

Proactive Release

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Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

Listed below are the most commonly used grounds from the OIA.

<u>Section</u>	<u>Description of ground</u>
6(a)	as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government
6(b)	as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by <ul style="list-style-type: none"> (i) the Government of any other country or any agency of such a Government; or (ii) any international organisation
6(c)	prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
9(2)(a)	to protect the privacy of natural persons
9(2)(b)(ii)	to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
9(2)(ba)(i)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public
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
9(2)(f)(ii)	to maintain the constitutional conventions for the time being which protect collective and individual ministerial responsibility
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
9(2)(h)	to maintain legal professional privilege
9(2)(i)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities
9(2)(j)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

AGENDA – Auckland Light Rail Sponsors meeting

06 July 2022 : 5.00-6.00pm

Online via Zoom

Zoom details:

Out of Scope

Auckland Light Rail Sponsors:

Minister Michael Wood, Minister Grant Robertson, Minister Megan Woods, Mayor of Auckland Phil Goff, Deputy Mayor of Auckland Bill Cashmore

Officials in attendance:

Bryn Gandy, Allan Prangnell, Gareth Fairweather, Chris Gulik and Kerry Lambeth (Ministry of Transport), Ben Wells (the Treasury), Mary Barton (Ministry of Housing and Urban Development), Megan Tyler and Vanessa Blakelock (Auckland Council)

AGENDA:

Item	Time	Details	Paper prepared by
1.	5.00pm	Short welcome and updates from Ministers	
2.	5.10pm	Approach to Detailed Planning Phase entity	Ministry of Transport
3.	5.20pm	Auckland Light Rail Group project update	ALR Unit
4.	5.30pm	Update on policy work programme and delivery plan integration	Ministry of Transport
5.	5.40pm	National Policy Statement Urban Development	Auckland Council
6.	6.00pm	Close	



Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

6 July 2022

AUCKLAND LIGHT RAIL – APPROACH TO DETAILED PLANNING PHASE ENTITY

Purpose

To update Sponsors on the options being considered by Ministers for a legal entity to take forward the Detailed Planning Phase of Auckland Light Rail (ALR) and advise on the process to implement a legal entity decision.

Recommendations

ALR Sponsors are invited to:

- A. Discuss the preferred entity options proposed for the detailed planning phase is a Crown company added to Schedule 2 of the Crown Entities Act
- B. Note that a Joint Ministers are responsible for recommending to Cabinet the legal form of the entity.
- C. Note the next steps to implement decisions, including the preparation of a Cabinet paper, and associated Order in Council.
- D. Note that current Sponsors arrangements will set out in an additional contractual arrangement with the ALR Unit.

Background

- 1 Cabinet (CAB-21-MIN-0531) considered the Indicative Business Case for the ALR project in 2021 and agreed to progress the project to the detailed planning phase. At that time, Cabinet recognised that in addition to more detailed planning and development by the Establishment Unit (and its successor, the ALR Unit) a significant policy work programme on the delivery and ownership arrangements and regulation would need to be completed.
- 2 The Cabinet paper included the principles for the governance arrangements and organising model for the detailed planning phase, including:
 - 2.1 direct line of sight and influence by the Crown given the significant policy and strategy decisions to make that would influence this phase of the project
 - 2.2 a sponsor's partnership with the Crown, Auckland Council, and mana whenua
 - 2.3 embedding the integrated urban development and transport focus
 - 2.4 maintaining project momentum

- 2.5 mana whenua is embedded in the governance arrangements
- 2.6 clear accountabilities, roles, and responsibilities.
- 3 Cabinet noted that an ALR Unit would be established to progress the project and continue until decisions are made and implemented on the transition to the delivery entity. Cabinet also noted that the delivery entity:
- 3.1 will be designed to ensure continuity of board members and staff and maintain momentum, knowledge, and commitment to the project
- 3.2 will create a formal legal entity to see the project through the final stages of planning before it moves onto delivery, and
- 3.3 should be planned to occur in the second half of 2022 s 9(2)(f)(iv)
- 4 Cabinet authorised the Ministers of Transport, Finance, and Housing, in consultation with the Auckland Council and mana whenua, to take decisions as required in relation to the setting up of the governance arrangements, assurance framework, accountability mechanisms, and the ALR Unit for the next phase.

The existing ALR arrangements were set up as a bespoke model

- 5 Given the complexity of the project, the number of agencies involved and the Sponsor arrangements that bring together the Crown, Auckland Council, and mana whenua, a bespoke arrangement was agreed. This was an evolution of the arrangements created in the establishment phase which saw a collaborative and inclusive Establishment Board supported by the unit hosted by Waka Kotahi.
- 6 The ALR Board has since been established as a skills-based Ministerial Advisory Committee, with the appointment process for the remaining board members underway. The ALR Board was set up to be supported by an ALR Unit, which was enabled to operate through contractual arrangements with the Ministry of Transport and Waka Kotahi.
- 7 The ALR Unit is to advance the project through the detailed planning phase, including the development of further detailed business case work, technical assessments and detailed design, master planning, and associated community and stakeholder engagement. The ALR Board's roles and responsibilities are defined in the terms of reference.

Current ALR arrangements now need to evolve to best suit project requirements

- 8 In December 2021, Cabinet noted that transition to a legal entity should be planned to occur in the second half of 2022 as this is likely to be necessary in advance of consenting and land acquisition processes (CAB-21-MIN-0531).
- 9 Since the current Ministerial Advisory Board arrangements were established, several developments have advanced the need for the setting up a legal entity:

9.1 **Complexity and legal accountability.** The current contractual arrangements associated with a Ministerial Advisory Committee are complex. The ALR Board and Unit are not a legal entity and unable to enter contracts and purchase and own land in their own right. Those functions are provided by the Ministry of Transport (the Ministry), creating additional responsibilities and accountabilities for the Ministry that are traditionally outside its remit.

9.2 s 9(2)(b)(ii)

9.3 s 9(2)(f)(iv)

9.4 s 9(2)(b)(ii)

Transition to the Detailed Planning Phase Entity and the Final Delivery Entity

We recommend that the Detailed Planning Phase Entity is not confirmed as the Final Delivery Entity upfront

- 10 The final governance arrangements, powers, and entity form required for the construction of ALR and the delivery of associated urban development in the corridor cannot yet be confirmed. This is because the project continues to be scoped through the detailed planning phase and several policy workstreams remain under development.
- 11 Predetermining what the form of the Final Delivery Entity is during the start of the Detailed Planning Phase risks the entity not being fit for purpose as the project evolves or risks creating additional work and uncertainty to reconstitute it later.
- 12 As a result, it is proposed that a Detailed Planning Entity be established for the purpose of carrying the ALR Unit through to the delivery of the Detailed Business Case. This will allow officials to provide further advice on the recommended form of the Final Delivery Entity. The option to transition the Delivery Planning Entity into the Final Delivery Entity can also be assessed as part of this advice.
- 13 An ongoing work programme will resolve policy questions related to the Final Delivery Entity for the construction and operation of ALR. Decisions made during Detailed Planning will have direct bearing on the options and preferred solutions. Details of that work programme, including milestones and deliverables, will be provided to Sponsors shortly.

A transition to the Detailed Planning Entity will retain critical aspects of the existing Governance structure

- 14 The critical existing structures and principles of the ALR governance arrangements and organising model for the detailed planning phase are consistent with the transition to the Detailed Planning Entity (DPP entity). The plan would be for these to remain in place, applying to the new entity, as they do now to the ALR Board and Unit, including:
- 14.1 the forthcoming Sponsors Agreement partnership between the Crown, Auckland Council, and mana whenua, including the principles already agreed in the Sponsors Agreement Heads of Terms, for example, having the Sponsors speak as 'one sponsor' when directing the ALR Board where possible
 - 14.2 the key aspects of the current Terms of Reference for the ALR Board setting out the role and responsibilities of the Board, which will need to transition into the suite of governance documents for the new DPP entity
 - 14.3 existing guidance to the ALR Board establishing Sponsor expectations for the detailed planning phase, such as the Investment Management Systems (IMS) Letter
 - 14.4 the underlying approach of the ALR Unit to effectively partner with other network and urban development entities to develop the business case and associated advice such as Auckland Transport, Waka Kotahi, Auckland Council, Kāinga Ora, and Eke Panuku.

Options for Establishing an Entity for the DPP entity

- 15 There are a number of options for an interim delivery entity for the DPP entity. This entity will absorb the roles and functions currently assigned to the ALR Unit.

There are several design criteria that need to be considered

- 16 The key considerations, including some preferences that Ministers have already confirmed, that inform the decision on the appropriate form of DPP entity include:
- 16.1 Legal status and ownership: the DPP entity will be a separate legal entity (e.g. a company) and, for this phase should be 100 per cent Crown owned (noting that this ownership structure may not necessarily be the case with respect to the final delivery entity) to reflect (1) ALR Ministers' preference for direct influence over the entity and (2) the fact that Crown is 100 per cent funding the entity during the detailed planning phase.
 - 16.2 Ease of establishment: Given the ambitious timeframes Ministers have put around the detailed planning phase, there is little time to establish a DPP entity. The legal structure used should not slow current momentum or result in the need to revisit existing decisions. As a result, establishment should be able to be achieved relatively quickly.

- 16.3 Ease of future possible transition – the DPP entity arrangements should not unnecessarily hinder any later options to change or transfer to a future Final Delivery Entity and, if needed, the DPP entity should be straight forward to disestablish.
- 16.4 Allow for Ministerial control and oversight – this is especially important for the detailed planning phase. The high level of tax-payer funding required for this phase and need for the project to be undertaken in partnership requires unique governance arrangements with a Sponsors Group and multiple responsible Ministers. The overall potential cost to the Crown (\$14.6 billion (P50) in the indicative business case) requires Government to make strategic decisions while the DPP entity deals with technical and operational matters, therefore the entity chosen must allow for an elevated level of Ministerial oversight and decision- making during the Detailed Planning Phase of ALR.
- 16.5 The DPP entity structure should not constrain options for the establishment of the Final Delivery Entity. As noted above, the powers, functions and role of the Final Delivery Entity will be informed by the work carried out during the full Detailed Planning Phase and an expectation should not be created with the DPP entity that they will also be the Final Delivery Entity.
- 16.6 Ability to have Multiple Types of Objectives – while less important for the detailed planning phase, Crown entity objectives are typically not fully commercial – multiple objectives can be mandated, while exhibiting a sense of social responsibility and being a good employer. This is particularly important for the social objective associated with the urban development outcomes.
- 16.7 The DPP entity should have sufficient powers or mechanisms to access those powers through third parties to carry out its role. For example, there may be a requirement for the DPP entity to designate or secure land along the proposed route to prevent speculation and to manage eventual costs.

While there are several possible DPP entity form options, only two strongly meet the design criteria above

- 17 The following legal form options were initially considered for the DPP entity. A comparison against the criteria is provided in Annex A.
- Ministerial Advisory Committee (current arrangement)
 - Existing Statutory Crown Entity
 - Crown Agent
 - Autonomous Crown Entity
 - Independent Crown Entity
 - Existing Crown Company
 - New Statutory Crown Entity
 - State Enterprise
 - Crown Entity Subsidiary
 - New Crown Company listed in Schedule 2 of the Crown Entities Act
 - New Crown Company listed in Schedule 4A of the Public Finance Act (PFA 4A)
 - Council Controlled Organisation
 - Joint Venture or an Alliance.

- 18 In summary, only two suitable legal form options for the DPP entity were identified that strongly meet the criteria above – either a Crown entity company added to Schedule 2 of the Crown Entities Act 2004 (Crown entity company) or a company listed on Schedule 4A of the Public Finance Act 1989 (PFA 4A company).

The two strongest DPP entity legal forms are very similar

- 19 A comparison of these options is provided below and a detailed comparison – in Annex B.
- 20 Both entity types are companies incorporated under the Companies Act 1993. A Schedule 2 company must be 100 percent Crown owned and have two or more Ministers as shareholders. A Schedule 4A company must have majority Crown ownership (i.e. 51 per cent) and can include other parties as shareholders. Both entity forms are governed by a board appointed by shareholders.
- 21 If it is uncertain whether the shares of the company will not be 100 per cent owned by the Crown in the future (that could also allow others to co-appoint directors), a company formed under Crown Entity Act Schedule 2 can be transitioned to a company formed under Public Finance Act Schedule 4 at a later date relatively easily with an Order in Council.
- 22 The roles and functions of the entity are set out in its constitution and a Statement of Intent agreed by shareholding Ministers or shareholders. Sponsors have previously agreed the enduring outcomes for the ALR project and the wider programme, which the entity would be responsible for ensuring are followed in the detailed planning phase work:
- 22.1 Access and integration – improved access to opportunities through enhancing Auckland’s Rapid Transit Network and integration with the current and future transport network
 - 22.2 Environment – optimised environmental quality and embedded sustainable practice
 - 22.3 Experience – a high-quality service that is attractive to users and highly patronised
 - 22.4 Urban and community – enabling of quality integrated urban
 - 22.5 Value for money – investment should reflect the priorities of the Government and its partners.
- 23 A Schedule 2 Crown company tends to typically be not fully commercial and can have multiple objectives, while exhibiting a sense of social responsibility and being a good employer. In contrast, a Schedule 4A company may be a mix of social, cultural, public policy and commercial goals, but typically with a single focus. In the case of the DPP entity its focus will be urban development and transport infrastructure along with the outcomes above.

- 24 Establishment (and disestablishment) processes for both entities are the same and straightforward. The entities are incorporated under the Companies Act and then added to the relevant legislative schedules by Order in Council. They can also be liquidated under the Companies Act and removed from the relevant schedule by Order in Council.
- 25 Once established all rights, obligations and liabilities currently held by either the ALR Unit, or the Ministry of Transport on its behalf, would be transferred to the new entity. The transition from Ministerial Advisory Committee to Crown company would also see the existing skills-based board becoming the board of the new company.
- 26 Both entity forms can deal with land (i.e. buy, hold, and sell). Upon application and with the approval of the Minister for the Environment either entity could become a Requiring Authority. This would be a separate process initiated once the entity has been established.
- 27 A key consideration for the Detailed Planning phase is that Ministers and Sponsors will need higher levels of oversight and to retain appropriate decision rights. This is specially so since Cabinet has not agreed the Detailed Business Case or allocated funds for construction. Ministers cannot direct either a Schedule 2 or 4A company except in limited situations relating to all of government policy. For Ministers and Sponsors to fulfil their oversight and (where appropriate) decision-making requires additional contractual agreements with the Entity. This is discussed further below.

On balance, a Schedule 2 Crown Entity Company is the preferred option

- 28 Both a Schedule 2 Crown entity company and a company listed on Schedule 4A of the Public Finance Act 1989 meet the majority of the assessment criteria.
- 29 The main differences are that a Schedule 2 Crown Entity company must be 100 per cent Crown-owned while a Schedule 4A company can be 100 percent Crown-owned but must, at a minimum, only be majority Crown-owned. On hundred percent Crown ownership best aligns with the detailed planning stage of the project, specifically the requirement for Cabinet agreement to the detailed business case (advised by the Sponsors), and the fact that the ALR Unit is funded by exclusively by the Crown.
- 30 As noted, if further analysis determines that the Final Delivery Entity should have additional shareholders then the Schedule 2 company this can be transferred to a Schedule 4A company by Order-In-Council.
- 31 The other difference is the way the entities deal with objectives. The difference is minor, but a Schedule 2 company is traditionally structured to respond to multiple objectives and therefore can potentially better deal with urban development and transport infrastructure. Whereas a Schedule 4A tends to typically have a single focus.
- 32 On balance, Officials have assessed that a Schedule 2 Crown company best meets the criteria. This arrangement would be supported with contractual arrangements in the form of a Crown funding agreement or some other mechanisms, as well as the usual Crown Entity Act governance mechanisms such as Annual Letters of Expectation.

There are further matters that will need to be addressed as part of the process to set up the DPP entity and successfully transition from the current arrangements

Contractual arrangement for Ministerial and Sponsors Group decision-making.

- 33 The governance arrangements for the ALR Unit have been set up with a direct line of sight and influence required by the Crown to make these decisions and guide the ALR Unit. However, if there is a separate legal entity during the DPP of the sort contemplated, then the public sector oversight framework governing the entity has limited scope for Ministerial oversight and where appropriate decision-making; it falls short of what is required to reflect the intended roles of Ministers and Sponsors during the Detailed Planning Phase of the ALR Project.
- 34 The Detailed Planning Phase requires significant policy and strategy decisions that need to be made by, and are the reserve of, Ministers and the Crown (in consultation with other Sponsors). At this time, the ALR Unit is still preparing a Business Case and given the potential cost to the Crown there are choices (at a strategic level) that need to be made by Government to ensure the broader public interest.
- 35 Controls and oversight required by Ministers and the Crown (in consultation with Sponsors) therefore need to be reflected in additional arrangements – this is likely best reflected in contractual arrangements between the Crown and the DPP entity. These arrangements can be appropriately tailored to reflect the phase of the project. This was the same issue faced by City Rail Link (CRL). In this case, a Project Delivery Agreement was put in place, through which the Sponsors exercise project oversight of CRL (which is also monitored at an entity level through the public sector framework of the Public Finance Act and Crown Entities Act).
- 36 The ALR arrangement could take the form of a Crown funding agreement, a contract, letter of expectation or some other means to codify existing agreed collaborative decision-making processes. This arrangement would specify conditions or circumstances when Ministers and Sponsors would expect to be consulted and involved.
- 37 Any contract (or other arrangement) for ALR would need to be tailored to the level of decision-making being reserved to Ministers and other Sponsors, and to ensure the ALR Board has the appropriate independence to carry out its roles and functions. These arrangements would be based on the principles and approaches already agreed to in the Sponsors Agreement Heads of Terms and the ALR Board terms of reference.
- 38 Of note is that Officials intend, to the extent possible given the ambitious timelines, that the contractual DPP entity governance documents should be developed in parallel to setting up the new entity. However, this arrangement should not prevent the establishment of the entity. To provide certainty to the ALR Unit, Officials will ensure that appropriate clarity on the expectations is provided in Cabinet recommendations.

Continuity of the board and appointment of additional members.

- 39 Three members have been appointed to the ALR Board. It is recommended these members are confirmed as the members for the board of the Crown company. Cabinet directed the ALR Board be established with the skills necessary to take forward the detailed planning phase. The appointment of the remaining board members will bring essential skills needed to oversee this phase. In establishing a Crown company, it is critical that appointing the remaining board members is a priority.

s 9(2)(f)(iv)

Monitoring Arrangements under the Crown Entities Act

- 42 Under the Crown Entities Act, a Crown Company requires Responsible Ministers and a Monitoring Agency to give effect to the legislative monitoring and governance functions. We recommend that:
- 42.1 The Responsible Ministers include the Ministers of Finance, Transport, and Housing, consistent with the existing delegations from Cabinet and the Sponsor status of these Ministers under the Sponsors Agreement and ALR Board Terms of Reference.
- 42.2 The Ministry of Transport have the role of Monitor under the Crown Entities Act. In doing so The Ministry will work closely with the Treasury and the Ministry of Housing and Urban Development, to ensure all Responsible Ministers receive the appropriate coordinated advice – this is a similar arrangement to the City Rail Link Limited.

Ensuring there is a strong representation of the Final Operator in the Detailed Planning Phase

- 43 One downside of not confirming an existing institution as the final owner and operator of the ALR assets during the detailed planning phase, is that there is less of an acute responsibility for that institution to challenge and contribute to the business case development to ensure that the design process is properly taking into account operator considerations.

- 44 This was an issue at the beginning of the CRL project in 2017. In the years following, strong contractual arrangements were required to ensure that Auckland Transport and KiwiRail were confirmed as final owners and operators of the CRL assets, and to ensure they were appropriately engaged in the design and assurance processes.
- 45 During the detailed planning phase, the ALR Unit is planning to do considerable detailed design and engineering investigation across options that would benefit from the challenge and contribution of a confirmed owner/operator. While further work progresses on the question around what institution will own and operate the ALR asset, officials recommend that Sponsors should request that, in the meantime, an existing institution should act in this role, for the benefit of the project at this stage.
- 46 Officials are working on how to strengthen this final owner and operator representation and have a work programme underway. In the meantime, Auckland Transport is now part of the Sponsors Group and has been consulted on the options discussed in this briefing.

ALR Unit wants early certainty

- 47 The ALR Unit has conveyed that it is relatively agnostic on the entity type. Its primary concern is having certainty of what structures it must work with and the timeframes for these.
- 48 The Unit seeks to have a formal entity established by 1 September primarily because of its forthcoming procurement processes, to give the market certainty of who they would be contracting with and to attract high quality responders.
- 49 The ALR Unit also stated that the uncertainty of form was a challenge for recruitment of specialists, especially from overseas. At an operational level, the Unit was also mindful of the time to put in place organisational systems (i.e. HR, contract, payroll) to meet whatever structure was decided.

Other Parties consulted are supportive

- 50 This paper has been jointly prepared by the Ministry of Transport, the Treasury, and Ministry for Housing and Urban Development. Auckland Council have been consulted on the selection criteria and preferred option.

Next Steps - Straightforward Establishment process

- 51 Following discussion between Sponsors, Joint Ministers will make formal decisions and take a paper to Cabinet. A Cabinet paper and associated Order-in-Council will be prepared and can be ready in August. With Cabinet agreement, we anticipate that the entity could be stood up in late September to early October.
- 52 Along with Cabinet processes, Officials will prepare documents that set out the current Sponsor agreements. In developing these arrangements Officials will engage with the ALR Unit and other

- 53 Officials are working at pace to establish the new entity, nonetheless 1 September is unlikely to be achievable given the process involved in establishing a new entity. The contractual arrangements to enable the ALR Board and Unit in their current forms to make decisions, allocate funds and function are almost in place. The Unit will need to use current arrangements until the new entity form is established.
- 54 The Ministry of Transport will work closely with the ALR Unit to understand and provide what it needs to be able to operate effectively until the new entity is established and not lose project momentum.

55 s 9(2)(f)(iv)

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ANNEX A

Other options considered

56 For completeness the following additional options were also considered

Entity Arrangement	Reasons to exclude or consider further	Examples
Ministerial Advisory Committee	Used for the initial set up. Determined to not be suitable or have sufficient land acquisition powers. Does not have status of a legal entity. Therefore, requires complex contractual arrangements to give effect to the intent of arrangements – therefore unlikely to give the market the confidence needed.	Existing arrangement
Existing Statutory Crown Entity	Would need to be consistent with the Entity's current role and functions as set out in legislation. Would need both transport and urban development functions. To add function may require legislation. Would not allow for unique governance oversight arrangements.	Waka Kotahi, Kainga Ora
Existing Crown Company	Possible but would require a change in the role and function of the entity and the merging of existing structures. Has the potential to divert the existing organisations from original objectives. Also does not fit current governance arrangements (i.e. the ALR Unit competency-based board).	CRLL, Crown Infrastructure Partners
New statutory Crown Entity	Requires legislation. Time required do the underpinning policy work and to develop legislation. Roles and functions of Ultimate Delivery Entity are evolving.	
Crown Entity Subsidiary	Possible if consistent with entity's (and its parent's) role, functions appropriation but does not allow for level of Ministerial or Sponsor Group oversight.	
State Enterprise	Required to return a profit to the Crown so not an option for the detailed planning phase or construction but could be considered for the operational entity.	New Zealand Post, Kordia, KiwiRail
CCO	Does not provide the level of required Ministerial oversight.	Regional Airports
Joint Venture or an Alliance	Possible but the commercial and contractual arrangements may take some time. Limited ability for heightened Ministerial or Sponsor Group oversight. Better suited to later phases.	Stronger Christchurch Infrastructure Rebuild Team (SCIRT), Piratahi (a KO Alliance)

ANNEX B

57 The table below sets out characteristic for a Crown entity company and a company listed in Schedule 4A.

	Crown entity company under Schedule 2 of the Crown Entities Act (CEA)	Company listed in Schedule 4A of the Public Finance Act (PFA 4A)
Legal status and Ownership		
Type of entity	Company incorporated under the Companies Act. Examples include New Zealand Venture Investment Fund Limited, Radio New Zealand Limited, and Television New Zealand Limited.	Same as Crown entity company under Schedule 2 of the CEA Examples include Crown Asset Management Limited, City Rail Link Limited, Education Payroll Limited, New Zealand Green Investment Finance Limited and Otakaro Limited.
Ownership requirements	100 per cent Crown-owned. Shares must be held by two or more Ministers, one of whom must be the Minister of Finance.	The Crown must own more than 50 per cent of ordinary issued shares. Shares must be held by two or more Ministers, one of whom must be the Minister of Finance.
Establishment and Transition to Ultimate Entity		
Ease of establishment	Simple process to incorporate company under the Companies Act. Functions and objectives can be set out in the company's constitution and statement of intent. The company is added to Schedule 2 of the Crown Entities Act by the Governor-General by Order in Council	Same as Crown entity company under Schedule 2 of the CEA Same process but company is added to Schedule 4A of the Public Finance Act
Ease of transfer of ownership	Shares cannot be transferred outside the Crown's ownership.	Up to 49 per cent of the shares may be transferred out of Crown ownership using the standard Companies Act process. If the Crown no longer holds more than 50 per cent of the company's shares, it must be removed from Schedule 4A of the Public Finance Act by Order in Council.
Ease of disestablishment	Usual Companies Act processes to liquidate or wind-up company. The company can be removed from Schedule 2 of the Crown Entities Act by Order in Council in recognition of the company's dissolution or removal from register.	Same as Crown entity company under Schedule 2 of the CEA Same process but removed from Schedule 4A of the Public Finance Act.

	Crown entity company under Schedule 2 of the Crown Entities Act (CEA)	Company listed in Schedule 4A of the Public Finance Act (PFA 4A)
Objectives and Powers		
Principal objective	Typically, not fully commercial but with multiple objectives, while exhibiting a sense of social responsibility and being a good employer.	May be a mix of social, cultural, public policy and commercial goals but typically has a single focus.
How objectives and functions are determined	The company's objectives and functions are set out in the company's constitution, the statement of intent. The company must prepare a statement of intent for the current financial year and at least the two following financial years and submit it to its shareholding Ministers for approval.	Same as Crown entity company under Schedule 2 of the CEA
Financial powers and provisions	Subject to financial powers and restrictions in Crown Entities Act (i.e. restrictions on borrowing, investing, etc.) unless exemption granted.	Same Crown Entities Act financial powers and restrictions can be applied to company. Schedule 4A of the Public Finance Act outlines what Crown Entities Act financial restrictions apply to each Schedule 4A company.
Power to deal with Land Acquisition	Can own acquire and sell land. s. 9(2)(f)(iv)	Same as Crown entity company under Schedule 2 of the CEA
Ministerial Control and Oversight		
Ministerial influence	Would require contractual arrangement, letter of expectation or other means to codify existing agreed collaborative decision-making. Also be used to specify conditions or circumstances when Ministers and the Sponsors Group would expect to be consulted and involved.	Same as Crown entity company under Schedule 2 of the CEA
Ability to influence operations of entity	Power to direct on some changes to the company's statement of intent.	Same as Crown entity company under Schedule 2 of the CEA
Key ministerial powers to direct the board	May direct to have regard to any "whole of government" direction.	Same as Crown entity company under Schedule 2 of the CEA

	Crown entity company under Schedule 2 of the Crown Entities Act (CEA)	Company listed in Schedule 4A of the Public Finance Act (PFA 4A)
Other powers of direction	Power to request information and review operations and performance. May be subject to “whole of government” directions	Same as Crown entity company under Schedule 2 of the CEA
Role of the board	Manage the business and affairs of the company in accordance with the Companies Act and the company’s statement of intent (if applicable). Usual Companies Act duties apply. Additional individual and collective duties in the Crown Entities Act apply.	Same as Crown entity company under Schedule 2 of the CEA
Removal of board member	Can be removed by ordinary resolution of shareholders under Companies Act, or as otherwise provided for by the company’s constitution	Same as Crown entity company under Schedule 2 of the CEA

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GROUP

To: Project Sponsors
 From: Auckland Light Rail Group
 Meeting date: 6 July 2022
 Title: Paper 3: ALR Group project update
 Pages: 9 + 1 appendix

A. Purpose

1. This is the ALR Group report for the sponsors' meeting on 6 July 2022.

B. Contents

2. This paper covers:
 - Recommendations
 - Update
 - Delivery Entity powers
 - Business Case
 - Consenting
 - Highlighting benefits from opportunities to bring work forward
 - Risks

C. Recommendations

3. We recommend that the Sponsors:
 - **note** the update.
 - **support** the establishment of the Delivery Entity as soon as possible, ideally by 1 September, subject to the decisions of Cabinet.
 - **endorse** and **support** the Delivery Entity gaining Requiring Authority status, which will likely require regulation to become a network utility operator under the Resource Management Act and then approval by the Minister for the Environment to gain Requiring Authority Status.
 - **note** the Business Case update.
 - **note** the consenting update, including:

s 9(2)(g)(i)

s 9(2)(g)(i)

- **note** the key risks.

D. Update

New Board

4. The Chair of the Board (Dame Fran Wilde) and 2 other board members (Leigh Auton and Lucy Tukua) were appointed from 1 June 2022. We farewelled the previous board at their last meeting in May. The new board held its first meeting at the end of June and the Chair is in the process of meeting key stakeholders. We look forward to further board appointments in the coming months.

Transition

5. The Establishment Unit, housed in Waka Kotahi is effectively being “lifted and shifted” to the Ministry of Transport, to become the ALR Unit. The new arrangements take effect from 1 July, to coincide with the change in funding from Waka Kotahi (National Land Transport Fund) to a Crown appropriation, which is being administered by the Ministry of Transport. The likely timeframe that this arrangement will be in place is at least until early September, depending on how long it takes to “stand up” the new entity.
6. There is a significant amount of work involved, including changing the Waka Kotahi finance system to the Ministry of Transport finance system, novating/renewing all contracts with suppliers and seconding employees from home organisations to the Ministry of Transport. New delegations need to be put in place to the ALR Board and to staff in the ALR Unit.
7. This exercise has unfortunately not gone as entirely smoothly and it has proved to be a distraction for some key staff in the ALR Unit. There are still some matters that are to be worked through, including how new staff will be recruited and employed during this interim phase.
8. Delays in putting in place the delegations has meant that we have had to delay contracting some critical suppliers, particular to support the communications and engagement work. We do not think that this will have an overall impact on the schedule to a final investment decision. However, it does mean that we may not be back talking to communities in the corridor as quickly as we would have liked.

9. The uncertainty associated with being in this “interim” phase is likely to have impacts on our ability to employ staff, as well as the procurement process. We encourage sponsors to support the establishment of the Delivery Entity as soon as possible, ideally by 1 September, subject to the decisions of Cabinet.
10. We are aware that the Ministry is submitting a paper on the Delivery Entity to sponsors at this meeting. The ALR Unit supports the proposal that the Delivery Entity should be a Schedule 2 company under the Crown Entities Act, or a Schedule 4A company under the Public Finance Act. In the meantime, the ALR Unit is making preparations to ensure that the ALR Unit is ready once Cabinet makes its decisions and the necessary steps have been undertaken by the Ministry of Transport to establish the entity.

Procurement of professional services

11. Sponsors will recall that the ALR Board approved the procurement strategy at its April meeting. We are running a coordinated procurement approach with the Additional Waitematā Harbour Crossing (AWHC) team. The initial procurement is for engineers, urban planners, designers and industry teams to prepare bids for the detailed planning and design work. We are calling this the “UEP” (Urban, Engineering and Planning) procurement/ tender. We are proposing an alliance type model for the UEP.
12. Only the *procurement* for ALR and AWHC is integrated, there will be separate governance, contracts and teams for each project. A proponent can submit and be shortlisted for both projects but can only ultimately win one. There will be a common evaluation team for both projects.
13. Following a shortlisting process, we issued the Request for Proposals (RFP) on 21 June. We expect that 3 consortia will respond to the RFP. The respondents must submit their proposals by mid-August, with the preferred tenderer being announced in late September. The successful consortium will contract through an initial project alliance agreement (IPAA) phase, while the scope and costs are negotiated (expected to be a 3-6 month period).
14. Separate procurement processes will be run for additional services, including funding and financial advisers, RMA and other lawyers, operations and maintenance advisers. Some of these processes are expected to run in parallel with the UEP procurement.

Communications and Engagement

15. The communications and engagement for this phase is focused on continuing to build project awareness and understanding with key audiences and developing deeper relationships with stakeholders.
16. Engagement with key stakeholders and peak bodies is continuing with the 21 Local Boards Forum and Auckland Airport taking place this month. We have met with the Te Waihanga NZ Infrastructure Commission Chair and staff and we are engaging with them on how to bring them into the project and agree areas where they can provide specific assistance. These include support on

the business case, the procurement strategy for the main works and assistance with defining the evaluation framework for carbon emissions.

17. A Stakeholder Perceptions Audit of 25 key stakeholders was completed in May, to gather insights and inform the engagement strategy for this year.
18. Two prizegiving events have been held at Māngere Central School and Waterlea Primary School for the student winners of the 'Picture the Future' drawing competition. A media release, key messages and photographs have been shared widely on social media by partners and stakeholders who attended the Māngere event with Minister Michael Wood and Māngere Otāhuhu Local Board Chair Tauanu'u Nanai Nick Bakulich. The winning artworks are now displayed on bus shelters and buses along the route, with each of the buses seen by over 12,000 people every day.
19. The project team are attending a number of community events each weekend this winter, starting with the Matariki Kite Day at Mt Roskill with the Puketāpapa Local Board. Planning is also underway to install a branded interactive display and presence at the Mt Roskill Kāinga Ora community hub.
20. External stakeholder meetings/briefings held this month:
 - NZTS Tunnelling Aotearoa – 31 May
 - University of Auckland Fast Forward Lecture Series: Urban Opportunities – 31 May
 - Albert-Eden, Māungakiekie-Tamaki, Waitemātā Local Boards Update – 31 May
 - Auckland Infrastructure CEOs – 1 June
 - Te Waihangā NZ Infrastructure Commission – 2 June
 - 21 Local Boards Forum – 3 June
 - Māngere Central School prizegiving event with Minister Wood – 3 June
 - Auckland Airport – 8 June
 - Auckland Council Parks – 9 June
 - Waterlea Primary School prizegiving event – 10 June
 - Industry Technical Briefing – 17 June
 - Downer NZ Presentation – 20 June
 - Property Council of NZ – 22 June
 - Matariki Kite Day: Puketāpapa Local Board – 26 June

E. Delivery Entity - powers

21.

s 9(2)(f)(iv)

22.

23. The process for becoming a requiring authority is set out in the Resource Management Act¹. The entity would need to apply to the Minister for the Environment, who approves the application by notice in the Gazette.
24. To be a requiring authority ALR will need to be a network utility operator. A network utility operator is defined in the Resource Management Act² to include either:

a person who—

(f) constructs, operates, or proposes to construct or operate, a road or railway line; or

(i) undertakes or propose to undertake a project or work prescribed as a network utility operation ...by regulation made under this Act

s 9(2)(g)(i)

27. Other powers will be needed for construction and operations.

F. Business Case

28. We are currently reviewing the Investment Logic Map (ILM) to consider whether urban issues have been adequately addressed – as directed by Cabinet and recognising that the Corridor Business Case that we propose to produce in this phase will also include a series of urban interventions. We are including our Crown and Council partners on this ILM review. The review is likely to identify and enable additional urban opportunities. The reviewed ILM will go to the ALR Board and then to Sponsors for approval.
29. We are also establishing a Business Case Forum, which will meet regularly in a workshop format and include representatives from MOT, Treasury, MHUD, Kainga Ora, Auckland Council and Te Waihanga. The integration of urban and transport investment in ALR means the ALR Corridor Business Case will be more challenging and complex than smaller or standalone infrastructure business cases. The establishment of the Forum is an attempt to lead discussion and thinking on tailoring process and assessment for such large-scale integrated business cases. It will address issues relevant to the Corridor Business Case including the investment appraisal methodology and the benefits framework.

¹ Section 167

² Section 166 (f)

s 9(2)(g)(i)



I. Key risks

39. The appendix shows key risks identified in the last sponsors paper with commentary on the risk trend. The ALR Unit reviewed these risks in a workshop in late June.

40. Big infrastructure projects are built on confidence, credibility and momentum.

s 9(2)(g)(i)



PROACTIVELY RELEASED BY
TE MANATŪ WAKA MINISTRY OF TRANSPORT

Update on policy work programme and delivery plan integration

6 July 2022

Purpose

To update Sponsors on the policy work programme for Auckland Light Rail (ALR) and its links to the delivery work programme.

Recommendations

ALR Sponsors are invited to:

- A. **Note** the content of the policy work and delivery work programmes as appended to this paper
- B. **Agree** to receive programme management reporting (e.g., workstream status and risks) at future Sponsor's meetings
- C. **Provide** feedback on the proposed policy work programme

Background

- 1 Cabinet considered the Indicative Business Case for the Auckland Light Rail (ALR) project in December 2021 and agreed to progress the project to the detailed planning phase [CAB-21-MIN-0531 refers].
- 2 At the time, Cabinet recognised that a significant policy work programme would need to be completed in parallel to the detailed planning being undertaken by the Unit. The purpose of this programme is to consider the legislative, regulatory and institutional frameworks necessary for successful project delivery and ensure it gives effect to wider government priorities.
- 3 The policy work to be undertaken to support ALR is wide ranging and complex. Policy work signalled through the December 2021 Cabinet paper includes:
 - supporting future decisions on project scope and outcomes,
 - determining optimal governance and organisational arrangements for project delivery,
 - confirming ownership and operating arrangements,
 - funding and financing,
 - supporting Sponsor arrangements,
 - confirming the approach to land acquisition,
 - managing business disruption, and
 - ensuring rail regulations support construction and operations.

- 4 Cross cutting issues across all policy work include ensuring the Crown's Treaty obligations are met and determining any legislative requirements to support the programme.
- 5 Links with a range of broader policy (e.g., Resource Management reform) and delivery initiatives (e.g., Ministry's of Housing and Urban Development's Large Scale Projects) also need to be identified and managed through the programme.
- 6 In addition, the ALR policy work programme needs to consider, and evolve consistently with, the objective to develop nationally consistent and enduring frameworks to support future broader rapid transit initiatives.
- 7 The primary purpose of this report is to present and discuss the policy programme for Sponsors' feedback. Concurrently, the ALR Unit are progressing their work plan to deliver the detailed planning phase of the project. The delivery plan is presented in **Annex Two** of this paper for Sponsors' reference. Links between the programmes are discussed later in the paper in paragraph 25.
- 8 Success of the ALR programme depends on all components of ALR progressing in an integrated manner, with dependencies identified, sequenced and managed. Given the complexity of work, and maturity of planning, we have moderate confidence that links and dependencies are fully understood at this stage. Jointly, Crown officials and the Unit are working to more fully integrate the work programmes to improve confidence and ensure that dependencies can be managed as the programme evolves.

Objective of the policy work programme

- 9 The policy work programme is diverse, each workstream has its own objectives that collectively seek to establish an enabling environment for ALR (and rapid transit more generally) that supports the development of a Corridor Business Case (including urban development outcomes). This work will ultimately support a final investment decision and in turn the delivery and implementation of the ALR programme.
- 10 This recognises that although the business case will be completed by the ALR Unit, governed by the ALR Board, a significant range of issues and decisions necessary for the successful delivery of ALR fall to Ministers, Sponsors and Cabinet.

Roles and responsibilities

- 11 The complexity and scale of ALR programme requires input and collaboration across a wide spectrum of central and local government entities. Clarity of roles and responsibilities is essential to the successful delivery of the business case within the timeframes prescribed by Cabinet. The specific agencies required to provide input is expected to evolve as the ALR programme progresses. The table below provides an overview of stakeholder agencies and details associated roles and responsibilities.

Stakeholders	Role
<p>Central government officials:</p> <p>Ministry of Transport, Ministry of Housing and Urban Development (MHUD) and the Treasury in conjunction with others as necessary</p>	<ul style="list-style-type: none"> • Work with officials at the Council and other agencies to develop and agree policy positions and to ensure appropriate perspectives are brought to the work programme • In the development of policy positions, take account of broader government priorities, system stewardship and have a view to an enduring national framework for the delivery of rapid transit • Advise Ministers to ensure that enabling (central government) policy frameworks and decisions are in place to support delivery of the ALR programme • Advise Ministers and Sponsors to facilitate guidance to the Unit such that the business case developed is consistent with Ministers' and Sponsors' objectives and preferences, • Work with the Unit to support it to deliver a successful detailed business case, and • Ensure policy work is resourced, delivered on time and risks are managed to ensure success of the ALR programme
<p>Auckland Council</p>	<ul style="list-style-type: none"> • Work with government officials and other agencies to develop and agree local government policy positions and to ensure appropriate perspectives are brought to the work programme
<p>Delivery agencies:</p> <p>Waka Kotahi, Kāinga Ora, Eke Panuku and Auckland Transport</p>	<ul style="list-style-type: none"> • Collaborate with the ALR Unit on delivery and engage with government and Council officials to inform policy work
<p>ALR Unit/Delivery Entity</p>	<ul style="list-style-type: none"> • Work with policy and delivery agencies to support policy development and to ensure the business case is joined up with related work (e.g., Large Scale Projects) • Develop a detailed programme business case consistent with Sponsors' objectives and reflective of policy positions, and • If approved, deliver the ALR programme in partnership with other agencies as necessary.

Highlighted work streams

- 12 The following sections of the report briefly discuss key policy work streams. A delivery timeline of key policy programmes is provided in **Annex One**.

Governance

- 13 A significant amount of work has already been completed to date on Governance. This includes the first round of appointments to the new competency-based board members and Chair, developing board terms of reference, developing, socialising and agreeing the Heads of Terms for the Sponsors Agreement and advancing the process to appoint Mana Whenua representatives to the board.

- 14 Future work in the Governance workstream will include appointing the remainder of the ALR board, ensuring appropriate delegations and controls are in place for the Unit through the detailed planning phase and supporting the Sponsors' forum through the Secretariate function.

Assurance and Risk

- 15 This workstream involves oversight and assurance to support the Unit's delivery of a successful business case. This will include ensuring Sponsors' expectations and preferences for the business case are understood by the Unit, that central government perspectives are incorporated into the case as needed by the Unit, supporting the Unit to resolve or clarify any issues with Sponsors and that there is sufficient confidence in the underlying analysis in the business case to support a successful final investment decision.
- 16 The Minister of Transport recently sent a letter, endorsed by Sponsors and agreed by Sponsoring Ministers, to the Unit Chair outlining preferences for scope, optioneering and point of entry for the business case. Officials are now working with the Unit to ensure its implementation.

Delivery Entity

- 17 Officials are working towards having an entity established by the second half of 2022 in accordance with Cabinet decisions made alongside the Indicative Business Case. We have developed a preferred option to progress, which has been tested with the Unit and Council, and is being considered by Sponsors at their meeting on 6 July.
- 18 As development of the business case progresses and potential delivery arrangements become clearer this workstream will need to assess whether the entity as set up in 2022 has sufficient powers to deliver ALR (e.g., financial and land acquisition powers) and options to provide these. This will include consideration of whether changes to institutional arrangements could be warranted to support successful delivery or a more permanent structure (e.g., a statutory rapid transit entity).

Vision for the Corridor and Scope of Urban Development

- 19 Having a clearly articulated vision for the corridor is critical to achieving the urban outcomes associated with ALR. Central government officials are working with Auckland Council to progress a workshop to scope this workstream and define the roles and responsibilities of the different agencies involved in providing input to support the Corridor Business Case. It is anticipated that this workshop will take place in coming weeks.
- 20 A refresh of the Investment Logic Map (ILM) is scheduled to take place in early July. The purpose of this refresh is to ensure that the Investment Objectives reflect Cabinet's decision that the project proceed as an integrated urban development and transport project. Officials are working with the Unit to ensure there is appropriate representation at the ILM workshop, particularly with respect to urban inputs and the ensuring the interests of sponsor agencies are articulated. Mana whenua are represented by way of the Unit's Māori Relationships and Policy Manager.

- 21 The Unit is currently procuring professional services, comprising planning, urban design and engineering specialists, that will work with the Unit to inform the Corridor Business Case. It is expected that both the work to scope the vision for the corridor and the refreshed ILM will inform the scope and brief of work provided to the successful consortium.
- 22 Officials will continue to work with the Unit to seek alignment, where possible, with decisions associated with those Large-Scale Projects located within the corridor. The extent to which alignment can be achieved will be determined by the staging and route alignment options selected to progress.

Funding and Financing

- 23 We reported recently on the proposed scope of the funding and financing work programme (OC220323/ T2022/987 / BRF21/22051234 refers, subsequently shared with Council).
- 24 The overall objective of this workstream is to support the delivery of a business case that presents options for, and a recommended, funding and financing package consistent with Ministers' and Sponsors' preferences. In the short term we intend to provide advice on approaches to value capture, funding principles and financing arrangements, all of which will support the Unit's business case. Longer term, there will be a need to document financial arrangements between Sponsors and the Unit and ensure appropriate control frameworks are in place.

Further workstreams

- 25 There are further workstreams in earlier stages of scoping. Central government ministries own the workstreams of:
- ownership and operations – ensuring that appropriate arrangements are determined and agreed for operation of ALR. In particular, as discussed at the Sponsors Representatives Forum on 29 June, to ensure that Auckland Transport is appropriately sighted and engaged, and that this work proceeds at pace to give partner organisations certainty on future arrangements;
 - rail systems and regulation – ensuring the surrounding regulatory framework (e.g., rail network regulation) is fit for purpose to support a successful rapid transit intervention;
 - the legislative pathway, which will largely be informed by policy work in other workstreams, and
 - land acquisition – HUD officials are working closely with the Unit and MoT to determine the scope of this workstream. The workstream has dependencies across those relating to the determination of Delivery Entity and Consenting. The workstream will also consider the use of different tools available to enable land acquisition necessary to advance the project. Land acquisition will need to consider both that necessary for the construction of the light rail network as well as opportunities relating to urban development opportunities (including Transit Oriented Development around station locations).

Key dependencies between the policy and delivery programmes

26 The ALR Unit has prepared a delivery plan to 2026, which includes a range of activities that they are best placed to speak to. Delivery is reliant on policy decisions from Sponsors. Key policy issues identified by the Unit that are being prioritised by officials for decision in the short term (circa September 2022), to enable planning and delivery, include:

- Board appointments – finalising membership of the Delivery Entity board to support governance of planning and delivery.
- Delivery Entity – to enable efficient planning and delivery, and simplify interim processes including financial management, procurement and land acquisition. Advice has been provided to Ministers for decision on the form of that entity with implementation to follow.
- Funding and Financing – Sponsor guidance on a range of funding and financing issues, including a preferred approach to value capture, is necessary to shape business case development. Our plan for funding and financing policy advice aims to provide advice to Ministers on these issues through July and August.
- Business Disruption – s 9(2)(f)(iv) [REDACTED] s 9(2)(g)(i) [REDACTED] Business disruption has been a high-profile issue for the City Rail Link project, and it is expected similar concerns will be raised by corridor stakeholders.
- Land acquisition – completing required steps to enable strategic land acquisition, including delegations, process, and Cabinet approval.
- Operating arrangements – agreeing working assumptions regarding the operator of the system.
- Decision process and quality of evidence for refining options within the business case – s 9(2)(f)(iv) [REDACTED] best-practice evidence-based Cost-Benefit Analysis should inform s 9(2)(f)(iv) [REDACTED] as part of the final investment decision, as captured in the IMS letter from Ministers to the ALR Board. This interdependency will be important to manage to ensure decisions on such a significant project are appropriately evidenced-based.
- Land use and urban development planning and regulatory frameworks – in order to gain an acceptable level of comfort that urban development outcomes will be achieved in the long-run in the corridor, as part of the investment decision on ALR, it will be necessary to consider what long-term planning and regulatory frameworks will apply in the corridor s 9(2)(g)(i) [REDACTED]. This framework will have strong interdependencies with Funding and Financing land-based funding tools, and Council's own RMA responsibilities.

Decision making and governance

Programme management

- 27 Officials are working to enhance existing ALR project and programme management disciplines to ensure that milestones are tracking as planned, changes to scope and timelines are well understood and impacts identified and risks are identified, managed and escalated.
- 28 This will further support links across the policy and delivery workstreams to ensure a fully integrated workplan, structured around a critical path of key decision-making milestones, which is necessary for success with such a complex programme. Subject to your feedback, we intend to introduce regular reporting, based on programme management best practice, to the Sponsors forum.

Policy development

- 29 Officials are working closely with Council and the Unit to inform policy work as it progresses, ensuring appropriate links and perspectives are incorporated. In practice policy agencies are working to develop initial thinking on issues, that are then tested with the Unit and Council, refined, and finalised as necessary before being presented for decision.
- 30 Consistent with the Sponsor's agreement, we will use the Sponsors forum to test thinking, and seek feedback and decisions as our work develops.

National Mass Rapid Transit strategy

- 31 Outside the ALR project, agencies will be working together to establish a framework or a forum on mass rapid transit (MRT), to ensure a whole of government perspective is brought to the work, and oversee the broader work developing a nationally consistent approach to rapid transit delivery.

Risks

- 32 Auckland Light Rail is by some margin the largest infrastructure project contemplated in New Zealand. In addition to the core transport solution, a significant urban development intervention is also expected. The programme is complex and involves multiple parties across central and local government and covers a wide range of policy and delivery issues. Light rail is being delivered in the context of significant change to broader policy and institutional settings including Resource Management and Three Waters reform.
- 33 Across the programme there are a range of dependencies and uncertainties, which depending on their outcome, will have implications for other workstreams. From a policy perspective, some of these dependencies are within control of central government and so can be managed through programme level coordination and by providing early and proactive advice to Ministers to obtain early clarity. Conversely, some depend on future decisions of the Unit or Council, which depending on outcomes could have implications for contemplated policy work. Policy decisions will influence and enable Unit planning and delivery.

- 34 Combined, this complexity presents some challenges to confidence in the scope and timing of the policy work programme as decisions made in the future, or outside of the control of policy officials, could impact the work plan. Officials are working to more fully integrate the policy and delivery work programmes over the coming months. As discussed at the Sponsors Representatives Forum on 29 June, officials will also work with the Unit to prepare a critical decision pathway for the programme, alongside the fuller policy work programme and delivery plan.
- 35 In the interim officials are managing this through proactive collaboration across the programme and will escalate issues to Sponsors and/or Ministers through existing channels for early direction as necessary.
- 36 This complexity means there is greater confidence for planned short term deliverables across the plans and which reduces as plan extends into the future. We expect that the plans will be living documents, being updated as time passes, confidence increases, and dependencies are resolved.

Relation to other programmes of work

- 37 A number of broader work programmes will inform policy advice, in addition to other ALR related work. These include the Land Transport Revenue Review, Rapid Transit Network Funding, Government Policy Statement on Land Transport, National Policy Statement on Urban Development, Future of Local Government Review, Three Waters Reform, Resource Management Reform. Officials are actively identifying these links through their work and ensuring links are made as necessary.

Consultation

- 38 The work programme as set out in this advice was developed by the Ministry of Transport, in close consultation with Treasury and the Ministry of Housing and Urban Development. The Unit and Auckland Council were consulted on the work programme and this report.

Briefing Note

Auckland Light Rail Sponsors' Meeting 6 July 2022

To: Minister of Transport
Minister of Finance
Minister of Housing
Mayor of Auckland
Deputy Mayor of Auckland

Subject: **Implementation of the National Policy Statement Urban Development and Medium Density Residential Standards in the Auckland Light Rail corridor.**

From: Megan Tyler, Chief of Strategy

Contact information: megan.tyler@aucklandcouncil.govt.nz

Purpose

1. To inform Auckland Light Rail Sponsors of a pending Auckland Council decision on the near-term implementation of the National Policy Statement Urban Development and Medium Density Residential Standards in the Auckland Light Rail corridor.

Context

2. The National Policy Statement on Urban Development 2020 (NPS-UD) requires Auckland Council to make significant changes to the Auckland Unitary Plan (AUP) by 20 August 2022 to give effect to Policies 3 and 4 of the NPS-UD. Fundamental changes to the Resource Management Act 1991 (RMA) were made at the end of 2021 in the form of Medium Density Residential Standards (MDRS). These changes require the council to notify what is referred to as an Intensification Planning Instrument (IPI) also by 20 August 2022. In addition to the above requirements, the IPI must also incorporate detailed MDRS into the AUP. The IPI has significant implications for almost every residential and many business-zoned properties in urban Auckland.
3. The council consulted with Aucklanders on its preliminary response to the NPS-UD and the amended RMA in April-May 2022. The preliminary response contained a series of maps that illustrated a possible zoning pattern to reflect the changes to the RMA and the committee's direction-setting resolutions in July and August 2021 and March 2022.
4. Council's preliminary response to the NPS-UD and the MDRS identified the area known as the Light Rail Corridor, (which covers indicative route options for Auckland Light Rail from the city centre to Māngere) as 'under investigation' because the specific route and stations for light rail have not been confirmed.
5. Council and central government staff worked together prior to the preliminary response being issued and traversed the issues and the implications of this approach.

Discussion

6. Council is committed along with the Crown to ensuring the success of the Auckland Light Rail project both from a transport and land use perspective. It will require focussed energy and resources to achieve the transformational outcomes for Aucklanders. The mix of intensification, land use and place-making is one of the important tools to optimise the benefits of this project. The outcomes will be more ambitious than the outcomes achieved under the current provisions of the NPS-UD and MDRS. An example of this is the expectation of taller buildings and higher housing densities.
7. If council implemented the NPS-UD and MDRS now, this would require council and communities to spend millions of dollars and duplication of effort responding to two different land use scenarios within a couple of years of each other.
8. s 9(2)(f)(iv)
9. Council staff have recommended to the Planning Committee that council **delay** the implementation of the NPS-UD and MDRS in the Auckland Light Rail corridor until Government announces the route and station locations, in order to reduce duplication and cost, ensure the right land use outcomes will be enabled in the right places and to minimise confusion, cost and disruption for communities.
10. The Auckland Light Rail Unit, through the Project Director, has indicated its support for this pragmatic approach to the implementation of the NPS-UD and MDRS in the Auckland Light Rail corridor.
11. Council is also keenly aware of the need for the Auckland Light Rail Unit to build social licence with the communities along and adjoining the eventual corridor. Given that the Light Rail project will require more consultation with Aucklanders it appears that both the Unit and council are keen to ensure that consultation with the community is coordinated to the greatest extent possible.
12. As part of the ongoing collaboration between council staff and staff from your agencies, we have discussed this approach and we understand that there are differing perspectives on it. We value the opportunity to work together and will continue to do so to ensure that we are as aligned as possible, recognising our respective jurisdictions.

Next steps

13. At the Sponsors' meeting on 6 July, the Mayor will be in a position to advise the meeting of the outcome of the Planning Committee decision on 30 June and to discuss with Sponsors.