



Proactive Release

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Title: Draft Cabinet Paper: Final Proposed Global Settlement Agreement with Christchurch City Council

Reference: DPMC-2019/20-171 and T2019/2481

Date: 16/08/2019

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Briefing

DRAFT CABINET PAPER: FINAL PROPOSED GLOBAL SETTLEMENT AGREEMENT WITH CHRISTCHURCH CITY COUNCIL

To: Minister of Finance (Hon Grant Robertson)			
Minister for Greater Christchurch Regeneration (Hon Dr Megan Woods)			
Date	16/08/2019	Priority	High
Deadline	As soon as possible	Briefing Number	DPMC-2019/20-171 T2019/2481

Purpose

This briefing recommends that you:

- seek Cabinet approval of a final Global Settlement Agreement with Christchurch City Council; and
- begin coalition consultation as soon as possible to enable a draft Cabinet paper to be considered by the Cabinet Economic Development Committee on Wednesday 28 August 2019.

Recommendations

We recommend that the Minister of Finance and Minister for Greater Christchurch Regeneration:

Hon Grant
Robertson

Hon Dr
Megan
Woods

1. **note** that on 8 August 2019 Christchurch City Council approved the proposed Global Settlement Agreement, subject to several amendments;
2. **note** that officials have responded to the Council's proposed amendments, including proposing some relatively minor changes where considered necessary;

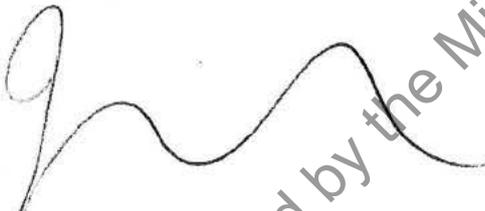
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Hon Grant
Robertson

Hon Dr
Megan
Woods

3. **note** that we are still awaiting the Council's response to the Crown's proposed amendments, and while we expect some further discussion may be needed we expect that a satisfactory resolution can be found;
4. **note** that we recommend you seek Cabinet approval of the final proposed Global Settlement Agreement (GSA), with the ability to make any minor modifications following Council discussions;
5. **note** that we recommend you begin consulting with your colleagues on a draft Cabinet paper, as the remaining issues are relatively minor and there is some urgency in finalising the global settlement before the local body election;
6. **agree** to circulate the attached Cabinet paper with your colleagues as soon as possible to enable consideration by the Cabinet Economic Development Committee on 28 August 2019;
7. **note** that, in order to enable Cabinet decisions on the GSA, you will first need to establish a new multi-category appropriation to provide for costs associated with the GSA that are not clearly within the scope of existing appropriations; and
8. **note** that, by Wednesday 21 August 2019, we will provide you with papers seeking your agreement to establish the appropriations noted in recommendation 7 and with an updated draft Cabinet paper.

YES / NO YES / NO


 James Beard
**Acting Deputy Secretary
 Macroeconomics and Growth
 The Treasury**
 16/8/2019

Hon Grant Robertson
Minister of Finance
/...../2019


 Anne Shaw
**Executive Director
 Greater Christchurch Group
 Department of the Prime Minister and
 Cabinet**
 16/8/2019

Hon Dr Megan Woods
**Minister for Greater Christchurch
 Regeneration**
/...../2019

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Contact for telephone discussion if required:

Name	Position	Telephone		1st contact
James Beard	Acting Deputy Secretary, Macroeconomics and Growth, the Treasury	s9(2)(a)	s9(2)(a)	✓
Anne Shaw	Executive Director, Greater Christchurch Group	s9(2)(a)	s9(2)(a)	✓

Ministers' office comments:

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

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DRAFT CABINET PAPER: FINAL PROPOSED GLOBAL SETTLEMENT AGREEMENT WITH CHRISTCHURCH CITY COUNCIL

Purpose

1. This briefing recommends that you:
 - a. seek Cabinet approval of a final proposed Global Settlement Agreement with Christchurch City Council; and
 - b. begin coalition consultation as soon as possible to enable a draft Cabinet paper to be considered by the Cabinet Economic Development Committee on Wednesday 28 August 2019.

Background

2. As you are aware, global settlement negotiations are now completed at an officials' level. On 29 July 2019:
 - a. you provided an update to Cabinet on progress (CAB-19-MIN-0369 refers); and
 - b. the Council released draft global settlement documents publicly, prior to Council consideration of the proposed global settlement on 8 August 2019.

The Council has now approved the GSA subject to amendments

3. Since your update to Cabinet, the Council has heard deputations from the public and on 8 August 2019 agreed to the proposed Global Settlement Agreement (GSA), subject to several amendments. The Council also delegated authority to the Mayor to sign the final agreement, and to the Mayor and Deputy Mayor to negotiate any final matters directly with the relevant Minister – noting, however, that any material changes sought by the Crown would require reconsideration and approval by the Council.
4. Other than minor wording changes, the amendments sought by the Council include:
 - a. Changes to the mechanism for sharing net proceeds from the divestment or lease of residential red zone (RRZ) land;
 - b. Changes to the terms for the Bus Interchange retention and warranties; and
 - c. Retaining in effect schedules of the 2013 Cost Sharing Agreement (CSA) that relate to the cost sharing approach for horizontal infrastructure.
5. The amendments, and the Crown's response, are detailed in **Attachment A**.
6. As discussed with the Minister for Greater Christchurch Regeneration at the officials' meeting on 9 August 2019, we have taken a relatively pragmatic approach to the changes sought. For the most part we have either accepted the Council's requests, or where unable to do so have proposed alternative mechanisms which we consider will provide solutions that are workable for both parties.

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7. We are now awaiting the Council's response. While we expect some further discussion may be needed and that the key issue may be how CSA schedules are dealt with, we expect that a satisfactory resolution can be found. While it is not yet clear what the outcome will be, we note the Council has delegated authority to the Mayor and Deputy Mayor to negotiate any final matters, if not material.

We recommend you now seek Cabinet approval

8. It is important that we retain the momentum of the global settlement process and get the deal over the line as soon as possible before local body elections, if agreed by your colleagues. We recommend that you now seek Cabinet approval of the final proposed Global Settlement Agreement (GSA).
9. While we are still working through a few minor amendments, as highlighted above, these are generally technical and do not change the substance of the deal. As such, we propose that you start the process of Cabinet consultation on the draft Cabinet paper while the final remaining issues are worked through. We anticipate that these will be resolved in the coming days and are unlikely to require changes to the Cabinet paper, except for some minor drafting changes in the attached GSA documents. We will provide further advice on this next week.
10. A draft Cabinet paper is provided in **Attachment B**, and includes:
- an A3 summarising the proposed deal (Annex 1 to Attachment A);
 - the full GSA documents themselves (Annex 2 to Attachment A).
11. The draft paper seeks Cabinet approval for the proposed GSA, along with authorisations for you as joint Ministers to make minor changes to the agreement if required, and to sign the relevant documents on behalf of the Crown.
12. Although you as joint Ministers have a number of authorisations regarding the fiscal implications of the global settlement, the Treasury's advice is that the majority of the financial decisions will be needed from Cabinet at the time it provides approval for the GSA so that funds are appropriated ahead of expenditure being committed. Therefore, the paper includes detailed financial implications and recommendations for Cabinet consideration.
13. We note that the financial implications are detailed and reflect that a number of decisions will be needed to move money around. We also note there are several remaining placeholders in the financial recommendations which will need to be updated before it is formally lodged, and there may be some movement (though we do not expect this to be material).
14. s9(2)(g)(i), s9(2)(i)
- Further decisions will be needed from you before Cabinet consideration of the GSA*
15. Your agreement would be needed to establish a new multi-category appropriation proposed in Vote Finance to provide for costs associated with the GSA that are not clearly within the scope of existing appropriations. This would need to occur **before** Cabinet makes decisions relating to the attached Cabinet paper.
16. We will provide you with advice seeking decisions on this matter by Wednesday 21 August 2019, but anticipate the new appropriation would:

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- a. have a single overarching purpose to enable the implementation of the Global Settlement Agreement with the Christchurch City Council including matters that are consequential on that Agreement;
- b. be administered by the Treasury, with the Minister for Greater Christchurch Regeneration as appropriation Minister; and
- c. be used to provide funding for Ōtākaro Limited to enable it to s9(2)(i) and for meeting costs incurred through the GSA with the Council.

Timing of Cabinet consideration

17. The Minister for Greater Christchurch Regeneration will be away from 7-14 September 2019. The last possible opportunity for Cabinet consideration before this period would be on 2 September 2019.
18. We note that, if Cabinet consideration is delayed into late September 2019, this would leave very little time before the local body election on 12 October 2019 if any further discussions were needed with the Council. In this scenario, there is a high risk that it may not be possible to reach a global settlement until late 2019 at the earliest, or possibly 2020.
19. We therefore propose that you take this item to the Cabinet Economic Development Committee meeting on 28 August, followed by the Cabinet meeting on 2 September 2019. If you agree, a constrained coalition consultation period will be needed and we therefore recommend you begin consultation immediately.
20. We note there are no significant changes to the proposed deal since your last update to Cabinet. If there are any updates on the status of the talks with the Council by Wednesday 21 August 2019, we will provide you with an updated draft Cabinet paper before it is due to be lodged with the Cabinet Office.

Next steps

21. As noted in the draft Cabinet paper, a number of further decisions will be required to enable the final GSA to be signed, subject to Cabinet approval of the proposed GSA. These include:
 - a. Technical decisions by you as either joint Ministers or in your capacity as shareholding Ministers for Ōtākaro Limited (Ōtākaro) – including: i) major transaction approval(s), and ii) a side letter providing confirmation that the Crown will transfer funding so that Ōtākaro can s9(2)(i) and make payments relation to land remediation costs; and
 - b. Decisions from Ōtākaro and the Chief Executive of Land Information New Zealand (LINZ) to sign schedules of the GSA that relate to assets held by Ōtākaro and LINZ.
22. We will provide you with further advice, likely in late August 2019, to support you to make the necessary decisions following Cabinet approval on 2 September 2019, if this is secured.
23. We note there are a number of other matters that will require ongoing decision-making. In particular, the draft Cabinet paper notes that:
 - a. Implementation of the global settlement (in particular, reconfiguration of RRZ land by LINZ) will involve a number of **statutory processes**, with decision-making implications for the Minister for Greater Christchurch Regeneration. There is also potential that legislative

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change could support implementation. Officials will provide further advice on this matter to the Minister for Greater Christchurch Regeneration later this year;

b. A number of decisions will be addressed through other processes continuing in parallel to and beyond global settlement (in particular, s9(2)(i) [redacted] while ownership, delivery and operation of the Canterbury Multi-Use Arena (CMUA) is subject to the Christchurch Regeneration Acceleration Facility investment case process).

c. **Further funding decisions** are likely to be required in future outside the scope of global settlement. s9(2)(i) [redacted]

d. s9(2)(i) [redacted]

24. s9(2)(f)(iv), s9(2)(g)(i), s9(2)(i) [redacted]

25. [redacted]

Consultation

26. These papers have been prepared jointly by DPMC and the Treasury. DPMC (Policy Advisory Group) and LINZ were consulted on the draft Cabinet paper. The Ministry of Business, Innovation and Employment, the Department of Internal Affairs, the Ministry of Housing and Urban Development, and Ōtākaro have also been informed.

Attachment A Summary: Key Council amendments and Crown response

Attachment B Draft Cabinet paper: Final Proposed Global Settlement Agreement with Christchurch City Council

Attachment B withheld under section 18(d) - already, or soon to be made publicly available.

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ATTACHMENT A

SUMMARY: KEY COUNCIL AMENDMENTS AND CROWN RESPONSE

Issues or previous text in GSA	Council amendments and Crown responses
<p>50:50 share of net proceeds of divestment/leases of residential red zone (RRZ) land: The Crown's proposed mechanism for the 50:50 share was through an encumbrance within a term of 20 years (between 2040 and 2041 depending on the parcel of land) and with a materiality threshold, which would apply to any single divestment or lease.</p>	<p>Council amendment: Remove the encumbrance, and instead establish a 'wash up' process after 10 years of the GSA being signed (i.e. 2029) which would provide for one aggregated calculation in relation to all of the RRZ land and take into account all costs incurred by the Council across the RRZ (as opposed to costs incurred in relation to the land being sold or leased) in calculating net proceeds</p> <p>Crown response: Officials have informed the Council the Crown is likely to accept the change in mechanism, however, a number of changes are needed which would:</p> <ul style="list-style-type: none"> • Clarify that the 'wash up' occurs 10 years after all the land has actually transferred to CCC (i.e. 2031) • Clarify that, where Council costs have been funded by the Crown, they will not form part of the aggregated calculation • Add a requirement for the Council to provide an annual statement to the Crown until the 'wash up' occurs to ensure that the Crown has visibility of any net profits in the RRZ over the time period
<p>Schedules of the 2013 CSA: The previous wording for the draft GSA provided that the majority of the CSA would be void and of no effect</p>	<p>Council amendment: The Council is seeking to retain schedules of the original CSA that relate to the cost sharing approach for the horizontal infrastructure rebuild programme. We note the programme was completed in 2018 and costs finalised between the parties in 2019. We understand the intent may have been to express dissatisfaction with the Crown's contribution to the programme.</p> <p>Crown response: Officials have proposed an alternative through which the positions of both parties on the programme can be recorded. Some further discussion may be needed on which schedules of the CSA could be retained in effect. We have been clear that the Crown considers it has met its obligations.</p>
<p>Bus Interchange asset transfer: The previous wording for the draft GSA provided for a retention to be held from the Council's purchase price in Ōtākaro's solicitor's trust account until Ōtākaro has completed some remedial works for the roof and HVAC system, if not completed by settlement.</p>	<p>s9(2)(i)</p>
<p>Bus Interchange: The extent of warranties to be provided has been under negotiation.</p>	<p>s9(2)(i)</p>