

8 June 2021

OC210347
T2021/1472

Hon Grant Robertson
Minister of Finance

Action required by:
Monday, 14 June 2021

Hon Michael Wood
Minister of Transport

ADVICE ON OVERSIGHT AND ASSURANCE ARRANGEMENTS FOR THE NEW ZEALAND UPGRADE PROGRAMME (TRANSPORT)

Purpose

Provides you with advice on the ongoing oversight, monitoring and assurance arrangements for the transport component of the New Zealand Upgrade Programme (the Programme). We will provide you with further advice on options for the drawdown process for the tagged capital contingency, and delegations/decision-making arrangements for the Programme by end of June 2021.

Key points

- The Minister of Finance and Minister of Transport (Joint Ministers) have indicated a concern that the oversight and assurance arrangements for the Programme are complicated, duplicative, and are inadvertently slowing down progress on the Programme.
- In light of these concerns, Ministry of Transport and Treasury officials have worked with Waka Kotahi NZ Transport Agency and KiwiRail (the delivery agencies) to agree principles and revisions to the oversight and independent assurance arrangements of the New Zealand Upgrade Programme (the Programme). We note that this only relates to the overarching role of independent assurance and oversight.

COMMERCIAL IN CONFIDENCE

- For the Programme, we consider that the key principles for external oversight, monitoring, and assurance are that it should be:
 - **Efficient** – arrangements add value, have clear boundaries, and are as limited as they need to be to meet objectives and expectations, minimising transaction costs on parties to the extent possible (including reducing duplication). This includes streamlined and predictable decision-making processes to reduce delays and not slow down delivery
 - **Effective** – parties have clarity on expectations from both Crown as funder/purchaser, and delivery agencies as deliverers, and ensures the right capability is in place to support these roles
 - **Targeted** – effort is focused on risks to cost, schedule and outcomes relative to the maturity of projects so that monitoring and assurance is fit-for-purpose for the stage of the project (e.g. higher risk projects may involve greater effort). This provides an appropriate level of external scrutiny which supports the delivery agencies' in their management of delivery risks.
 - **Transparent** – information from all parties is reported early, and without prejudice, to identify risks early, establish appropriate mitigations, and support achievement of the outcomes.
- Officials' view is that the current "light touch" oversight, monitoring and assurance arrangements remain largely fit for purpose, in line with the principles above, and are at the lower end of what is considered appropriate for a programme of this size, level of uncertainty, complexity, and risk. Furthermore, the current arrangements are consistent with the expectations under Cabinet Office Circular (19)6, Investment Management and Asset Performance in the State Services.
- However, improvements to the existing arrangements can be made. This includes better, more frequent engagement between the New Zealand Upgrade Programme Oversight Group (the Oversight Group) and delivery agencies' internal governance, more efficient information flow between the Oversight Group and delivery agencies and focusing engagement with delivery agencies on high risk projects.
- As a matter of good practice, and to test the current Oversight Group arrangements, officials have commissioned an external review of the Programme oversight, monitoring, and assurance arrangements at the Ministry of Transport, including the Oversight Group.
- We will work with delivery agencies to provide further advice on appropriate parameters for accessing the tagged contingency, and delegations and drawdown arrangements for delivery agencies by end of June 2021.

Recommendations

We recommend you:

Minister of Finance Minister of Transport

- 1 **note** that Cabinet [CAB-21-MIN-0192] has:
 - noted that there will continue to be appropriate monitoring and oversight arrangements for the New Zealand Upgrade Programme (the Programme) to protect the Crown's interests, as well as continuing to support the successful delivery of the Programme going forward
 - noted that officials will report back to the Minister of Finance and Minister of Transport (Joint Ministers) on the appropriate level of oversight and monitoring arrangements for the Programme
 - invited Joint Ministers to report back to Cabinet on any revisions to the oversight and monitoring arrangements, as well as implications for the proposed parameters for accessing the tagged capital contingency.
- 2 **note** that officials' view is that current oversight arrangements are already at the lower end of what is considered to be appropriate for a programme of this size, level of uncertainty, complexity and risk
- 3 **note**, however, that this level of oversight need not delay the delivery of the Programme, or create any significant cost or administrative burdens for delivery agencies, as the information that would be sought is largely what we would expect the delivery agencies' own governance arrangements to require
- 4 **note** that, now that a stronger baseline is in place, officials propose refining the oversight arrangements of the Programme to include better, more frequent engagement, more efficient information flows, and a focus on higher risk projects
- 5 **note** that, as the uncertainty and risks associated with the projects and Programme reduce over time, the level of oversight activity could further reduce
- 6 **agree** that the current assurance arrangements should largely remain, but with some operational changes to improve the value for Waka Kotahi NZ Transport Agency and KiwiRail as indicated in recommendation (4) above Yes / No Yes / No
- 7 **note** that three further key measures to manage risks associated with the Programme are the delegations, contingency and drawdown arrangements with the delivery agencies; and the delivery agencies' own governance arrangements
- 8 **note** that Ministry of Transport and Treasury officials will provide further advice on the establishment of a robust process for the drawdown of tagged capital contingency, and a new set of delegation rights and decision making processes for the Programme by end of June 2021

9 note that this briefing does not provide advice on the delivery agencies' own Programme and project governance arrangements.

Withheld under s9(2)(a) of the Official Information Act 1982



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8 / 06 / 2021

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8 / 06 / 2021

Hon Grant Robertson
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- Minister's office to complete:
- Approved
 - Declined
 - Seen by Minister
 - Not seen by Minister
 - Overtaken by events

Comments

Contacts

Withheld under s9(2)(a) of the Official Information Act 1982

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ADVICE ON OVERSIGHT AND ASSURANCE ARRANGEMENTS FOR THE NEW ZEALAND UPGRADE PROGRAMME (TRANSPORT)

Background

- 1 In June 2021, Cabinet agreed to provide additional Crown funding of \$1.926 billion as a tagged capital contingency to take forward a revised package of transport investments in the New Zealand Upgrade Programme (the Programme) that balances the delivery of the majority of projects with the fiscal cost for taxpayers [CAB-21-MIN-0192].
- 2 Cabinet invited the Minister of Finance and Minister of Transport (Joint Ministers) to report back to Cabinet on any revisions to the oversight and monitoring arrangements of the Programme, and implications for the proposed parameters for accessing the tagged capital contingency for additional funding.

The purpose of independent assurance should reflect the scale and nature of the investment

- 3 Officials have considered how oversight and assurance arrangements can be reset, in light of recent decisions by Cabinet and the baseline information, to support efficient delivery, protect the Crown's interests with respect to costs, time, and outcomes, and meet Cabinet investment expectations as set out in Cabinet Office Circular 19(6), Investment Management and Asset Performance in the State Services.
- 4 To meet these expectations, for programmes of this nature and scale, it is appropriate for Ministers (as purchasers) to receive independent assurance and advice in respect of what is being delivered. This is because for directly Crown-funded programmes, Ministers carry the risk on behalf of the Crown, even if responsibility for delivery sits elsewhere.
- 5 However, we note that Joint Ministers have indicated concern that the oversight and independent assurance arrangements for the Programme are complicated, duplicative, and are inadvertently slowing down progress on the Programme.

We have identified four key principles that guide the form and function of independent assurance for this Programme

- 6 The role of external oversight is not to focus on project specific details that the delivery agencies are best placed to consider. Rather, external oversight focuses on ensuring delivery agencies are following best practice processes, identifying risks and mitigation approaches, and providing a conduit to Joint Ministers should further decisions be required.
- 7 It is important that external independent oversight does not add unnecessary costs to the Programme, duplicate the governance already exercised by the delivery agencies and their Boards, and does not detract from delivery and momentum. For this Programme, we consider that the key principles for the independent assurance approach are that it should be:

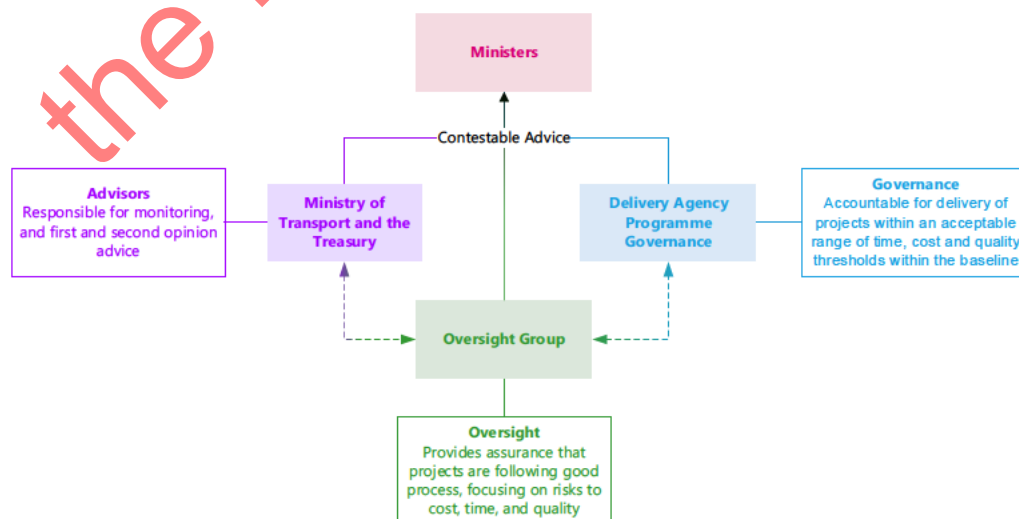
- **Efficient** – the arrangements add value, have clear boundaries, and are as limited as they need to be to meet objectives and expectations, minimising transaction costs on parties to the extent possible (including reducing duplication). This includes streamlined and predictable decision making-processes to reduce delays and not slow down delivery.
- **Effective** – parties have clarity on expectations from both Crown as funder/purchaser, and delivery agencies as deliverers, and ensures a range of skills and perspectives is in place to support these roles
- **Targeted** – effort is focused on risks to cost, schedule and outcomes relative to the maturity of projects so that monitoring and assurance is fit-for-purpose for the stage of the project. For example, higher risk projects may involve greater effort. This provides an appropriate level of external scrutiny which supports delivery agencies' in their management of delivery risks.
- **Transparent** – information from all parties is reported early, and without prejudice, to identify risks early, establish appropriate mitigations, and support achievement of the outcomes.

8 Oversight can be expected to reduce over time as the Programme and individual projects mature, and risks decrease. However, the expectations on Ministers as purchasers remain right until (and in some instances, after) project completion. This means that, as the Programme is currently in a comparatively immature stage, it is important to establish and embed robust standards and expectations to set the Programme up well for its ten year horizon.

Independent assurance is distinct from governance, which reflects the difference between funder and delivery agency

9 In September 2020, the New Zealand Upgrade Programme Oversight Group (the Oversight Group) was established, as well as the associated monitoring arrangements for the Programme (OC200703 refers).

10 This function is separate to project and programme governance undertaken by delivery agencies and was specifically focused on providing oversight and independent assurance to Ministers with a “light touch” approach. The function has no decision rights over the projects. This is illustrated in the diagram below:



- 11 The “light touch” approach involves using delivery agencies’ reporting to their own delivery governance board, and an extract of the underlying information from their systems.
- 12 While delivery agencies, and you as Ministers hold decision rights, assurance of the Programme only offers you with independent advice on key risks to the Programme’s cost, time, outcome and overall delivery, as well as mitigations and management. However, the delivery agency Boards remain responsible for the delivery of the Programme’s projects and govern delivery of the projects.

There are opportunities to refine the assurance arrangements to better align with the principles

- 13 All parties are comfortable that the above principles and function of oversight, and that its distinction from governance and decision-making are appropriate for this Programme. The Oversight Group therefore remains largely fit for purpose as part of a “light touch” approach for independent assurance.
- 14 However, given the baseline for the Programme, we consider that there are improvements that can be made to right-size the Programme’s independent assurance function to better align with the principles above.
- 15 We propose:
 - better and more frequent engagement between the Oversight Group and delivery agencies’ internal governance
 - more efficient information flows between the Oversight Group and delivery agencies
 - focusing engagement with delivery agencies on higher risk projects as well as key risks across the Programme generally.
- 16 For example, higher risk, or less mature projects with greater uncertainty around elements such as costs could be monitored more closely or frequently, while projects that are lower risk in terms of cost, schedule and outcomes could be reported back on less frequently.
- 17 We are working through how this could work in practice with the delivery agencies, which includes striking the right balance through the delegations and tagged contingency drawdown conditions. We consider that these revisions should go some way at addressing Joint Ministers’ concerns that the independent assurance arrangements are complicated, duplicative, and slowing down progress on the Programme.

Alternative arrangements to independent assurance carry risks and trade-offs

- 18 Officials’ and the Oversight group’s view is that the “light touch” oversight, monitoring and assurance arrangements described above are the minimum level of independent assurance appropriate for the Programme. Any less oversight would potentially be inconsistent with the expectations in Cabinet Office Circular 19(6), and could raise

issues with the Office of the Auditor General (which is currently conducting a performance audit of the Programme).

- 19 Alternatively, there could be options for greater levels of oversight and independent assurance. This goes beyond the “light touch” approach you have directed for the Programme.
- 20 For example, the Oversight Group could commission Independent Quality Assurance reviews to identify any significant risks on the Crown as Programme owner and purchaser. This would have to be managed carefully so as not to cut across the responsibilities of the delivery agencies’ Boards, particularly in respect of KiwiRail as a state-owned enterprise. This also has co-ordination and resource risks as delivery agencies are already commissioning Independent Reviews.
- 21 As a matter of good practice and to test the current Oversight Group arrangements, officials have commissioned an external review of the Programme oversight, monitoring and assurance arrangements at the Ministry, including the Oversight Group. This will help check that we’re managing these trade-offs appropriately.

Next steps

- 22 The delivery agencies have requested clarity on what decisions Ministers would like to take, and your intended approach to managing costs and risks across the Programme. All agencies agree that it is timely to put some structure around the way trade-offs will be managed across benefits, scope, cost and schedule; and how this will interface with contingency management.
- 23 The approach in this paper is the first stage of arriving at an agreed position for appropriate oversight and assurance arrangements for the Programme.
- 24 Subject to your agreement that the above approach is appropriate for the Programme, officials will work closely with delivery agencies on appropriate conditions, delegations, thresholds, and its implementation, to support the outcomes in paragraph 7 above.
- 25 We will provide you with further advice on this alongside our advice on a robust drawdown process for tagged capital contingency by end of June 2021.