TE TAI ŌHANGA
THE TREASURY

Treasury Report: Approval for New Standby Facility for Kāinga Ora – Homes and Communities

Date:	2 March 2020	**Report No:**	T2020/133
		File Number:	DE-3-2-2-18 (Housing)

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Note** the content of this report **Agree** to the recommendations in this report	12 March 2020
Minister of Housing (Hon Dr Megan Woods)	**Note** the content of this report **Agree** to the recommendations in this report	12 March 2020

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
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Minister's Office Actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: No

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Executive Summary

Kāinga Ora – Homes and Communities has approached the Treasury to request a new standby facility for $1 billion. The facility, which is effectively a loan that will remain undrawn during the normal course of business, is for use in exceptional and temporary circumstances only. It is normal and prudent for a large size business to have a facility of this nature in place to help protect solvency. s 9(2)(ba)(i) [redacted]

The facility will be in the name of Housing New Zealand Limited, a wholly owned subsidiary of Kāinga Ora – Homes and Communities, which is responsible for the commercial arrangements of the parent entity.

This report seeks agreement in-principle from the Ministers of Finance and Housing to provide this facility.

This report recommends that the Minister of Finance, on behalf of the Crown, approve this lending under section 65L of the Public Finance Act 1989 on the basis that it appears to the Minister of Finance that it is necessary or expedient in the public interest to do so.

This report also requests that the Minister of Housing seek approval from Cabinet to set up a new $1 billion non-departmental capital expenditure appropriation to effect this loan, and provides some options to do so.

Recommended Action

We recommend that the Ministers of Finance and Housing:

a **note** Kāinga Ora – Homes and Communities has requested the Crown provide a new standby facility for $1 billion. It is normal and prudent for a large size business to have access to a facility of this nature and will only be utilised in exceptional and temporary circumstances

b **note** that the facility will be provided in the name of Housing New Zealand Limited, a wholly owned subsidiary of Kāinga Ora – Homes and Communities, responsible for the commercial arrangements of the parent entity, and

c **agree**, in-principle, to the Crown providing Kāinga Ora – Homes and Communities with the new $1 billion standby facility in the name of wholly owned subsidiary Housing New Zealand Limited.

Agree/disagree	*Agree/disagree*
Minister of Finance	Minister of Housing

Should you jointly agree to recommendation c, we recommend that the Minister of Finance:

d **note** that in order to approve the giving of the loans under the new standby facility, under section 65L of the Public Finance Act 1989, it must appear to you that the giving of the loans is necessary or expedient in the public interest to do so. Treasury officials consider that the giving of loans under the standby facility meets this test, and consider that it is appropriate that the Minister of Finance, on behalf of the Crown, gives those loans

e **agree** to approve, under section 65L of the Public Finance Act 1989, the giving by the Crown of loans under a new standby facility for Kāinga Ora – Homes and Communities in the name of wholly owned subsidiary Housing New Zealand Limited, and

Agree/disagree
Minister of Finance

f **note** that the Treasury will negotiate commercial terms with Kāinga Ora – Homes and Communities. Once complete, the loan facility agreement will be signed by a Treasury delegate under an existing delegation under section 65L by the Minister of Finance to the Secretary of the Treasury.

We recommend that the Minister of Housing:

g **agree** to seek approval from Cabinet to set up a new non-departmental capital expenditure appropriation for $1 billion under Vote Housing and Urban Development to facilitate this loan

Agree/disagree
Minister of Housing

We recommend that, should Minister of Housing agree to recommendation g, either

h **Minister of Housing agree** to seek approval for the appropriation as a standalone Cabinet item (recommended by Treasury)

Agree/disagree
Minister of Housing

or,

i **Minister of Finance agree** that the approval for the appropriation form part of the Budget Cabinet paper (not recommended by Treasury)

Agree/disagree
Minister of Finance

We recommend that the Ministers of Finance and Housing:

j [redacted] s 9(2)(ba)(i)

Matthew Collin
Head of Portfolio Management

Hon Grant Robertson
Minister of Finance

Hon Dr Megan Woods
Minister of Housing

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Purpose of Report

1. The purpose of this report is to seek approval from the Minister of Finance for a $1 billion new standby facility (“Standby Facility”) from the Crown to Kāinga Ora - Homes and Communities (“Kāinga Ora”) in the name of Housing New Zealand Limited to provide access to short-term liquidity in exceptional and temporary circumstances. This is now required due to the entities increased capital expenditure programme. This approval is required under the Public Finance Act 1989 (“PFA”).

2. This report also seeks agreement from the Minister of Housing to request approval from Cabinet for a new non-departmental capital expenditure appropriation for $1 billion to facilitate this loan and provides options to do so.

Analysis

3. Kāinga Ora has approached the Treasury to provide a Standby Facility for $1 billion. This facility, which is effectively a loan that would remain undrawn during the normal course of business, would be used to access short-term liquidity during exceptional and temporary circumstances. [redacted] s 9(2)(ba)(i) The facility would be in the name of wholly owned subsidiary Housing New Zealand Limited.

4. [redacted] s 9(2)(ba)(i) It is normal and prudent for a large size business to have a policy of this nature.

5. [redacted] s 9(2)(ba)(i)

6. [redacted]

7. [redacted]

8. [redacted] s 9(2)(ba)(i) Kāinga Ora have requested a new $1 billion Standby Facility to replace the committed bank facilities, which it will retire if the new facility is approved. [redacted] s 9(2)(ba)(i)

s 9(2)(ba)(i)

[redacted]

9. Kāinga Ora have provided a forecast of their Liquidity Requirement over the coming year, based on expected income and expenditure as of February 2020. [redacted]

s 9(2)(ba)(i)

Features of the Standby Facility

10. This Standby Facility would effectively be a loan that would remain undrawn for the majority of the time. The Standby Facility would be drawn down if for some reason Kāinga Ora is not able to raise wholesale funding through either commercial paper or bond markets.

11. The Standby Facility would be in the name of Housing New Zealand Limited, a wholly owned subsidiary of Kāinga Ora. [redacted]

s 9(2)(ba)(i)

12. [redacted]

s 9(2)(j)

13. s 9(2)(j) [redacted]

14. The Capital Markets directorate of the Treasury would manage the Standby Facility, s 9(2)(ba)(i) [redacted] The Treasury already have approximately $2 billion of loans outstanding with Kāinga Ora (in the name of Housing New Zealand Limited and Housing New Zealand Corporation).

Borrowing and Derivatives Protocol

Approval for Kāinga Ora to Borrow Under the Borrowing Protocol

15. A Borrowing and Derivatives Protocol ("Protocol") sets out the joint approval of the Minister of Finance and the Minister of Housing for Kāinga Ora to borrow as is required under the Crown Entities Act 2004 ("CEA"). The Protocol took effect on 1 January 2020 (BRF19-20120526 refers). The Protocol states that Kāinga Ora can obtain borrowing from the Treasury subject to a loan agreement and an established appropriation. Kāinga Ora is also able to borrow up to $7.1 billion from the external market at their discretion.

16. Treasury's legal team consider that the Protocol provides the required joint ministerial approval under section 160(1)(b) of the CEA to Kāinga Ora's proposed borrowing under the Standby Facility, which would not otherwise be permitted under section 162 of the CEA.

17. s 9(2)(j) [redacted] Therefore the new Standby Facility will not increase the overall amount of debt currently able to be obtained by Kāinga Ora.

18. Under the Protocol, Kāinga Ora are required to produce a range of quarterly reports covering actual and forecast debt levels by source.

Meeting Public Interest Considerations

19. Under section 65L of the PFA, the Minister of Finance may, on behalf of the Crown, lend money, if it appears to the Minister to be necessary or expedient in the public interest to do so. Treasury is of the view that the proposed lending is "expedient in the

public interest" for the reasons that follow, and therefore meets the alternate section 65L test.

20. One of the key considerations when determining whether an arrangement is in the "public interest", is whether it safeguards the public assets of New Zealand. Other considerations can include whether the loan:

- allows public scrutiny of the Government's expenditure or its management of Crown owned assets
- provides appropriate financial management incentives
- is an effective and efficient use of public resources, and
- demonstrates responsible fiscal management.

21. s 9(2)(ba)(i) [redacted]

22. Kāinga Ora currently have the ability under the Protocol to borrow $7.1 billion from the private sector. Doing so is typically more expensive than borrowing through the core Crown. s 9(2)(f)(iv) [redacted] s 9(2)(ba)(i) [redacted]

Risks

23. The Standby Facility, which can be called on at short notice, creates a funding risk to the Crown. The Treasury's Capital Markets directorate, who are responsible for managing the overall liquidity position of the core Crown, consider that they are able to manage this risk.

24. s 9(2)(ba)(i) [redacted]

Fiscal Impacts

25. The Standby Facility has no OBEGAL impact as it would be provided on commercial terms.

26. The Standby facility would be considered fiscally neutral for Budget management purposes, as it is short-term in nature if drawn, and therefore does not need to be managed against budget allowances.

27. Outstanding balances under the loan facility at any point will impact net core Crown debt.

Appropriations

28. A new $1 billion non-departmental capital expenditure appropriation will need to be approved by Cabinet under Vote Housing and Urban Development to give effect to the facility. The loans will be fiscally neutral due to the short-term nature of drawings, therefore will not need to be managed against budget allowances.

29. Given the significant quantum, we recommend the Minister of Housing request the approval for this appropriation from Cabinet.

30. This paper asks you to choose the mechanism for seeking Cabinet approval. Officials have considered whether this item could form part of the Budget Cabinet paper. Our recommendation is that this item is not sufficiently linked to Budget to form part of the paper, and doing so would provide less transparency than as a standalone item. Therefore we recommend this should be a standalone item at Cabinet. However should Ministers wish to incorporate this into the Budget Cabinet paper, this option is available to you.

Next Steps

31. If the Minister of Finance agrees to the lending proposal in this paper, and depending on the mechanism Ministers choose to use to seek this appropriation, the Minister for Housing will either need to lodge a Cabinet Paper to seek approval for the new appropriation to be setup or it will need to be incorporated into the Budget Cabinet paper.

32. Loan terms will be negotiated between the Treasury and Kāinga Ora. Based on this negotiation, a new loan document will need to be established for this facility, which will be done by the Treasury and signed by a delegate under the PFA delegations to the Secretary to the Treasury.

Consultation

33. Treasury Legal Team have been consulted on the content of this paper.

34. Ministry of Housing and Urban Development have been consulted on this paper.