


Climate Strategy Directors

Weekly Friday Meeting Pack


Agenda, 02/08

| | Time | Item | Lead | Decision Requested | Supporting Papers/Notes |
|---|---------------|--|----------------------------|--|--|
| 1 | 09.30 – 09.40 | Welcome/Karakia Confirm previous decisions and meeting outcomes Recent context | Chair: Steve Goodman | | <i>Email of key points and actions circulated 26/07. Included as slide 3 in pack for ratification.</i> |
| 2 | 09.40-09.45 | ERP2 Consultation Update | Charlie Harris-Miller, MfE | Note the progress in consultation to date | Oral Item |
| 3 | 09.45-10.15 | Treatment of the multi-sector strategy in the final plan - Māori Rights and Interest | Steve Goodman, MfE | Agree to a approval for a two-phased approach to inform the Minister of Climate Change of the Crown's Treaty obligations for developing ERP2 Note the requirements from agencies to deliver this approach | <i>Paper:</i> |
| 4 | Out of scope | | | | |
| 5 | | | | | |

Out of scope



Out of scope





Memo:

To: Climate Strategy Directors

From: Dave Kohai, Senior Policy Analyst, MfE

Date: 2 August 2024

Purpose

This memo seeks approval for a two-phased approach to inform the Minister of Climate Change of the Crown's Treaty obligations for developing ERP2 and seeks decisions to meet these requirements.

Background

Under the CCRA, in order to recognise and respect the Crown's responsibility to give effect to the principles of the Treaty of Waitangi, the Minister must include in an emissions reduction plan a strategy to recognise and mitigate the impacts on iwi and Māori of reducing emissions and must ensure that iwi and Māori have been adequately consulted on the plan.¹

This paper helps set out the steps to ensure these requirements are met, to reduce the risk of a successful challenge.

Proposed Two-Phased Approach

Phase 1: First briefing to MCC

Objectives and content:

1. **Advise MCC on the Treaty requirements set out in the CCRA:** outline the specifics of adequate consultation and mitigation of impacts, and recent relevant jurisprudence.
2. **Advise MCC on how we are tracking to meet these requirements including:**

¹ CCRA, s3A(ad). See also s 5ZG3(c) and s 5ZI(b).

- a) information on what has occurred to date and is currently in play to adequately consult Māori (the engagement approach) and mitigation of impacts (approach to distributive impacts), and whether they are or will be sufficient to withstand legal challenge;
 - b) what we understand about the Crown's broader obligations, if any, and how we are tracking to meet them with working being undertaken throughout government. This will include how current policy recognises Māori rights and interests.
 - c) note that we are still to learn more about the policy impacts on Māori rights and interests through consultation and this will inform our assessment of the Crown's obligations and options in the second briefing.
3. **Seek any decisions needed to meet these requirements that can be made now:** if our analysis shows there is risk to meeting either the Crown's specific or broader obligations, and we can make that determination now, options provide to MCC to rectify that now.

Timeline: Ready for submission by 15 August.

Phase 2: Second briefing to MCC (and relevant Ministers)

Objective and content:

1. **Update MCC on learnings from consultation and implications for assessment of the Crown's obligations under the CCRA**
2. **Seek final decisions on options to meet Treaty obligations under the CCRA, including other Ministers where relevant.** This may include decisions (with options) on:
 - a) whether the distributive impacts strategy is sufficient to meet the obligation to mitigate impacts on Māori and if not, options to do so.
 - b) possible changes to policy proposals needed to protect, or not undermine, specific Māori rights and interests;
 - c) additional policy proposals needed to ensure the Crown can meet any broader options identified as a product of engagement or related policy development.
 - d) agencies to share MRI assessments of policies with respective Ministers and MCC or MFE

Note: For new policies developed after this timeline, a continuous review process will be established.

What is required from agencies:

1. Feedback on, and agreement to, this approach to brief Ministers
2. Assessment of policies post consultation for alignment with Treaty requirements
3. Sharing of Māori rights and interests' advice on individual policies as decisions are sought by Ministers (both 2 and 3 can be fit for purpose and based on what agencies have already done/in the form that is best for agencies).

4. Contribution to joint advice for remaining decisions to meet Treaty requirements, such as any practical policy ideas.

Timeline: Completion and submission by mid-late September (to co-ordinate with DI update as they are closely linked).

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| Thursday 8 August | Consultation with agencies on First briefing |
| Thursday 15 August | First briefing to MCC |
| Wednesday 21 August | ERP2 Consultation finishes |
| Wednesday 28 August | Analysis of Māori-specific feedback |
| 21 August – 4 September | Cross-agency assessment of policy to determine decisions needed Advice to MCC on ERP2 (range of issues) |
| Week of Monday 9 September | Key policy papers to Ministers (Policy Briefings for Ministers incl CCC) |
| Week of Monday 9 September | Assessment of further decisions to be made to meet CCRA Treaty requirements based off policy briefings DI Decision Point for MCC |
| Mid-September | Consultation with agencies on second briefing |
| Mid-Late September | Second briefing to MCC (and relevant Ministers) |
| Late-September | Main Ministerial decisions on ERP2 policies |
| Late-September October | MCC Review of ERP2 |

