

Auckland Light Rail - key decisions sought from Ministerial Oversight Group

Reason for this briefing	This briefing follows the first Ministerial Oversight Group meeting of 23 July. It seeks a set of specific decisions from Ministers which are necessary so that the next stage of the project can proceed.
Action required	Circulate this note to the Ministerial Oversight group, and seek their feedback on the key points noted in this paper.
Deadline	Feedback to be provided to Minister Twyford's office by midday Friday 26 July 2019.
Reason for deadline	To enable finalisation of key documents so that they can be provided to NZTA and NZ Infra by 31 July. This is necessary to enable both parties to have a minimum of four months to prepare their proposals.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
Siobhan Routledge	Director	[REDACTED]	✓
Bryn Gandy	Deputy Chief Executive	[REDACTED]	

Withheld to protect the privacy of natural persons

MINISTER'S COMMENTS:

Date:		Briefing number:	OC190709
Attention:	Hon Phil Twyford	Security level:	

Minister of Transport's office actions

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- Withdrawn*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

24 July 2019

To: Auckland Light Rail Ministerial Oversight Group

Purpose

1. Following our meeting of 23 July 2019, this note outlines key areas where feedback from the Auckland Light Rail Ministerial Oversight Group is needed.
2. I am seeking your feedback by midday 26 July 2019. While I appreciate this is tight, it is also critical to allow the process to take place in a way that allows us to achieve a Cabinet decision on our preferred delivery partner in February 2020.

Comment

3. I am seeking Ministers' feedback on three key items:
 - 3.1. Terms of Reference for the Ministerial Oversight Group (annex one)
 - 3.2. The high level outcomes for the project and the high level evaluation framework for assessing the proposals (annex two and three)
 - 3.3. Assumptions and parameters which are reflected in the Response Requirements Document (annex four).

Decisions taken to date

4. In June, Cabinet agreed to establish a parallel process to determine the Government's preferred delivery partner for Auckland light rail [DEV-19-MIN-0141 refers]. This process reflects that the proposals developed by NZTA and NZ Infra are at different stages of development, making a meaningful comparison between them very difficult. A key goal is to obtain enough information from both so that the Government can reasonably make a decision on its preferred delivery partner.
5. The process is designed to enable Ministers to work through the choices each of these parties offers in a structured way, so that Ministers can fully work through the benefits of each proposal, and the financial implications of each.
6. The parallel process will take place over a four to six month period, and will involve:
 - 6.1. NZTA, working with officials, developing and enhancing its business case
 - 6.2. Officials undertaking MOU discussions with NZ Infra, so that the Government can arrive at a very clear position on the merits of its proposal.
7. To inform this process, officials were directed to undertake further work to clarify the outcomes that the Government (and other parties) are seeking from light rail in Auckland. This work is a necessary foundation to ensure that both NZTA and NZ Infra are working on a common set of assumptions of what light rail should deliver now and into the long term.
8. At its core, this process will allow us to test the value for money that the two parties offer, along with how well they will perform as partners. It will also allow us to understand the specific technical solutions that they offer and how deliverable and acceptable they will be to the Government (and Auckland partners).

Process to date

9. Since the Cabinet decision, officials have stood up a project team, and have set up key work streams to manage this process, including setting up a governance structure involving Auckland Council and Auckland Transport.
10. Officials have also engaged a 'lead team' to front the discussions with NZTA and NZ Infra, and have obtained specialist and technical advisors to assist with the process. This external advice is a necessary part of the process – [REDACTED].
11. To ensure a level playing field between NZTA and NZ Infra, and to allow us to fairly compare the two proposals, the next stage of the process is to issue a Response Requirements Document to NZTA and NZ Infra. This document will set out a common set of requirements so that their proposals can be developed to a point where the Government can make an informed decision on its preferred delivery partner.
12. In developing the Response Requirements Document, officials have worked to make it demanding enough so that Government can be assured that it has robust and well evidenced information sufficient to allow it to make a choice on its preferred delivery partner, while also not seeking more information than is necessary.
13. To achieve enough clarity on the merits of the two parties, the Response Requirements Document seeks information on price, risk allocation, commercial and financial arrangements, design and deliverability. A question has been raised over whether design and deliverability is needed at this stage – however my clear view (which is endorsed by the Ministry's commercial advisors) is that price and risk cannot be assessed without understanding design.

Overall timing

14. The timing is very tight to enable a Cabinet decision in February 2020 on the Government's preferred delivery partner. NZTA and NZ Infra should be allowed a minimum of four months to prepare their proposals. Following the finalisation of the proposals, there will need to be an evaluation process, followed by advice to Ministers and ultimately Cabinet. To meet the February deadline and to allow sufficient (but still constrained) time for all of these steps, releasing this document by 31 July 2019 is critical.

Terms of Reference for the Ministerial Oversight Group

15. The Ministerial Oversight Group was established in the Cabinet paper. This group will play a key role to oversee and manage the process, and will meet on an as required basis. I have asked my officials to report back to me with a schedule of meetings, reflecting key milestones across the process where Ministerial engagement will be required.
16. As a Ministerial Oversight Group, we are overseeing a new process, and it is critical that we there is role clarity between ourselves and our officials. There are three main principles underpinning the Terms of Reference:
- 16.1. **Ministers to oversee key public policy choices.** The Group's key role will be to provide direction to officials on policy related choices.
- 16.2. **Principle of distance and independence.** To allow for a robust and predictable process and to allow us to independently determine which party is our preferred delivery partner, it is critical that there are clear parameters on how the engagement with NZTA and NZ Infra will work. To preserve the independence of our decision

making, the Terms of Reference expressly require us to direct any communications through the 'lead team' which is fronting the discussions with NZTA and NZ Infra.

- 16.3. **Principle of good faith.** Entering into the parallel process is a significant undertaking for NZ Infra in particular, and they are required to enter into this process at their own cost and risk with no guaranteed outcome. The Government is entering into this process in good faith, and will be expected to run a fair and transparent process, and to consider the two proposals in an even-handed manner. The market will take a close interest in the process that we are running, and a good faith approach will be important to maintain market confidence.

Outcomes and the high level evaluation framework

17. As part of the Cabinet paper, officials were commissioned to prepare advice on a refreshed set of outcomes for the project. A draft outcomes framework is attached for your feedback (annex two). The purpose of the framework is to:
- 17.1. Provide clear direction to the design, delivery and implementation of light rail in Auckland
 - 17.2. Articulate the role the City Centre to Māngere Light Rail will play in Auckland's rapid transit network
 - 17.3. Provide clarity to NZTA and NZ Infra as they prepare their proposals, including setting out the basis for determining the strategic fit of their proposals through the evaluation process.
18. The outcomes are enduring for the life of the City Centre to Māngere Light Rail project, extending beyond this next phase.
19. The outcomes framework is a critical part of the Response Requirements Document, and it will form a key part of the evaluation of the proposals. However, the evaluation will also include other key criteria (see annex three) which are necessary to fully test the deliverability, impacts and financial implications of the two proposals.
20. The proposed evaluation criteria are as follows:
- 20.1. The impacts and likely benefits of the proposed commercial and financial arrangements
 - 20.2. Construction works and delivery (including property and environment, future integration and expansion, whole of life)
 - 20.3. Service delivery (interface with the Auckland transport system, lifecycle and asset management)
 - 20.4. Approach to community and stakeholder engagement over the short and long term
 - 20.5. Approach to partnership
 - 20.6. Delivery of key outcomes
21. These criteria are designed to support an evaluation which advises us on the value for money of the two proposals, taking account of the specific benefits each offers, and the

financial implications for the Crown under either scenario. The key decision for us will be to determine which party offers the greatest benefits, at an acceptable price and level of risk.

22.

[REDACTED]

Withheld to protect the confidentiality of advice tendered by Ministers or officials

23.

I am seeking your agreement to the high level outcomes, and for you to indicate your comfort with the high level evaluation approach outlined above.

24.

Once I have received your feedback, I will work with officials to finalise the evaluation approach.

Key parameters for the Response Requirements Document

25.

The Response Requirements Document sets out an initial set of bottom lines or parameters for the Government. These are necessary to set out our base line expectations. These have been designed to comply with a maximum flexibility, minimum constraints approach, so that we get the best proposals from the two parties, but we also give them clear guidance on the outcomes we are seeking.

26.

I am seeking your feedback on these key parameters.

Crown to retain ownership of the land

27.

The document proposes that the Crown will retain the permanent ownership of any land that may be required for the light rail alignment. This reflects the role of the Crown as holding long term responsibility for major transport spines in Auckland. This also assists in managing the Crown's leverage in the long term relationship, should the Government decide to pursue an arrangement with NZ Infra.

Ownership of the assets (e.g. rail infrastructure, stations, rolling stock)

28.

The document is silent on whether the Government has a view on the acceptability of permanent ownership of the rail infrastructure. This reflects that there are multiple possible ownership arrangements under the NZTA or NZ Infra led options (which may reflect the funding streams), and we need to better understand their offerings to determine how much risk is involved. Accordingly, we propose that ownership should be considered at the next stage of the process.

[REDACTED]

Withheld to protect the confidentiality of advice tendered by Ministers or officials

Risk allocation

29.

The original NZ Infra proposal included a number of project risks that would be taken on by NZ Infra, including significant construction and patronage risks. However, limited detail was provided, and we are mindful that risk transfer will usually come at a price. The document does not set out an acceptable risk allocation model, but rather seeks a clear set of detailed principles that each party proposes to apply to risk allocation, by risk area. An evidence based rationale, with the cost impact of the risk transfer, will also be required.

Commercial and value capture opportunities

30.

The document notes that the Government will value commercial and financial approaches that capture the value created by the project in order to help fund it. The document requires

the parties to outline their approach to value capture, and how they intend to use this to fund and or finance the project.

31. The document also asks the parties to outline their strategy for commercial or other development opportunities around the light rail alignment (both integrated into the line – e.g. air rights surrounding the stations; and adjacent or near to the line. A very transparent approach is required, not only to ensure that the parties are working to support the wider project outcomes around urban and economic development, but also to ensure that community interests and possible reputational risks are managed.

Route alignment, technical and service requirements

32. To date, an indicative corridor has been adopted for the project, and Auckland's strategic transport network, transport planning policies and transport interchanges have been designed based on this route. The document indicates that the parties are not bound to apply this indicative corridor, and that they are expected to consider alternative route alignments – and to demonstrate the benefits of these.
33. However, minimum requirements are set out, including terminals in the CBD and Auckland International Airport, along with major intermediate stops in Mount Roskill, Onehunga and Māngere Town Centre. These major intermediate stops align with planned / existing interchanges.
34. A series of service requirements are laid out, including for example, the need to demonstrate a service that is integrated into Auckland's rapid and mass transport plans, demonstration of how the service supports mode shift, and integration with existing AT systems (including the HOP card).
35. The parties are also required to demonstrate how their proposed solution can be extended, including to the North West, and to Wynyard as a means of supporting future extension to the North Shore.

Sustainability requirements

36. The document requires parties to outline their environmental sustainability strategy, including managing impacts during construction, and managing impacts on residents (e.g. noise, vibrations), preserving and enhancing the natural environment, including native habitats and biodiversity.
37. The parties are also asked to demonstrate how they'd achieve a world class sustainable project which achieves an excellent/gold or better ISCA rating, including how they'd deliver value for money, improve the local construction industry, and leave a long lasting community legacy. Stations are expected to achieve at least a four gold star rating.

Other key matters

38. The parties are expected to deliver a high quality proposal within the bounds of existing legislative or regulatory frameworks. However, where a party identifies that these frameworks unduly constrain the value it is able to deliver through the project, it should identify these constraints in its proposal.
39. The document signals that the parties are not to engage with mana whenua or undertake community or wider stakeholder engagement (eg business associations) during the proposals process. We believe that a stakeholder engagement process, involving two competing parties, is likely to lead to significant confusion amongst the community.

However, the parties are required to develop a comprehensive approach which outlines how they would engage once a decision has been taken.

MINISTER'S SIGNATURE:

DATE:

Proactively released by
the Ministry of Transport