

12 March 2021

OC210076

Hon Michael Wood
Minister of Transport

Progressing the City Centre to Māngere project forward through a public service delivery approach – Cabinet Paper

Purpose

Provide you with supporting information related to the City Centre to Māngere project Cabinet paper for the DEV meeting on 24 March

Key points

- The Cabinet paper has been prepared on the basis of your direction for a single governance entity model for the Establishment Board
- Partner agencies have expressed concerns about this structure, including Treasury..
- Treasury, supported by the Infrastructure Commission, has proposed an alternative governance arrangement. While we understand their position, we do not believe this meets with your intent to build consensus and collaboration around strategic outcomes and a preferred way forward within a single board.
- Given the range of views from partner agencies, we have attached alternative text on governance that you may use if required, and we have attached the draft terms of reference shared with you previously
- The Cabinet paper notes that Crown Law has been consulted and provided advice on ongoing obligations on the Crown arising from the parallel process
- It will be important that an independent chair is appointed soon so that the project can proceed quickly following Cabinet's decision.
- We are preparing a communications and engagement plan for the public announcement which we will provide to your office next week

Gareth Fairweather
Manager Placemaking & Urban Development

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Hon Michael Wood
Minister of Transport

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IN CONFIDENCE

Minister's office to complete:

Approved

Declined

Seen by Minister

Not seen by Minister

Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Bryn Gandy, Deputy Chief Executive, System Strategy and Investment, Ministry of Transport	[REDACTED]	X
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PROACTIVELY RELEASED

Progressing the City Centre to Māngere project forward through a public service delivery approach – Cabinet Paper

Purpose

- 1 The attached Cabinet paper has been prepared for your consideration, prior to lodging. It is due to be considered by the Cabinet Economic Development Committee (DEV) on 24 March. It would then be considered by Cabinet on 29 March.
- 2 This briefing adds context to a number of key matters that you may wish to consider prior to lodging the paper.


Partner agencies have not come to an agreement on the governance arrangements

- 3 We understand your intent for a single governance board to both oversee the development of a business case process and assist in reaching consensus on strategic matters and outcomes. You wish this board to be inclusive and non-hierarchical, and have regard to the range of central and local government, community and Maori views.
- 4 The Cabinet paper highlights that there are still differing views from partner agencies on this approach. Auckland Council, Treasury, Waka Kotahi, Infrastructure Commission, MHUD and Kāinga Ora have concerns that range from mild to strong disagreement.
- 5 Partner agencies appreciate the need for the governance structure to be inclusive and non-hierarchical, but their concerns relate to the ability of a single governance board to both build consensus on strategic issues and outcomes, while also progressing a complex business case process in a timely way.
- 6 The specific nature of the concerns with the single governance entity that have been raised include:
 - having a mixed composition of representatives that includes officials, stakeholders and elected members, which would require different roles for the different representatives, and risks creating role confusion
 - the unorthodox approach of including elected members (local board members) with officials and stakeholders on a single board
 - having stakeholders on the governance entity risks slowing decision-making down as the focus turns to consultation and information sharing
 - having representatives that are there by virtue of their role and not the appropriate skills and experience they bring
 - given this phase of the project begins to step into the detailed business case process by identifying route alignment and mode, best practice for the governance structure should be put in place from the outset
 - a lack of technical expertise relating to major transit project delivery
- 7 Further partner agency comment is included in Annex 1. You may choose to include all or some of this as an annex to the Cabinet paper.

Comments from the Minister of Finance and the Treasury

- 8 As part of ministerial consultation, the Minister of Finance has raised matters regarding the need to progress at pace, and for a clear line of sight by the

Government across the work of the Establishment Unit. His Office has also passed on concerns raised by Treasury, specifically in relation to governance. As part of this, the Treasury proposes an alternative governance structure (provided at Annex 2 of this paper).

- 9 The Treasury proposes a smaller skills-based Board to oversee the work of the Establishment Unit, This would allow the Board to make critical decisions at pace, having been charged with a narrower set of responsibilities, namely overseeing the development of business case and the outputs of the Establishment Unit. They propose that broader consensus amongst stakeholders on strategic matters would be worked through separately, outside of the governance board.
- 10 Treasury is concerned that achieving both these functions in one board (which also mixes officials and elected representatives) will ultimately slow the pace of decision making on important matters such as mode and alignment.
- 11 The Treasury's proposal differs from your overall intent to bring all affected parties together, and build consensus around a preferred way forward. By creating a board with a narrower set of technical functions, we consider that this leaves you and the Sponsors with the role of resolving outstanding tensions and trade-offs on strategic matters.
- 12 We agree with Treasury that six months is an ambitious timeline for the Establishment Unit to complete its work, and that the governance arrangements will have a significant bearing on this. Therefore, while the 'single board' arrangements may be put in place with best of intentions, you should consider that it is likely they may be maintained for a longer period. We also agree with Treasury's comment that work should begin now with urgency to start pre-mobilisation of the Establishment Unit.
- 13 While we have reflected Treasury's comments in the body of the paper, Treasury may wish to add a separate comment prior to the paper being lodged. We have asked the Treasury to raise this with the Minister of Finance prior to the paper being lodged.
- 14  We are providing this text to ensure the paper is not delayed should you wish to change it. These paragraphs describe the outcomes the governance structure is to achieve, but leaves out the detail on how that would look.
- 15 Annex 4 is the draft terms of reference we have previously shared with you. Following consultation on these with partner agencies our advice is that they are not included with the Cabinet paper as they need considerable further work to be fit-for-purpose.

Minister of Housing and the connection to urban development through the project sponsors group

- 16 Treasury is recommending the Minister of Housing is on the Project Sponsors group. The Auckland Urban Growth Partnership is being reset, with a focus on housing and urban development in Auckland and the integration of infrastructure, including transport, in this. A commitment has been made for the governance group to meet another three times this year.
- 17 You and the Minister of Housing are the central government representatives in this partnership. This partnership could provide a mechanism for overseeing the urban development aspects of the project, therefore you may want to consider including the Minister of Housing as a project sponsor on CC2M.

Crown law advice on the parallel process remains legally privileged

- 18 Crown Law provided advice on ongoing obligations on the Crown arising from the parallel process. We have noted in the Cabinet paper that Crown Law have been consulted.
- 19 We can provide you with a summary of the Crown Law advice if required for the DEV meeting. This would be in a format suitable for sharing with other Ministers if necessary.

Appointment of the independent chair

- 20 In order to move quickly following the announcement of the Cabinet Decision, it is important that the independent chair is in place quickly. We await further direction on your intention so that we can progress this.

Public announcement following the Cabinet decision

- 21 We have discussed with your office the approach to publicly announcing the next steps for CC2M. We are developing a communications and engagement plan based on this discussion and this will be provided to your office for comment early next week.

Next steps

- 22 You will have the opportunity to provide any final feedback to the Ministry of Transport on the Cabinet paper at the officials meeting on Monday 15 March. The Cabinet paper is due to be lodged on Thursday 18 March for the DEV meeting the following Wednesday 14 March.
- 23 If approved at DEV the Cabinet paper can then be considered by Cabinet at the 29 March meeting.

Annex 1

This is a high-level summary of the views heard from the following agencies on the governance structure for the business case phase of the Auckland Light Rail City Centre to Māngere project: The Treasury, Ministry of Housing and Urban Development, Public Services Commission, Waka Kotahi, Auckland Transport, Auckland Council, Kāinga Ora and the Infrastructure Commission:

- While recognising the need for inclusivity in this phase of the project, concerns were raised with the composition of the Establishment Unit Board. These include:
 - role confusion given the need for different members to have different responsibilities
 - slowing decision-making down by bringing stakeholders onto the Board, as this shifts the focus to consultation and information sharing
 - caution against having those better placed as advisors on the Board.
- The nature of the role of the Auckland local government representatives on the Sponsors Group needs clarity to ensure a focus on political alignment for the project while enabling Ministers to cleanly retain accountability for the final advice to Cabinet.
- It is critical to the success of the project that once the first phase of the business case is completed, the governance structure transitions to a model fit-for-purpose that is skills and experienced based.
- The importance of ensuring representatives in the governance structure have appropriate mandate/delegated authority to undertake their roles efficiently.
- The ability of the Establishment Unit Board to make decisions informed by technical expertise.
- It is critical to ensure the role of mana whenua as Treaty partners is appropriately reflected in the governance.
- Urban development outcomes are intrinsically linked to the project. This needs to be appropriately reflected in the governance.
- The terms of reference need to be clear on what decisions and advice the different parts of the structure are to make, being cognisant it is Cabinet that will make the final decision.

Annex 2

Text of email from Minister of Finance's office, 12 March 2021

The Minister [of Finance] had comments mainly around how to ensure:

- the pace of development
- that the government has very clear line of sight of the project.

His view is that Waka Kotahi and its board may want to control the development and we will need to ensure that it is structured so that the government can have sufficient influence.

He also asked that that Treasury's feedback be passed on.

Treasury comments

The comments below are those of Treasury and Infrastructure Commission Te Waihangā (Te Waihangā). The paper is also out for departmental consultation and we are providing more specific feedback to the Ministry of Transport.

The Treasury and Te Waihangā support the setup of the Establishment Unit and its proposed functions and tasks. However, we have comments and recommendations on three key areas below.

Proposed governance structure for Establishment Unit

The current drafting in the Cabinet paper isn't clear about the composition of the Board and its relationship with a stakeholder group and expert advisory groups.

To support effective decision-making for the project to progress successfully and at pace, we recommend the Cabinet paper more clearly proposes that the Governance structure of the Establishment Unit is comprised of:

1. A small Board of only those members with the appropriate skills, mandate from their organisations to make decisions (without the need to go back to seek confirmation) and with full accountability for the project and work of the Establishment Unit. Key members would include:
 - Independent Chair
 - Waka Kotahi
 - Auckland local government (pending further discussions with these agencies about roles and responsibilities)
2. A separate stakeholder advisory group reporting to the Board
3. Possible other expert and technical advisory groups as deemed necessary to support the Board

We support the approach of having Treasury and Te Waihangā as observers to the Board. Other agencies (including Ministry of Transport and Ministry of Housing and Urban Development) will have key roles in providing advice to the Project Director and team, Governance Board and Ministerial Sponsors Group.

This structure will enable the Board to make timely decisions to ensure the project can progress as quickly as possible, and will enable appropriate management of the operations

of the unit, including managing financial delegations and holding the Project Director to account for performance and delivery.

We understand the desire to build consensus around mode and route alignment in particular and agree it is critical for the future of the project for there to be as broad agreement as possible of these key choices. However, our recommendation, aligned with international best practice, is that this is most effectively achieved through a stakeholder and/or expert advisory group. We do not support a large Board with both stakeholders and decision-makers as it is likely to result in delays to the project as the focus of the Board will inevitably turn from decision-making to consultation and information sharing.

Urban development perspectives in governance and project team

The Cabinet paper notes that there will be key strategic choices around the ambition for urban development opportunities as part of the project, and the level of land use change that will be required. We consider that analysis of these choices will be critical to evaluate the economic case for the project, such as what level of density is required to achieve patronage levels to justify the investment.

To ensure the urban development perspective is fully embedded in the project, we recommend that the Minister of Housing is also part of the Ministerial Sponsors Group (alongside the Minister of Finance and Minister of Transport). This will ensure the transport and housing/urban development considerations will be fully integrated and considered cohesively.

Timeframes for business case work and need to mobilise now

The Cabinet paper proposes a report back in November 2021 with recommendations on route alignment, mode, funding and financing and the form of the delivery entity. Some of these recommendations, particularly route alignment, delivery entity and funding and financing, require much more design and analytical work than what is usually undertaken in an indicative business case. If this level of analysis is to be undertaken by November 2021, it reinforces the need for an effective and empowered governance board that can make timely decisions.

We agree it is important to maintain momentum for the project and having clear timelines for report backs is a useful tool to achieve this. However, we note that completing the required business case work in the proposed six month timeframe will be a significant undertaking given the scale and complexity of the project and level of detailed planning required. This will be challenging to complete in time for Cabinet to take decisions in November.

Until the Chair is appointed and the Board is established, we strongly recommend that you discuss with the Minister of Transport about directing Waka Kotahi to set up a mobilisation team immediately to enable a fast start once Cabinet decisions are made.

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Annex 4

Terms of Reference: Option 1 (Board With Broad Representation And Bifurcated Functions)

Background and Cabinet decisions

- 1 Auckland's population is set to grow by 730,000 to 2.3 million over the next 30 years, with much of this growth concentrated along the Auckland City Centre to Māngere corridor. Auckland's future growth must be enabled and supported by a transport system that improves access, reduces overall journey times and supports a shift to sustainable and active travel. Rapid transit is an enabler of higher density and better quality urban development, leading to stronger communities, greater vitality and attractive compact urban form.
- 2 Cabinet has prioritised the Auckland City Centre to Māngere light rail project, as the first spine of a wider rapid transit network for Auckland. To support progress of this project of both national and local significance, Cabinet has agreed to set up an Establishment Unit, guided by an inclusive governance structure made up of representatives of central and local government and with an independent chairperson.

Project Sponsors

- 3 Cabinet has delegated to the Ministers of Transport and Finance the authority to oversee the strategic direction of the key outputs of the Establishment Unit and, with the benefit of the recommendations of the Establishment Unit, to take back to Cabinet proposed decisions to inform the next stage. Reflecting the importance of this project both nationally and to the communities of Auckland, Cabinet has invited the Mayor of Auckland to work closely with the delegated Ministers as a joint sponsor of the project. The Mayor of Auckland has accepted this role.

Composition of Establishment Unit Board

- 4 The independent chair of the Board has been appointed by Cabinet. The remaining members of the Establishment Unit Board comprise senior representatives nominated by Auckland Council, Auckland Transport, [local iwi], [local council Boards], Waka Kotahi, [Kāinga Ora / the Ministry of Housing and Urban Development] and the Ministry of Transport. In most instances the representatives should be at the Chief Executive level.
- 5 The Chair will be responsible for making recommendations to the Project Sponsors on behalf of the Establishment Unit. While the Chair will hold the responsibility of making recommendations, the purpose of inclusive membership on the Board is to seek broad consensus. The Chair will work closely with Board members to seek strong support for the Chair's recommendations wherever possible. It is expected that Board representatives and their organisations will participate in a manner that will best support that outcome where possible.
- 6 If there is a material difference of view between Board members, and the Chair believes it is important for the Project Sponsors to have visibility of the non - recommended view, the Chair will ensure that view is described in the report to the Project Sponsors and the reasons it is not being recommended.
- 7 Te Waihanga and Treasury will support the work of the Establishment Unit Board as observers.

Key outputs of, and time frame for, the Establishment Unit Board

- 8 The role of the Establishment Unit Board is to:
- (a) complete an initial business case for the project, including both an options analysis and a recommended option for mode and route;
 - (b) undertake initial iwi, stakeholder and community engagement;
 - (c) provide advice on options for the form and governance arrangements of the delivery entity for the project, [these should include using the existing City Rail Link or a joint venture arrangement between the Crown and local Government];
 - (d) provide advice on the pathway for taking the project forward, including decision gateways and supporting and informing, as required, any parallel supporting policy work undertaken by policy agencies.
- 9 In preparing the initial business case the Establishment Unit Board will be guided by the following Project Sponsors criteria and such other strategic directions that the Project Sponsors might provide to the Board:
- (a) The Outcomes Framework developed and agreed collaboratively by ATAP. The agreed outcomes are:
 - (i) **Access and Integration** - Improved access to opportunities through enhancing Auckland's Rapid Transit Network and integration with the current and future transport network
 - (ii) **Environment** - Optimised environmental quality and embedded sustainable practice
 - (iii) **Experience** - A high quality service that is attractive to users and highly patronised
 - (iv) **Urban and Community** - Enabling of quality integrated urban communities, especially around Māngere, Onehunga and Mt Roskill;
 - (b) [Value for money]
- 10 *[If Project sponsors group determine additional direction is required from the commencement these should be included here]*
- 11 The Project Sponsors acknowledge that not all organisations represented on the establishment Unit Board may want to engage substantially on the development of the Initial Business Case but will, through their representatives on the Board, want to oversee and provide expertise on the iwi and community engagement. Project Sponsors expect that Auckland Council, Auckland Transport, Waka Kotahi and the Ministry of Transport will engage substantially on the Initial Business Case. The Chair will, in consultation with all Board members, establish guidelines for the Board's decision making which reflects the roles the Board members wish to undertake.
- 12 The Establishment Unit Board shall provide the Project Sponsors with the Initial Business Case and the required advice on the delivery entity and project pathway by no later than [30 September 2021]. The Project Sponsors will expect to meet with the Establishment Board at key intervals during the Establishment's Board's work

program, and the Establishment Unit may provide interim presentations or reports to the Project Sponsors if the Chair considers it helpful to do so.

- 13 It is expected that the Establishment Unit Board will meet no less than monthly but as often as is required to progress its work programme and that Board members will prioritise attendance at meetings. The Chair in consultation with Board members shall determine guidelines for meetings and decision making.

Iwi and Community Engagement

- 14 Reflecting the significance of this project to the communities of Auckland Tāmaki Makaurau a key element of the Establishment Unit’s work will be to build community understanding of the project and its benefits, hear from the communities, reflect on that feedback in the preparation of the initial business case, and by doing this seek to develop a strong social licence for this significant project.

Expected relationship between Board and nominating organisations

- 15 The Project Sponsors expect there will be a high level of transparency and co-operation between the Establishment Unit and the organisations represented on the Board. This is to support the twin objectives of building these organisations’ confidence in the work of the Establishment Unit and enhancing their support for the final outputs of the Establishment Unit. These guiding principles will be subject to whatever protocols the Chair may require to ensure orderly sequencing and flow of information, and protection of confidential/commercially sensitive information.

Policy engagement

- 16 As part of the wider development of the project, there will be a policy work programme that will consider the fitness for purpose of current legislative and regulatory settings. This work programme may need to involve a number of policy Ministries. As part of the initial business case process, consideration will need to be given to these settings, and the Unit should work collaboratively with policy agencies to assist them to scope up the necessary policy work programme and also to help inform the nature of the initial business case. The Ministry of Transport will take a leadership role in organising the policy work programme. The Ministry will engage with the Establishment Unit Board in developing this work programme and will seek the Board’s views as required in the development of any policy advice.

Resourcing and support

- 17 The Establishment Unit Board’s work will be supported through the newly formed Establishment Unit- a joint endeavour of Auckland Transport and Waka Kotahi, the Auckland regional and national key transport delivery agencies. The Chair, after consultation with the Board members, will appoint a project director to oversee the Establishment Unit’s work. Waka Kotahi will host the Establishment Unit. To ensure a highly collaborative approach to the work of this Unit, it is expected that partner agencies will actively look to second staff into the Unit or provide other equivalent resources.