv)

44. While a significant amount of funding was committed at the end of 2021 to support major COVID-19 response functions, further funding will be required in the next few weeks to support the public health response in 2022/23, including for testing and tracing, Care in the Community, personal protective equipment, and the Ministry of Health's COVID-19 Directorate. Funding for the public health response is scheduled to run out in June 2022, so the funding request will need to be assessed before the Budget moratorium.

45. The Ministry of Health is developing initial cost estimates for the Public Health response in 2022/23 and is planning to prepare a paper for March to seek approval for this funding. We expect the request will significantly exceed the remaining CRRF balance (potentially in the realm of s9(2)(f)(iv) so would like to test your views on the timing and avenue for this request.

46. In the event of an Omicron outbreak, we would expect the CRRF to be exhausted more rapidly. Even if any economic support was highly targeted or limited, further funding would likely be sought to support the scaling up of key functions such as Care in the Community to manage large numbers of cases.

47. Due to these pressures, we consider that a further replenishment of the CRRF will be needed within the next few months. However, decisions on the exact quantum of any increase should ideally be taken once more robust costings are available within the next few weeks.

48. Based on Half Year Economic and Fiscal Update forecasts, a $5 billion increase to the CRRF would increase net debt by 1.1% by the end of the forecast period.

49. s9(2)(f)(iv)

50. At this point, we are interested in your views on a potential replenishment of the CRRF, including your preferences for timing and where you would like further advice.

Next steps

51. We would like to discuss the contents of this report, as well as the draft Cabinet paper material, with you. Following your feedback, we can provide further advice on the economic support response as well as another iteration of the Cabinet paper material.

52. We will also provide further follow-up advice on options for loan-based support and changes to the COVID-19 Leave Schemes in early February.

53. We have begun initial engagement with other agencies (IR, MSD and MBIE), and will engage with business, including Māori and Pacific business groups.

Annex 1: Draft content for 1 February DPMC Cabinet paper

Changes to economic support

1 A benefit of the COVID-19 Protection Framework is that all businesses are able to operate (with some restrictions) at all levels, which helps to reduce the economic disruption of outbreaks. Experience overseas shows that the main economic impacts of Omicron are significant pressure on supply chains and workforce disruption due to staff needing, or choosing, to isolate.

2 Since an Omicron outbreak will have a significant impact on individuals and communities, it is my view that support for individuals to comply with public health restrictions should be provided through the Leave Support Scheme (LSS) and Short-Term Absence Payment (STAP). The policy and operational settings for these schemes are being revisited, as we need to ensure they are appropriate to support the changes to the public health strategy alongside managing the expected very high number of Omicron cases and increase in demand for this support.

3 The Treasury recommends that no additional business support is provided in an Omicron outbreak. We are in a strong economic position, with a tight labour market and significant inflationary pressure, and there is already significant stimulus in the economy. With the move to a minimisation and protection approach, more outbreaks can be expected, so businesses need to be able to transition to a COVID-resilient economy.

4 If Cabinet wishes to provide business support, Treasury recommends that the following options are considered (in order of preference):

4.1 Providing flexibility on tax payment and debt. Inland Revenue is able to offer this to firms experiencing financial difficulty, and this is a common method of crisis support.

4.2 Loan-based measures that help see firms through short dips in cashflow. The Small Business Cashflow Scheme (SBCS) has already been extended to 31 December 2023. Officials are considering what changes to the SBCS are possible for an Omicron outbreak.

4.3 Heavily targeted grants to businesses that are most affected, such as the COVID-19 Support Payment. This option should only be considered if the economic impact is much worse than expected.

Annex 2: Data on the economic outlook and uptake of economic supports

Business resilience: high frequency indicator data and firm liquidity information

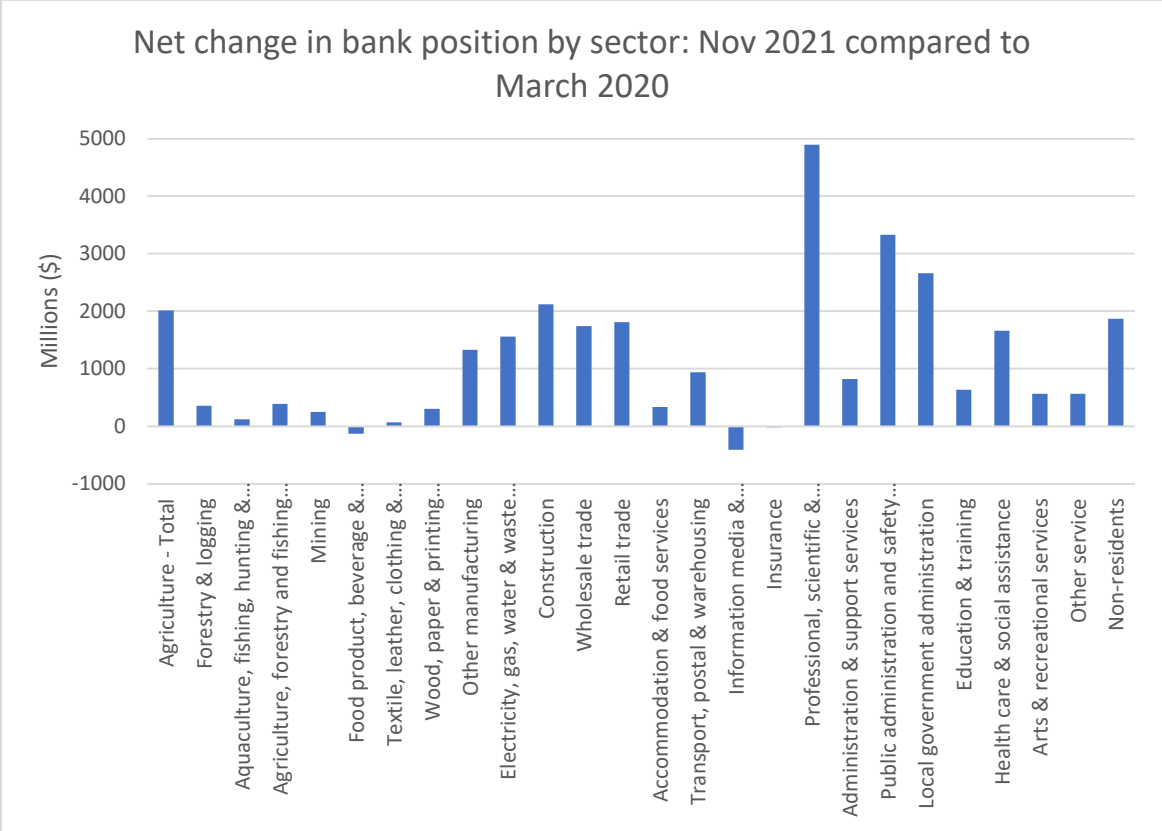
Demand for goods and services has recovered since the August lockdown and will likely hold up under the COVID-19 Protection Framework

The latest high frequency data indicates that economic activity has continued to recover from the disruption of the August Delta outbreak. Marketview card spending data, Google mobility data, and NZTA traffic movement data all show gains since public health restrictions were eased following the adoption of the COVID-19 Protection Framework (CPF) on 2 December 2021. While data collected over the Christmas period is volatile, Statistics NZ's seasonally adjusted electronic card transaction data released on 19 January 2022 suggests that spending is almost at pre-August lockdown levels.

This rebound in economy activity supports the view that most firms can operate relatively normally under the CPF and that aggregate economic impact will be much lower than under Alert Level 3 and 4 restrictions. Food and beverage, and services and accommodation services in particular have increased strongly over the period. While the high frequency data is supportive, the timing of sales peaks and public holidays makes the data volatile. It will take some time to settle down and give a true representation of what economic activity is like under the CPF. It is also unclear how this this trajectory will change under an Omicron outbreak.

Firms are more liquid now than they were before the pandemic

Across almost all every sector, businesses have increased their liquidity (reduced debt/ increased cash holding) over the course of the pandemic.



Lack of data and Omicron uncertainty makes it difficult to determine how this translates into firm resilience

Higher levels of firm liquidity, combined with public health settings that permit most forms of economic activity, suggests that most of the economy is likely able to absorb some level of short-term cashflow disruption.

However, data issues make it difficult to understand how evenly this resilience is distributed across firm size or type. These data issues are significant for Small-Medium Enterprises (SMEs) in particular. Other indicators, like firm fail rate data suggest that SMEs are likely more vulnerable to an Omicron shock. Given that the decline in SME failure rate over the last two years has likely been primarily driven by the significant level of Crown support rather than better firm performance, the number of firms that are functionally insolvent now has likely increased. As the ratio of viable to non-viable firms worsens, net resilience decreases.

Feedback from previous engagements with Māori and Pacific businesses

When you met with Māori and Pacific business leaders in October 2021, a key area of feedback was that businesses are seeking proactive engagement from the Government prior to significant decisions being announced. This remains a live issue in the face of Omicron.

Business leaders noted that supply chain pressures, the cost of overheads, inflation, and the impact this was having on business cashflow were key concerns. Many Māori and Pacific businesses have felt that their relationships with banks have not enabled them to access finance on terms they can be comfortable with in the face of uncertainty regarding COVID-19.

There was concern expressed about the accessibility of COVID-19 supports under new integrity measures, particularly for those who were legally unregistered. The time it took for businesses to register meant that application windows were missed. s9(2)(ba)(ii)

Access issues are worsened by low rates of digital literacy. The Pacific Business Trust identified that funds being disseminated primarily through digital forums made it difficult for Pacific businesses to receive support, with business owners often applying for funds on their child's school device.

Significant concerns were also voiced around mental health of Māori and Pacific business owners. This will only be compounded by Omicron, and exacerbated further for those with ties to Tonga in the wake of the Tongan eruption.

Firm and household uptake of economic supports to date

Resurgence Support Payment

RSPAUG payments to date have provided almost $2.7 billion to firms with the total paid out under the RSP scheme being $2.9 billion. A total of $3.15 billion was appropriated to meet the cost of RSP payments and $452 million is remains in the appropriation with applications now closed.

Businesses in Auckland received the most support with approximately a third of payments from AUGRSP2 onwards being directed towards Auckland. Waikato and Northland received 10% of total payments, reflecting the impact of changing Alert Level situation in those regions.

The top four industries receiving RSP payments were Construction, Accommodation and Food Services, Retail Trade and Manufacturing accounting for approximately 50% of total payments. The payments became more targeted towards Accommodation and Food Services from payment 3 onwards.

Top 4 industries under RSPAUG21 ($m)	Payments 1-2	Payments 3-8	All Payments
Accommodation and Food Services	$126	$246	$372
Construction	$196	$175	$371
Retail Trade	$84	$109	$193
Manufacturing	$78	$75	$153
Subtotal (Top 4)	**$484**	**$605**	**$1,089**

The RSPAUG payments were highly targeted towards Micro and Small to Medium Businesses. Across all RSPAUG payments Micro businesses received approximately 50% of all support and Small to Medium businesses received approximately 30%.

Wage Subsidy Scheme

Almost $4.8 billion has been paid out under the WSSAUG21 scheme. This was an average spend of around $300 million per week for the 16 weeks the WSSAUG21 scheme was open. This brings the total paid out through the WSS since 2020 to over $18 billion.

The top four industries accounted for 55% of the payments to employees under the WSSAUG21 scheme (excl. self-employed). These are:

Top 4 industries under WSSAUG21 ($m)	Payments 1-2	Payments 3-8	All Payments
Accommodation and Food Services	$288	$461	$749
Construction	$364	$260	$624
Retail Trade	$218	$166	$384
Manufacturing	$218	$156	$374
Subtotal (Top 4)	**$1,088**	**$1,043**	**$2,131**

Around 20% of the jobs (excluding self-employed) supported by the WSSAUG21 scheme were in Accommodation and Food services. However, this became more targeted with the move down Alert Levels. In Alert Level 4, only around 15% of jobs supported were in hospitality, moving to 22% in Alert Level 3 and 33% in Alert Level 2.

Just under two-thirds of the total paid out under the WSSAUG21 scheme went to small firms with 1-50 employees. Only 5% of spend went to large firms with over 500 employees. This differed from the original March 2020 scheme where 12% of the spend went to large firms.

COVID Leave Support Scheme (LSS) and Short-Term Absence Payment (STAP)

In total the LSS has paid out $151.7 million and the STAP have paid out $19.3 million, noting the STAP was only introduced in February 2021 while the LSS has existed (in some form) since March 2020.

Since 10 December 2021 (which is when the Wage Subsidy Scheme ended), the LSS has paid out $2.36 million and the STAP has paid out $2.4 million. Applications since 10 December for the LSS and STAP have totalled 4,888 and 4,841 respectively (which includes approved, closed, declined and pending applications).

Targeted funding for Māori and Pacific

Throughout the COVID-19 response there have been specific funds targeted towards Māori and Pacific Peoples. In total this represents around $300m of funding targeted at Māori and Pacific response and recovery of COVID-19. Of this $46.4m in the Māori Community COVID-19 Fund (MCCF) remains in contingency, with $73.5m in contracts still being finalised from MCCF phase 1, with the majority of other funds having been allocated.

Through Budget rounds this has included:

- $23m in funding to Whanau Ora commissioning agencies, with $17.6m for food, power, mobile data, hygiene packs, mental health support, wraparound support to access multiple services including for testing and vaccination, and $5.4m for Exceptional support requirements, such as self-isolation accommodation.
- $1m for Iwi-led response planning, communications outreach, support for vaccine uptake
- $26m of funding reprioritised in 2021/22 only to support the Pacific health and disability sector to lead the response to the outbreak of the Delta variant including; $18m to sustain service capacity of priority Pacific health and disability providers, $5m for DHBs to rapidly scale up mobile outreach and community vaccination services for Pacific families, and $3m to undertake Pacific ethnic-specific engagement and communication across specific Pacific communities to maintain an elevated level of compliance with public health guidance
- $36m to respond to the urgent pressures of the current COVID-19 response and contribute to achieving equity for Māori, including in the COVID-19 Vaccine and Immunisation Programme. It also intends to leave a legacy to support providers to prepare for and respond to the ongoing threat of COVID-19 outbreaks with four priority initiatives; $17m to support Māori providers to adapt their services, as part of their role in the COVID-19 response, $14m to support whānau to access essential health services where they have been impacted by the COVID-19 outbreak, $3m to strengthen the Māori psychosocial response, and $2m to ensure providers are prepared to support the long tail in the recovery from this outbreak.

Reference: T2022/71 BM-2-3-2022-1

TE TAI ŌHANGA
THE TREASURY

Date: 27 January 2022

To: Minister of Finance (Hon Grant Robertson)

Deadline: None

Aide Memoire: Revising the In-Year Revisions Process

This aide memoire details the Treasury's proposed changes to the in-year revisions process for future baseline updates, including the upcoming 2022 March Baseline Update (MBU). Our revised approach aims to improve both process efficiency and the information you receive each baseline update by better explaining the most significant baseline changes.

Background

Despite the presumption that in-year revisions (the net fiscal impact of baseline changes at each baseline update) would be charged against Budget allowances when the process was first established in 2011, successive Ministers of Finance have always opted to 'look through' the fiscal impact of baseline updates. Considering the amount of resource that is taken in calculating and reviewing the in-year revisions position by the Treasury, this trend raised a question of whether the in-year revision process was fit for purpose and provided enough value to Ministers.

On 4 November 2021, *Treasury Report: October Baseline Update 2021* [T2021/2737] presented you with options for revising the in-year revisions process. You indicated your preference for our recommended option, which was to be more targeted, highlighting only the most material baseline changes while still retaining the option to charge select changes against Budget allowances. The implementation of this option is outlined below.

Proposed approach – "Significant Baseline Changes"

Rather than providing an in-year revisions calculation, which itself relies on a number of judgements and assumptions, our proposed approach will focus on identifying the most significant baseline changes at each baseline update and explaining the rationale for these changes. At a minimum this will include changes to benefit or related expenses

appropriations within Vote Social Development[1] and Vote Revenue[2] and the net change to the Emissions Trading Scheme (ETS) revenue and expenses. Historically, these items have been the most significant contributors to past in-year revision calculations.

In addition, we will also outline any other significant baseline changes, which may include:

- changes to the price or volume of other entitlements (outside of those already included in Vote Social Development and Vote Revenue)
- exchange rate movements, and
- changes in expected revenue (not including general tax revenue).

You will retain the option to charge any of these significant baseline changes against the Budget allowances through each baseline update, should that be required to achieve your wider fiscal objectives.

Information will also be provided to you outlining any significant transfers of expense or capital funding. By presenting this information at each baseline update, you will be able to see the trends in these transfers and highlight areas where funding has been repeatedly rolled over.

Next steps

This revised approach will be implemented through the 2022 MBU, due to be provided to you through a Treasury Report in early March. Following any feedback you may have on the 2022 MBU, we can look to further adjust this new approach.

David Kim, Graduate Analyst, Budget Management, s9(2)(k)
Simon Duncan, Manager, Budget Management, s9(2)(k)

[1] Vote Social Development benefit or related expenses appropriations will include: Accommodation Assistance; Childcare Assistance; Disability Assistance; Family Start/NGO Awards; Hardship Assistance; Jobseeker Support and Emergency Benefit; New Zealand Superannuation; NZ Beneficiaries Stranded Overseas; Orphan's/Unsupported Child's Benefit; Sole Parent Support; Special Circumstance Assistance; Student Allowances; Study Scholarships and Awards; Supported Living Payment; Training Incentive Allowance; Transitional Assistance; Veterans' Pension; Winter Energy Payment; Work Assistance; Youth Payment and Young Parent Payment.

[2] Vote Revenue benefit or related expenses appropriations will include: KiwiSaver: Interest; KiwiSaver: Tax Credit; Paid Parental Leave Payments.