



Tertiary Education Briefing: University of Otago – Transfer and Disposal of Crown Assets

Date:	20 July 2020	The TEC priority:	Medium
Security level:	In Confidence	Briefing no:	B/20/00500
		Minister's office No:	

ACTION SOUGHT		
	Action sought	Deadline
Hon Chris Hipkins Minister of Education	<p>agree, subject to conditions outlined in this briefing, to transfer the Crown-titled assets currently under the management of the University of Otago (Otago University) at its Dunedin and Christchurch campuses into that institution's legal title;</p> <p>agree, subject to conditions outlined in this briefing, that Otago University retains the full net proceeds of sale of the Crown-owned residential property at Alexandra identified by the University as surplus to its requirements, with the approval being for approximately s9(2)(i) million; and</p> <p>agree to forward this briefing to the Minister of Finance for his consideration.</p>	At your earliest convenience
Hon Grant Robertson Minister of Finance	<p>agree, subject to conditions outlined in this briefing, to transfer the Crown-titled assets currently under the management of the University of Otago (Otago University) at its Dunedin and Christchurch campuses into that institution's legal title; and</p> <p>agree, subject to conditions outlined in this briefing, that Otago University retains the full net proceeds of sale of the Crown-owned residential property at Alexandra identified by the University as surplus to its requirements, with the approval being for approximately s9(2)(i) million.</p>	At your earliest convenience
Enclosure: No		Round Robin: Yes

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)

Name	Position	Telephone	1st contact
Gillian Dudgeon	Deputy Chief Executive, Delivery	s9(2)(a)	✓
s9(2)(a)	TEI Crown Asset Transfers and Disposals		

THE FOLLOWING DEPARTMENTS/AGENCIES HAVE SEEN THIS BRIEFING

MoE Te Arawhiti ¹ LINZ Treasury MoH

Minister's Office to Complete: Approved Declined
 Noted Needs change
 Seen Overtaken by Events
 See Minister's Notes Withdrawn

Comments:

¹ The Office for Māori Crown Relations – Te Arawhiti (incorporates the former Office of Treaty Settlements).

Recommendations

We recommend that the Minister of Education:

1. **agree** to forward this briefing to the Minister of Finance for his consideration;

AGREE / DISAGREE

Minister of Education

We recommend that the Minister of Education and the Minister of Finance jointly:

2. **note** that in 2009, Cabinet [CAB Min (09) 38/12]:
 - a. agreed to allow tertiary education institutions (TEIs) to obtain the legal ownership to Crown-owned assets under their management and to retain a portion of the net proceeds of the disposal of surplus Crown-owned assets;
 - b. agreed criteria to assess applications from TEIs for the transfer of assets and for the retention of the net proceeds of disposal; and
 - c. authorised the Minister for Tertiary Education and the Minister of Finance to make decisions about the transfer of assets and the retention of net proceeds of disposal by TEIs.

Transfer of assets at Dunedin and Christchurch

3. **note** that the University of Otago (Otago University) has applied to transfer approximately \$378 million of Crown-titled assets under its management at its main campus at Dunedin and campus at Christchurch into its legal ownership;
4. **note** that the Tertiary Education Commission (the TEC) has assessed Otago University's application against the criteria agreed to by Cabinet and recommends that all the Crown-titled assets managed by the University at its Dunedin and Christchurch campuses be transferred into that institution's legal title;
5. **agree** to the transfer of the Crown-titled assets, managed by Otago University at its Dunedin and Christchurch campuses, into that institution's legal title subject to:
 - a. the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the transfer of assets from the Crown to TEIs; and
 - b. Otago University paying for the external costs of the transfers including, but not limited to, the services of a Land Information New Zealand (LINZ) accredited supplier and any other costs associated with transferring legal title to Otago University.

AGREE / DISAGREE

Minister of Finance

AGREE / DISAGREE

Minister of Education

Disposal of a surplus residential property at Alexandra

6. **note** that, in addition, Otago University has identified a Crown-owned property (with a 2010 book value of \$250,000 and an estimated current market value of s9(2)(j) at 130 Ashworth St, Alexandra, that it has not used for some years, as surplus to its educational requirements and is seeking its disposal and the retention of the full net proceeds of sale;
7. **note** that a *Gazette* notice was issued in 2010, under section 71B of the Education Act 1989, declaring the property as no longer required for educational purposes, but disposal was suspended so that it could be incorporated into Otago University's Crown asset transfer and disposal application;
8. **note** that the property will be disposed of subject to:
 - a. the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the disposal of Crown assets; and
 - b. Otago University paying for the external costs of the disposal including, but not limited to, the services of a LINZ accredited supplier and any other costs associated with managing the disposal process.

Proceeds of disposal

9. **note** that where an asset is put into disposal rather than being transferred to a TEI, Cabinet [CAB Min (09) 38/12] has agreed that:
 - a. 80 percent of the net proceeds of disposal will be available to the TEI for capital projects to support its educational activities; and
 - b. the remaining 20 percent (equating in this case to approximately s9(2)(j) may be made available to the TEI if the Crown agrees that the TEI is not overcapitalised and that it has demonstrated that the additional funding will be used in capital projects that are of adequate value to the educational activities of the institution.
10. **note** that the TEC recommends that Otago University retains the full net proceeds of sale of the Crown-owned asset, and a key factor in our recommendation is the University's intention to use the proceeds to fund its new Te Rangi Hiroa Hostel, which will replace the existing hostel it must vacate for the redevelopment of the Dunedin Hospital;
11. **agree** that Otago University retains the full net proceeds of the sale of the Crown-owned property at 130 Ashworth St, Alexandra, subject to:
 - a. the proceeds being reinvested in a capital asset project identified in Otago University's campus development plan and approved by the institution's governing body; and
 - b. Otago University reporting to the TEC on which project identified in the campus development plan will be funded by the proceeds.

AGREE DISAGREE

Minister of Finance

AGREE DISAGREE

Minister of Education

12. **note** that the TEC has consulted with the Ministry of Education (MoE), Treasury, LINZ and The Office for Māori Crown Relations - Te Arawhiti and none of these agencies have identified any overriding legal or policy reasons why the assets in question should be retained in Crown ownership;

Next Steps

13. **note** that, in accordance with your decisions on the above recommendations, the MoE will draft the required Memorandums of Understanding (MoUs) between Otago University and the Secretary for Education, one to set out the conditions of the transfer and the other the conditions of the disposal;
14. **note** that, in accordance with your decisions on the above recommendations, and subject to the conditions set out in the respective MoUs being satisfied, the MoE will request that LINZ, acting under statutory delegation:
- a. approve the transfers under section 50 of the Public Works Act 1981;
 - b. approve the disposal under sections 40 - 42 of the Public Works Act 1981; and
 - c. execute agreements for sale and purchase.
15. **agree** to the proactive release of this briefing, with the contact information of officials and some financial forecasting information withheld.

AGREE DISAGREE
Minister of Finance

AGREE DISAGREE
Minister of Education



Gillian Dudgeon
Deputy Chief Executive, Delivery
20 July 2020



Hon Grant Robertson
Minister of Finance



Hon Chris Hipkins
Minister of Education

20 / 9 / 20

29 / 08 / 20

Purpose

1. This briefing seeks your approval, subject to certain conditions to be set out in Memorandums of Understanding (MoUs), to :
 - a. transfer approximately \$378 million of Crown-titled land, along with the building assets and other improvements on that land, currently managed by the University of Otago (Otago University) at its Dunedin and Christchurch campuses into that institution's legal title; and
 - b. Otago University retaining the full net proceeds of sale of the disposal of the Crown-owned residential property the University manages at 130 Ashworth St, Alexandra to reinvest in an Otago University Council approved capital asset project at its Dunedin campus.

Background

2. In October 2009, Cabinet agreed [CAB Min (09) 38/12] to the Crown asset transfer and disposal policy which allows tertiary education institutions (TEIs) to obtain the legal title to Crown-owned assets under their management. This policy allows TEIs to acquire full legal title to assets that they have an ongoing educational need for, provided that there are no over-riding reasons to retain the assets in Crown ownership.
3. The policy also provides that where an asset is no longer fit for purpose, or surplus to requirements, it can be disposed of with a proportion of net proceeds able to go to TEIs. Cabinet also agreed to criteria to assess applications from TEIs for the transfer and/or disposal of assets and authorised the Minister for Tertiary Education and the Minister of Finance to make decisions regarding this policy, the transfer of assets and the retention of net proceeds of sale by TEIs.
4. Appendix C provides a diagrammatic overview of the process by which applications from TEIs for the transfer and/or disposal of TEI-managed Crown-owned assets are considered and implemented.

Application from the University of Otago

The application

5. In May 2014, Otago University submitted its application to the Tertiary Education Commission (the TEC) for the Crown-owned land and building assets that it manages at its main campus at Dunedin and campuses at Wellington, Christchurch and Invercargill to be transferred into its legal ownership. The value² of those assets, as indicated by the University, was approximately \$455 million³.
6. In July 2019, Otago University exercised its legal right and had the Crown assets of the Dunedin College of Education transferred into its own title⁴. This applied to all the assets at its Invercargill campus and the buildings constructed by the Crown on land the University leases from the Otago Regional Council in Dunedin, at the Otago University College of Education. This reduced the quantum of assets potentially available for transfer by some \$32 million.
7. Otago University's 2014 application also sought the transfer of ownership of the buildings and related property assets, with a value of some \$45 million, which it manages on District Health Board (DHB) titled land at Wellington and Christchurch hospitals. In November 2019, the University agreed that this part of its application be set aside pending the outcome of negotiations between the University and the Capital and Coast and the Canterbury DHBs on the tenure arrangements by which the University operates on those sites. The University, however, reserves the right to reactivate this part of its original application should that ever become appropriate. The Minister of Health will also need to agree to any long term arrangements that impact on land owned by these DHBs.
8. The net effect of the removal of the former Dunedin College of Education assets and the assets on DHB-titled land is to reduce the quantum of assets under consideration for transfer to \$378 million of Crown-titled assets.

The assets for transfer

9. The Crown-titled assets for transfer are at Otago University's main campus at Dunedin and five properties at its Christchurch campus. These assets account for approximately 37 percent by value of all land and buildings owned and managed by the University and involve some 10.7 hectares of Crown-titled land.
10. At the Dunedin campus the Crown-titled land has associated with it three parcels of land still held under the deeds system. These parcels are residual slivers of land between the Crown-titled land to be transferred. This deeds system land will be addressed in the transfer process and where appropriate new titles will be issued, with the University being required to meet associated costs.
11. The Crown-titled assets under consideration are used primarily for academic (teaching and research) and library purposes (details are provided in Table 1, Appendix B). Otago

² Asset values are calculated from Otago University's fixed asset register as at 31 December 2010.

³ Approximately \$196 million (by value) of buildings on Otago University's campuses, mainly Dunedin, are reported on as being owned by the University; however the presumption at common law is that the land includes any buildings and other improvements on the land, unless there is prior agreement to the contrary. While the University will have funded the construction of these buildings, as they have been built since 1990, there are no formal arrangements which confer Otago University's legal ownership.

⁴ The Dunedin College of Education was legally disestablished and incorporated into Otago University on 1 January 2007. Under these circumstances Section 217(5) of the Education Act 1989 provides for a name correction to apply to vest the property assets in the title of the Dunedin College of Education in the legal name of the University of Otago.

University's application states that it has an on-going educational need for the Crown-titled land and associated buildings in terms of its strategic goals as outlined in its Strategic Direction to 2020 and Investment Plan 2017-2019.

12. Otago University's main campus at Dunedin occupies a dominant proportion of the central suburb of North Dunedin. The Dunedin campus is mainly sited on land owned by the University, along with a significant proportion of Crown-titled land (some 70 land titles) and a smaller amount of leasehold land. The ownership pattern is largely a mosaic of University and Crown-titled land with many buildings crossing land ownership boundaries.

The asset for disposal

13. Otago University has identified a Crown-owned property that it has not used for some years at 130 Ashworth Street, Alexandra, as surplus to its educational requirements and is seeking to complete its disposal, which was initiated some years ago. This residential property has an estimated current market value of \$9(2)(j)
14. Otago University is seeking the full net proceeds of the disposal of the above property at Alexandra to reinvest in the new, Otago University Council approved, Te Rangi Hiroa Hostel which will replace an existing hostel that the University must vacate for the redevelopment of the Dunedin Hospital.

Assessment Summary

15. The TEC has assessed Otago University's application against the Cabinet-agreed criteria listed in Appendix A. The TEC has determined that Otago University's application has met the assessment criteria, specifically:

- a. Ownership status – the Crown-titled assets under Otago University's management at Dunedin and Christchurch are eligible to be transferred.

Otago University has stated that it has managed all the Crown-owned assets it is seeking to have transferred since 1990. The TEC and the Ministry of Education (MoE) have not found any evidence to the contrary.

The value of the Crown-titled assets sought for transfer and associated depreciation costs have been recognised on Otago University's accounts since 1996 and are included in the audited financial statements in its 2019 annual report.

There is no disagreement from any third party over which TEI should receive the transferred assets and the proceeds of disposal. No agency has identified any overriding legal or policy reason to retain these assets in Crown title.

The transfers are identified in Otago University's Strategic Asset Management Plan, align with the University's long strategic term goals and are required to support the University giving effect to its investment and capital asset management plans.

- b. Capital asset management integration – from the evidence provided, Otago University demonstrates that it has in place capital asset management systems and processes that enable it to effectively and efficiently manage its portfolio of assets.
- c. Educational need – Otago University states that it requires the use of the assets for the current and future delivery of its educational programmes and research activities. It has declared the ongoing educational purpose of each asset, based on the agreed definition of educational purposes. The TEC is satisfied from its own observations and

regular monitoring that the use of the assets is as stated by the University. On the evidence provided in the institution's current investment plan and other relevant strategic documents, the TEC considers that the assets will support current and future educational needs.

- d. Financial performance and risk – the TEC has considered Otago University's financial viability and sustainability and does not consider the assets would be at risk if the transfer were to proceed.
- e. Educational performance and risk – the TEC considers that Otago University's educational performance is of a sufficient level that it is not likely to be subject to an intervention or closure that could present a risk to the ongoing ownership of the assets.

We recommend transfer of assets in Dunedin and Christchurch

- 16. On the basis of the TEC's assessment, it is recommended that Ministers agree to transfer the Crown-titled assets currently managed by Otago University at its main campus at Dunedin, and campus at Christchurch (and some associated small slivers of land still held in the deeds system at Dunedin) into the University's legal title subject to:
 - a. successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the transfer of assets from the Crown to TEIs; and
 - b. Otago University paying for the external costs of the transfer including, but not limited to, the services of a Land Information New Zealand (LINZ) accredited supplier and any other costs associated with transferring legal title of the assets to the University.

Disposal of a surplus residential property at Alexandra

- 17. Otago University has also identified a Crown-owned residential property at 130 Ashworth Street, Alexandra, which it currently manages as commercial space, as surplus to its current and future needs. A section 71B Education Act 1989 *Gazette* notice was issued in 2010 declaring the property as no longer required for educational purposes, but disposal was suspended so that it could be incorporated into Otago University's Crown asset transfer and disposal application.
- 18. The TEC agrees that this property remains surplus to Otago University's educational requirements and its disposal will not have an adverse impact on the University's delivery of educational programmes. The disposal is recognised in the University's capital intentions reporting, it aligns with the University's long-term strategic goals, and there is no disagreement from any third party over which TEI should receive the disposal proceeds of the asset.
- 19. On the basis of the TEC's assessment, it is recommended that Ministers note that the Crown-owned asset at 130 Ashworth Street, Alexandra will be disposed of subject to:
 - a. the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the disposal of Crown assets; and
 - b. Otago University paying for the external costs of the disposal including, but not limited to, the services of a LINZ accredited supplier and any other costs associated with managing the disposal process.

We recommend the University retains the full net proceeds of disposal

20. Otago University is seeking to retain the full net proceeds of the disposal. The policy provides that a proportion (80 percent) of the net proceeds of sale of surplus assets be made available to TEIs for capital projects to support their educational activities. The remaining 20 percent may be made available if the Government agrees that the TEI is not overcapitalised and that it has demonstrated that the additional funding will be used in capital projects of adequate value to the educational activities of the institution.⁵
21. On the basis of its most recent Statement of Financial Position, Otago University is not overcapitalised. The University intends to reinvest the net proceeds of the disposal in a capital expenditure project identified in its Priority Development Plan/ Strategic Asset Management Plan. Specifically the University has identified that it will, as its first priority, use the proceeds from the disposal of the Alexandra property to contribute to the funding of the new Te Rangī Hiroa Hostel, for which it has provided a copy of its Council approved business case.
22. From a capital asset management perspective it makes good sense to dispose of an asset that is not integral to the delivery of the institution's core educational services and to reinvest the proceeds in fit-for-purpose facilities. Therefore, on the basis of the TEC's assessment, officials recommend that Ministers agree to Otago University retaining the full net proceeds (i.e. the discretionary 20 percent equating to some s9(2)(j) million) of the sale of the property at 130 Ashworth Street, Alexandra, subject to the proceeds being reinvested in a capital asset project approved by its Council.

Protection of Māori Interests

23. The Crown Asset Transfer Policy has a number of mechanisms designed to safeguard Māori interests in land and buildings. As part of assessing transfer applications, the TEC requests information from The Office for Māori Crown Relations – Te Arawhiti (which incorporates the former Office of Treaty Settlements) on the status of Treaty claims in areas where a TEI has requested Crown-owned assets be transferred or disposed.
24. Te Arawhiti has advised that all land titles for transfer or disposal are within the area settled by the Ngāi Tahu Claims Settlement Act 1998. As such all the land is subject to the Ngāi Tahu Right of First Refusal (RFR), as the RFR memorial on each of the titles notes.
25. A transfer of the land to Otago University will not trigger the RFR. However, the RFR will remain on the titles and the University will become the RFR landowner for the purposes of the legislation.
26. In the case of the property for disposal at Alexandra an earlier RFR offer to Ngāi Tahu was declined. The offer will need to be repeated, in accordance with the settlement legislation, as more than nine months has elapsed since the offer was made.

Consultation

27. The TEC has consulted with the MoE, Treasury, LINZ, the Ministry of Health and The Office for Māori Crown Relations - Te Arawhiti in the development of this briefing.

⁵ These two criteria apply where an asset is put into disposal as part of a TEI's application under the Crown asset transfer and disposal policy. This is in contrast to the range of criteria which apply where an asset is put into disposal within five years of its transfer from the Crown.

Next Steps

28. Subject to your joint agreement to our recommendations, the MoE, in consultation with the TEC, will prepare separate MoUs for the transfers and for the disposal to be executed by the Secretary for Education and Otago University.

The transfer memorandum

29. The transfer MoU will set out the parameters of the transfer and will include:⁶
- a. which assets are included in the transfer of title;
 - b. any arrangements for protecting Māori interests in the land and/or buildings;
 - c. any other provisions, covenants or encumbrances related to the use and/or sale of the land or buildings, including the provision in the policy which requires a TEI to pay to the Crown 20 percent of the net proceeds of sale if a transferred property is disposed of within five years of the transfer; and
 - d. any specific requirements to be met by Otago University prior to the transfer of legal title including those set out in paragraph 16.
30. Once all parties have agreed to the MoU, the normal transfer processes contained in the Public Works Act 1981, related legislation, and relevant government policies will be followed. This can take six to twelve months, or longer where issues arise in obtaining the required consents and clearances.
31. A decision by the Minister for Land Information, or delegate, is needed, confirming that the transfer of the public work is required for the public interest and that the land is required for that public work. Following that, a sale agreement, to be executed by LINZ, under delegation from the Minister for Land Information, will be actioned. Under the Public Works Act 1981, all transfers of land from the Crown to tertiary institutions for public works are subject to the approval of the Minister for Land Information (or delegate).⁷

The disposal memorandum

32. The disposal MoU will set out the parameters of the disposal and will include:
- a. which asset has been declared surplus to educational requirements and is to be disposed of;
 - b. appointing Otago University to act as the Crown's agent for the disposal and setting out the MoE's expectations;
 - c. any other provisions, covenants or encumbrances related to the sale of the land or buildings;
 - d. any specific requirements to be met by Otago University as part of the disposal process including those set out in paragraph 19;

⁶ An agreement for transfer or disposal needs to be executed by the Minister for Land Information. A MoU establishes parameters associated with any transfer or disposal, but the details must be set out in a sale agreement which must be agreed to by the Minister for Land Information (or delegate).

⁷ Tertiary institutions are a 'local authority' under the Public Works Act 1981. Legally, it is for the Minister for Land Information to agree to transfer this land from the Crown to Otago University.

- e. arrangements for the proceeds of sale, and for Otago University receiving the specified percentage of the net proceeds; and
 - f. the specified purpose for which the net proceeds from the sale of the surplus land and buildings will be reinvested as set out in paragraph 22.
33. Once all parties have agreed to the disposal MoU, the normal disposal processes contained in the Public Works Act 1981, related legislation, and relevant government policies will be followed. This can take up to two years, although the timeframe should be reduced for this property as it is already part way through the disposal process. A sale agreement will be executed by LINZ under delegation from its chief executive.

Appendix A: Assessment Criteria

Cabinet has agreed [CAB Min (09) 38/12] to criteria for assessing applications from TEIs for the transfer or disposal of Crown-owned assets:

In cases of transfer or disposal

- The TEI must have managed the asset since at least 1990.⁸
- There must be no overriding legal or policy reasons for the Crown to retain the asset (and where there are, the Crown will negotiate a lease or another suitable alternative with the TEI).⁹
- There must be no disagreement from any third party over which TEI should receive the transferred asset or proceeds of disposal (with particular reference to past and current usage and management).
- The TEI must have incorporated the Government's Capital Asset Management programme into its strategic, financial planning and reporting systems.¹⁰
- The TEI's financial risk must be assessed using the TEC's Financial Monitoring Framework.¹¹
- The TEI's educational risk must be assessed using a variety of measures including educational performance indicators as determined by the TEC.

In cases of transfer

- The assets to be transferred must be required to support TEIs giving effect to their investment plans and capital asset management plans.¹²

In cases of disposal

- The proposed reinvestment must be for capital projects supported by the TEI's capital asset management plan.

⁸ The policy is intended to apply to the sizeable group of assets that have been used and managed by TEIs for as long as the Crown has owned the assets. This is distinct from the smaller number of Crown-owned assets leased by TEIs in recent years to meet their changing needs, to which the policy does not apply. 1990 is the year in which tertiary institutions were first established in legislation in their current form and thus provides a useful cut-off.

⁹ For instance, a future Treaty of Waitangi settlement could in some cases represent an overriding policy reason to retain land in Crown title for the time being.

¹⁰ The TEC has developed a TEI CAM reporting framework (which includes a TEI CAM Standard) to enable TEIs to work toward meeting the Government's expected levels for good practice (as set out in the Treasury CAM guidelines).

¹¹ The TEC's Financial Monitoring Framework (FMF) is a risk screening tool which provides a high level snapshot of the financial health of an organisation. It considers a number of measures related to a TEI's profitability, balance sheet and cash flow to determine a risk rating. Both audited and forecast results are considered. The results are averaged to give historical, future and overall FMF risk ratings.

¹² The definition of education purpose to meet the criteria of ongoing education need for assets has been defined by the TEC together with the tertiary education sector using categories specific to tertiary education institutions. It includes buildings used for academic and teaching space, central administrative support, student and staff services and accommodation, library space and commercial space.

Appendix B: Assessment of the University of Otago's Application

Ownership Status

1. The University of Otago (Otago University) has stated that it has managed all the Crown-owned assets it is seeking to have transferred since 1990. The TEC and the Ministry of Education (MoE) have not found any evidence to the contrary.
2. Otago University has declared that it is not aware of any third party claims over the assets it is seeking for transfer. The TEC is not aware of any other TEI that is likely to claim ownership of the assets. Neither the TEC nor any other consulted agency has identified any overriding legal or policy reasons why the assets in question should be retained in Crown title.
3. The value of the assets sought for transfer and associated depreciation costs have been recognised on Otago University's accounts since 1996 and are included in the financial statements in its audited 2019 annual report. The transfers are identified in the University's Strategic Asset Management Plan¹³.

Land leased by Otago University to third parties

4. Otago University is seeking the transfer of a Crown-titled residential site at 390 Leith St, Dunedin. In 1994 this property was leased¹⁴ by the University to the owners of the adjacent property, at 386 Leith St, who built a townhouse complex over the combined site as student accommodation. While the lease expired in 2014 the arrangements have continued and provisions will be made to protect the rights and interests of the 'lessee' in any transfer of land ownership to the University.
5. Otago University, with the consent of the Minister of Education, granted a 50-year ground lease to Landcare Research NZ Ltd to 2044 for one Crown-titled title at the Dunedin campus. The Crown Research Institute (CRI) funded building on the property is occupied by both Landcare Research New Zealand Limited and the Institute of Geological and Nuclear Sciences Limited. There are benefits to both the University and the CRIs from the proximity of all parties. On expiry of the lease, ownership of the CRI building will transfer to Otago University at a nominal cost as provided for in a formula set out in the lease. No specific provisions are therefore required in a transfer of Crown assets to the University.
6. Otago University has a 50-year lease to the University Union Limited to 2052, agreed by the Crown, which applies to the Otago University Students Association (OUSA) building, built in the 1980s on Crown-titled land, and the larger Union Building built in the 1960s across TEI and Crown-titled land. On termination of the lease the lessee is required to yield up vacant possession of the buildings to Otago University. No specific provisions are therefore required in a transfer of Crown assets to the University.
7. In May 2014, Otago University entered into two 15-year tenancy leases with the Otago University Childcare Association (OUCA) for the provision of Early Childhood Education (ECE) facilities at Dunedin. One is for OUCA College Centre on land leased from the Regional Council at the Otago University College of Education site. The other is for OUCA Te Pā which is a suite of ECE facilities extending over a mix of Crown and Otago University owned properties at Castle St and Montgomery Ave in the northern portion of the University's Dunedin campus. Otago University has overall management control of these facilities and

¹³ University of Otago Strategic Asset Management Plan, December 2018 (p17).

¹⁴ 1994 Deed of Lease (Agreed by the Ministry of Education) between University of Otago (Lessor) and [REDACTED] (Lessee) for period 1 March 1994 to 28 February 2014.

the MoE has no related Property Occupation Documents. The current arrangements will therefore continue on the transfer of Crown assets to Otago University.

Protection of Māori Interests

8. The Crown Asset Transfer Policy has a number of mechanisms designed to safeguard Māori interests in land and buildings. As part of assessing transfer applications, the TEC requests information from The Office for Māori Crown Relations – Te Arawhiti (which incorporates the former Office of Treaty Settlements) on the status of Treaty claims in areas where a TEI has requested Crown-owned assets be transferred or disposed.
9. In 2014, the then Office of Treaty Settlements advised that the Crown-owned land managed by Otago University at its Dunedin and Christchurch campuses is subject to a right of first refusal (RFR) under the terms of the Ngāi Tahu Claims Settlement Act 1998. A transfer of the land to Otago University will not trigger the RFR. However, the RFR will remain on the titles and Otago University will become the RFR landowner for the purposes of the legislation.
10. The Crown-owned property which Otago University manages and is seeking to dispose of at 130 Ashworth Street, Alexandra is subject to a RFR to Ngāi Tahu. The property had previously progressed through the statutory and associated policy disposal processes before disposal was suspended so that it could be incorporated into Otago University's Crown asset transfer and disposal application. The property was offered to Ngāi Tahu as part of the suspended disposal process and at that time Ngāi Tahu declined the right of first refusal. However, as more than nine months has expired since that offer the property must be reoffered to Ngāi Tahu prior to its disposal.

Capital Asset Management

11. The TEC considers that Otago University has an appropriate level of capital asset management (CAM) practice to enable it to effectively and efficiently manage its portfolio of assets. Otago University has made good progress in incorporating the Government's CAM expectations into its strategic, financial planning and reporting systems.
12. Otago University has provided regular capital intentions reports to the TEC. The University's 2019 reporting identified a number of major capital expenditure projects. Those scheduled for completion in 2020 are the Dunedin Dental School redevelopment, new facilities for research projects, the music department, the South Auckland Dental School along with a comprehensive network upgrade. The focus over the period 2020 to 2023 is on the redevelopment of its Christchurch campus, the Te Rangi Hiroa hostel, seismic strengthening projects and departmental building refurbishments (Food Science, Medicine, Botany and Arts). Following recent COVID-19 developments some of these projects will be re-prioritised. Otago University's 2019 reporting also recognises the disposal of the residential property at Alexandra.
13. In 2017, Otago University commissioned an independent review of its capital asset management (CAM) systems and processes with the aim of providing an impartial and informed view of its level of asset management maturity and capability. The CAM review results showed that the University had advanced in asset management maturity to the very top of core practice over the previous four years. The reviewer noted that the asset management improvements were impressive in the context that Otago University has a large property portfolio, consisting of buildings with some very challenging performance issues, and that it is undertaking a large capital build programme.
14. At the end of 2018, Otago University commissioned a further independent review of its CAM systems and processes. This review, conducted as a desktop assessment, examined all

recent asset management documentation produced by Otago University. It established that the University had further improved to an overall asset management maturity in the mid-range of intermediate. The reviewer noted that the University had closed the gap on its target level, of the upper level of intermediate, at a rate seldom seen in the tertiary sector and this reflected the level of commitment by the University and the resourcing applied to the improvement programme.

15. The TEC will continue to monitor progress with the implementation of the Government's CAM expectations at Otago University through biennial independent reviews, University self-assessments in the intervening years and its normal engagement processes.

Educational Need

16. Otago University is seeking the transfer of Crown-titled assets at the following sites:
 - a. Dunedin Campus – This is Otago University's main campus, where it is seeking the transfer of some 70 Crown-titled properties and some small slivers of associated Crown-owned land still held under the deeds system.
 - b. Christchurch Campus – Otago University is seeking the transfer of five Crown-titled residential villas close to Christchurch hospital which it uses in support of its hospital based programmes.
17. Otago University has provided information outlining the current and planned future educational use of the assets for which transfer is sought. The information was provided by way of a completed asset verification spreadsheet which allocated each building asset to an educational purpose. The educational purpose categories were developed by the TEC in liaison with the tertiary education sector. Table 1 at the end of this Appendix illustrates the educational purposes for which the assets are used and for which Otago University states they will be used in the future.
18. The majority of the assets, in both area and value, are allocated to academic space (teaching and research), both now and in the future. Otago University has identified an on-going educational need for the assets in the context of the strategic direction provided in its Strategic Direction to 2020 and 2017-2019 Investment Plan. The University states that the transfer of the assets will contribute to achieving its strategic imperatives of "Outstanding Student Experiences and Outstanding Campus Environments".
19. Otago University has a comprehensive Campus Master Plan covering its Dunedin, Wellington and Christchurch campuses, which provides a framework for the development of those campuses up to 2035. In the context of that plan, the University maintains a rolling Council approved Capital Expenditure Plan setting out its programme of capital investment over the next 10-15 years. The University states that the projects signalled in its Capital Expenditure Plan will, collectively lift both the teaching and research capacity of the University and meet Investment Plan objectives around improved efficiency.
20. The TEC has not sought an independent verification of the use of a sample of the assets which Otago University is seeking to transfer. The TEC is familiar with the building assets concerned¹⁵ and this means the TEC is confident that they are being used for the educational purposes identified by the University and are capable of being used in the future for the educational purposes stated. The Treasury also waived the requirement for an independent verification of the Crown-owned assets.

¹⁵ The TEC conducted an onsite inspection of all Dunedin Campus Crown-titled assets in October 2018.

21. The TEC considers that there are no matters of national educational interest that would be served by retaining the Crown-titled assets under Otago University's management in Crown ownership.

Disposal of surplus property and retention of net proceeds

22. Otago University has identified that a Crown-titled property it manages at 130 Ashworth Street, Alexandra is surplus to its current and future requirements and has requested its disposal. The property originally formed part of the Dunedin College of Education's Alexandra campus and was used for staff accommodation. Following the College's merger into Otago University, in 2007, the University transitioned the delivery of its educational services at Alexandra to a community based trust and the property became surplus to the University's educational requirements. The property has a 2010 net book value of \$250,000 and an estimated current market value of s9(2)(j)
23. The property was declared surplus to educational needs by *Gazette* in 2010¹⁶. The property then progressed through the disposal processes provided for in the Public Works Act 1982 and other relevant legislation and government policies, but in June 2013 its sale was deferred to enable its disposal to proceed as part of Otago University's Crown asset transfer and disposal application.
24. The TEC agrees that this property remains surplus to Otago University's needs. As the property is not being used to deliver educational programmes there will be no educational impact resulting from its disposal. From a financial perspective, the consolidation of the University's property portfolio will result in a positive benefit in that holding costs will be reduced. The TEC therefore supports the disposal of the property. The disposal process will include it being reoffered to Ngāi Tahu given the expiry of time since the last RFR offer to Ngāi Tahu.¹⁷
25. Under the Crown asset transfer and disposal policy 80 percent of the net proceeds of sale is available to Otago University to support capital projects. The remaining 20 percent (equating to some s9(2)(j) may be made available to the University if the Crown agrees that it is not overcapitalised and that it has demonstrated that the additional funding will be used in capital projects that are of adequate value to the educational activities of the institution. These two criteria apply where an asset is put into disposal as part of a TEI's application and differ substantially to the range of criteria which apply where an asset is put into disposal within five years of its transfer to a TEI.
26. Otago University is seeking the full net proceeds of the disposal of this property to, as its first priority, reinvest in its new Te Rangi Hiroa Hostel. The new hostel will replace the existing hostel which the University must vacate for the redevelopment of the Dunedin Hospital.
27. The Dunedin Hospital Rebuild site was announced in May 2018, and includes the current site of Te Rangi Hiroa, a 125 bed undergraduate residential college, owned and operated by Otago University. The Te Rangi Hiroa business case identifies that the University is critically dependent on the provision of hostel accommodation to attract first year students. The new hostel, as identified in the University's Strategic Asset Management Plan, will be larger to cater for projected increases in enrolments and to provide decant space while existing halls of residence are brought up to the standard required by the University for

¹⁶ New Zealand *Gazette* 2010-In799 p 312 dated 4 February 2010.

¹⁷ Under the Ngāi Tahu Claims Settlement Act 1998 where a property is not disposed of with 9 months of offer to Ngāi Tahu it is required to be reoffered prior to any disposal.

student accommodation. The new hostel, scheduled to be completed by January 2023, will also enable the removal of some sub-optimal beds from the University's accommodation network. The name of Te Rangi Hiroa is being carried forward to respect the taonga gifted by the family of Te Rangi Hiroa / Sir Peter Buck, which will signal to potential Māori students how Otago University values their cultural heritage.

28. The TEC has sighted the business case for the Te Rangi Hiroa Hostel, which has a value of up to s9(2)(i)
29. On the basis of its most recent Statement of Financial Position, the TEC confirms that Otago University is not overcapitalised.
30. On the basis of the above TEC assessment, it is recommended that Ministers agree to Otago University retaining the full net proceeds (i.e. the discretionary 20 percent equating to some s9(2)(i) million) of the sale of the property at 130 Ashworth Street, Alexandra, subject to the proceeds being reinvested in a capital asset project approved by its Council.

Financial Performance and Risk

31. The TEC has assessed that the financial performance of Otago University is at a sufficient level that it will not present any significant risk to the Crown following the transfer of the assets.
32. Otago University's past financial performance and future financial projections do not give the TEC any cause for concern in respect of its future viability and sustainability. In the most recent Financial Monitoring Framework (FMF) assessment, the University's overall risk rating has been assessed as 'low', maintaining the same rating for the past three annual assessments.
33. Otago University reported a surplus for the 2019 financial year of \$42.9 million and capital expenditure of \$137.1 million as several capital projects move through the intensive construction phase. The University continues to fund capital expenditure from operating cash flow, surplus and cash reserves, but is forecasting to commence borrowing for the first time in late 2020. Otago University has always had a strong operating base that generates net cash flows of around \$100.0 million per annum under a normal operating environment.
34. The current and future financial performances of all TEIs, including Otago University, are subject to negative impacts from COVID-19. However the university has put in place a number of risk mitigation actions including selective re-prioritisation of its capital programme to lessen the adverse effects of COVID-19 and maintain a good operating base for the future.

Educational Performance and Risk

35. The TEC considers that Otago University's educational performance is of a sufficient level that it is not likely to be subject to intervention that could present a risk to the on-going ownership of the Crown assets proposed for transfer. The University remains an effective university that responds well to educational needs in the context of the Tertiary Education Strategy.
36. Otago University continues to deliver very strong educational performance outcomes. In the 2020 reporting on its 2019 result, Otago University was the top University for the three Education Performance Indicators (EPIs) that are relevant to Universities – qualification completions, course completions and first year retention.

Educational Purpose- Current and Future ¹⁸	Area (ha)	Land Book Value (\$)	Building Net Book Value (\$)	Total Value (\$)	Proportion (%)	Notes
Academic space (including dedicated teaching and research space, academic and general support offices)	5.0685	38,575,000	226,992,000	265,567,000	62.8	
Central admin support	0.4179	2,579,000	6,046,361	8,625,361	2.0	
Centrally timetabled teaching space (lecture theatres, seminar and tutorial rooms)	0.0483	0 ¹⁹	13,008,000	13,008,000	3.1	
Library space including study centre and computerised student work spaces, information commons	2.3023	11,300,000	68,731,484	80,031,484	18.9	
Student and staff services space, including counselling and sports and recreation, student accommodation	1.6818	12,450,000	18,403,237	30,853,237	7.3	
Commercial space, including space leased or rented to others, bookshops, cafeteria	0.4220	3,761,000	14,449,892	18,210,892	4.3	Includes value of residential property for disposal at Alexandra, the Innovation Centre and ground leases to CRIs and Students Assn
Other considered on a case by case basis (anything not included elsewhere including transition, decanting and vacant space)	0.7637	270,000	6,390,000	6,660,000	1.6	Includes car parks, areas of open space and the value of a building vacated for seismic strengthening. Future use is identified as academic.
Total Crown-titled land, buildings on Crown-titled land; and Crown-owned buildings on third party (DHB) land	10.7045	68,935,000	354,020,974	422,955,974	100.0	Approximately 41% by value of all land and buildings managed by Otago University are Crown-owned ²⁰
Otago University managed buildings on third party (DHB) land				45,089,088		Assets subject to negotiation between UoOtago & DHBs
Total Crown-titled land and buildings on Crown-titled land (\$377,616,886 for transfer; and \$250,000 for disposal at Alexandra)				377,866,886		
Total Otago University owned land and buildings				606,078,903		
GRAND TOTAL – Crown-titled land and buildings on Crown-titled land; and Crown-owned buildings on third party (DHB) land; and Otago University-owned land and buildings				1,029,034,877		

¹⁸ The total land area and value of each site is attributed to the predominant educational purpose identified for the site. The value of individual buildings on each site is attributed to the educational purpose identified.

¹⁹ The value of this land has been included with other property due to the complexity of the building on the land crossing land title boundaries.

²⁰ Approximately \$196 million of buildings on Crown land are identified as having been built since 1990. These will have been funded by Otago University, but as there is no formal arrangement for occupation legally the buildings go with the land.

Appendix C: Overview of the Process for Considering Applications for the Transfer and/or Disposal of TEI-Managed Crown Assets

