



COVERSHEET

Minister	Hon Brooke van Velden	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	<i>Funding Solutions to Address WorkSafe Baseline Pressures and Whakaari Prosecution Costs</i>	Date to be published	27 May 2024

List of documents that have been proactively released

Date	Title	Author
September 2023	Funding Solutions to Address WorkSafe Baseline Pressures and Whakaari Prosecution Costs	Office of the Minister for Workplace Relations and Safety
4 September 2023	Funding Solutions to Address WorkSafe Baseline Pressures and Whakaari Prosecution Costs: CAB-23-MIN-0420 Minute	Cabinet Office

Information redacted

YES / NO

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Some information was withheld for the reasons of negotiations, free and frank opinions and commercial information.



Cabinet

Minute of Decision

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Funding Solutions to Address WorkSafe Baseline Pressures and Whakaari Prosecution Costs

Portfolio Workplace Relations and Safety

On 4 September 2023, Cabinet:

Background

- 1 **noted** that WorkSafe New Zealand (WorkSafe) has identified a gap of \$17.800 million between its initial operating budget for 2023/24 and its available discretionary funding;

Streamlining WorkSafe's organisational delivery model

- 2 **noted** that to address this, WorkSafe has identified \$18.000 million of savings, including \$12.000 million in non-personnel savings, and \$6.000 million in personnel savings (rising in outyears as the full year savings in personnel costs take effect);
- 3 **noted** that this will result in some reductions in service, but that frontline services and core statutory activities have been protected wherever possible;
- 4 **noted** that this will result in an organisational FTE reduction of 170 roles through consultation (currently there are approximately 746 FTEs in total), but that the organisation is currently carrying approximately 50 vacancies;
- 5 **noted** that while this approach addresses all of WorkSafe's identified 2023/24 pressures, there are a number of potential factors that could have a quantifiable impact on the extent of savings that can be yielded in 2023/24 and no operating 'cushion' within which to manage those, and other less immediately quantifiable risks to the savings package;
- 6 **noted** that to manage these risks internally would require further FTE reductions;

7 **agreed** to establish a tagged contingency of \$7.000 million, to be drawn down through request to the Minister of Finance and the Minister for Workplace Relations and Safety to help address these pressures if they eventuate:

	\$m - increase/(decrease)				
Tagged Contingency: Supporting WorkSafe Service Realignment	2023/24	2024/25	2025/26	2026/27	2027/28 and outyears
Operating Contingency	7.000	-	-	-	-
Capital Contingency	-	-	-	-	-
Total	7.000	-	-	-	-

8 **agreed** that the expiry date for the above tagged contingency be 1 February 2025;

9 **noted** that the Minister for Workplace Relations and Safety is seeking advice on the appropriate management of this contingency to provide surety about expenditure;

10 **noted** that included in WorkSafe’s proposed savings would be the discontinuation of its Coronial and Victim Support Services, established in the wake of the Whakaari/White Island tragedy;

11 **agreed** to provide ongoing funding of \$1.006 million per annum to enable the retention of WorkSafe’s Coronial and Victim Support Service:

	\$m - increase/(decrease)				
	2022/23	2023/24	2024/25	2025/26	2026/27 and Outyears
Non-Departmental Output Expenses:					
Workplace Relations and Safety - Workplace Health and Safety	-	1.006	1.006	1.006	1.006
Total Operating	-	1.006	1.006	1.006	1.006
Total Capital	-	-	-	-	-

External litigation costs

12 **noted** that as part of Budget 2021, WorkSafe New Zealand received \$16.280 million in Crown funding litigation costs arising from the Whakaari/White Island tragedy;

13 **noted** that while WorkSafe would normally fund such prosecutions from within its operational baselines, the scale and precedent-setting nature of this litigation led Cabinet to agree that new money was warranted for this purpose;

14 **noted** that as at 30 June 2023, WorkSafe had spent \$14.164 million on the Whakaari/White Island prosecution, and still retained \$2.100 million;

15 **noted** that WorkSafe now estimates costs to the completion of the prosecution and appeals process will amount to between Negotiations and that the paper under CAB-23-SUB-0420 proposes a funding solution to address these costs;

- 16 **noted** that additional costs of between \$0.500 million and \$1.400 million are also possible if sentencing is delayed or a Commission of Inquiry or third party review is established post-prosecution, but that funding is not being sought to meet these potential costs at this stage;
- 17 **noted** that WorkSafe will meet \$2.100 million of the costs to completion of the prosecution and appeals process through the use of its remaining Budget 2021 funding;
- 18 **agreed**, to help meet the costs to completion of the prosecution and appeals process, to reprioritise:
 - 18.1 \$0.500 million of funding provided in Budget 2022 for WorkSafe’s COVID-19 enforcement activities;
 - 18.2 \$0.500 million of funding provided in Budget 2022 for implementation of now delayed plant, structures, and hazardous work regulatory reform;
- 19 **agreed** to new funding for WorkSafe of **Negotiations** to meet the balance of the high-end estimate of costs to completion of the prosecution and appeals process, as follows:

Tagged Contingency: Remaining Costs of the Whakaari Prosecution	\$m - increase/(decrease)				
	2023/24	2024/25	2025/26	2026/27	2027/28 and outyears
Operating Contingency	Negotiations	-	-	-	-
Capital Contingency	-	-	-	-	-
Total	Negotiations	-	-	-	-

- 20 **agreed** that this new funding be provided in a tagged contingency to be drawn down upon the approval of the Minister of Finance and the Minister for Workplace Relations and Safety, once the other funding sources described above have been exhausted;

General

- 21 **agreed** that the expiry date for the tagged contingencies detailed in paragraphs 7 and 19 above be 1 February 2025;
- 22 **authorised** the Minister for Workplace Relations and Safety and the Minister of Finance to place whatever conditions on release of funding the contingencies outlined in paragraphs 7 and 19 above are deemed appropriate;
- 23 **agreed** to fund the above funding decisions through the Health and Safety at Work Levy;
- 24 **noted** that the funding sought will have an impact on OBEGAL and net debt as the funding will be provided through the Health and Safety at Work Levy memorandum account, which is in sufficient surplus;

Monitoring of WorkSafe

- 25 **noted** that the Ministry of Business, Innovation and Employment (MBIE) Crown Monitors have moved WorkSafe’s monitoring status from ‘on watch’ to ‘intensive monitoring’;
- 26 **noted** that additional enhanced monitoring is proposed to support WorkSafe through its change process and provide surety to the Crown;

- 27 **noted** that intensive monitoring will require increased reporting requirements, and that MBIE Crown Monitors envisage that access to all Board papers, including those provided to the Audit and Risk Board sub-committee, will be necessary;
- 28 **noted** that given the significance of the challenges currently faced by WorkSafe, in order to provide satisfactory levels of assurance on progress, MBIE's Crown Monitors also propose:
- 28.1 to contract an independent advisor for the Crown, with expertise in business improvement, restructuring and recovery, business re-engineering and cost reduction;
- 28.2 that WorkSafe focus on Strategic Baseline Review recommendations that relate to managing within its current funding envelope;
- 29 **noted** that the Crown Monitor will provide regular, independent updates to the Treasury, Minister of Finance, and responsible Minister, on WorkSafe's progress towards the full implementation of the Strategic Baseline Review recommendations and meeting performance expectations within its funding envelope;
- 30 **agreed** that this enhanced monitoring be a condition of any funding for WorkSafe agreed through the paper under CAB-23-SUB-0420;
- 31 **invited** the Minister for Workplace Relations and Safety to write to the WorkSafe Board to seek assurances that there have been changes to improve financial management;
- 32 **directed** the Public Service Commission to work with MBIE to improve the monitoring arrangements for WorkSafe.

Rachel Hayward
Secretary of the Cabinet