



BRIEFING

Budget 2025: Workplace Relations and Safety Review of Tagged Contingencies

Date:	05/12/2024	Priority:	Medium
Security classification:	Budget Sensitive	Tracking number:	BRIEFING-REQ-0007105

Action sought		
Minister	Action sought	Deadline
Hon Brooke van Velden Minister for Workplace Relations and Safety	<p>Agree that the <i>Supporting WorkSafe Service Realignment</i> contingency be allowed to expire on 1 February 2025, with the unused \$7.000m in tagged funding returned to the Crown.</p> <p>Agree that the Commercial information in the <i>Remaining Costs of the Whakaari Prosecution</i> contingency be retained.</p>	12 December 2024

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Hayden Fenwick	Manager, Health and Safety Policy		Privacy of natural persons	
Privacy of natural persons	Principal Policy Advisor, Workplace Relations and Safety Policy			✓

The following departments/agencies have been consulted					
<input checked="" type="checkbox"/> Treasury	<input type="checkbox"/> MoJ	<input type="checkbox"/> NZTE	<input type="checkbox"/> MSD	<input type="checkbox"/> TEC	<input type="checkbox"/> MoE
<input type="checkbox"/> MFAT	<input type="checkbox"/> MPI	<input type="checkbox"/> MfE	<input type="checkbox"/> DIA	<input type="checkbox"/> TPK	<input type="checkbox"/> MoH
		<input checked="" type="checkbox"/> Other:	WorkSafe New Zealand		

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments:



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Date:	05/12/2024	Priority:	Medium
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Purpose

This briefing seeks your agreement to MBIE's proposed responses to the Minister of Finance's request to review the following tagged contingencies in the Workplace Relations and Safety portfolio for potential savings in Budget 2025:

- *Supporting WorkSafe Service Realignment*
- *Remaining Costs of the Whakaari Prosecution*

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Note** that on 15 November 2024 you were copied into a letter from the Minister of Finance to the Minister of Economic Development requesting that the following tagged contingencies in the Workplace Relations and Safety portfolio be reviewed for possible savings:
- *Supporting WorkSafe Service Realignment* (\$7.000m currently in contingency)
 - *Remaining Costs of the Whakaari Prosecution* Commercial Information

Noted

- b **Note** that MBIE is required to submit Budget 2025 templates to Treasury by 23 December 2025 detailing whether or not each of these contingencies presents an opportunity to return tagged funding to the Crown – drafts of which are attached to this paper as **Annex 1**

Noted

- c **Note** that WorkSafe has indicated it will not need to drawdown from the *Supporting WorkSafe Service Realignment* contingency and that that contingency expires on 1 February 2025

Noted

- d **Agree** that MBIE's submission to Treasury recommend that the *Supporting WorkSafe Service Realignment* contingency be allowed to expire on 1 February 2025

Agree / Disagree

- e **Note** that WorkSafe still faces costs relating to the legal process around the Whakaari tragedy, and that it would not be able to meet these within baseline without impacting core services

Noted

- f **Agree** that MBIE's submission to Treasury recommend the retention of the Commercial Information
Remaining Costs of the Whakaari Prosecution contingency

Agree / Disagree

- g **Sign** the attached letter to the Minister of Finance confirming the Budget 2025 submissions for the Workplace Relations and Savings portfolio.

Yes / No

Hayden Fenwick
Manager
Health and Safety Policy
Labour, Science and Enterprise
05 / 12 / 2024

Hon Brooke van Velden
Minister for Workplace Relations and Safety
..... / /

Budget 2025 Review of Tagged Contingencies

1. On 15 November 2024, the Minister of Finance wrote to the Minister for Economic Development outlining the Budget 2025 process. All MBIE portfolio Ministers were copied in to this correspondence.
2. In the letter, the Minister of Finance invited specific Budget 2025 submissions relating to:
 - Savings and revenue (targeted policy savings and tagged contingencies).
 - New Spending (capital investment and economic growth initiatives).
 - Grants and funds.
3. This included a request that two current tagged contingencies in the Workplace Relations and Safety portfolio be reviewed for potential savings, noting that If there are no such opportunities, a reasonable justification for why the funding is still needed should be provided. The contingencies identified were:
 - *Supporting WorkSafe Service Realignment*; and
 - *Remaining Costs of the Whakaari Prosecution*.
4. Treasury requires that a brief template on each contingency be submitted by 23 December 2024. Drafts of these templates are attached as **Annex 1** and will be finalised and uploaded by MBIE following your feedback on the recommendations in this paper.
5. Additionally, a letter to the Minister of Finance outlining the recommendations in this paper has been drafted for your signature and is attached as **Annex 2**. This is to be sent on by your office to the Minister of Finance, c.c. the Minister for Economic Development (as Minister for MBIE), no later than 20 December 2024.

Details of the Contingencies Under Review

Purpose and Scale of the Contingencies

6. Both of the identified contingencies were established by Cabinet on 4 September 2023 [CAB-23-MIN-0420] to meet anticipated costs to WorkSafe as follows:
 - The *Supporting WorkSafe Service Realignment* tagged contingency (\$7.000m, expiry date 1 February 2025) was established to provide a funding 'cushion' for WorkSafe should the full expected savings of its restructure process not eventuate.
 - The *Remaining Costs of the Whakaari Prosecution* tagged contingency Commercial Information expiry 1 February 2025 - subsequently extended to 1 December 2026) was established to meet ongoing costs associated with WorkSafe's Whakaari prosecution and associated legal processes.

Current Status of the Contingencies

Supporting WorkSafe Service Realignment

7. WorkSafe has not drawn down from this tagged contingency since it was established and has advised us that it will not need to.

Remaining Costs of the Whakaari Prosecution

8. On 18 February 2024, joint-Ministers agreed an initial drawdown Commercial Information
9. While the prosecution is now complete, WorkSafe anticipates further costs resulting from both the Whakaari Management Limited appeals process and the coronial inquest which is expected to commence in late 2025. Given these ongoing aspects of the legal process, and the fact that WorkSafe cannot control court timelines, joint Ministers agreed as part of the October Baseline Update to extend this contingency to 1 December 2025. The exact timeline

for WorkSafe's next drawdown from this contingency is uncertain, but unlikely to be prior to April 2025.

Opportunities for Savings and Recommended Response

Supporting WorkSafe Service Realignment

10. It is the shared view of MBIE and WorkSafe that the *Supporting WorkSafe Service Realignment Contingency* is no longer required and the \$7.000m in the contingency can be released.
11. In other instances, the Government may decide to rescind existing contingencies. However, in this case, we are seeking your agreement to recommend to Treasury that this contingency simply be allowed to expire on 1 February 2025, with no drawdowns made. By simply allowing this contingency to expire, it will allow the tagged funding to be released to the centre in a timelier fashion than an explicit 'closing' of the contingency would allow for.
12. Should both you and the Minister of Finance agree to this approach, the cessation of the contingency would not progress as a formal Budget 2025 initiative, with the release of tagged funding instead being confirmed upon expiry of the contingency.

Remaining Costs of the Whakaari Prosecution

13. It is the shared view of MBIE and WorkSafe that there remains a need for the funding held in contingency for the Whakaari legal process, and that there is therefore no opportunity to return tagged funding to the Crown as part of the Budget 2025 process.
14. Both the appeals process and coronial inquest will drive costs for WorkSafe that it is not resourced to meet. Furthermore, the uncertainty of both the scale and timing of these costs means that this tagged contingency remains an appropriate mechanism for providing certainty to WorkSafe's ability to resource the Whakaari legal proceedings, without unduly impacting its core service delivery.
15. Moreover, we note that given the uncertainty about WorkSafe's remaining costs, it would be particularly challenging, and likely inefficient, for WorkSafe to reprioritise resources away from their core delivery functions to meet this unique and uncertain fiscal pressure.
16. On that basis, we seek your agreement to recommend to Treasury that Budget 2025 savings are not sought from this contingency.

Annexes

Annex 1: Draft Budget 2025 Contingency Templates

Annex 2: Letter to the Minister of Finance

Annex 1: Draft Budget 2025 Contingency Templates

a) Supporting WorkSafe Service Realignment

Section 1: Overview

Section 1A: Basic initiative information										
Initiative title (max 120 characters)	Supporting WorkSafe Service Realignment									
Lead Minister	Workplace Relations and Safety	Agency	MBIE							
Initiative description (max 800 characters)	<p>On 4 September 2023, Cabinet agreed to the establishment of a \$7.00m tagged contingency to help meet potential costs associated with a proposed restructure of WorkSafe New Zealand.</p> <p>While WorkSafe progressed with its proposed restructure, this funding was not ultimately required. As the contingency is due to expire on 1 February 2025 and WorkSafe have indicated that it will not be seeking to drawdown any funding from it, it is recommended that this contingency be allowed to expire.</p>									
Priority Area (PA) Objective	<input type="checkbox"/>	Targeted policy savings	<input type="checkbox"/>	Reprioritisation						
	<input type="checkbox"/>	Grants and funds	<input type="checkbox"/>	Performance Plan Scrutiny						
	<input checked="" type="checkbox"/>	Tagged Contingency								
Is this a cross-Vote initiative?	N									
Agency contact	Privacy of Natural Persons	Treasury contact (Vote Analyst)	Privacy of Natural Persons							
Section 1B: Summary of savings profile										
Operating funding available for return (\$m)										
2024/25	2025/26	2026/27	2027/28	2028/29 & outyears*	Total					
\$7.000m	[•]	[•]	[•]	[•]	\$7.000m					
<p>*For irregular outyears, add additional rows above to display the full profile of the initiative. Delete "& outyears" for time-limited funding. See Budget 2025 Uploading Initiatives to CFISnet for more information on entering outyears into CFISnet.</p> <p>*expenditure is shown as positives and savings are shown as negatives. Revenue increases are shown as negatives and revenue decreases are shown as positives.</p>										
Capital funding available for return (\$m)										
24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34*	Total
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
*Extend the profile above if funding is needed beyond 2033/34.										

Section 2: Status Update and Risks

Section 2A: Status Update	
The answer to each question must not exceed 1-2 paragraphs	
What is the current status of the tagged contingency?	This contingency will expire on 1 February 2025. There have been no draw-downs from the contingency to date, and WorkSafe has indicated that it will not be seeking any drawdown prior to the expiry of the contingency.
Section 2B: Risks	
The answer to each question must not exceed 1-2 paragraphs	
What is the risk of fully or partial returning the tagged contingency to the centre?	<p>There are no identified risks with allowing this contingency to expire, or pre-emptively closing it.</p> <p>While at the point of establishment, there was a risk that delays to yielding restructure savings could place WorkSafe under financial pressure. This did not eventuate, and with current vacancies, WorkSafe has indicated that it can operate effectively within its existing 2024/25 funding envelope.</p> <p>On this basis, there is no need for the funding in contingency and it can be allowed to simply expire on 1 February 2025.</p>

b) Remaining Costs of the Whakaari Prosecution

Section 1: Overview

Section 1A: Basic initiative information										
Initiative title (max 120 characters)	Remaining Costs of the Whakaari Prosecution									
Lead Minister	Minister for Workplace Relations and Safety	Agency	MBIE							
Initiative description (max 800 characters)	<p>On 4 September 2023, Cabinet established ^{Commercial Information} tagged contingency to meet outstanding costs to WorkSafe for the Whakaari prosecution – a legal proceeding of unprecedented scale, complexity, and public interest for WorkSafe New Zealand.</p> <p>While ^{Commercial Information} has yet to be drawn down from the contingency, further expenses are anticipated in relation to the appeals process and ongoing coronial inquest. For this reason, and because of the reputational and service delivery impacts of removing this funding for WorkSafe and the Health and Safety Regulatory System, this contingency is not considered to be an appropriate avenue to provide savings.</p>									
Priority Area (PA) Objective	<input type="checkbox"/>	Targeted policy savings	<input type="checkbox"/>	Reprioritisation						
	<input type="checkbox"/>	Grants and funds	<input type="checkbox"/>	Performance Plan Scrutiny						
	<input checked="" type="checkbox"/>	Tagged Contingency								
Is this a cross-Vote initiative?	N									
Agency contact	Privacy of Natural Persons		Treasury contact (Vote Analyst)	Privacy of Natural Persons						
Section 1B: Summary of savings profile										
Operating funding available for return (\$m)										
2024/25	2025/26	2026/27	2027/28	2028/29 & outyears*	Total					
[•]	[•]	[•]	[•]	[•]	[•]					
<p>*For irregular outyears, add additional rows above to display the full profile of the initiative. Delete "& outyears" for time-limited funding. See Budget 2025 Uploading Initiatives to CFISnet for more information on entering outyears into CFISnet.</p> <p>*expenditure is shown as positives and savings are shown as negatives. Revenue increases are shown as negatives and revenue decreases are shown as positives.</p>										
Capital funding available for return (\$m)										
24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33	33/34*	Total
[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]	[•]
*Extend the profile above if funding is needed beyond 2033/34.										

Section 2: Status Update and Risks

Section 2A: Status Update	
The answer to each question must not exceed 1-2 paragraphs	
What is the current status of the tagged contingency?	<div>On 18 February 2024, joint-Ministers agreed an initial drawdown Commercial Information</div> <div>This contingency was set to expire on 1 February 2025, but was extended to 1 December 2026 as part of the OBU 2024 process, in recognition of delays in the remaining legal elements of the Whakaari case.</div> <div>While future drawdowns will be necessary, their timing will be dependent on the progress of the current Whakaari Management Limited Appeals process and the coronial inquest. However, WorkSafe estimates April 2025 as the earliest likely date for the next drawdown.</div>
Section 2B: Risks	
The answer to each question must not exceed 1-2 paragraphs	
What is the risk of fully or partial returning the tagged contingency to the centre?	<div>Free and Frank Advice</div>

Annex 2: Letter to the Minister of Finance

Attached separately on letterhead