

# NZ TRANSPORT AGENCY BOARD PAPER

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**Commercial - in - confidence**

## Purpose

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This paper provides a summary of the proposed NZ Transport Agency response to be submitted to the Ministry of Transport on 29 November 2019 in relation to the City Centre to Mangere Light Rail Project and seeks a delegation to the Chair to approve release of the response to the Ministry.

## Recommendations

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It is recommended that the NZ Transport Agency Board resolves to:

- **Note** the contents of this paper;
- **Authorise** the Chair to **approve** the response to the Ministry of Transport's City Centre to Mangere Light Rail Project Response Requirements Document;
- **Authorise** the General Manager Rail and Mass Transit to sign the Proposal Response Form, subject to the Chair's approval; and
- **Authorise** Management to do all things necessary to give effect to this delegation, subject to the Chair's approval.

## Strategic Relevance

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The delivery of Light Rail in Auckland is of considerable strategic importance to the Transport Agency and the Minister of Transport (the Minister). Light Rail will be developed so that it forms an integrated part of a long-term public transport solution. This, along with confirmation of the mode of transportation required across the network, will define Auckland's rapid transit strategy and ensure capital is deployed in the most effective manner.

The Transport Agency is currently the lead agency for the delivery of Light Rail. Under the dual process set by the Minister in May 2019, the Transport Agency's role is to develop a proposal to enable Ministers to properly assess the merits of the NZ Infra proposal. The proposal will also serve the purpose of satisfying Ministers and stakeholders that the project provides value for money and will effectively deliver an integral piece of intergenerational infrastructure for Auckland.

## Background

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In May 2018, following a direction from the Minister, the Transport Agency commenced preparation of an indicative business case for the Light Rail and early stage market engagement, which is consistent with its 'business as usual' approach to infrastructure investment. Since then, a joint venture of the New Zealand Superannuation Fund and Canadian institutional investor, Caisse de dépôt et placement du Québec (CDPQ) (together, NZ Infra) approached the Government with an alternative proposal to deliver the Project.

The Government requires further information in order to determine the preferred delivery partner. Accordingly, the Government is seeking further information in relation to both proposals in order to assess these proposals against established project-related outcomes (the Key Outcomes) and other evaluation criteria as well as public value (including value for money) and public policy considerations. This will enable the Government to make a clear and robust decision on its preferred delivery partner.

To that end, the Ministry of Transport issued a Response Requirements Document (RRD) on 2 August 2019. The RRD is modelled on a Public-Private Partnership Request for Proposal and sets out the minimum requirements to enable the evaluation of the Transport Agency and NZ Infra proposals, and to inform a Cabinet paper in early 2020. That preferred delivery partner will then enter into an exclusive negotiation period with the Ministry with a view to finalising all contractual arrangements – including a project agreement.

The RRD includes a detailed set of Key Outcomes focussing on Access and Integration; Environment; Urban and Community and Experience. These Key Outcomes are multi-faceted including a focus on increased patronage, mode shift, travel times for key journeys, reliability, safety, quality fully integrated urban communities; and have been used to develop the proposed Transport Agency response

The Transport Agency's final response to the RRD is required on 29 November 2019.

A public announcement explaining that NZ Infra and the Transport Agency will further develop their proposals for Government to consider early next year was made by the Minister of Transport, Hon Phil Twyford, on 22 August 2019.

## Key issues

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### Proposed solution

A high-level overview of the process and the proposed solution is set out in Attachment One.

Key features of the Transport Agency's proposal, designed to meet the Ministry's Key Requirements, are:

- This will be the largest infrastructure project ever undertaken in New Zealand and the first light rail network of its kind for the country. The level of complexity cannot be underestimated. There is no single precedent for the structuring and delivery of a project of this nature. No one entity existing today can deliver the key project outcomes. A new delivery entity will be established to meet the broader outcomes requested by the Ministry. This will likely be a Part 4A company, with majority ownership by the Crown. NZTA will remain a key sponsor (alongside the Crown) and will be responsible for the development of the programme while the delivery entity is established.
- In terms of funding and financing, the initial focus is to develop funding streams with predictable cash flows that can be realistically implemented. Both core Crown and funding from the National Land Transport Fund will be required to deliver the project. The Transport Agency may be able to borrow from the Crown as part of this process.
- Core to the delivery approach is that the entity will partner with others, significantly Kāinga Ora, to deliver the urban regeneration outcomes. It will have the ability to deliver all transport related elements of the project, partnering with Kāinga Ora, which will have the powers to deliver urban regeneration. The Light Rail project team has had significant, and very constructive, early engagement with Kāinga Ora and it is anticipated that Kāinga Ora will provide a letter of support. Other potential partners/ stakeholders, including utilities will also likely provide letters of support.
- The Light Rail project team has also had significant and very constructive discussions with other potential partners including KiwiRail, Auckland Transport and Auckland International Airport Limited who all have a role to play in supporting the delivery and operation of the proposed infrastructure.
- The emerging preferred procurement approach involves 3 key elements:
  - An Alliance for the early phase to deliver site surveys, utilities identification and relocation along the entire alignment, with the potential to include other elements of early works where it drives programme risk/ benefit. There will be shared risk in this early phase. This will mitigate some of the issues that the Sydney Light Rail project encountered.
  - A “DSOM” package (Depot, Supply, Operate, Maintain), which will be cover the depot, station fit-out, supply of light rail vehicles and systems and communications, operations and maintenance. The DSOM operator will be brought in early, so that they can inform the design and construction of the light rail.
  - A number of fixed price design and construction agreements to cover core civils, tunnelling and elevated structures. The phasing is yet to be determined. The number of contracts will be dictated by what the market will bear.
- Technical solution:
  - The proposed route alignment is future-proofed for the full network in 2048.
  - It is designed to fully integrate with the broader Rapid Transit Network, including the current network and future proposed extensions.
  - It links to committed and proposed housing and development areas, supporting areas with the greatest placemaking and urban revitalisation opportunities.

- The proposed route alignment is a mixture of fully separated, at grade and trenched. It will deliver ~30 minute journeys for 95% of travellers across the network.
- The design is informed by the required outcomes and objectives of the project, technical constraints, cost/ value for money, community impacts (including consenting challenges and opportunities) and the environmental impact. Iwi will be a critical stakeholder as the project moves into delivery.
- Cost – total cost is still under development. In broad terms, it is anticipated that the construction cost will be ~\$6-8 billion. As outlined above, it is not anticipated that it will be fully funded through the National Land Transport Fund.

### Draft Business Case

A draft Business Case has been developed to support the Transport Agency's detailed response.

This draft Business Case cannot be approved at this time as it has not been possible to engage with all relevant stakeholders in a meaningful manner due to the constraints of the Ministry process. The draft Business Case will be appended to the response and fully cross-referenced to ensure that the information contained is available to be considered when the Ministry is preparing advice for Ministers.

When making the public announcement on 22 August 2019, the Minister of Transport, Hon Phil Twyford, committed that the Business Case would be published in line with normal practices.

### Ministry's process

The Ministry is running the process effectively as a tender process. There are strict confidentiality protocols in place, including limits on how the Transport Agency engages with key stakeholders during this development phase. The Light Rail team engages with the Ministry fortnightly through Interactive Engagement Process (IEP) meetings, which them to seek clarification and feedback as the process develops. In addition, the Transport Agency is required to submit non-binding "early deliverables", covering commercial terms (including risks and responsibility allocation), the indicative route alignment and any legislative or regulatory changes that may be sought (currently none). This allows the team to test their views and thinking with the Ministry and will aid to improve the quality of the response and ensure that it is understood by the evaluators.

### Resourcing

At its July 2019 meeting, the Transport Agency Board noted that the Transport Agency intended to directly appoint advisers to support this phase because of the challenging timelines to respond to the Ministry's process and the lack of sufficient capability and capacity within the Transport Agency to undertake all the work required.

The approach the Light Rail team adopted included identifying the key capabilities required to respond to the RRD and deliberately identifying local and international experts who possessed such capabilities rather than engaging one or two large consultancies. This approach has resulted in the Light Rail Team having the required depth and breadth of expertise necessary to develop a credible response and a business case that supports it.

PwC, Arup and LEK are lead advisers. In addition to those larger appointments, the Transport Agency has engaged a number of experts and consultants to provide support in strategic planning and network integration, governance, stakeholder engagement (including with iwi), legal, funding and finance.

These include:

Chapman Tripp	Legal
Te Amokura	Iwi engagement
Downer	Constructability
Transamo	Operations
Turner & Townsend	Cost modelling
Jacobs (and other experts)	Consenting

## Governance

There is no existing delegation specified in the General Instrument of Board delegation for this kind of response, which is unique and quite unprecedented. In addition to providing a detailed Technical Response, the Transport Agency is required to submit a detailed Commercial Response including ownership structure of any proposed Special Purpose Vehicle, detailed commercial principles including proposed risk allocation; Financial Response including a robust financing structure and financial model; and a Pricing Proposal with detailed estimates of all revenues construction and operational costs to meet its obligations. The Ministry recognises the limited time available to both respondents to develop their respective responses. The Pricing Proposal is non-binding. The Financial Response does not need to include fully committed construction and delivery contracts or finance. However, the Ministry expects each respondent if selected as the Preferred Delivery Partner to Government to enter into an exclusive period to reach an agreement and that any discussions / negotiations will be based on the response submitted. The Transport Agency is therefore committing to enter into any such negotiations in good faith based on the response submitted to Ministry.

The Transport Agency's response proposes setting up a new Delivery Entity with the requisite capabilities to deliver both the transportation and urban regeneration components of the entire ALR network. As it will take some time to stand up this delivery entity, it is proposed that the Transport Agency would continue with the early phases of the delivery of the project (including consenting and land acquisition) to enable a fast start and to maintain momentum.

To provide the Light Rail team with appropriate oversight, an Auckland Light Rail steering group has been established. This is chaired by the Transport Agency Chair. Other members are Mark Ratcliffe (Interim CEO), Carl Devlin (General Manager, Rail and Mass Transit), Brett Gliddon (General Manager Transport Services) and Nick Woodward (Interim General Manager Corporate Support). The steering group's terms of reference provide that its purpose is to assist the Board to fulfil its responsibilities in relation to this phase of the project, providing sounding board and provide oversight and guidance to the ALR project team. The steering group meets fortnightly.

The overall governance through the proposal phase is set out in Attachment Two.

## Key risks (related to this part of the process)

Risk	Consequence	Mitigation(s)
The proposal is non-compliant.	The Ministry is unable to consider the response.	The RRD is relatively non-prescriptive. It sets out the minimum response requirements and allows respondents flexibility in determining how they might deliver the project, consistent with Key Outcomes, developed in consultation with relevant stakeholders in Auckland.  A sign off letter will be sought from Chapman Tripp.
The Ministry does not select the Transport Agency's response.	Reputation.	Quality response. Acknowledging that the proposed solution has been delivered at pace, to support the quality of the response: <ul style="list-style-type: none"><li>- The Transport Agency has resourced the project with reputable local and international advisers;</li><li>- For each key area, there is a primary contributor and a secondary contributor. Each contributor will provide a Summary Report and sign off letter, making comment on the key commitments and strategic delivery risks.</li></ul>

## Funding for this part of the process

The Transport Agency is funding this part of the process. Following a request from the Minister, it is also funding the Ministry's costs up to \$3 million, via a Memorandum of Understanding.

Costs being incurred by the Transport Agency and the Ministry are sourced from the Rapid Transit Activity Class in the Government Policy Statement. The Transport Agency Board approved \$30 million funding for "pre-implementation" in December 2018.

## Health & Safety, Customer & Other Stakeholder and Environmental Impact

The impact of this decision is considered by the Transport Agency to be neutral in terms of health and safety, the public and other stakeholders, and the environment.

## Related Documents

### Attachment One

Overview of the process and the proposed solution.

### Attachment Two

Auckland Light Rail Governance.