

Proactive Release

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Title: Global Settlement with Christchurch City Council: Negotiating Parameters and Next Steps

Reference: DPMC 2018/19 576 and T2018/3197

Date: 7 November 2018

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Briefing

GLOBAL SETTLEMENT WITH CHRISTCHURCH CITY COUNCIL: NEGOTIATING PARAMETERS AND NEXT STEPS

To the Minister of Finance (Hon Grant Robertson) and the Minister for Greater Christchurch Regeneration (Hon Dr Megan Woods)

Date	7/11/2018	Priority	High
Deadline	12/11/2018	Briefing Number	DPMC 2018/19 576 T2018/3197

Purpose

1. This briefing:
 - 1.1. provides advice on the potential fiscal impacts of the proposed Global Settlement negotiations with the Christchurch City Council (the Council);
 - 1.2. seeks the Minister of Finance's agreement to the treatment of non-cash write-downs and the Minister of Finance's and Minister for Greater Christchurch Regeneration's ((joint Ministers') approval to seek funding for a global settlement with the Council directly from Cabinet ahead of the Budget 2019 process;
 - 1.3. attaches, for your review and approval, a draft cabinet paper for Cabinet's Economic Development Committee (DEV) consideration on 28 November 2018 (**Attachment A**) seeking:
 - agreement to a negotiation mandate for officials to work within;
 - delegated authority for joint Ministers to agree a Global Settlement with the Council within the negotiating mandate; and
 - associated funding to be set aside as operating and capital contingencies to account for existing commitments with the Council and enable effective negotiation, and execution of a global settlement agreement within the negotiation mandate.
 - 1.4. attaches, for any discussion that you may wish to have, an A3 setting out further detail about the negotiating positions that the Crown and Council are likely to discuss as part of the negotiations (**Attachment B**).

Recommendations

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

Hon Dr
Megan
Woods

Hon Grant
Robertson

1. **note** that a global settlement with Christchurch City Council (the Council) is a high priority for greater Christchurch regeneration, to settle long-term questions of ownership, liabilities, opportunities and funding arrangements;

Small window of opportunity to do a global settlement

2. **note** that, due to local body elections in 2019, there is a narrow window for the conclusion of negotiations, and that if not taken, the opportunity to address outstanding issues is unlikely to be available again until 2020;

Parameters for negotiations

3. **note** the proposed parameters for negotiation which are described in detail in the attached Cabinet Economic Development Committee paper;

Fiscal implications of the negotiating parameters

4. **note** that the financial implications of a global settlement will be subject to negotiation as well as other factors such as land revaluation, purchase prices, construction costs, s9(2)(i) [REDACTED], and insurance settlements;
5. **note** that despite that uncertainty, entering a global settlement could significantly (although not entirely) reduce the Crown's exposure to fiscal risk in Christchurch city;
6. **note** that accounting for existing agreements under the 2013 Cost Sharing Agreement (CSA) and entering into a global settlement with the Council is likely to require operating funding of up to s9(2)(i), s9(2)(g)(i) to write down the value of assets but that if the Minister of Finance agrees to recommendation 13, this will not count against allowances or have an impact on net debt;
7. **note** that accounting for the CSA and entering into a global settlement with the Council is likely to require capital funding of up to s9(2)(f)(iv) [REDACTED];
8. s9(2)(g)(i), s9(2)(i) [REDACTED]

Hon Dr
Megan
Woods

Hon Grant
Robertson

9. s9(2)(g)(i), s9(2)(i)
[Redacted]

10. s9(2)(g)(i), s9(2)(i)
[Redacted]

11. s9(2)(g)(i), s9(2)(i)
[Redacted]

YES/NO YES/NO

12. **agree** to seek Cabinet approval to establish tagged operating and capital contingencies necessary to account for pre-existing commitments with the Council and for a global settlement to be agreed;

YES/NO YES/NO

13. **agree** that operating appropriations to allow for non-cash write-downs associated with the transfer of assets to the Council at below book value not count again budget allowances; and

YES/NO

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Next Steps

14. **agree** to take the attached Cabinet paper to the Cabinet Economic Development Committee on 28 November 2018. YES/NO YES/NO


 Anne Shaw
Executive Director
Greater Christchurch Group
Department of the Prime Minister and Cabinet
 7/11/2018


 James Beard
Director
Economic System
The Treasury
 7/11/2018

Hon Dr Megan Woods
Minister for Greater Christchurch Regeneration
/...../2018

Hon Grant Robertson
Minister of Finance
/...../2018

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Anne Shaw	Executive Director, Greater Christchurch Group	s9(2)(a)	✓
John Beaglehole	Consultant, Commercial Performance, Treasury		

Ministers' office comments:

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

GLOBAL SETTLEMENT WITH CHRISTCHURCH CITY COUNCIL: NEGOTIATING PARAMETERS AND NEXT STEPS

Executive Summary

1. This paper seeks your comments on the attached draft Cabinet paper to allow the Crown to enter into global settlement negotiations with the Christchurch City Council (the 'Council'), and for you as joint Ministers to agree to a global settlement within certain fiscal parameters. It also seeks decisions that will inform the Cabinet paper. From a fiscal point of view, the most significant are whether a number of non-cash write-downs should count against allowances for Budget 2019 (Treasury recommends to the Minister of Finance that they do not).
2. The attached draft Cabinet paper sets out the background for why a global settlement has been identified as a high priority. Some key points to note include that global settlement is an opportunity to make substantive progress in regeneration, and towards a positive, normalised relationship with the Council; and that a global settlement is also an opportunity s9(2)(i) to ensure a strategic and fair approach is taken.
3. s9(2)(g)(i), s9(2)(i)
4. Council is keen to progress a global settlement. It feels keenly that the Crown has an oversized role in Christchurch, and wants that to end.
5. There is a small window of opportunity to complete a global settlement, given local body elections in November 2019. We consider that Council will need to consider a proposed settlement no later than the middle of 2019, and to that end, suggest starting negotiations in December 2018.
6. As is set out in the attached Cabinet paper, the Crown has mixed objectives in achieving a global settlement. The Crown does want to minimise fiscal exposure, but it is also important to leave Christchurch in a place where it is able to succeed. We are also conscious the Council is in a strong financial position, compared to other councils in New Zealand, and our suggested approach has been informed by that (needing to be equitable nationally).
7. This note focuses on the fiscal aspects of a global settlement. The Cabinet paper sets out the policy argumentation in greater detail.

Purpose

8. This briefing:
 - 8.1. provides advice on the potential fiscal impacts of the proposed Global Settlement negotiations with Christchurch City Council (the Council);
 - 8.2. attaches, for your review and approval, a draft paper seeking Cabinet agreement to: the proposed negotiating mandate, delegating authority to joint Ministers to agree a Global Settlement, and associated funding to allow those negotiations to be carried out (**Attachment A**). Officials propose this paper be taken to Cabinet's Economic Development Committee (DEV) for consideration on 28 November 2018. The Cabinet paper has been drafted on the basis that you agree to the recommendations in this briefing; it can of course be changed.
 - 8.3. attaches, for any discussion that you may wish to have, an A3 setting out further detail about the negotiating positions that the Crown and Council are likely to discuss as part of the negotiations (**Attachment B**)

Background

9. Since the Canterbury earthquake sequence of 2010-2011, the Crown has taken on extraordinary roles and responsibilities in greater Christchurch, including delivery responsibilities that may normally sit with local government. This has resulted in the Crown owning a significant portfolio of assets and liabilities in Christchurch, and having project delivery responsibilities that will be ongoing until at least 2020.
10. The Crown-Christchurch City Council Cost Sharing Agreement of June 2013 ('the 2013 CSA') allocated ownership, responsibilities and costs for anchor projects. As discussed further in the "Fiscal Implications for the Crown" section below, there are some aspects of the 2013 CSA that have not been fully accounted for in the Crown's books, which we recommend picking up at the same time as agreeing a mandate for upcoming global settlement negotiations.
11. The previous government reached an agreement in principle with the Council on several specific matters, but this was subject to the development of detailed terms and payment schedules and agreement of the full Council [CAB-17-MIN-0452 refers]. It was put on hold due to the 2017 general election. That agreement in principle (the '2017 CSA refresh') would have refined the 2013 CSA.
12. Matters expected to be discussed between the Crown and Council as part of a new global settlement include:
 - 12.1. whether the asset transfers agreed in-principle (subject to decisions on implementation) between the Crown and Council as part of the 2017 CSA refresh will be confirmed;
 - 12.2. long-term ownership of a number of other assets not addressed as part of the 2013 CSA or the 2017 CSA refresh; and
 - 12.3. some remaining unresolved project responsibilities (specifically, the Stadium/Multi-Use Arena).

Crown's objectives for the global settlement

The Crown has mixed objectives for a global settlement

13. We consider that achieving a global settlement is critical to Christchurch's regeneration. It will:
- 13.1. build the momentum of regeneration in some of the areas that have been worst affected by the earthquakes, such as the residential red zones (RRZ) and the central city – helping to resolve issues that will impede progress and impact wellbeing;
 - 13.2. provide certainty to the community and stakeholders on how regeneration assets will be managed in future – enabling them to make decisions about how they may participate in regeneration;
 - 13.3. advance the transition from extraordinary central government involvement to full local leadership – with the Council in a robust position to lead into the future, and the scene set for a positive, normalised relationship with the Crown; and
 - 13.4. enable the Crown to operate in a fiscally responsible and equitable manner – s9(2)(i) [REDACTED] avoiding new exposure where possible, and ensuring a fair settlement for both the Crown and Council.

Crown and Council financial position

14. In considering the Crown's negotiating position, the financial contributions made to date, and the Council's financial position, are relevant considerations.
15. Overall, the Crown is forecast to incur net earthquake expenses of over \$17 billion, and has incurred costs of over \$15 billion so far, excluding costs incurred by EQC. Additionally, the Crown has set aside \$300 million to be used as suggested by the Council for Stadium, Residential Red Zone and other capital projects. By comparison, the Council:
- 15.1. is in a relatively advantageous financial position to other local authorities. Compared with the other five largest councils in New Zealand, its net debt per rating unit is markedly lower than other councils, and its asset portfolio is the strongest in the country.
 - 15.2. to date, it has incurred increased costs of \$1.1 billion due to the earthquakes (excluding costs that have been covered by the Crown and by insurance recoveries); and
 - 15.3. according to its Long-Term Plan public background documents, will need to spend an additional \$4.0 billion over the next 30 years to return assets to their pre-earthquake condition (excluding inflation).
16. A settlement with the Council is a high priority, to settle long-term questions of ownership, liabilities, opportunities and funding arrangements, and transition from the current extraordinary central government involvement to full local leadership.

Small window of opportunity to complete a global settlement

- 17. It is clear that Council wishes to once again be the voice of Christchurch. While it appreciates the assistance the Crown has provided, it considers that it should provide overall strategic direction for the city. To that end, it wishes the Crown / Council relationship to return to a relationship which the Council describes as a 'new partnership approach', that mirrors the relationship between the Crown and other major metropolitan councils.
- 18. Due to upcoming local body elections in 2019, there is a narrow window for the conclusion of negotiations before the local election period begins. Ideally, negotiations would be completed before May 2019. If not, the opportunity to address outstanding issues would be unlikely to be available again until 2020.

Crown's parameters for the global settlement

High-level negotiating parameters sought

- 19. In general, we consider the Crown's approach to negotiations should minimise complexity, address urgent priorities, and protect the Crown's position in future. s9(2)(g)(i)

[Redacted]

With that in mind, we propose that you seek a broad negotiation mandate from Cabinet (rather than a detailed negotiating position) as it provides you with better flexibility during negotiations and allows for the Crown to negotiate with an open mind and in good faith, cognisant of potential trade-offs. A draft Cabinet paper is attached for your consideration and approval (**Attachment A**). Specifically, it seeks:

- 19.1. **agreement to a negotiation mandate for officials to work within** in discussions with the Council. That authorisation will also implicitly provide Cabinet agreement to the disposal of assets with a book value greater than \$25 million, as required by CO (15) 5. The paper addresses:
 - 19.1.1. pre-existing commitments made in the 2013 CSA in relation to s9(2)(i) land in the Performing Arts Precinct, unfunded commitments for the Square, public realm land in the Frames, s9(2)(i)
 - 19.1.2. assets where there was agreement in principle through the 2017 CSA refresh, including transferring of the Bus Interchange and Residential Red Zone land in the Port Hills as well as Brooklands, Southshore, and South New Brighton;
 - 19.1.3. long-term ownership of the Ōtākaro Avon River Corridor Residential Red Zone land;
 - 19.1.4. long-term ownership, roles and responsibilities regarding Stadium, Convention Centre and Metro Sports Facility;
 - 19.1.5. institutional arrangements, in particular the future of Regenerate Christchurch; and

- 19.1.6. other matters which the Council may raise where there are either precedent risks for the Crown or alternative avenues to address the matters;
- 19.2. **agreement to associated funding to execute a global settlement** and to account for pre-existing commitments **consistent with this mandate** being set aside as operating and capital contingencies;
- 19.3. **delegated authority for joint Ministers to approve a global settlement consistent with this mandate**, draw down the relevant tagged contingencies and account for the associated fiscal implications, and agree key aspects of implementation;
- 19.4. **any early, in principle decision** if necessary that the Crown is prepared to transfer ownership of the Crown-owned portions of the Ōtākaro Avon River Corridor before finalising the wider global settlement. Any in-principle agreement would be explicitly and publically subject to finalisation of the wider global settlement package and negotiation of detailed terms of transfer; and
- 19.5. **agreement** that while some flexibility will be needed to discuss matters raised by the Council during negotiations, several matters should be excluded from the scope of global settlement, as they carry very significant precedent risk for the wider Crown – for instance, further funding for flood mitigation works, s9(2)(b)(ii), s9(2)(g)(i) [REDACTED]. This approach will not close the door on the Council discussing these matters with the Crown, but would ensure that discussions take place in the wider context of for instance Crown policies around local government and adaptation to climate change.
20. An A3 setting out further detail about the negotiating positions that the Crown and Council are likely to discuss as part of the negotiations is attached for your information (**Attachment B**).
21. The fiscal implications of the items listed in paragraph 19 are discussed below.

Fiscal implications for the Crown

Reconfirmation of the 2017 CSA refresh

22. We propose that the Crown seek to confirm previous items agreed in principle through the 2017 CSA refresh [CAB-17-MIN-0452 refers], to demonstrate that the Crown is willing to honour its previous commitments and avoid any potential for re-litigation of existing commitments. The commitments made in the 2017 CSA refresh included:
- 22.1. the divestment of the Bus Interchange to the Council for \$23 million;
- 22.2. the divestment of all 597 Port Hills RRZ properties to the Council, with the Council paying a contribution towards the net costs of the Crown purchasing some Port Hills residential red zone properties (contribution subject to final EQC recoveries by the Crown, but currently estimated at \$40.6 million);
- 22.3. the divestment of all 664 Brooklands, Southshore, and South New Brighton RRZ properties to the Council for no proceeds;

22.4. Council paying the Crown \$6.6m for the transfer of Margaret Mahy Family Playground, and \$6.4m as a contribution to the Te Papa Ōtākaro Avon River Precinct project.

23. As part of the 2017 CSA refresh, the Council agreed to make payments which are currently estimated to total up to \$76.6 million (with the final figure dependent on EQC recoveries for Port Hills RRZ land, as noted above), s9(2)(i), s9(2)(g)(i)

However, this was subject to the development of detailed terms and payment schedules. We propose that officials will work with Council officials to implement this agreement, including Council obligations, including confirming the matters previously not agreed.

24. The implementation of the agreement was put on hold due to the election, and then to allow it to be covered as part of global settlement. As a result, the fiscal implications have not yet been addressed. Those implications are shown in Table 1.

Table 1: Fiscal Implications of 2017 CSA Refresh

Asset	Appropriation Implications	Impact of Fiscal Indicators	Recommended Treatment
Bus Interchange	<p>Capital Expenditure (Capex) appropriation of s9(2)(i)</p> <p>Operating Expenditure (Opex) appropriation for \$34m write-down required (Crown purchase less Council payment of \$23m). If as part of global settlement, the Council contribution is reduced, the write-down will increase.</p>	<p>s9(2)(i) net debt impact s9(2)(i)</p> <p>s9(2)(i) impact on the Operating Balance before Gains and Losses s9(2)(i)</p>	<p>The Treasury recommends the Minister of Finance agrees that</p> <ul style="list-style-type: none"> only the capital cost of the purchase s9(2)(i) net of any proceeds from the Council for the asset should count against capital allowances, and operating appropriations related to any write-down should not count against operating allowances as: (i) there was never an intention to own the asset in the long term, (ii) it has been paid for at which stage allowances were reduced, and (iii) there are no funding implications as the write-off is non-cash.

Port Hills Residential Red Zone (RRZ)	Opex appropriation needed for \$30.7m write-down. s9(2)(i)	s9(2)(i) Write-down of \$30.7m to impact OBEGAL. No impacts on net debt.	The Treasury recommends the Minister of Finance agrees these expenses should not count against operating allowances for reasons (i)-(iii) above.
Brooklands, Southshore and South New Brighton RRZ	Opex appropriation needed for the \$8m write-down. There may be opportunities to test the assumptions on which the land was valued, and thereby reduce the size of the write-down.	Write-down of \$8m to impact OBEGAL. No impacts on net debt.	

Ōtākaro Avon River Corridor Residential Red Zone

- 25. There are 5,446 Crown-owned properties in the Ōtākaro Avon River Corridor (OARC) residential red zone (RRZ). The land currently has a book value of \$35.9 million, and is held by Land Information New Zealand. The Crown incurs costs of \$2.15 million per annum for managing land across the Christchurch RRZs. Future use of OARC RRZ is subject to a regeneration planning process, but regardless of the outcome it is expected that substantial investment would be required to enable more productive long-term uses of the land.
- 26. Te Rūnanga o Ngāi Tahu may have an interest in this land. Officials will explore this further, and report back to you.
- 27. The potential fiscal implications are shown in Table 2.

Table 2: Potential fiscal Implications of transferring ownership of the OARC RRZ

Appropriation Implications	Impact of Fiscal Indicators	Recommended Treatment
Opex appropriation needed for up to \$35.9m write-down. s9(2)(g)(i)	Write-down of up to \$35.9m to impact OBEGAL. No impacts on net debt.	The Treasury recommends the Minister of Finance agrees this should not count against operating allowances for reasons (i)-(iii) in Table 1.

Protecting the Crown’s position on large and complex assets

- 28. The Canterbury Multi-Use Arena, Convention Centre and Metro Sports Facility are significant assets where there is a need to ensure progress and safeguard the Crown’s interests, s9(2)(g)(i)
 - Each asset is discussed in turn; s9(2)(g)(i)

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

Canterbury Multi-Use Arena

29. The Council has committed \$253 million through its long term plan (LTP) for the Canterbury Multi-Use Arena project, commencing in the 2021 financial year. You have agreed to earmark \$220 million from the Christchurch Regeneration Acceleration Facility (CRAF) for this project, and the Crown earlier agreed to provide the land.
30. The project delivery, ownership and operating liability arrangements for the project including mechanisms for Crown input and involvement, need to be worked through (and this may best happen while developing the investment case). The objectives will be to ensure that the Canterbury Multi-Use Arena is delivered, and the Crown's fiscal exposure is minimised.

s9(2)(f)(iv), s9(2)(i)

s9(2)(i)

s9(2)(i)

s9(2)(i)



Metro Sports Facility

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



Table 5: Potential Fiscal Implications associated with the Metro Sports Facility

s9(2)(i)

Impact of Fiscal Indicators	Recommended Treatment
None at present.	None at present.

Regenerate Christchurch Institutional Arrangements

35. Regenerate Christchurch was established under the Greater Christchurch Regeneration Act 2016 (the Act). At the expiry of the Act (end of June 2021) Regenerate Christchurch’s remaining assets and liabilities will transfer to the ‘successor organisation’, which must be a council-controlled organisation owned or controlled by the Christchurch City Council.

Correction: A successor organisation is an option under the Act, but not a requirement. Regenerate Christchurch’s assets and liabilities could be transferred to other parties listed in section 138(4) of the Act.

36. It is proposed that consideration be given to including the transfer of Regenerate Christchurch functions s9(2)(i) subject to policy approval by Cabinet, to the Council as part of the negotiation process. s9(2)(i)



Implications of existing 2013 CSA commitments not yet fully accounted for

37. In addition to new implications that may arise from a global settlement, there are some items that the Crown approved and committed to in the Cost Sharing Agreement in 2013, which is a binding agreement for both Crown and Council.
38. The Crown is in the process of meeting all its commitments under the 2013 CSA; similarly, it is important that the Council meets its commitments. However, there are still some final issues that need to be resolved, including the detailed process for some previously agreed commitments, which may need to be discussed with the Council (particularly in relation to the Performing Arts Precinct and the Square). Additionally, while this does not require discussion with the Council, the Crown will need to address some of the appropriations required to meet the following commitments:
- 38.1. transfer the ownership of the public realm in the North, East, and South Frames to the Council at nil cost after remediation work is completed;
 - 38.2. transfer the land needed for the Arena. The land is likely to need remediation, and no agency holds an appropriation for that purpose; s9(2)(g)(i), s9(2)(i)
 - 38.3. contribute \$4.6m to works in The Square. The Council will own the works on completion. \$4m was tagged for this work into fiscal forecasts, and agencies will meet the \$0.6 million shortfall through reprioritisation;
 - 38.4. transfer required land for the Performing Arts Precinct.
39. The fiscal implications associated with the 2013 CSA are shown in Table 6.

Table 6: Fiscal Implications that still need to be accounted for in relation to the 2013 CSA

Asset	Appropriation Implications	Impact of Fiscal Indicators	Recommended Treatment
Public Realms in the North, East, and South Frames	Opex appropriation needed for the \$110.5m write-down.	Write-down of \$110.5m to impact OBEGAL. No impacts on net debt.	The Treasury recommends the Minister of Finance agrees these appropriations should not count against operating allowances for reasons (i)-(iii) in Table 1 (noting the Metro Sports Facility is currently pre-development so while not yet paid for,
Performing Arts Precinct	Opex appropriation required for the up \$12.37M write-down and a capital appropriation will be needed to repay the s9(2)(i)	Write-down of \$12.37M that will impact OBEGAL. s9(2)(i) will impact OBEGAL and net debt (and reduce capital allowances).	

s9(2)(i)	allowances have been reduced for planned spending).	
The Square	Existing \$4m tagged opex contingency will need to be appropriated. An additional \$0.6m will be met from reprioritisation.	As it will be met from existing appropriations, the \$0.6m will not impact allowances or net debt.
Canterbury Multi-Use Arena Land	Land transfer to the Council was agreed in the 2013 CSA. Land acquisition and demolition cost s9(2)(i) million. s9(2)(i) Land remediation work is also expected. If the Crown remediates the land, it will also need an opex appropriation or to reduce other anchor project funding s9(2)(i)	s9(2)(i) remediation costs (unless existing appropriations are used to pay for this, reducing funding available for other anchor projects). If new funding is sought for remediation, that will impact net debt.
s9(2)(f) If new funding is sought for land remediation, this would count against allowances and net debt.		

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

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

Risks

43. The Cabinet paper sets out risks to the Crown in undertaking the global settlement negotiations. Officials believe that the risks can be managed, and will seek your guidance during the negotiation.

Next Steps

44. Subject to your approval, we recommend that you take the attached draft paper to DEV on 28 November, to allow for negotiations to begin in early December (given the small window of opportunity to undertake negotiations). Recommended next steps are shown in Table 7.

Table 7: Next steps

TIMING	COMMENT
8 November – 13 November	Discuss with officials any changes to recommended approach
Wednesday 14 November	Your agreement on the paper.
Wednesday 14 November to 21 November	Ministerial consultation on Cabinet paper
Thursday 22 November	Lodge with Cabinet Office
Wednesday 28 November	DEV consideration
Monday 4 December	Cabinet confirmation
Tuesday 5 December	Negotiations begins

Consultation

This paper was prepared by The Treasury and DPMC. LINZ and Ōtākaro were consulted.

Draft Paper withheld under s18(d), A3 withheld under s9(2)(f)(iv), 9(2)(g)(i) and 9(2)(i).

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PARAMETERS AND NEXT STEPS

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