



17 September 2021

OC210687

Hon Michael Wood
Minister of Transport

Action required by:
 Monday, 20 September 2021

AUCKLAND LIGHT RAIL – THIRD SPONSORS MEETING

Purpose

- 1 Support you in your attendance at the next meeting of the Auckland Light Rail Sponsors forum on Monday 20 September.
- 2 Highlight outstanding issues and provide an overview of the policy issues that aren't fully reflected in the advice you have received and that will have a bearing on decision making going forward.
- 3 Highlight specific points that you may wish to raise against each of the agenda items.

Background

- 4 The Establishment Unit (the Unit) has provided Project Sponsors with advice in advance of their meeting on Monday 20 September.
- 5 The paper is not seeking Sponsor's agreement on any particular aspect of the project at this stage but provides an overview of the emerging recommendations that will be taken to Sponsors at their next meeting on Monday 4 October.
- 6 The Establishment Unit was established to advise you on a way forward for the project, aside from the interests of individual agencies. We recognise that this is a very challenging balancing act for all parties involved.
- 7 At the last sponsors' meeting, Ministers asked the Unit to work more closely with the policy agencies, and to ensure their views are reflected in its advice.
- 8 Policy agencies including the Ministry of Transport (the Ministry) are supporting you in making policy decisions in two ways.
- 9 Firstly, the Ministry has to date worked with the Unit and other policy agencies to ensure that the recommendations that will be made to Sponsors will, as far as possible, reflect the broader Crown interests and the need to manage risks that are held by the Crown.
- 10 Secondly, following the Unit's final recommendations, you can expect further advice from officials on the choices you have, and the implications of these for the Crown and wider machinery of government settings. This reflects the fact that the Unit is not in a position to advise on what is 'best for Crown', the responsibility for which resides with policy agencies.
- 11 The purpose of this briefing is to highlight some of the critical issues for the Crown that you should be aware of when responding to the recommendations being put forward by the Establishment Unit and in making decisions and determining a preferred way forward.

Final recommendations must acknowledge the Crown's interests

12 The arrangements for the Unit are intended to encourage it to test and put forward bold ideas and reflect a 'best for project' approach. Officials' approach has been to engage in a completely open and collaborative manner on broader policy issues, so these are available to the Unit and can form part of the advice to the Establishment Unit Board and to Sponsors.

13 [Redacted]

14 [Redacted]

15 [Redacted]

16 The remaining sections of this briefing highlight the key areas of interest for the Crown and provide the context for the advice you will receive from officials in the lead up to Cabinet decisions.

Withheld to protect information discussed under an obligation of confidence and in a free and frank manner.

Project scope

17 Sponsors have an important role to play in aligning project decisions, with decisions that are still to be made with respect to the costs, programme implications and governance arrangements needed to deliver on the broader urban outcomes that the project is intended to support.

18 There is a known gap in the evidence that has been presented to us to date relating to the non-transport infrastructure and interventions required to achieve the urban development outcomes required.

19 Although the Unit has produced information on the ability of different mode options to enable additional homes and jobs, the scope of the project itself remains unclear in terms of its role in the delivery of growth (e.g. through transit oriented development and other enabling infrastructure).

20 It is important to note that the cost of delivering these wider outcomes have not been factored into the project's core costs, which could themselves change significantly as the scope of the project is refined through the next detailed planning phase of the project.

21 This interaction between the project and urban outcomes is critical for decision making. It affects various matters including the project's social licence, affordability, the certainty of value capture, the complexity of delivery and consenting, the approach needed to land acquisition, and the optimal settings for delivery and future governance.

22 More work will be needed in the next phase of the project, involving multiple agencies, to determine the costs of this, the powers needed to deliver such development, and how this affects approaches to consenting and land acquisition.

- 23 There is a risk if decisions are made in November in a way that presuppose the optimal way forward and undermine the need for detailed matters around project scope and costs to be tested and refined further in the next phase.
- 24 The scale and nature of development is also a big question relating to the project's social licence. We have not been presented with information that gives an indication of Aucklanders' appetite for the scale of development and intensification associated with the different mode options being presented by the Establishment Unit.

During Agenda Item 2 'Urban' you may wish to ask the Establishment Unit:

- *How has the cost of delivering the outcomes associated with each mode and route, and realising its benefits, been factored into the Economic Case and the capital costs presented in this paper?*
- *What do we know of the level of social licence that exists in relation to the scale of urban development options associated with different modes? Has this been factored into the trade-offs?*
- *How will the masterplanning and detailed design work during the next phase influence our understanding of the total costs of the project, its affordability, and the powers needed to deliver the urban development outcomes?*

Mode and route choices

- 25 The Unit is preparing to present recommendations to Sponsors to agree a preferred mode and route. This is a significant decision that will set the parameters of future work in the next stage of the project.
- 26 No final direction is being sought from Sponsors on mode and route at this stage, although the Unit would like to steer on the overall trade-off between affordability and ambition.
- 27 Based on the business case progress and outputs reviewed to date, there are significant risks associated with making firm decisions on a preferred mode and route at this stage.
- 28 In the absence of a detailed understanding of project scope in relation to its role in delivering urban development and how costs have been developed, we do not currently have confidence that the analysis of mode and route options and subsequent recommendations are progressed enough to provide a robust evidence base for decision making.
- 29 As a result, the affordability of these options to the Crown has not been assessed. We intend to work closely with the Unit and the Treasury to address this in the coming weeks, so that decisions can be made by Cabinet with greater confidence. This will include the review of important analysis and deliverables such as those relating to the urban development workstream, that have only recently been made available.
- 30 Generally, officials have raised concerns that the speed with which analysis has been undertaken, deliverables developed and workstreams integrated presents a material risk that there are gaps in the analysis. This risks analysis being accelerated and decisions made without full awareness and consideration of the implications, in order to meet fixed timelines.

During Agenda Item 1 'mode and route choice' you may wish to ask the Establishment Unit:

- *What are the gaps and risks with respect to how certain we can be on project scope and its ability to achieve the outcomes and benefits Cabinet is seeking?*
- *What assessment has been carried out on the costs, complexity and timescales involved in realising the suite of benefits associated with different modes?*
- *What level of confidence does the Unit have in the cost ranges provided, and what would influence cost going forward (i.e. what are the known unknowns)?*
- *From an emissions perspective, you may wish to clarify how well each mode and route option performs in reducing emissions when packaged alongside the scale of growth they unlock.*
- *Can the Unit provide an indication of the scope of a detailed business case, should a decision on mode and route be confirmed by Cabinet in November?*
- *What decisions can reasonably be taken in November that will not put the Crown and project at risk?*

Delivery, governance and next steps

Delivery Entity

- 31 The Sponsors paper confirms that the Establishment Unit Board is likely to recommend that either Waka Kotahi (potentially through a subsidiary) or a Schedule 4A company delivers the project.
- 32 The conclusion that the Schedule 4A company option is one of several front runner-options is reasonable, however it is too early to say that it is **the** preferred option. Other options still have not been ruled out and need to be considered as the scope of the project is narrowed in the next phase.
- 33 No engagement has been undertaken to date regarding the option of a Waka Kotahi subsidiary to deliver the project. We would expect to see more due diligence that supports this option, before this is presented to the Board.
- 34 Generally, we are aligned with the Unit that a decision on the appropriate delivery entity should not be taken at this stage, given the need for a fuller options analysis once the scope of the project has been refined and the precise powers needed to deliver the project have been confirmed.

Governance and the next phase of the project

- 35 We are aligned with the Unit that governance is critical in the next phase of the project where a number of significant strategic decisions need to be made. These decisions relate (amongst other issues) to the roles and responsibilities of partners in relation to the urban development, the sources of funding that will be used, the approach to land acquisition, and who will be the ultimate owner of the transport asset.

- 36 These decisions concern issues that represent a considerable risk to the Crown. It is critical to ensure the right governance and accountability structure is in place for this next strategic phase of the project. Governance arrangements will evolve as the project progresses, with a lesser degree of ministerial oversight being required overtime.
- 37 The final governance arrangements will also need to reflect a Sponsor-level agreement between the Crown and Auckland Council, given the significant role that Auckland Council plays in ensuring that the benefits of the investment can be realised to deliver broader urban and community outcomes.

Options exist regarding where to 'host' the next phase of work

- 38 Currently, we do not have sufficient evidence to support the Establishment Unit Board's recommendation that the operational unit for the next phase should be based within Waka Kotahi.
- 39 We have not seen an options analysis that considers this alongside other choices Ministers have within the broader Machinery of Government toolkit that exists to provide and inform options in cases such as this one. The Ministry is undertaking analysis to inform the Establishment Unit Board's final recommendations in this respect.
- 40 Our analysis is seeking to test how this option and the alternatives could:
- work effectively within the joint endeavour construct currently envisaged by officials and Establishment Unit
 - work alongside the already large programme of activities and projects being taken forward singularly within Waka Kotahi
 - be conducive to delivering against a broad range of transport and urban outcomes, and whether this would require legislative change to allow Waka Kotahi to undertake urban development functions beyond its current focus on 'land transport'
 - allow for appropriate oversight by Sponsors to integrate the delivery of the project with wider programmes of work.
- 41 We will also be working with the Public Services Commission to consider how alternative options might impact on existing entities within the Machinery of Government. The Ministry will provide advice to Ministers, with the Public Service Commission and others as appropriate, on these issues reflecting the Secretary of Transport's stewardship role in respect of the transport system overall.

Legislative changes and consenting pathways

- 42 Officials have raised concerns regarding the conclusions being drawn by the Unit that only very limited legislative change, or none at all, would be required to deliver the project.
- 43 Until critical questions of scope have been resolved in detail, we cannot be confident that changes would not be needed in respect of the land acquisition and interests, institutional settings, funding mechanisms and value capture.
- 44 There is a range of views on the most appropriate consenting pathway for the project, and we have agreed with the Establishment Unit that any further discussion around the use of the RMA or Urban Development Act (UDA) pathways cannot take place until the detailed planning stage.

During Agenda Item 3 ‘delivery entity, governance and next phases’ you may wish to:

- *Confirm your expectations that the views and wider considerations offered by policy agencies are acknowledged in the Unit’s final recommendations*
- *Clarify that you will be asking the Ministry of Transport to work with other policy agencies to provide advice regarding the choices that Cabinet has in taking forward the recommendations of the Unit, especially in relation to:*
 - *Governance*
 - *The host for the next stage of work*
 - *The need for legislative change*

Funding and value capture

- 45 The Unit has delivered summary costs for developing the transport infrastructure and is currently completing a more detailed cost report to explain the assumptions within the costs. The Ministry and Treasury will have a walk-through of the cost estimation approach and cost assumptions in the coming week.
- 46 We have also requested that the Unit develops a financial model to support its estimated affordability gap of the project, including scenarios for the potential quantum of funding that could be available from various funding sources (e.g. NLTF, local land owners, general Auckland ratepayers, Crown).
- 47 This model will show cashflows over time to allow us to assess the potential Crown funding requirements for the project. We expect to receive this shortly to allow us to advise you on potential funding outcomes.
- 48 There are three key areas of uncertainty for the costs and funding given the project is at an early stage of design:
- i. The cost estimates are still high-level and we expect them to rely on assumptions that need further testing. We will know more about the degree of uncertainty after we have had the walk-through mentioned above.
 - ii. The broader programme costs that are needed to allow the full benefits to be realised have not been estimated yet. These are costs that may fall outside the boundary of the project e.g. costs for Auckland Council to increase the capacity of water and transport infrastructure to support intensification.
 - iii. We will advise you on the affordability of each the potential funding sources to help approximate the extent of Crown funding required. Given the project is still in the early stages of design, there is not yet sufficient detail on the proposed urban development to allow us to analyse funding that could be raised from local landowners (for example, we would need to know how many dwellings are estimated within the catchment areas and the expected nature of the households). We will instead use scenarios and “what if” analysis at this stage and will recommend further analysis for the next stage of work.

During Agenda Item 4 ‘Funding & Value Capture’ you may wish to:

- *Emphasise the importance of setting a clear work programme and decision points for the next phase of costing and affordability analysis*

Our focus going forward

- 49 Officials from the Ministry of Transport have been working with the Establishment Unit over the past 6 months to ensure that its outputs reflect these wider considerations. In some instances, the issues being raised from this wider system perspective are not being fully reflected or acknowledged in the outputs of the Establishment Unit.
- 50 Some of the gaps highlighted above can only be addressed through the business case process. Decisions made by Ministers will need to reflect the level of detail that can be developed by the Unit in the time available, as well as the known gaps in our understanding of affordability etc. We are supporting the Unit in this respect.
- 51 In relation to policy matters concerning governance and funding and finance, officials' further advice may be needed to balance the recommendations of the Unit. We have indicated to the Unit that we will seek to continue to work with it on these questions.
- 52 None of the recommendations from the Establishment Unit are policy advice to Ministers. We continue to work with Treasury, Te Waihangā, Ministry of Housing and Urban Development, the Public Service Commission and others to support you to identify and resolve the matters that have wider policy or system implications.

Recommendations

- 1 We recommend that you **note** the contents of this briefing.

Gareth Fairweather
Acting Director, System Strategy & Investment

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Hon Michael Wood
Minister of Transport

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Minister's office to complete:

Approved

Declined

Seen by Minister

Not seen by Minister

Overtaken by events

Comments

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