



TE TAI ŌHANGA
THE TREASURY

Reference: 20220226

22 July 2022

Dear [REDACTED]

Thank you for your Official Information Act 1982 (OIA) request, received on 23 June 2022. You requested the following:

I previously requested correspondence between Treasury and the Christchurch City Council and any reports on the estimated budget and risk of cost escalation for Te Kaha, the Christchurch stadium project. The time period for the initial request was 2022. This is a refined version of the request relating to the 2019 investment case, which had a recommended option costed at \$473m.

Please provide the following:

- 1. Any correspondence between the Treasury and council staff in 2019 about the \$473m budget for the recommended option in the investment case?*
- 2. Any correspondence between the Treasury and council staff warning about cost escalations, including recommendations that councillors be briefed of the risk?*
- 3. Any internal reports produced by Treasury on the realism of the \$473m budget, and any estimates of what Treasury thought the project would cost at the time (2019).*

On 23 June 2022, the request was revised and the new scope of the request was agreed upon:

- 1. Any formal correspondence between the Treasury and council staff in 2019 about the \$473m budget for the recommended option in the investment case?*
- 2. Any formal correspondence between the Treasury and council staff warning about cost escalations, including recommendations that councillors be briefed of the risk?*
- 3. Any formal reports or advice on the realism of the \$473m budget, and any estimates of what Treasury thought the project would cost at the time (2019).*

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Information being released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	30 August 2019	Aide Memoire: Update on the Canterbury Multi-Use Arena	Release in part
2.	15 July 2019	Joint Report: Canterbury Multi-Use Arena: Crown Considerations for Investment Case	Release in part
3.	18 October 2019	Canterbury Multi Use Arena: Advice on Potential Management Approach	Release in part
4.	15 November 2019	Christchurch regeneration acceleration facility: next steps on investment cases	Release in part

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

- personal contact details of officials, under section 9(2)(a) – to protect the privacy of natural persons, including that of deceased natural persons,
- 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,
- direct dial phone numbers of officials, under section 9(2)(k) – to prevent the disclosure of information for improper gain or improper advantage.

We have redacted the direct dial phone numbers of officials under section 9(2)(k) 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 own website.

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

Morgan Dryburgh
Acting Manager, National Infrastructure Unit

OIA 20220226

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TE TAI ŌHANGA
THE TREASURY

Reference: T2019/2644 TY-2-1-6-8-2

Date: 30 August 2019

To: Minister of Finance (Hon Grant Robertson)
Minister for Greater Christchurch Regeneration (Hon Dr Megan Woods)

Deadline: None

Aide Memoire: Update on the Canterbury Multi-Use Arena

Background

In relation to the Canterbury Multi-Use Arena (CMUA), officials have recently:

- a) Reported to Ministers:
 - Upon receipt of the draft Investment Case, flagging project risks, testing Crown objectives, and presenting high-level options for Crown involvement in the project [T2019/20294 refers];
 - On the potential opportunity for the CMUA to be delivered as a Public Private Partnership (PPP) [T2019/2398 refers]; and
- b) Provided feedback to the Christchurch City Council (Council) on the draft Investment Case and jointly engaged independent assurance around the cost estimates and key related assumptions including the identification, costing and management of risks.

Update on the Investment Case

The key concerns officials raised with the Council when providing feedback on the draft Investment Case related to:

1. **Affordability** of the proposed option
2. Certainty and appropriateness of **project governance**
3. Clarity and appropriateness of **risk allocation**
4. **Assurance**, where we suggested a more detailed plan was needed
5. **Procurement**, which needs to be best for project, realistic, and appropriately resourced.

Following discussion of these concerns, officials jointly engaged an independent expert to provide quality assurance over cost estimates and risk management. This exercise identified that the preferred option was unaffordable on the current budget and that further work would be needed to provide greater comfort around risk management. In addition, there has been an acknowledgement that there needs to be a reset in Crown and Council engagement and project governance. The draft Investment Case will need to be updated once this work has been completed.

In light of this, when **Councillors** were briefed on the project they **elected not to receive the Investment Case until this further work has been completed.**

Council has indicated it will seek the early release of funding from the Christchurch Regeneration Acceleration Facility (CRAF) for this next phase of work. We expect this to interrogate: i) what is affordable, ii) risk management, and iii) the appropriate project governance. It may also undertake procurement and programme planning, including establishing an assurance plan. It would likely occur concurrently with any enabling works for which the timing is sufficiently critical to project timelines.

We plan to work with Council to help ensure the scope of the next phase of work is best for project and represents good use of taxpayer/ratepayer funds. You have been delegated joint authority to release up to \$20 million from the CRAF for 'site decontamination, early site groundworks, and some initial design work ahead of investment case approval' [DEV-18-MIN-0163 refers]. We will advise on whether the proposal fits with this delegation once we receive it. We have been told that the Council is limited in its ability to meet the costs of this phase of works without public consultation (which would have timing and potentially other implications given the proximity to local government elections).

Media interest around the progress of the Investment Case is likely to increase in the coming weeks as earlier media releases indicated the Investment case would be finalised in July, and then presented to Council and the Crown. In addition, the Department of the Prime Minister and Cabinet (DPMC), which has been consulted on this aide memoire, is considering Official Information Act requests which refer to these original timeframes, which will now not be met. DPMC will work with Hon Woods' office and the Council on communications around CMUA timing and process.

Next steps/advice to come

Council will develop a proposal for the release of a portion of CRAF funds for the next phase of work. **Officials will engage with Council to help scope the next piece of work and, upon receipt, will advise on the Council's proposal** and its fit with your CRAF delegation. If Crown requires Council to contribute to the costs of this work, this should ideally be flagged soon.

However, the output of this next phase of work should ideally be something that gives the Crown comfort to release the remaining CRAF funding for the CMUA. It would also address procurement as well as project governance and roles. Therefore, it would be useful for the Crown to form a view on these matters in order to shape the scope of the next piece of work. In light of this, officials plan to report to Ministers over the coming weeks on:

- **Proposed project stage gates/conditions of Crown support and associated Crown involvement** through the project. This will balance Ministers' objectives to set this project up for success and phase down Crown involvement while ensuring appropriate risk allocation and management; and
- **How a PPP could work and Crown requirements for procurement planning.**

Angus White, Principal Advisor, Commercial Performance, s9(2)(k)
Maureena van der Lem, Manager, Commercial Performance, s9(2)(k)



Joint Briefing

CANTERBURY MULTI-USE ARENA: CROWN CONSIDERATIONS FOR INVESTMENT CASE

To: Hon Grant Robertson, Minister of Finance Hon Dr Megan Woods, Minister for Greater Christchurch Regeneration			
Date	15/07/2019	Priority	High
Deadline	22/07/2019	Briefing Number	DPMC-2018/19-1389 T2019/2094

Purpose

This briefing seeks Ministerial direction on the Crown's preferred level of involvement in the Canterbury Multi-Use Arena (CMUA) project.

Recommendations

- Note** the Crown's ability to manage the delivery and fiscal risks relating to the CMUA, and to deliver broader objectives, depends on the level of Crown involvement in the project
- Indicate** your preferred level of Crown engagement following your 16 July meeting with officials:
 - Crown led;
 - OR**
 - Council led (recommended);
 - OR**
 - Co-led Crown weighted;
 - OR**
 - Co-led Council weighted (not recommended).

Discuss.

YES/NO

YES/NO

YES/NO

YES/NO

3. **Note** the Council have provided a draft version of the management case (a component of the CMUA Investment Case) and Crown officials have been asked for feedback.


Matthew Gilbert
Acting Director, Commercial,
Infrastructure & Urban Growth
The Treasury
15/7/2019


Anne Shaw
Executive Director
Greater Christchurch Group
DPMC
15/7/2019

Hon Grant Robertson
Minister of Finance

...../...../2019


Hon Dr Megan Woods
Minister for Greater Christchurch
Regeneration

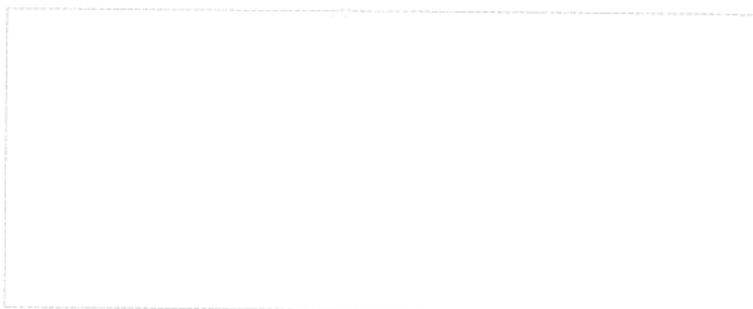
16/7/2019

Contact for telephone discussion if required:

Name	Position	Telephone		1st contact
Shane Collins	Senior Relationship Manager, Greater Christchurch Group DPMC	s9(2)(k)	s9(2)(a)	✓
Angus White	Principal Advisor, Commercial Performance The Treasury	s9(2)(k)	s9(2)(a)	

Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by
Minister
- Overtaken by
events
- Referred to



CANTERBURY MULTI-USE ARENA: CROWN CONSIDERATIONS FOR INVESTMENT CASE

Purpose

1. This briefing seeks Ministerial direction on the Crown's preferred level of involvement in the Canterbury Multi-Use Arena (CMUA) project.
2. Hon Dr Megan Woods is meeting with officials on Tuesday 16 July at 11:30am-12:00pm to discuss the Crown's preferred approach.

Background

3. As you are aware, in October 2018 the Crown earmarked \$220 million of the Christchurch Regeneration Acceleration Facility (CRAF) for the CMUA project. This is in addition to \$80 million that has/will be spent on purchasing and remediating the land marked for the CMUA site.
4. The Council is in the process of preparing an Investment Case for the CMUA. The Investment Case is intended to give more certainty on the strategic, economic, commercial, management, and financial aspects of the project. Crown approval of the Investment Case is needed prior to the appropriation of the Crown funding for the project.
5. Hon Dr Megan Woods met with Hon Lianne Dalziel on 17 May to discuss the CMUA project among other issues. In this meeting, among other options, you discussed a co-led "reverse MSF" option (i.e. the Council has the lead and the Crown is engaged in governance as a minority) which has now been provided by Council as their preferred option in the draft Management Case. As discussed below, the co-led "reverse MSF" option is least preferred by DPMC and the Treasury.

CMUA project and risks

The CMUA project has varying levels of risk throughout its lifespan

6. As with any capital project, there are risks involved regardless of which entity (Crown or Council) takes responsibility for delivering it. In the CMUA, the primary risks can be summarised as:
 - a) **Delivery risk** – ensuring a fit for purpose CMUA is delivered on-time and within budget. This includes risks associated with:
 - Ground conditions;
 - Market conditions;
 - Project oversight and management (i.e. experience of project lead and quality of investment case); and
 - Effective working environment (i.e. Council and Crown working effectively).

- b) **Fiscal risk** – cost-overruns above the budgeted \$473 million provided by Crown and Council.
 - c) **Reputational risk** – as a key anchor project there is significant reputational risk for the Crown and Council if this project is not delivered successfully.
7. These risks need to be balanced against the Crown's broader objectives (discussed in the next section).
8. Based on the draft version of the Investment Case, officials are concerned that the project will have difficulty managing these risks. In particular, the 'preferred option' in the Investment Case has only been considered 'affordable' when the assumed cost implications of certain risks were reduced from that provided by the Quantitative Risk Assessment (QRA) following market sounding. This has the effect of reducing the level of escalation contingency. In addition, there has been a reduction in the budget for ICT and professional fees since the initial draft. Experience by both Crown and Council has shown that not accepting the right level of contingency at the start of the project typically leads to cost over-runs.

Crown's broader objectives

9. The Crown's objectives for this project could include managing delivery, fiscal and reputational risks noted already. The balance of importance Ministers place on managing these risks, together with the extent to which the Crown wishes to consider this project in the context of its broader objectives, will influence the Crown's preferred option for its level of involvement in the project. These broader objectives are discussed below.

Transition to Local Leadership

10. One of the Crown's broader goals is to transition out of its extraordinary role in Christchurch, and return to a 'new normal relationship' with the Council. In general, this means providing the Council with opportunities to lead regeneration in Christchurch into the future. However, at a more strategic level, this also means the Crown interacting with the Council as it would with any other territorial authority (which for projects where it is providing significant funding, may include a level of direct involvement).

Global Settlement

11. The Crown's global settlement negotiations with the Council are running in parallel to the CRAF process. Cabinet agreed that CRAF funding cannot be appropriated until a global settlement is reached with the Council and would be subject to Investment Case approval. Good progress is being made on the global settlement, and the Council intends to consider a proposed global settlement agreement at a full Council meeting on 8 August 2019, though there remain outstanding issues where agreement is yet to be reached (DPMC-2019/2036 / T2019/2068 refers). These negotiations and the impending local body elections may create delays for this the CMUA project.
12. Depending on global settlement negotiation progress, pushing for a Crown-led approach to the CMUA project could have an adverse impact on the ability to reach/successfully implement a global settlement with the Council which could affect broader regeneration activities (e.g. in the Ōtākaro Avon River Corridor). Additionally,

managing fiscal and delivery risk of the CMUA project needs to be weighed up against demonstrably returning to a new normal relationship with Christchurch.

Enduring Relationships

13. The Crown will still have a role in Christchurch for the near future, including likely owning Te Pae/the Convention Centre for some period and completing the Metro Sports Facility. It is important that the Crown retains a positive working relationship with the Council to support these and other projects.

Market Development

14. The Crown has a programme of infrastructure projects in New Zealand and may wish to consider using the project to support wider market development. Pursuing alternative procurement models such as a Public Private Partnership or an Alliance could encourage participants into the New Zealand infrastructure market. Further detail on procurement options is provided in **Attachment D**.

Options for Involvement

15. The Crown's ability to manage the delivery and fiscal risks and support broader Crown objectives depends on the level of Crown involvement in the project. The key trade-off for Ministers is explicit fiscal risk and demonstrable local leadership relative to ability to manage project risk and potentially support wider market development.
16. There are effectively three broad levels (detailed pros and cons are provided in **Attachment A**):
 - **Option 1: Council led** – this would require the Crown to provide the funding to the Council and leave it to deliver the project and accept and manage all risks. This may include some conditions to provide a level of confidence in the project as part of a funding agreement (**Attachment B** indicates some of the conditions that could be considered). This option is most likely to reduce fiscal risk to the Crown and would demonstrate a step change in the transition to local leadership;
 - **Option 2: Crown led** – this would require the Crown leading the project and using a delivery agent such as Ōtākaro to deliver the CMUA. This option provides greater ability to achieve the Crown's wider market development objectives and to utilise capability already developed in managing bug infrastructure builds;
 - **Option 3: Co-led** – this would require a mechanism where both the Crown and Council have a role in the ongoing delivery of the project. With co-led, there is a spectrum of options for weighting the control either towards the Crown or the Council and a variety of structuring options (joint project governance, delivery agreement with outsourced project management, which could be via Ōtākaro, through to a Special Purpose Vehicle (SPV) or Trust). A Crown weighted option will provide greater confidence in CMUA delivery. A Council weighted option will contribute towards achieving a normalised relationship with Council.
17. The draft Management Case of the CMUA Investment Case includes the Council's preferred option of it leading the project management and having majority control of an SPV. However, the Crown's preferred level of involvement may well differ from this.

Depending on the Crown's preferred option, negotiations may be required with Council (e.g. negotiating a fairer balancing of control and risk allocation).

18. The different levels of involvement discussed in this briefing are separate from decisions on CMUA procurement. The draft Commercial Case considers procurement options, favouring a design and build approach. Whilst all procurement options remain open, a greater level of Crown control is more likely to provide greater influence over the procurement approach.

Option 1: Council Led

19. Compared with many other Councils, this Council has had considerable experience in delivering significant projects including Tūranga, QEII and Ngā Puna Wai and has recently restructured their Major Facilities Team to improve delivery. Despite this, some of Council's post-earthquake projects have been over budget or late. While this is also true of some Crown projects in Christchurch, officials consider there is a real risk of this project exceeding the allocated budget and taking longer than anticipated. This is based on the s9(2)(g)(i) the scale and complexity of the CMUA build (which is more significant than any other project undertaken by this Council).
20. As with other options, there remains a risk that the Crown comes under pressure to provide further funding later in the project. The risk should be least under this option and to minimise the risk the Crown could publicly announce the project is to be led by Council and therefore it is allocated all future project risks. Under this option the Crown may also reduce risk by making funding conditional on meeting certain requirements (**Attachment B**), noting not all of the conditions would be consistent with full Council-leadership. This option is captured in the Management Case but stipulates that if the Crown were to place any conditions on releasing the funding it would require the Crown to share fiscal risk which is likely to be unacceptable to the Crown.
21. If reducing fiscal risk to the Crown is the priority, then a Council led approach with Crown imposed funding conditions would be the recommended option. This option is most likely to reduce Crown's exposure to fiscal risk and visibly support the transition to a new normal relationship with Christchurch. This option is also more likely to be agreeable with the Council than Crown led options.

Option 2: Crown Led

22. Under a Crown led option it is unclear how much the project would be de-risked, but officials consider project delivery is likely to be managed more effectively given Crown's experience. However, this option does not completely de-risk the project, as displayed in the Christchurch Justice and Emergency Services Precinct and the Metro Sports Facility which were over time and budget. This option does provide the ability to capture some of the Crown's broader goals around market development and utilise current capability already in place through Ōtākaro.
23. This option is not currently considered in the current Investment Case. Moreover, this option is likely to be extremely unfavourable for the Council and could impact on the Crown's enduring relationship with the Council and other Crown objectives that involve Council including global settlement negotiations and transition to local leadership.

24. If an efficient delivery of the CMUA and market development is the Crown's priority, then a Crown led approach is recommended. However, with this option there are concerns for achieving the Crown's other objectives and its relationship with the Council. This option is also unfavourable because fiscal risks are wholly borne by the Crown and it potentially lengthens the time of Crown's extraordinary involvement in Christchurch until 2024.

Option 3: Co-Led

25. A co-led option is the Council's current preferred option based on the draft Management case received Thursday 11 July. There are a spectrum of Crown-Council co-led arrangements either even or slightly weighted towards Crown or Council. **Attachment A** describes these in more detail based on the weighting of control.
26. Council's preferred option based on the draft Management Case is co-led weighted towards Council (Option 3A) in both governance and delivery. Features of this option include:
- An SPV established to provide governance for the project.
 - Council and Ministers would be shareholders in the SPV with 49% owned by Crown and 51% owned by Council.
 - Directors of the SPV would be appointed based on expertise with Council appointing the Chair as majority shareholder.
 - Council's Major Facilities Team would act as the day-to-day project manager for the project.
27. Given the challenges that Crown and Council officials have faced during the Investment Case development and other joint projects, we have concern this option provides the Crown with limited ability to mitigate delivery risk and yet explicitly allocates Crown a share of cost-overruns. However, a variation of this option which provides greater Crown influence could be further explored with Council (e.g. greater Crown input on Directors and SPV to have greater decision making rights in appointing the delivery agent)
28. Alternatively, a co-led option weighted towards the Crown (Option 3B) would provide the Crown with more confidence in delivery and ensure that Council had a share in the fiscal risk. As with the Council-led option, the Crown may also reduce risk by making funding conditional on meeting certain requirements (**Attachment B**). However, as with the Crown led option, this option is likely to be unfavourable for the Council and could impact on the Crown's enduring relationship and other Crown objectives that involve Council including global settlement negotiations and transition to local leadership.
29. Officials do not recommend this option given the implications for the Crown's other objectives and relationship with Council, and the potential inability to influence or intervene to manage project risks. This option, like Crown led, potentially lengthens the time of Crown's extraordinary involvement in Christchurch.

Next Steps and timing

30. Hon Dr Megan Woods is meeting with officials on Tuesday 16 July at 11:30am - 12:00pm to discuss and indicate the Crown's preferred approach to CMUA governance. Following this, officials will feedback the Crown's preferred approach to Council. This will be progressed at an official's level in the first instance.
31. The full Investment Case is due to Council and Crown at the end of July. Prior to Council considering the Investment Case publicly, it will be considered in publicly excluded Council meetings throughout August. There will be an opportunity for you to engage with Council during these meetings to discuss and negotiate aspects of the Investment Case.
32. Officials will provide formal advice to you on the full Investment Case once it is received from Council, including on procurement options.
33. A date has not been set for the Council to publicly considering the Investment Case, but indications are that it would need to be in August for the Council to make a decision prior to the pre-election period for local government.
34. After negotiations and following formal Council approval, the Investment Case will be provided to Crown for consideration.

Attachments	
Attachment A	Summary of CMUA options
Attachment B	Potential Funding Agreement Conditions to manage Crown risk
Attachment C	Crown Funding: Accounting Treatment
Attachment D	Potential benefits of Alternative Procurement Models

Attachment A: Summary of CMUA options

Option	Pros	Cons	Notes	Officials view
<p>1 Council led</p>	<ul style="list-style-type: none"> • Crown could specify that the Council was responsible for risks of cost overrun (and limit Crown's exposure to land acquisition and decontamination) • Visible 'transition to local leadership' 	<ul style="list-style-type: none"> • There is a risk that Council cannot deliver the CMUA or will result in cost over-runs and/or project delays • There is still a risk that the Council seeks further Crown funding in if costs run over budget. 	<ul style="list-style-type: none"> • Council may come back to the Crown for further funding, but no obligation on Crown to step in • If Crown imposes conditions on release of funding this increases involvement and potential for exposure to any risk of cost overrun • This option is considered in draft Management Case received Thursday 11 July • This option is mostly likely to reduce fiscal risk to the Crown. 	<ul style="list-style-type: none"> • Preferred: to cap exposure and focus involvement on outcomes sought and use a funding agreement to include protections aligned with this
<p>2 Crown led</p>	<ul style="list-style-type: none"> • Most ability to manage delivery risk and project costs • Ability to choose alternative procurement model (i.e. PPP or Alliance) • Expect greater confidence in project team (would likely be Ōtākaro) • Could apply a weighting to wider infrastructure market development in how this is delivered (if desired – see Appendix D) 	<ul style="list-style-type: none"> • Might affect relationship with Council as ongoing extraordinary Crown involvement • Would require additional operating appropriation to reflect transfer of asset for nil value (see Attachment C on funding treatment) • If Crown entering contracts there is a risk around Council contribution or asset acceptance, which is not for some years 	<ul style="list-style-type: none"> • This was not considered as an option in the draft Management Case received Thursday 11 July • This option provides greater ability to achieve the Crown's wider market development objectives; 	<ul style="list-style-type: none"> • Could be progressed, could be very difficult to negotiate this with the Council and might affect broader strategic goals in Christchurch
<p>3A Co-led: Council weighted Council Preferred Option</p>	<ul style="list-style-type: none"> • Shows a collaborative approach with Crown able to have oversight / involvement 	<ul style="list-style-type: none"> • Based on experience, will not provide the Crown with sufficiently effective influence on the project, and exposes Crown to risk; it cannot effectively manage • Experience working with Council to date indicates that a co-governance approach is likely to continue to be challenging and could result in time delays and cost overruns 	<ul style="list-style-type: none"> • This is the preferred option under the draft Management Case received Thursday 11 July • This option will contribute towards achieving a normalised relationship with Council. 	<ul style="list-style-type: none"> • Not recommended: we do not recommend this option as the Crown will be exposed to risks it has limited ability to manage
<p>3B Co-led: Crown weighted [e.g. MSF]</p>	<ul style="list-style-type: none"> • Crown involvement in project might help manage risks • Ability to choose alternative procurement model (i.e. PPP or Alliance – see Attachment D for potential benefits) • Expect greater confidence in project team (would likely be Ōtākaro) 	<ul style="list-style-type: none"> • Greater Crown involvement would be expected to come with greater risk allocation (increasing the fiscal risk could be offset if better able to manage that risk – i.e. may be less likelihood of cost overrun/reduce the extent) • Would likely require additional operating appropriation to reflect transfer of asset for nil value (see Attachment C on funding treatment) • If Crown entering contracts, risk around Council contribution (or at the extreme asset acceptance), which is not for some years 	<ul style="list-style-type: none"> • Will be more difficult to progress with the Council • Experience working with Council to date indicates that a co-governance approach is likely to continue to be challenging and could result in time delays and cost overruns • This was not considered as an option in the draft Management Case received Thursday 11 July • This option will provide greater confidence in CMUA delivery. 	<ul style="list-style-type: none"> • Could be progressed: could be challenging to negotiate this with the Council

Attachment B: Potential Funding Agreement Conditions to manage Crown risk

1. At this stage, based on drafts of components of the Investment Case received to date, officials advise some further steps would be required in order to have confidence that the \$220m being sought will be effectively spent. We note however, that the more conditions and more involved the Crown is, particularly in more detailed elements of project delivery, the greater the case may be for Crown to share in risks.

2. With this in mind, the following is an initial indication of the kinds of conditions the Crown may wish to consider if it were to approve the Investment Case (and ultimately as part of its funding):
 - *Process:* Crown approval of an implementation business case, procurement plan (for advisors and technical skills), key procurement documents (i.e. tender and evaluation criteria) and contracts.

 - *Project scope and outcomes:* Crown say in the appointment of the contract, including the design team and on the functional brief

 - *Capability:* Joint approval of key project team members and technical expertise and a say in agreeing that decision-making be delegated to appropriate levels (project management, governance, and funders).

 - *Risk allocation:* The Council agreeing that it is responsible for any project cost overruns, as well as ongoing operating costs as owner. Limiting Crown risks to land acquisition and site decontamination.

 - There would be payment timing/milestones to work through and the Crown could consider requiring consultation over changes that would impact project outcomes (and/or over a certain size) or to the functional brief and even step-in rights if the project got sufficiently off track (though the latter could result in greater risk allocation to the Crown).

3. Involvement in the decisions on the detailed design, any contract variations, or even payments to contractors would be a step further than is recommended (as its getting more into the project governance) but these could also be considered.

Attachment C: Crown Funding: Accounting Treatment

1. The Crown could provide its funding as either a grant or as equity.
2. Providing a grant would require the appropriation of funding from the CRAF tagged contingency as an operating expense, to be recognised (with corresponding impacts on OBEGAL and net core Crown debt) once approved and paid subject to the conditions of any funding agreement.
3. If the Crown controls the project, or has an ownership stake in the vehicle that delivers the CMUA, it would need to provide equity funding, which would be a capital expense to come from the CRAF tagged contingency. If the Crown is not going to be the end owner of the CMUA (or delivery vehicle) and will not receive any proceeds for reduced ownership, an additional appropriation will be needed for the operating expense associated with the reduction in the value of the investment being made. This is a non-cash expense that would not impact operating allowances or net core Crown debt but would impact OBEGAL at the point the decision is made to transfer ownership for less than the value of the investment.
4. Officials do not see a strong rationale for ongoing Crown ownership. Further, unless Crown control is considered necessary to attract sufficient interest for wider market development outcomes, Crown control of project development is also unlikely to be necessary (and contradicts objectives around minimising explicit Crown fiscal exposure or a transition to local leadership).

Attachment D: Potential benefits of Alternative Procurement Models

1. The commercial case suggests that no procurement approach meets all of the objectives identified by the parties. With any procurement approach, there will be a trade-off between the amount of risk and responsibility transferred to the private sector and the willingness of the market to accept, manage and/or price that risk. The scoring of the various procurement models show that there are divergent views amongst the stakeholders as to what the optimum trade-off is.

Design Build Fund Manage (DBFM) / Public Private Partnership (PPP)

2. Alternative procurement models, such as DBFM, place accountability for successful project delivery with a consortium led by a specialist infrastructure originating or investing entity. A DBFM offers greater likelihood of bringing international stadium experts to the project, with strong commercial incentives for bringing innovation and delivering a legacy that Christchurch can be proud of. The requirement for consortium bids increases the likelihood of getting experienced integrated teams that have a proven track record of working together to deliver similar facilities.
3. The Treasury's Infrastructure Transactions Unit (ITU) considers that the CMUA is a suitable candidate for a DBFM approach to procurement. This approach offers greater ability to:
 - manage cost and delivery risks (by transferring design and construction risk to an experienced stadium builder)
 - consider a whole of life view of the asset (ability to maintain cost effectively)
 - consider an operator view (enhancing its attractiveness to event promoters potentially increasing utilisation and revenue)
 - include greater innovation in delivery of investment objectives and outcomes over the longer term (trade-offs between capital and operating costs)
 - attract international best practice in project delivery to provide uplift in local capability.
4. The ITU is concerned the DBFM model was discounted due to an "equivocal" response from the contractor. Treating the current market sentiment as "fixed" is potentially driving a suboptimal procurement recommendation. Lack of enthusiasm for a fully integrated DBFM may reflect a lack of clarity on issues such as risk allocation (between Crown, Council and constructor/investor), opportunity for innovation, governance and long-term ownership.
5. Encouraging consideration of third party finance on appropriate projects is import to clarify the Government message on when alternative financing models will be considered to ensure investors remain engaged in the market.

Alliance

6. Alliance Contracting is a relationship-style arrangement that brings together the client and one or more parties to work collaboratively as an integrated team to

manage key project delivery matters, sharing project risks and rewards (e.g. 'open book' approach to contract pricing).

7. Under an Alliance structure a fully integrated project team deals with planning, design and build with a contract structure that incentivises parties to work together in good faith, act with integrity, and make best-for-project decisions
8. Alliance contracting was discounted in the Commercial case due to perceived low cost and time confidence however this has been challenged by Otākaro. It is noted that there are a number of features of the Alliance contract (in particular the requirement for all parties to make decisions collectively and unanimously) that would support effective "joint leadership" of the project between Crown and Council. If a co-governance approach was to be taken where both parties are to have equal control, the Alliance structure should be further considered.
9. The development of the Alliance model for vertical infrastructure in New Zealand would also show Crown commitment to the Construction Sector Accord commitments to an equitable sharing of risk, reduced bid costs, better investment in skills development and greater use of collaborative contracting principles.



Joint Briefing

CANTERBURY MULTI-USE ARENA: ADVICE ON POTENTIAL MANAGEMENT APPROACH

To: Hon Grant Robertson
Minister of Finance

To: Hon Dr Megan Woods
Minister for Greater Christchurch Regeneration

Date	18/10/2019	Priority	Medium
Deadline	29/10/2019	Briefing Number	DPMC-2019/20-362 T2019/2215

Purpose

This briefing seeks a decision on the Crown's preferred management approach for the delivery of the Canterbury Multi-Use Arena and identifies options for assisting with the development of the investment case. A decision about the Crown's involvement is required to ensure the project is set up for success and maintains momentum.

Recommendations

1. **Note** the Crown's preferred management approach will need to be negotiated with the Christchurch City Council for it to be included in the final investment case.
2. **Note** that regardless of the management approach agreed between Crown and the Council, the investment case will require Cabinet approval.
3. **Note** that no management approach is completely risk free for the Crown and each approach will have strengths and weaknesses.
4. **Note** that a) the Crown's ongoing lead agency for this work will need to be determined with DPMC beginning its transition out of Christchurch over the next year, and b) the level of resource required under an Autonomous (Collaborative) Approach would be higher than Locally-led.

CANTERBURY MULTI-USE ARENA: ADVICE ON POTENTIAL MANAGEMENT APPROACH

DPMC-2019/20-362
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5. **Discuss** with officials: a) your preferred management approach, b) your preferred conditions of that approach and bottom-lines, and c) how you would like to engage with the Council on this approach and/or any requests for the early release of the Christchurch Regeneration Acceleration Facility (CRAF). YES / NO

OR

Agree that your preferred management approach for the Canterbury Multi-Use Arena is an **Autonomous (Collaborative) Approach** (with conditions and bottom lines as specified in paragraph 22) and **instruct** officials to develop a draft Funding Agreement. YES / NO

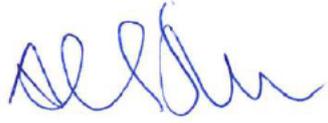
OR

Agree that your preferred management approach for the Canterbury Multi-Use Arena is **Locally-led** [*Treasury's preferred approach*] (with conditions and bottom lines as specified in paragraph 29) and **instruct** officials to develop a draft Funding Agreement. YES / NO

6. **Agree** to consider a proposal for the early release of no more than \$20 million from the CRAF for any early works for which delay would impact CMUA opening. YES / NO

7. **Indicate** if you are willing to consider fully or partially funding refinement of the draft CMUA investment case from the CRAF. FULL / PARTIAL / NONE


<p>Maureena van der Lem Manager, Commercial Performance 18/10/2019</p>
<p>Hon Grant Robertson Minister of Finance /...../2019</p>


<p>Anne Shaw Executive Director, Greater Christchurch Group 18/10/2019</p>
<p>Hon Dr Megan Woods Minister for Greater Christchurch Regeneration /...../2019</p>

Contact for telephone discussion if required:

Name	Position	Telephone		1st contact
Shane Collins	Senior Relationship Manager, Greater Christchurch Group, DPMC		s9(2)(a) [redacted]	✓
Angus White	Principal Advisor, The Treasury	s9(2)(k) [redacted]	s9(2)(a) [redacted]	

Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

CANTERBURY MULTI-USE ARENA: ADVICE ON POTENTIAL MANAGEMENT APPROACH

Executive Summary

1. Crown and the Christchurch City Council (the Council) both want to quickly progress building a Canterbury multi-use arena (CMUA) that best meets the needs of the region given the budget available. To do so, Crown and the Council need to make a decision about the preferred management approach for the delivery of the CMUA. This will provide clarity and help promote momentum for the project.
2. Following previous advice from officials and discussions with Minister Woods, the Mayor, and the external Project Reference Group, Minister Woods requested officials investigate a collaborative approach to the management of the CMUA and a locally-led approach as an alternative.
3. This report examines these options, noting the trade-offs, possible design elements and risks. A table of elements under each of these approaches is provided in **Attachment A**. In summary:
 - a) **Autonomous (Collaborative)** involves: creation of a standalone entity with a board jointly appointed by Crown and Council, joint accountability (which has had some challenges to date), independent governance (with potentially some additional time and cost implications), greater influence over project scope, and greater fiscal risk and potential delivery risk for the Crown.
 - b) **Locally-led** involves: the Council response for delivery of the CMUA, with clear Council accountability, conditions of Crown funding, the offer of Crown support and input into key stage-gates, and still a potential fiscal and delivery risk to the Crown.
4. A key element of both the Autonomous (Collaborative) and Locally-led approaches is that Council is responsible for securing additional funding or a decision to de-scope the project to ensure the project begins with an appropriate budget. However, this may be difficult for Council and/or it may create significant time delays. If the Crown considers the time delay unpalatable, it could consider either proposing to the Council that it reprioritise from the remaining \$80 million Christchurch Regeneration Acceleration Facility (CRAF) funding (currently earmarked for the Ōtākaro Avon River Corridor and roading), or the Crown could contribute additional funding beyond the \$300 million CRAF.
5. Regardless of the management approach adopted and agreed between joint Ministers and the Council an investment case needs to be developed and approved by Cabinet.

Purpose

6. This briefing provides two management approaches for delivering the CMUA, identifies options for assisting in developing the investment case, and seeks a discussion on the Crown's preferred management approach. A decision about the Crown's involvement is required to ensure the project is set up for success and maintains momentum.

Background

7. In May 2018, Crown announced the \$300 million CRAF for capital projects in Christchurch. In September 2018, the Council allocated \$220 million of this fund towards the CMUA. In addition to the Crown's expected contribution through the CRAF, in 2013 the Council agreed to contribute \$253 million¹, making the total project development budget \$473 million.
8. To access CRAF funding, an investment case needs to be developed and approved by Cabinet. The Council has been leading the development of a Crown funded investment case for the CMUA since mid-2018. Crown officials have had some involvement in this and officials from both have found this relationship challenging.
9. Council provided a draft investment case to Crown officials for review in July 2019. The draft investment case was for a covered multi-use arena with 25,000+ seats, consistent with local expectations. Crown officials were concerned about the robustness of the project costs in this draft and the Council agreed to undertake an independent review. The independent review indicated the project would cost between \$510 million and \$535 million (exceeding the available budget by \$35 million to \$60 million). Crown officials subsequently advised that they could not recommend approval of the draft investment case for a number of reasons including unaffordability and concerns about the management case options [T2019/2644 refers]. Further work will be required on the investment case before officials would recommend approving it. In particular, there needs to be a high probability that the project costs will be within the project budget and that sufficient contingency exists.
10. The reluctance of Crown officials to recommend approval on an investment case that does not have an adequate budget at this stage is reflective of best practice. As a project moves through the design phases it becomes progressively harder to reduce the cost of the project without incurring major redesign time and cost impacts, as we saw with the Metro Sports Facility.
11. The two management approaches provided in the draft investment case were: Joint governance (with a Council appointed Chair and delivery team); and Council governance (with a Council appointed project director and delivery team). Crown officials suggest both approaches would require some modification, as suggested below, from a Crown/project perspective.
12. Since proving the draft investment case to the Crown, Council has verbally indicated it has no funding available to further develop the investment case and officials understand it is currently on hold. Crown and the Council are now considering next steps including how to proceed with the investment case. Decisions about the management approach will provide greater certainty and direction for both Crown and the Council.
13. Officials have provided advice previously on the suite of management options from Crown-led to Council-led [DPMC-2018/19-1389/T2019/2094 **Attachment B**]. Following this advice, Minister Woods met with the Mayor and the external Project Reference Group who agreed appropriate skills and a degree of collaboration between Crown and the

¹ CCC committed \$253 million to the CMUA through the Long Term Plan with \$37 million available in 2020/21 and \$72 million available in each of 2021/22, 2022/23 and 2023/24.

Council would best set the project up for success. This briefing provides further detail on two approaches: Autonomous (Collaborative) Approach and Locally-led.

Management Approaches

14. A key element of any investment case is the management case. This determines how the project is governed and managed throughout the design and build stage and how risks are allocated.
15. As outlined previously [DPMC-2018/19-1389/T2019/2094 **Attachment B**], officials understand Crown objectives for the project are:
 - a) Delivery of a fit-for-purpose CMUA on time and within budget.
 - b) Ensuring the Crown is fiscally responsible.
 - c) Supporting a pathway to local leadership and a normalised relationship in Christchurch.
 - d) Construction market development.
16. A key element of both approaches discussed below is that Council is responsible for securing additional funding or a decision to de-scope the project to ensure the project begins with an appropriate budget. However, this may be difficult for the Council and/or it may create significant time delays for the project. If the Crown considers the time delay unpalatable, it could consider:
 - a) proposing to the Council that it reprioritise from the remaining \$80 million of CRAF funding (currently earmarked for the Ōtākaro Avon River Corridor and roading); or
 - b) contributing additional funding (noting the draft investment case suggest the forecast costs currently exceed forecast benefits).
17. Increased Crown funding could allow a greater involvement in delivery to be sought, including potentially a Crown-led approach to delivery (although this would have significant challenges for the Crown's relationship with the Council and greater fiscal risk for Crown). If required, officials can provide further advice on this.

Autonomous (Collaborative) Approach

18. Based on previous advice and discussions with Minister Woods, officials have set out a potential Autonomous (Collaborative) Approach below.
19. This approach would see the establishment of standalone entity/project governance with a board jointly appointed by Crown and the Council. The governance board would be skills based and would have delegated authority to make decisions and be responsible for managing risk, appointing the project team (from Crown, Council, or externally), and reporting to Crown and Council on progress.
20. Key risks under this approach are additional costs, time, and resourcing as well as potentially blurred accountability (the design decisions below aim to address this issue). If Crown and the Council are equally responsible for governance, Crown will need to accept a shared level of risk for cost overruns, which may be substantial based on experience with other significant infrastructure projects. The level of risk borne by the Crown will need

to be negotiated with the Council but it is likely to be shared on a percentage basis, though ideally capped.

21. For this approach to succeed, Crown and Council would need to reach alignment on the investment objectives, prioritisation of time, cost and quality, and the best path forward for the project. This has not been achieved to date and has proved challenging.
22. Under this approach officials suggest a number of conditions and bottom lines are met to ensure risks are managed appropriately. The conditions and bottom lines could include the following:
 - a) *The project is joint Crown / Council, and the Crown's status as an equal partner is agreed, documented in a Funding Agreement, and put into practice.*

Note there is a risk of diluted accountability with this, though an independent board and Chair aim to address this.

- b) *The project is delivered by an autonomous stand-alone entity/project governance.*

Setting up an autonomous group will take some time, the extent of which will be influenced by the structure of the entity/project governance. Officials can provide advice on the most appropriate structure to balance time delays that will result from establishing the group and the autonomy of the entity/project governance. While it may take time to set up, this could very well be recovered through greater certainty in project governance.

- c) *All project decisions are devolved from Crown and the Council to the governance board (unless outside of the defined scope of, and budget for, the project).*

Having the project delivered independently of Crown and the Council empowers the governance board to make project decisions efficiently, based on what is best for the project and made by those with the right capability and experience.

- d) *The governance board is jointly appointed by Crown and the Council on a skills basis.*

In addition to skills-based appointments, early discussions with Minister Woods indicated openness and potential interest in some Crown and Council representation on the governance board. However, to ensure consistency with best practice guidelines officials suggest the governance board is made up entirely of external skills-based appointments. An approach may be two Crown board appointments, two Council board appointments and a jointly appointed Chair, or an entirely jointly appointed board and Chair (Treasury recommendation).

- e) *The governance board would be responsible for appointing the Project Director and Project Team.*
- f) *The Council is responsible for sourcing additional funding, if required, to ensure the project is funded to an agreed project budget (e.g. affordable at a P85 level).*

This condition may be challenging to negotiate and impose but it is a key aspect of limiting the Crown's fiscal exposure under this approach. Ensuring this condition is met will be a key consideration when the investment case is being considered by the Crown.

If the Council considered this too difficult and/or it creates significant time delays, the Crown could consider the options set out in paragraph 166.

- g) *Cost overruns above the agreed project budget are shared between Crown and the Council either at a defined ratio (i.e. 50/50) or a capped sum.*
23. Under an Autonomous (Collaborative) Approach a joint Establishment Team, appointed by Crown and the Council, could be created to complete the investment case and begin early works, instead of the Council alone or waiting for final project governance board. More details about a possible Establishment Team in paragraph 33.

Locally-Led [Treasury's Preferred Approach]

24. A Locally-led approach could also achieve Crown objectives outlined above and would be best if any of a combination of these factors applies:
- a) The Crown considers that management of fiscal risk is the priority objective, that is capping funding at \$220 million or anything further sought by the Council from CRAF (leaving it to Council to decide priorities).
 - b) Demonstrable transition to local leadership and/or clear local accountability is sought.
 - c) The Crown and the Council are unable to reach agreement on the Autonomous (Collaborative) Approach above.
25. This option would see the Council responsible for delivery of the CMUA, deciding on project scope, funding and governance arrangements. Those decisions would be subject to normal Crown funding conditions and review points to ensure accountability requirements for expenditure of public money are met. This would enable local-leadership and decision making by those closest to the community expectations and desires for the project consistent with the purposes of the CRAF fund.
26. Under a Locally-led approach, Crown officials would still be made available to support the project at the project team level and could be seconded on an "as needed" basis. Further, the Crown would be involved in monitoring the project and review of key stage gates, noting that these conditions could be challenging to negotiate and the more involved Crown became the more fiscal risk it would face.
27. In proceeding with this option, the Crown would need to accept that by reducing fiscal risk, it would be unable to gain the same level of influence over the scope of the project. This is because creating an approval process for scope changes and variations would likely transfer risk back to Crown. While this approach may remove upfront explicit fiscal risk there remains the possibility of the Crown being approached in the event the project fails or faces significant distress. As a result, the Crown would still need to monitor the project closely to ensure it remains on track. This would similar to the level of involvement commercial infrastructure funders would require.
28. A Funding Agreement between the Crown and the Council would be drafted, outlining the Crown's limited role in the project as a funder, and the conditions and method in which funding would be provided.
29. Under this approach, officials suggest a number of conditions and bottom lines are met to ensure the Crown's fiscal risk is limited. These could include the following:

- a) *The Council would be required to accept 100% of the project development and operating risk.*
- b) *The Council agreeing with Crown's expectations around Governance and oversight for a project of this scale and complexity – similar to the Autonomous (Collaborative) Approach, this would include:*
- i) The project is delivered by an empowered and accountable project team;
 - ii) Project governance roles and accountabilities are devolved from Crown and the Council to the governance board (unless outside of the defined scope and budget of the project);
 - iii) The Crown could retain joint approval over some or all the governance board to ensure they have the skills and capability to lead a project of this scale and complexity; and
 - iv) The governance board would be responsible for appointing the Project Director and Project Team.
- c) *The Council agrees to: i) provide the information required by the Crown to satisfy funding criteria and meet accountability requirements for expenditure of public monies, and ii) subject the project to an appropriate degree of assurance and review (including at key stage gates).*
- d) *The Council is responsible for sourcing additional funding, if required, to ensure the project is funded to an agreed project budget (e.g. affordable at a P85 level).*

This condition may be challenging to negotiate and impose but it is a key aspect of limiting the Crown's fiscal exposure under this approach. Ensuring this condition is met will be a key consideration when the investment case is being considered by the Crown. Similar to the Autonomous (Collaborative) Approach, if this causes unpalatable delays, the Crown could consider contributing additional funding and reconsider the management approach.

- e) *The Crown's funding would be provided as progress payments or at completion of the project.*

Officials will provide further detailed advice on these requirements if this is the approach you wish to take.

Maintaining Project Momentum on the Investment Case

30. As discussed at the Project Reference Group meeting, progress on the project is important to the Crown, Council and stakeholders. However, regardless of the management approach adopted and agreed between joint Ministers and the Council, a full investment case needs to be developed and approved by Cabinet before the Crown's funding can be released (excluding up to \$20 million of CRAF that could be released early for certain purposes). The Council has indicated it has no remaining funding available at present to further develop the investment case and officials understand it is currently on hold.
31. The \$20 million early release CRAF funding could also be used to fund early physical works on the critical path for the project. The Crown could also use this to provide further

funding for additional work on the investment case, to drive the project forward, regardless of which management approach is preferred. However, Ministers may have reservations about further funding for a Council-led investment case given the Crown has funded the \$3 million spent to date, and an affordable option has not yet been presented.

32. Investment Case Funding options include fully or partially funding:
- a) Council to refine the draft investment case or simply to procure de-scoping to fit within budget (subject to an adequate proposal for CRAF); or
 - b) The autonomous (collaborative) board or an Establishment Team (see below) to refine the draft investment case (subject to an adequate proposal for CRAF). *Note an establishment team is only applicable under the Autonomous (Collaborative) Approach.*

Collaborative Establishment Team

33. Under an Autonomous (Collaborative) Approach a joint Establishment Team, appointed by Crown and the Council, could be created to complete the investment case and begin early works, instead of the Council alone or waiting for final project governance board. Any Establishment Team would: i) be made up of experts from Crown, Council and externals, and ii) provide assurance that the investment case was developed appropriately. This could consider design scope, explore additional funding and manage community expectations. This team would ensure progress on the investment case and that any options presented to the Council and the Crown are within budget.
34. To assist in collaboration, any Establishment Team should be physically located together and comprise of people from Crown and the Council with the correct skills and expertise to deliver a robust investment case. This team could report to the Chief Executives of Ōtākaro and the Council.
35. To date unclear accountability and misalignment of priorities has hindered progress so ensuring an Establishment Team is set up to mitigate these risks is critical. As outlined in paragraph 21, to make progress this group would need alignment on the investment objectives, prioritisation of time, cost and quality, and the best path forward for the project, which has not been achieved between the Crown and Council to date. Key mitigates will be a truly collaborative working relationship at the team and governance level and the development of a transition plan to the final project governance entity.
36. Given the alignment challenge and risks of impacting longer term accountability, Treasury would recommend against investment case decisions being made by an Establishment Team although this could be mitigated to some extent if an enduring Chair was appointed for the Establishment Team and final governance board.

Next Steps

37. Officials would like to discuss each approach with you, including the associated conditions and bottom lines. This discussion would be helpful to provide a mandate for future negotiations with the Council.
38. Officials would then begin to develop a draft Funding Agreement which would provide clarity on funding, governance, specific roles and responsibilities. The Funding Agreement would also include a skills matrix for members of the governance board if agreed. In developing the Funding Agreement, officials would work with the New Zealand Infrastructure Commission to consider the Major Infrastructure Project Governance Guidance (MIPGG) to align with this where possible and advise you of any potential inconsistencies. The MIPGG provides guidance on establishing appropriate governance arrangements for major infrastructure projects from inception to delivery.
39. Following this, Crown would engage with the Council at an officials' level to outline preferred elements and negotiate the management approach. During the discussions, it may be appropriate for the Minister for Greater Christchurch Regeneration to meet with the Mayor of Christchurch to discuss the Crown's preferred approach. If so, officials will provide material for that meeting.
40. Below are indicative timelines for agreeing the Management Approach and for establishing an Autonomous entity:

Timeline to agree Management Approach between Crown and Council	Indicative Completion
Ministers agree preferred approach (2 weeks)	Early-November
Crown officials develop draft funding agreement (2 weeks). <i>Crown officials have begun developing a draft funding agreement which will be tailored to the preferred management approach.</i>	Mid-November
Ministers consider draft funding agreement and approach to negotiating with Council (2-4 weeks). <i>This timing may be longer depending on iterations required.</i>	Early-December
Crown and Council negotiate funding agreement (1-3 months)	Late-February
Ministers and Mayor sign funding agreement, which will remain subject to the investment case (1 week)	Mid-March

Timeline to establish Autonomous Approach <i>This process could begin immediately following agreement of management approach.</i>	Indicative Completion
Creation of standalone entity including appointment of the Governance Group (1-3 months)	June 2020
Standalone entity develops a proposal for early release of CRAF funding for early works and/or investment case refinement, which would need to go through Council (2-6 weeks)	Late-July 2020
Advice and decision on early CRAF bids (2-6 weeks)	Late-August 2020
Standalone entity develops the investment case	TBC
Investment Case delivered to Crown and Council for consideration	TBC

41. If an Establishment Team was agreed this could be created more quickly than the Governance Group, although it will likely require early release of some CRAF funding to get underway and Treasury have indicated the appointment of an enduring Chair would be important to mitigate some of the risk associated with accountability. Depending on negotiations with Council, officials consider an Establishment Team could be created by March 2020, three months faster than the Governance Group.

Consultation

42. The New Zealand Infrastructure Commission was consulted in developing this briefing.

Attachments:	
Attachment A:	Summary of management approaches
Attachment B:	Joint Briefing: Canterbury Multi-Use Arena: Crown Consideration for Investment Case

Attachment A

Summary of management approaches

Elements		Autonomous (Collaborative) Approach	Council Led [Treasury Preferred]
Delivery Management Structure	Governance	Newly established Autonomous governance board jointly appointed by Crown and Council	Project Steering Group appointed by Council and approved by Crown
	Project Team	Appointed by governance board based on expertise	Appointed by Project Steering Group
Investment Case Structure	Investment Case Project Team	Council, Establishment Team, or Autonomous Entity	Council
	Investment Case Funding	Crown (subject to joint Minister/Cabinet approval) and/or Council	
	Responsibility for securing any additional funding required above \$473m	Primarily Council, although the joint accountability for the investment case may transfer risk back to Crown if the current shared expectations around scope cannot be delivered within the project budget or additional funding found	Council
Project Delivery	Access to CRAF funding for early physical works	Yes, subject to joint Minister/Cabinet approval	
	Risk of Cost Overruns above contingencies	Shared between Crown and Council	Council
	Procurement	Yet to be determined	

ATTACHMENT B

Joint Briefing: Canterbury Multi-Use Arena: Crown Consideration for Investment Case



ORIGINAL
Rt Hon. Dr.
Woods-

Joint Briefing

CHRISTCHURCH REGENERATION ACCELERATION FACILITY: NEXT STEPS ON INVESTMENT CASES

To: Hon Grant Robertson
Minister of Finance

To: Hon Dr Megan Woods
Minister for Greater Christchurch Regeneration

Date	15/11/2019	Priority	High
Deadline	18/11/2019	Briefing Number	DPMC-2019/20-462 T2019-3647

Purpose

This briefing seeks Ministers' decisions on:

- i) an approach to finalising the Canterbury Multi Use Arena (CMUA) investment case, and negotiating a funding agreement for the project; and
- ii) your preferred timing and process for seeking Cabinet decisions on the Christchurch Regeneration Acceleration Facility Investment Cases.

Recommendations

Minister Robertson Minister Woods

1. **Note** that on 8 November 2019, the Crown received Investment Cases requesting Christchurch Regeneration Acceleration Facility (CRAF) funding of \$40 million for residential red zone (Ōtākaro Avon River Corridor (OARC)) projects and \$40 million for transport projects;

CHRISTCHURCH REGENERATION ACCELERATION FACILITY: NEXT STEPS
ON INVESTMENT CASES

DPMC-2019/20-462;
T2019-3647

2. **Note** that the Christchurch City Council (CCC) is expected to consider the Canterbury Multi-Use Arena (CMUA) Investment Case, for which \$220 million has been earmarked from CRAF, on 12 December 2019, contingent on the Crown indicating the investment case is satisfactory;

3. **Agree** that officials engage with CCC to agree, at a high level, a funding agreement between the Crown and Council, which will define the parties' roles in the delivery of the project, and support project momentum and accountability;

Yes / No

Yes / No

4. **Discuss**, with officials on Monday 18 November 2019, the proposed terms and bottom lines in Annex 1, as well as how best to approach i) a process for negotiating a funding agreement with Council and ii) an approach for seeking Cabinet agreement to the CMUA investment case

5. **Agree** the proposed terms in Annex 1 form the mandate for officials to negotiate a draft funding agreement with the Council, and further development of the CMUA Investment Case;

Yes / No

Yes / No

6. **Note** officials will be meeting Council officials on 19 November on the CMUA Investment Case and will begin discussions with them on the draft funding agreement

7. **Note** that seeking a Cabinet decisions on the OARC and transport Investment Cases in 2020 might enable them to be considered alongside the CMUA Investment Case (i.e. as a CRAF package);

8. Advise officials if you would prefer to

- | | | |
|---|-----------------|----------|
| a. seek a Cabinet decision on all three CRAF investment cases in early 2020; or | Yes / No | Yes / No |
| b. seek Cabinet's agreement for the Minister of Finance and the Minister for Greater Christchurch Regeneration to approve the three investment cases and the CMUA funding agreement; or | Yes / No | Yes / No |
| c. seek delegation of approval of those documents to a small group of ministers or to CBC | Yes / No | Yes / No |

 Matthew Gilbert Acting Director Commercial, Infrastructure and Urban Growth, The Treasury	 Shane Collins Acting Executive Director Greater Christchurch Group, DPMC
15/11/2019	15/11/2019
 Hon Grant Robertson Minister of Finance	Hon Dr Megan Woods Minister for Greater Christchurch Regeneration
17/11/2019/...../2019

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Shane Collins	Acting Executive Director Greater Christchurch Group, DPMC	s9(2)(k)	s9(2)(a) x

Matthew Gilbert	Acting Director, Infrastructure and Urban Growth, The Treasury	s9(2)(k)	s9(2)(a)	
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Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

CHRISTCHURCH REGENERATION ACCELERATION FACILITY: NEXT STEPS ON INVESTMENT CASES

Executive Summary

1. The Christchurch City Council (Council) has provided two of the three investment cases under the Capital Regeneration Acceleration Facility (CRAF): those for transport and the Ōtākaro Avon River Corridor (OARC). The investment case for the Canterbury Multi-Use Arena (CMUA) is still under development. Council may consider that investment case on 12 December 2019; Council's Chief Executive has indicated that she does not want the case to be put to Council unless the Crown is comfortable with it.
2. Officials have had significant concerns about earlier iterations of the investment case, and communicated those to Council. Those concerns were largely about affordability and governance of delivery. It is possible that a new iteration of the investment case will be satisfactory, but at this time, we are not in a position to confirm this.
3. To help resolve these issues, officials recommend the Crown and Council enter into a funding agreement. Doing so will resolve outstanding issues around responsibility for delivery of the CMUA, and the Crown's role as funder; it will support momentum on the project, and should allow the investment case itself to be completed earlier than would otherwise be possible. We seek your agreement to this course of action, and to negotiate a funding agreement based on the terms set out in Attachment A. We also recommend that ministers not approve the investment case until a funding agreement (at least at a high level) is in place.
4. As noted, we consider that timing is tight. The transport and OARC investment cases need further discussion with Council, and we have not seen the CMUA investment case recently. We seek your guidance as to how you wish to engage your Cabinet colleagues on decisions on the three investment cases. In these circumstances, we advise that taking the investment cases to Cabinet in 2020 would be the most appropriate way forward. Doing so will allow officials to resolve issues and reach a funding agreement, and allow ministers and Council to consider all three investment cases, and the trade-offs between them. If it is possible to proceed before Christmas, we will work to do so.
5. Alternatively, if timely progress can be made on the CMUA investment case, it would be possible for Cabinet to delegate to a group of ministers, or to CBC, power to act on this matter, subject to appropriate bottom lines. If you wish to take this route, we will seek further guidance on those bottom lines.

Purpose

1. This briefing seeks Ministers' decisions on the:
 - i) approach to finalising the Canterbury Multi Use Arena (CMUA) investment case, and negotiating a funding agreement for the project; and

- ii) preferred timing and process for seeking Cabinet decisions on the Christchurch Regeneration Acceleration Facility Investment Cases.

Background

Christchurch Regeneration Acceleration Facility

2. In August 2018, Cabinet approved the eligibility criteria and process for accessing the \$300 million Christchurch Regeneration Acceleration Facility (CRAF) [DEV-18-MIN-0163 refers]. The CRAF is primarily available for capital expenditure on residential red zone projects (the Ōtākaro Avon River Corridor (OARC)), horizontal infrastructure projects (transport), and the CMUA project (the eligible categories).
3. Accessing the CRAF is subject to a two stage process that provides the Christchurch City Council (CCC) the opportunity to prioritise and allocate funding across the three eligible categories:
 - a) **Investment Proposal stage** – Investment Proposals for three projects have been approved by the Crown, earmarking \$40 million each to OARC and transport projects, and \$220 million to the CMUA;
 - b) **Investment Case stage** – CCC has led the development of more detailed Investment Cases to justify the Crown's investment in the projects. Council has endorsed the OARC and transport Investment Cases, and sent them to The Treasury on Friday 8 November 2019. The Council may consider the CMUA Investment Case on 12 December 2019, if it is ready, and if the Crown is prepared to support it.

Progress to date on the CMUA project Investment Case

4. Officials have previously provided advice on the CMUA Investment Case and potential governance arrangements and risks (DPMC-2019/20-362, T2019/2215 refers).
5. Expectations around Crown/CCC collaboration and applying appropriate skills have been discussed/emphasised by Minister Woods when meeting with the Mayor of Christchurch City and the Chief Executive of CCC on Friday 25 October 2019, meetings with the external reference group the same day, and subsequent meetings with officials.
6. The Council has led development of the CMUA Investment Case, which the Crown has largely funded. As with all infrastructure projects, the Crown and CCC would like the CMUA to be affordable, viable, sustainable, and likely to meet stakeholder expectations. The Investment Case should provide reasonable confidence on how this will be achieved.
7. A draft Investment Case was provided to Crown officials in July 2019. At that time, and subsequently, officials identified some concerns and provided feedback to the Council in relation to:
 - a) **unaffordability** of the proposed option;
 - b) certainty and appropriateness of **project governance**;

- c) clarity and appropriateness of **risk allocation**;
 - d) **assurance**, where we suggested a more detailed plan was needed; and
 - e) **procurement**, which needs to be best for project, realistic, and appropriately resourced [T2019/2644 refers].
8. These issues need to be adequately addressed before officials would recommend Investment Case be approved.

Recent communications on matters to address to process

9. Officials met with Dawn Baxendale (Chief Executive) and Mary Richardson (General Manager, Citizens and Community) from CCC on Friday 8 November 2019 to discuss the CMUA Investment Case.
10. That meeting confirmed the shared preference that both the Crown and Council should work together to develop an option that is affordable, viable, and sustainable, before the Investment Case is considered by either Council or Cabinet. Council's Chief Executive has been clear that she does not want to see the Council submitting a document to the Crown that the Crown will not support.
11. The parties agreed that there needs to be a change in the way the parties work together. To reinforce the need for a step-change in the relationship, Minister Woods is writing to the Mayor reiterating the need for a new way of working together, and outlining high-level expectations for the Investment Case before it goes to Cabinet, specifically:
- a) the CMUA project must be affordable;
 - b) governance for the project should represent what's best for project; and
 - c) a funding agreement needs to be developed, that clearly states project responsibilities.

Benefits of a funding agreement

12. A funding agreement between the Crown and Council would operationalise the new relationship between the Crown (as co-funder) and Council (as the co-funder and, we anticipate, as the party responsible for delivery). A funding agreement can close the expectation gaps between the parties (responsibilities, accountabilities, allocation of risks), and therefore foster strong relationships. A funding agreement can be developed in parallel with the investment case – particularly if done at a high level – and doing so will assist with finalising the investment case, and set the project up for success.
13. The purpose of a funding agreement is to give clarity to the Council as to the grounds on which the Crown will commit funding to the project, and the expectations of the Crown in relation to the use of that funding. It will clarify how and when the Crown will release funds. It is similar to other agreements between funders of public sector infrastructure and the entities accountable for delivering that infrastructure. It includes specificity as to what is being funded, and provisions that enable the Crown and Council, as funders, to identify and manage the risk they are still holding.

14. In this instance, a funding agreement should balance the following objectives:
- a) the Crown's obligation to ensure good use and accountability of taxpayer funds;
 - b) the desire of the Crown to manage the reputational risk associated with late or over budget delivery; and
 - c) the expectation that the risk of insufficient funding to cover the costs of the Project is borne by the Council, therefore the need to avoid undue burden and (wherever possible) overlap with Council accountability.
15. These matters can be formalised in a funding agreement, even at a high level, to accompany the CMUA investment case. Doing so is important to ensure clarity between Crown and Council, which is vital for project momentum and accountability and will support stakeholder understanding and engagement. We expect that time spent to agree this will increase significantly the likelihood of success, and will pay off in terms of project cost, risk and time.

What a funding agreement should include

16. The matters to be covered off in a funding agreement will be determined by the role envisaged for the Crown. To put it at its crudest, if the Crown is going to be exposed to the possibility of a contribution greater than \$220 million + land, it will want to have greater involvement and control, thereby allowing it to actively manage its exposure to project risk. If the Crown's role is more limited – for instance to no more than the CRAF \$300 million + land -- it can take a more limited position, as its risk exposure is also limited.
17. Experience with major capital projects suggests there is a risk of cost over-runs. The funding agreement will need to address what will happen in this event.
18. The attachment sets out some proposed terms of a funding agreement (these are high-level; we would expect a formal agreement to provide more detail about how these matters would be operationalised). If the Crown wishes to set the Council up for success, and then step back, we would expect that a funding agreement would cover:
- a) **Collaboration** – setting out how the Crown and Council will work together (e.g. establishing a framework for working pragmatically together to overcome issues and support the project's success)
 - b) **Roles and commitments of the Crown and Council** – defining the basic roles of each party, and ensuring that high-level accountabilities are clear
 - c) **Crown funding** – providing clarity around the how and when of Crown funding, and the mechanics of how this would be provided (for instance, using the Ōtākaro model of monthly funding based on forecast needs, and netting off any underspends). Identification of what would happen if there are significant delays or cost over-runs.
 - d) **Project board** – establishing a board with the purpose and responsibility of delivering the CMUA in accordance with the law, industry good practice, and on time and budget. Defining the role and appointment of the chair and other board members, and the board's authority and role

- e) **Assurance** – setting out mechanisms to provide Crown and Council with assurance that:
 - i) the project is progressing on time and budget, and that risks are being managed appropriately
 - ii) the project is undertaking appropriate reviews (Crown Gateway Reviews)
 - iii) changes to significant project documents are managed appropriately
 - iv) 'readiness reviews' at critical stages in the project lifecycle are performed (these are distinct from Gateway Reviews)
 - f) **Reporting** – providing for reporting from Council to Crown, so the Crown can maintain an appropriate degree of oversight on the project
19. We have discussed these matters with the Infrastructure Commission, and taken into account its advice on best practice.
20. We suggest these matters could be negotiated – at a high level – relatively quickly, if the right set of officials are available from Council. We are giving this a high priority, and are ready to engage in a pragmatic and innovative way, to create momentum for the project as a whole. That agreement would need to be underpinned by a formal agreement, but with good will from both parties, the translation should not be difficult.
21. We therefore seek your agreement that officials can negotiate a funding agreement – at a high level – with Council, based on the material in the attachment, in parallel with the finalisation of the investment case.

Approach to Cabinet consideration of investment cases

22. Officials are now reviewing the OARC and transport Investment Cases. We have identified some issues that will require further discussion with the Council (for example, the timing of Crown payments for the proposed works). We will do our best to move quickly, but taking these to Economic Development Committee (DEV) on 11 December 2019 will be challenging. Moreover, as noted, there is significant further work to do on the CMUA investment case, and a funding agreement needs to be reached, if only at a high level, before the CMUA investment case can proceed.
23. Council has provided us with a timetable of steps to be taken between now and 12 December 2019, when Council staff wish the full Council to consider the CMUA investment case. There are many steps, including revisions of the strategic, commercial, and management cases, two workshops, the negotiation of a funding agreement, and the drafting of a Council report, which needs to be complete in time for public release on 6 December 2019. This is ambitious.
24. In this situation, we consider you have three options:
- a) **take the investment cases to DEV at the end of 2019, if everything is ready:** this option would provide momentum, but will only be possible if Council's revised CMUA

investment case responds to the Crown's concerns, and there has been substantial progress made towards a funding agreement;

- b) **seek a Cabinet decision on the investment cases in 2020:** this would provide additional time to iron out any issues in the investment cases, and develop a funding agreement, allowing Cabinet to consider all three investment cases together; or
 - c) **seek delegated authority to approve the investment cases:** you could seek agreement at DEV on 11 December 2019 for either Cabinet Business Committee, or a group of ministers, to approve the investment cases, subject to certain criteria being met.
25. Option a) offers greatest momentum, but allows the least opportunity for Council to provide a new investment case, for the Crown to consider it carefully, and for the parties to reach agreement, even at a high level, on a funding agreement. Developments over the next two weeks will allow us to advise you whether this option will be available.
26. Option b) provides the opportunity to review all cases together, and give Council an opportunity to consider the trade-offs between the three projects. We advise that there is benefit in considering all three at the same time, and also that there is benefit in the Crown having enough time to give careful consideration to the CMUA investment case, given that total projected cost of that project. There is a risk that this option could be perceived as the Crown not taking timely action to support regeneration.
27. Option c) would support momentum on the CRAF projects, and limit any perception that the Crown is 'holding things up.' Additionally, this option allows minister to consider the three investment cases as a package. We note, however, that appropriating funding for the transport and OARC investment cases could make it harder to reach a funding agreement for the CMUA investment case. For that reason, officials would only recommend this option where Council has provided a satisfactory CMUA investment case.
28. Regardless, the timeline for finalising a CMUA Investment Case that is acceptable to both Crown and Council, before Council consideration on 12 December 2019 remains very challenging. We will do our best to push matters forward, but are concerned that there is too much to be done: as Council is ultimately responsible for the investment case, we are limited in our ability to help or ensure Council meets its timeframes.
29. In the event that we have not received a satisfactory investment case, and are not making progress with the funding agreement (and this will be apparent by no later than the start of December), we are likely to recommend that Cabinet considers all CRAF Investment Cases in 2020.

If Ministers wish to preserve the option of a delegation from Cabinet, officials can assist

30. If Ministers wish to preserve the delegated decision-making option, officials could prepare a draft Cabinet paper. Ministers could then consult on this draft paper, noting that if the investment case does not meet the Crown's bottom lines, the paper could be pulled (potentially in favour of an oral update). This preserves both options for seeking decisions, allowing the Crown to show genuine effort to maintain momentum. Following further engagement with and information from Council, officials could provide an update,

allowing you to make a decision on whether to progress the paper ahead of the lodging deadline of 5 December.

31. Therefore, we seek your decision on whether to draft a Cabinet paper seeking delegated authority to make decisions on the CRAF Investment Cases, and to appropriate funding after that approval. We have some guidance from Minister Woods already as to the terms that would be appropriate, and will seek further guidance as we develop the paper.
32. A possible timeline under this approach would be:

Action	Date
Meet with officials and agree preferred key terms, negotiating approach and bottom lines for CMUA, and approach with Cabinet	18 November 2019
Officials meet with Council to discuss CMUA progress and possible terms	19 November 2019
Officials provide materials for briefing other ministers and MPs	21 November 2019
Officials provide a draft Cabinet paper (if sought)	27 November 2019
Hon Woods direct officials whether to progress with Cabinet paper	2 December 2019
Lodge Cabinet paper	5 December 2019
DEV consideration	11 December 2019
Council consideration of the Investment Case and funding agreement	12 December 2019
Crown approval of Investment Case and documentation	Potentially at CBC on 28 January 2020

Next Steps

33. Officials are meeting with you on 18 November 2019. The purpose of this meeting is to agree:
- to a negotiating approach/mandate for officials to negotiate in a funding agreement with CCC from 19 November 2019;
 - the approach and timing for Cabinet consideration of the CRAF Investment Cases.

Attachments:	
Attachment A:	Proposed key terms in a funding agreement between Crown and Council for the delivery of the CMUA

s9(2)(i)

