



3 September 2019

Name

**Organisation**

Sent by email

Dear **Name**

### **Auckland City Centre to Māngere Light Rail Proposal Process – Stakeholder Engagement Principles**

1. As you are aware, the Ministry of Transport released the Response Requirements Document for the Auckland City Centre to Māngere Light Rail Project (**CC2M Project**) to NZ Infra and the NZTA (together the **Respondents**) earlier this month. The document sets out the requirements and obligations on Respondents during the proposals process.
2. The Ministry is writing to you, as a key stakeholder to the CC2M Project, for two reasons: to set out our objectives for the proposal process, and to request that you reflect these in any future engagement you may have with the Respondents.
3. The Ministry is committed to ensuring that the proposal process is fair. Both Respondents should be given the opportunity to develop and submit their best solution, based on relevant and up-to-date information. This will enable the Ministry to properly evaluate the proposals received from each Respondent, which will ultimately inform any Cabinet's decision as to a preferred delivery partner for the CC2M Project.
4. It is critical that Respondents are able to access key stakeholders so they can further develop their proposals. The Ministry has a central role in facilitating this, including ensuring equal access, and that appropriate steps are taken to maintain confidentiality and avoid or mitigate any conflicts that may arise.
5. We would be grateful if you could please review the principles and arrangements set out below and then indicate your acceptance by countersigning this letter.

### **Interactive Engagement Process**

6. By way of further background, the Ministry is taking an interactive approach to the proposal process. This will provide each Respondent with an opportunity to meet with the Ministry to discuss the development of its proposal, and to seek clarification and feedback to better understand the Ministry's requirements and objectives. The primary aim of the Interactive Engagement Process (IEP) is to improve the quality of Proposals.
7. These sessions belong to the Respondents – they set the agenda and it is up to us to ensure the right people are in the room to assist and respond to any questions.

8. Where the Respondents wish to discuss subject matter that specifically relates to your organisation or expertise held by you, we will invite you attend that IEP session. It will be entirely over to you who attends on your behalf, subject to the principles outlined below. We will, of course, give you as much notice of these sessions as possible – the agreement with the Respondents is that they must indicate the discussion topics at least five business days before the scheduled IEP.

### **Stakeholder Engagement – Respondent Obligations**

9. The Ministry is keen to ensure, at this stage, that stakeholder engagement is limited to the level appropriate for this early stage of the proposal process. The Ministry has developed a communications protocol that set out for the Respondents the Ministry's stakeholder engagement process. We have attached a copy of this protocol to this note.
10. Stakeholders should be aware that this means that all engagement between Respondents and stakeholders is to be initially facilitated by the Ministry and if you are unclear as to whether this approval has been granted, you can email me on my details below.

### **Stakeholder Engagement – General Principles**

11. The Ministry has set out below the general principles related to stakeholder engagement that it considers important to ensure that the proposal process is fair to both Respondents. We ask that you please keep these principles in mind when engaging with the Respondents as part of the process.

#### *Even-handedness*

12. Stakeholders should apply the even-handedness principle in all engagements with Respondents. This means that both parties are to be treated fairly and will be offered equal access to specialist resources held within key stakeholders – subject to any contractual or other agreements that may already be in place.

#### *Confidentiality*

13. To facilitate proper engagement, the Respondents may consider it necessary to disclose certain aspects of their proposal or other information that they consider to be confidential and/or commercially sensitive in nature during their engagement with you.
14. To the extent that the Respondents wish to disclose confidential information to you, we ask that you take appropriate steps to maintain the confidentiality of such information (both generally and as between each Respondent) and not use such information for any purpose other than engaging with the relevant Respondent during the proposal process.

15. In particular, we ask that you keep such information confidential and not copy or duplicate (or allow the copying or duplication of) any such information except for the purpose of engaging with the relevant Respondent during this process, and will otherwise take any further steps reasonably required by the relevant Respondent and/or the Ministry to maintain the confidentiality of this information.

#### *Proprietary Information*

16. In addition to the confidentiality arrangements outline above, we similarly ask that you respect the intellectual property rights in any proprietary information that the Respondents may elect to share with you during any engagement, and not, unless otherwise agreed with the relevant Respondent, use such proprietary information for any purpose other than engaging with that Respondent as part of the proposal process.

#### *Disclosure of Interests and Conflicts*

17. To ensure that the proposal process remains transparent and there is no perception of partiality or unfair advantage, the Ministry is taking a proactive approach to identifying and managing potential conflicts of interest that may arise for the Ministry, the Respondents and stakeholders in relation to the CC2M Project.
18. It is important that all stakeholders, including your own organisation, recognise the potential conflicts that may arise in these circumstances and act appropriately in relation to such. The Ministry will from time to time ask you to disclose any actual, potential or perceived conflicts of interest you have identified and provide evidence of the mitigation strategy and any other arrangements that you have put in place to manage each conflict. We look forward to your co-operation in this respect.

#### **Stakeholder Roles and Arrangements**

19. We recognise that stakeholders may have several roles with respect to the proposal process, including providing specific or general support and information to Respondents, being involved in the evaluation process and/or providing advisory support to the Ministry.
20. Set out below is an overview of the key roles that the Ministry envisions that stakeholders will be involved in during the proposal process. To ensure that the proposal process remains fair and allows the Ministry to make an objective assessment between the two proposals, we would appreciate you taking steps to put in place the arrangements set out below, to the extent these roles are applicable to your organisation.
21. These arrangements are in addition to the general principles set out above, but are not intended to prohibit you from conducting business-as-usual activities. We recognise that you may need to interact with the Respondents for reasons that are entirely outside of the proposal process. However, we would ask that in these

situations the proposal process is not discussed. To help manage any risks or potential questions of probity, we suggest that you consider:

- documenting any discussions
- disclosing to the project's Probity Auditor if the discussions have mistakenly or inadvertently involved the project.

#### *Respondent or proposal specific involvement*

22. The Ministry appreciates that personnel from various stakeholders have to date been involved in the development of the Respondents' initial proposals, and will therefore have detailed knowledge of the Respondents' initial proposals. This may mean having knowledge of information that will be considered by a Respondent to be commercially sensitive in nature to its proposal under this process, including where your organisation may partner with a Respondent or otherwise form part of, or be commercially involved in, a Respondent's proposal.
23. As the Ministry's intention is to ensure that the proposal process is conducted in a fair manner, it may be appropriate for any such personnel in your organisation to be ring-fenced (including in respect of information and document systems) from wider involvement in the proposal process, including not being available, to, or accessed by, other personnel within your organisation who are engaging with Respondents in relation to the CC2M Project on a more general basis. You should also consider if it is necessary for your organisation to take any additional steps to ensure that there are appropriate mechanisms and practices in place such that there is sufficient separation between such personnel and other personnel within your organisation.
24. To the extent that either Respondent requests that you provide further support on a Respondent-specific basis (for example by seconding a member of staff to that Respondent), we ask that this only be done with the Ministry's prior written consent and subject to any conditions the Ministry considers appropriate.
25. The Ministry is not seeking to limit the ability of organisations to be involved in, or partner with, a Respondent in relation to a Respondent's proposal. However, the Ministry is keen to ensure that each Respondent gets the necessary information and support to develop its proposal (as discussed below).

#### *General Respondent Support*

26. The Respondents are keen to engage with stakeholders to develop a greater understanding of the CC2M Project landscape, so as to be in a position to further develop their respective proposals. This support provided by stakeholders in this capacity is expected to include, for example providing and discussing non-publicly available information and providing guidance on key stakeholders' drivers and goals.

27. The Ministry considers it appropriate that stakeholders adhere to the general principles set out above that apply to all engagements between your organisation and Respondents in relation to the proposal process. In particular, stakeholders should not involve any personnel that are currently providing (or have previously provided) Respondent-specific support to either Respondent in this role.

#### *Evaluation Support*

28. The Ministry expects that it will require assistance from certain stakeholders to develop the evaluation criteria for the proposal process, and potentially to ultimately partake in the evaluation process itself. The Ministry will separately notify relevant stakeholders of the scope of the input that the Ministry will require.
29. Where Stakeholders are asked to provide evaluation support to the Ministry, they will need to propose suitable representatives to fulfil this role. Stakeholders should take this into consideration when engaging with Stakeholders generally, as this may influence which personnel they elect to involve in different capacities. For example, the Ministry would not consider it appropriate for any personnel who are currently providing (or have previously provided) Respondent or proposal-specific support to either Respondent to then provide evaluation support services.

#### *Advisory Support*

30. The Ministry intends to ask particular stakeholders to input into policy discussions that are necessary in order to provide advice to Ministers in relation to the CC2M Project. While the Ministry expects advisory support to primarily be sought from the ALR Advisory Group (which is subject to its own terms of reference, including appropriate ring-fencing), the Ministry may seek additional input from stakeholders outside this forum. The Ministry will separately notify relevant stakeholders of the scope of advisory support that it will require.
31. Where such requests are made, stakeholders should, when considering who internally is best placed to provide such advice, seek to nominate individuals that have not previously provided Respondent or proposal-specific support to Respondents to date in relation to the proposal process.

#### **Acknowledgement and Acceptance**

32. We would be grateful if you could please indicate your acceptance of the arrangements set out in this letter by countersigning below. We are happy to discuss the arrangements set out in this letter further with you if you require any clarification. I would also welcome feedback on any of the arrangements if you think they can be improved.
33. Both Respondents are extremely keen to engage with your organisation as a key stakeholder and we will be letting them know that we have issued this letter. Accordingly your urgent attention to this letter would be appreciated.

Yours sincerely

Amelia East  
**Project Director - Auckland Light Rail**

Attachment: the communications protocol

**Acceptance:**

The terms of this letter are acknowledged,  
accepted and agreed by **Organisation** by its  
authorised signatory:

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of authorised signatory

Proactively released by  
the Ministry of Transport

Attachment- Communication protocols- withheld in full as the information is subject to an obligation of confidence where release would be likely to prejudice the supply of similar information or information from the same source