TERMS OF REFERENCE - WATERVIEW CONNECTION PROCUREMENT STEERING GROUP

4 March 2008

Background

On 17 December 2007, Cabinet agreed to

‘investigate progressing the Waterview Connection as a Public Private Partnership.’

Cabinet also

‘agreed to establish a joint public sector-private sector Steering Group to lead this investigation, reporting directly to the Ministers of Finance and Transport.’

These Terms of Reference give effect to Cabinet’s decisions.

The process being undertaken to consider progressing the Waterview Connection as a Public Private Partnership (PPP) would normally be undertaken by the public agency sponsoring the development of the project. Given the lack of a tested framework for the consideration of PPPs in New Zealand, however, private sector engagement is being sought to help ensure that any future PPP process, including one for the Waterview Connection, meets the needs of both the public and private sector.

Objective

The objective of the investigation is to determine whether there is a viable business case for delivering the Waterview Connection as a PPP. This entails:

- determining the characteristics of the most efficient conventional procurement method for the Waterview Connection (this would be established as the "Public Sector Comparator");
- identifying the most suitable form of PPP for Waterview; and
- analysing how the two procurement methods compare in terms of value for money.
- providing a generic description of the most effective process for developing and assessing the Waterview Connection as a PPP;

Steering Group

The investigation will be overseen by a joint Public Sector / Private Sector Steering Group, which will report to the Ministers of Finance and Transport. The role of the Steering Group is to direct the investigation, to test and approve the deliverables outlined below; to resolve any escalated issues; to ensure that all key parties are appropriately engaged; to oversee external communications; and to report to Ministers as appropriate/required. The Steering Group will be led by an independent Chairperson, appointed by the Ministers of Finance and Transport. Officials will attend meetings of the Steering Group, and the Steering Group may also invite other parties to attend meetings where appropriate. It is anticipated that the Steering Group will need to be available for approximately three to four days per month throughout the investigation.
Working Group

A Working Group will be established to generate the analysis required to achieve the investigation’s objectives, for the Steering Group’s and ultimately the government’s consideration. The Working Group will include a Project Manager, representatives from the Treasury, Ministry of Transport, and, as necessary, Land Transport NZ, and Transit NZ. It may be appropriate for the private sector organisations represented on the Steering Group to contribute to the Working Group. This will be determined during the course of the investigation. The Working Group will also be able to engage consultants to provide expert advice as required.

Context

The route:

The Waterview Connection is a proposed State Highway extension in Auckland that runs from Mt Roskill to the Northwestern Motorway. The route effectively completes the Western Ring Route by connecting State Highway 20 to State Highway 16.

Work to date:

Work already undertaken by Transit New Zealand has narrowed down the range of possible alignments and design options for the Waterview Connection. Transit will be undertaking public consultation on its preferred design option and alignment whilst the business case for delivering the Waterview Connection by way of a PPP is developed. It is not anticipated that this consultation will impact on the development of the business case.

Deliverables

The primary deliverable will be a business case that assesses whether procuring the Waterview Connection through a PPP could deliver value for money. The report will make this assessment by undertaking the broad components listed below. It is expected that the Steering Group will consider existing frameworks used overseas for developing PPPs and the lessons learnt from their application.

Preliminary Public Sector Comparator

A detailed understanding of the conventional public sector procurement method for the Waterview Connection will be essential, as this will be used as the benchmark (the Public Sector Comparator (PSC)) against which any PPP will be assessed. The PSC should include, inter alia:

- The projected cost of the project (provided by Transit New Zealand)
- An analysis of the risks associated with the standard public procurement of the project
- Adjustments to ensure competitive neutrality between public and private sector procurement
**Waterview as a PPP**

The business case for progressing the Waterview Connection as a PPP should include the following:
- Definition of the services to be delivered by the PPP (for example, project planning, construction and ongoing maintenance, etc)
- The likely PPP project structure
- The optimal allocation of all risks between the Crown and the private party
- Possible performance measurement and payment mechanisms
- Market capability and appetite
- Project timetable and resourcing
- Design and form of a PPP procurement process
- Opportunities for innovation
- An assessment of how a PPP would compare with conventional procurement in terms of value for money

In addition to the broad components listed above, the Steering Group may consider any other matters related to the progression of the Waterview Connection through a PPP as the Steering Group sees fit.

**Timeframe**

The investigation is to be completed by the end of June 2008 with the delivery of a report to the Ministers of Finance and Transport. A final decision on the most appropriate way to progress the Waterview Connection will be determined by Cabinet on the recommendation of the Ministers of Finance and Transport. Ministers may take into consideration any other advice and material in making their recommendation. In addition to the completed report, the Steering Group will provide Ministers with progress reports at appropriate times during the project.

**Assumptions**

*Legislation:*

The business case for a PPP for the Waterview Connection should be developed and assessed under existing legislation, including the Land Transport Management Act Amendment Bill currently before the House.

*Funding:*

Decisions on funding for the Waterview Connection will be made outside of this investigation.

*Work undertaken to date:*

Transit New Zealand has already undertaken a significant amount of work to bring the Waterview Connection to its current point of development. The outputs of this work will be provided to the Steering Group and the Working Group as inputs to the consideration of the procurement of the Waterview Connection as a PPP. The two main inputs are:
- The preferred design options and alignment for the Waterview Connection
- The economic assessment, including Benefit / Cost Analysis
External Engagement

During the investigation, interested central government departments, Auckland local authorities and external parties as appropriate will be consulted so that their views may be taken into account. Some engagement between the Steering Group and the Working Group and firms that may be potential tenderers for the Waterview Connection may be necessary to ascertain market capability and appetite for a PPP. However, for probity reasons any such engagement will need to be managed openly and even-handedly.

Reporting

The Working Group will provide progress reports approximately fortnightly to the Steering Group, identifying progress and any key issues or risks arising in the course of the project. The reports and minutes generated during the investigation will be kept confidential to enable a free and frank discussion of the issues. The Steering Group’s investigation will be completed with the delivery of a report to the Ministers of Finance and Transport. The Steering Group will provide periodic updates on progress for Ministers as required. The Ministry of Transport and the Treasury may also independently report to their respective ministers where appropriate.