



Proactive Release

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Title: Global Settlement: Final Matters Requiring Discussion with Christchurch City Council

Reference: DPMC-2019/20-197 and T2019/2557

Date: 21/08/2019

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Briefing

GLOBAL SETTLEMENT: FINAL MATTERS REQUIRING DISCUSSION WITH CHRISTCHURCH CITY COUNCIL

To: Minister of Finance (Hon Grant Robertson) Minister for Greater Christchurch Regeneration (Hon Dr Megan Woods)			
Date	21/08/2019	Priority	Urgent
Deadline	As soon as possible	Briefing Number	DPMC-2019/20-197 T2019/2557

Purpose

This briefing provides you with an update on final issues requiring resolution with Christchurch City Council (the Council) in relation to the global settlement, and recommends that:

- Cabinet approval is deferred until there is a final agreement reached with the Council that can be presented to Cabinet; and
- the Minister for Greater Christchurch Regeneration, and potentially the Minister of Finance, meet with the Mayor and Deputy Mayor to resolve the final matters.

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 (the Council) approved the proposed Global Settlement Agreement (GSA), subject to several amendments;
2. **note** that, in response to Council amendments, Crown officials had proposed some changes where considered necessary;
3. **note** that Council staff have now advised that some of the Crown changes would require discussion between Minister/s and the Mayor and Deputy Mayor of Christchurch (as per a delegation from the Council);


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Hon Grant
RobertsonHon Dr
Megan
Woods

4. **note** that we consider the issues are sufficiently important that further discussion is justified, and that they include three areas where Council amendments would require:
- a. Retaining in effect schedules of the 2013 Cost Sharing Agreement that relate to horizontal infrastructure, ^{s9(2)(i), s9(2)(h)}
[REDACTED]
 - b. A significantly revised approach to the 50:50 share of net proceeds from the divestment or lease of residential red zone land ^{s9(2)(i), s9(2)(h)}
[REDACTED] and
 - c. ^{s9(2)(g)(i), s9(2)(i)}
[REDACTED]
5. ^{s9(2)(g)(i), s9(2)(i)}
[REDACTED]
6. **agree** that further discussion with the Council is needed (rather than accepting the Council's amendments without changes). YES / NO YES / NO
7. **note** that, on balance, we recommend Cabinet approval of the GSA is deferred until a final position between the parties is available;
8. **agree** that the Minister for Greater Christchurch Regeneration, and potentially the Minister of Finance, should meet with the Mayor and Deputy Mayor as soon as possible to resolve the final matters, before advice is provided to Cabinet; and YES / NO YES / NO

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9. **note** that detailed talking points and GSA documents are provided (**Attachments A-B**) in support of any agreed meeting, and we can provide further support as required.

 James Beard Acting Deputy Secretary Macroeconomics and Growth The Treasury/...../2019
Hon Grant Robertson Minister of Finance/...../2019

 Anne Shaw Executive Director Greater Christchurch Group DPMC 21/08/2019
Hon Dr Megan Woods Minister for Greater Christchurch Regeneration/...../2019

Contact for telephone discussion if required:

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

Ministers' office comments:

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

GLOBAL SETTLEMENT: FINAL MATTERS REQUIRING DISCUSSION WITH CHRISTCHURCH CITY COUNCIL

Purpose

1. This briefing provides you with an update on final issues requiring resolution with Christchurch City Council (the Council) in relation to the global settlement, and recommends that:
 - a. Cabinet approval is deferred until there is a final agreement reached with the Council that can be presented to Cabinet; and
 - b. the Minister for Greater Christchurch Regeneration, and potentially the Minister of Finance, meets with the Mayor and Deputy Mayor to resolve the final matters.

Background

2. On 8 August 2019 the Council:
 - a. approved the Global Settlement Agreement (GSA) subject to amendments; and
 - b. delegated authority to the Mayor and Deputy Mayor to negotiate any final matters directly with the Minister for Greater Christchurch Regeneration – noting that any material changes sought by the Crown would require reconsideration and approval by the Council.
3. On 14 August 2019, Crown officials had responded to the Council's proposed amendments, proposing some changes where considered necessary. We noted that further discussion may be needed, and that the three key areas where there were substantive issues to be considered relate to the approach to retaining schedules of the 2013 Cost Sharing Agreement; the mechanism for sharing net proceeds from the divestment or lease of residential red zone (RRZ) land; and the parameters for the Bus Interchange retention.
4. On 16 August 2019 we provided you with a draft Cabinet paper for consultation with coalition partners (DPMC-2018/19-171 / T2019/2481 refers). We noted that we expected officials could find a resolution on outstanding matters, and proposed you begin coalition consultation on the draft Cabinet paper immediately, to enable the GSA to be considered by DEV on 28 August, followed by Cabinet on 2 September 2019.

Update on discussions with the Council: key remaining issues

5. Since briefing you, Council staff have advised us that they do not consider some of the changes sought by the Crown can be addressed by officials, and will require discussion between Minister/s and the Mayor and Deputy Mayor (as per the Council's delegation). Further, if any changes sought by the Crown are considered "material", the Mayor would need to take the agreement back to the full Council.
6. We consider the issues are sufficiently important that the Crown should not simply accept the Council's changes, although we remain confident that there are ways through the issues. On balance, we consider it is important that the issues are resolved before Cabinet considers the proposed GSA, as discussed later in this paper.

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7. The remaining issues that are likely to require most attention are summarised below. ^{s9(2)(g)}
^{s9(2)(g)(i)}

Issue 1: Aspects of the 2013 CSA relating to horizontal infrastructure

8. Original GSA approach: In the draft GSA presented to Council on 8 August, the majority of the 2013 Cost Sharing Agreement (CSA) would be replaced by the GSA, and would no longer have legal effect (except for CSA schedules relating to the Metro Sports Facility and Canterbury Multi-Use Arena). This is consistent with the approach taken throughout negotiations, and with the Agreement in Principle that was agreed by Councillors.

9. Council amendment: In its 8 August decision, the Council sought to retain in effect a clause and a schedule of the original 2013 Cost Sharing Agreement (CSA) that relate to cost sharing for the horizontal infrastructure rebuild programme. ^{s9(2)(g)(i)}

This was an issue that received a lot of attention during the Council's consideration of the GSA on 8 August 2019.

10. Crown concern: The horizontal infrastructure rebuild programme was completed in 2018, costs were finalised in 2019, ^{s9(2)(h)}. As noted, the Crown has been clear throughout the negotiations that any further commitments were off the table.

11. ^{s9(2)(h), s9(2)(i)}

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s9(2)(h), s9(2)(i)

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Issue 2: Mechanism for 50:50 share of net proceeds from RRZ land

19. Original GSA approach: In the draft GSA presented to Council, the mechanism for monitoring and enforcing the obligation for a 50:50 share of net proceeds from the divestment or lease of RRZ land was through an encumbrance with a term of 20 years (i.e. closing in 2039-2041 depending on transfer date) and with a materiality threshold, which would apply to any single divestment or lease. Council costs could be taken into account as they related to the specific land being sold or leased.

20. Council amendment: In its 8 August decision, the Council sought to replace the obligation of a 50:50 share per divestment or lease with a 'wash up' process after 10 years of the GSA being signed (i.e. 2029 – reducing the period in effect to eight years following the transfer of all land), providing for one aggregated calculation relating to all RRZ land and taking into account all costs incurred by the Council across the RRZ in calculating net proceeds. Additionally, the obligation would no longer be protected by an encumbrance.

21. s9(2)(g)(i), s9(2)(i)

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s9(2)(g)(i), s9(2)(i)

22. s9(2)(g)(i), s9(2)(i)

23. s9(2)(g)(i), s9(2)(i)

Issue 3: Bus Interchange retention

24. s9(2)(i)

25. s9(2)(i)

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s9(2)(i)

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Options for next steps

32. If you agree that further discussion with the Council is required to resolve these outstanding issues, we consider this could be addressed by Minister Woods meeting with the Mayor and Deputy Mayor (unless both Ministers wish to attend). As noted above, the Mayor and Deputy Mayor have delegated authority from Council to negotiate with Minister/s any final issues, and that unless the final issues are considered 'material' the Mayor has delegated authority to sign off the agreement.

33. In terms of timing and sequencing alongside advice to Cabinet, there are two options:

<p>Option 1: <i>Seek Cabinet agreement to GSA subject to Crown amendments, before discussing the remaining issues with the Mayor and Deputy Mayor</i></p>	<p>Option 2: <i>Discuss the remaining issues with the Mayor and Deputy Mayor, before seeking Cabinet agreement to the GSA</i> (RECOMMENDED)</p>
<p>Benefits: This approach may give full weight to the Crown's required amendments, and give you a better sense of Cabinet's likely approach to Council's proposed amendments.</p>	<p>Benefits: Assuming solutions can be found and agreed with the Mayor and Deputy Mayor before Cabinet considers the GSA, this will allow you to advise your colleagues on a global settlement with confidence that it can be secured, and mitigate risks that the GSA would need to return to the full Council.</p> <p>On the other hand, if solutions cannot be agreed, this approach will ensure that Cabinet decisions on the GSA are better informed.</p>
<p>Risks: It will not be possible to test Council's appetite for changes, or to confirm any mutually workable solutions. Therefore, we are likely to be in a situation where Council and Cabinet have agreed different documents. Given indications that Council may consider at least some of the changes material, the document approved by Cabinet would likely have to be reconsidered by the full Council.</p> <p>In the context that we are nearing local body elections, we consider there is a risk that the Crown's amendments could become subject to a politicised debate, and/or that the global</p>	<p>Risks: Although we consider this is a low risk, there is a remaining risk that the Mayor and Deputy Mayor may not feel they are able to agree to changes without full Council consideration, and that delays could occur. There is a possibility that this will not be able to be reconsidered by Council until after the election, depending on how soon these issues can be addressed. This risk could be managed by prioritising this meeting as soon as possible.</p>

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settlement as a whole could not be agreed before the election on 12 October 2019.	
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34. On balance, we recommend **Option 2** – that:

- a. Minister Woods (and Minister Robertson, if you wish) meets with the Mayor and Deputy Mayor urgently to seek solutions (even if he does not attend, Minister Robertson may wish to meet with Minister Woods before the meeting); and
- b. advice to Cabinet is deferred until the meeting with the Mayor and Deputy Mayor has taken place, and there is more clarity about how the Council is likely to respond on these outstanding matters.

35. This will allow you to take advice to Cabinet that is as informed as possible on the potential outcomes of decision-making.

36. As we are recommending this meeting occurs urgently, we have provided:

- a. **Detailed talking points to support the meeting (Attachment A)**. These go through the three key issues identified above in detail. They also summarise the more minor amendments sought by the Council along with the Crown's response; and
- b. **Draft GSA documents (Attachment B)** which incorporate the amendments sought by the Council, and any amendments proposed by the Crown in response, as discussed in Attachment A.

s9(2)(i)

Next steps

37. If you agree with the recommendations in this paper, we can provide any further support required for the proposed meeting of Minister Woods, and potentially Minister Robertson, with the Mayor and Deputy Mayor. We are meeting with Minister Woods on Monday 26 August and can discuss this further. We will also prepare an updated draft Cabinet paper that could be taken to Cabinet following this meeting, and will work with your offices on the likely timing.
38. If you would prefer to go to Cabinet first, we will urgently provide you with an updated draft Cabinet paper for DEV consideration. This would incorporate any feedback you have and likely seek Cabinet approval of the GSA subject to several amendments by the Crown in line with the recommendations above.

Consultation

39. This paper has been prepared jointly by DPMC and The Treasury. Land Information New Zealand (LINZ) was consulted.

Attachment A Talking points: Key Council changes requiring discussion

Attachment A withheld under section 9(2)(g)(i)

Attachment B Draft GSA documents

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