

20-D-01346

s9(2)(a)

s9(2)(a)

Thank you for your email of 17 October 2020 to the Ministry for the Environment (the Ministry) requesting the following under the Official Information Act 1982 (the Act):

*On 11 November 2019, in CAB-19-MIN-0585.01, Cabinet:*  
*"noted that the Minister for the Environment will direct officials to look for appropriate opportunities to collaboratively refine and co-design policy options with Māori during the next phase of the review in line with Cabinet's agreed Guidelines for Engaging with Māori;"*

*Under OIA, I request (related to the above cabinet minute):*

- any briefings, advice, aide memos, talking points, cabinet paper documents that include reference to opportunities to collaboratively refine and co-design policy options with Māori during the next phase of the review in line with Cabinet's agreed Guidelines for Engaging with Māori, provided by the Ministry, to either
  - Minister for the Environment, or
  - Associate Minister for the Environment Nanaia Mahuta

The Ministry has identified three documents in scope of your request, as listed in the following table:

Document no.	Document date	Content	Decisions	OIA sections applied
1	2 June 20	Email RM review MCR Oral Item	Released in full	N/A
2	16 June 20	Email Briefing 20-B-06774 RM Review 10 – MCR report back	Released in full	N/A
3	16 June 20	20-B-06774 RM Review 10 – MCR report back	Released in part	s9(2)(f)(iv)

The first two documents are released in full.

The third document is released in part. Some information is withheld under the following section of the Act:

9(2)(f)(iv) to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

The next phase of the review referred to in CAB-19-MIN-0585.01 has not yet occurred. The previous phase was the Resource Management Review Panel's (the Panel) process which finished with the receipt of the Panel's report, *New Directions for Resource Management in New Zealand*, by the Minister for the Environment.

The Panel made a number of recommendations that would shift a future resource management system towards providing for a more effective role for Māori and improved recognition of Te Tiriti o Waitangi, the majority of which are in Chapter 3 of its report.

As you may be aware, the Minister for the Environment released the Panel's report publicly in July 2020. In the paper the Minister took to Cabinet seeking approval to release the report, there was a noting recommendation that the incoming government will make all decisions about how to progress the Panel's findings. This Cabinet paper, along with other information pertinent to the review is publicly available and can be found at: [www.mfe.govt.nz/rmreview/](http://www.mfe.govt.nz/rmreview/).

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: [ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz).

Yours sincerely



Justin Strang  
Director, Natural and Built System

Released under the Official Information Act 1982

# Document 1

**From:** [Rereata Hardman-Miller](#)  
**To:** [Connie May Nisbet](#)  
**Subject:** FW: RM review MCR Oral item  
**Date:** Tuesday, 2 June 2020 3:03:10 PM

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Just heading into a meeting, but checking you have this? Do I need to give Kate or Lesley a call?

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**From:** Rereata Hardman-Miller  
**Sent:** Thursday, 28 May 2020 10:45 AM  
**To:** 'Simon King' <[Simon.King@mfe.govt.nz](mailto:Simon.King@mfe.govt.nz)>; 'Lesley Baddon' <[Lesley.Baddon@mfe.govt.nz](mailto:Lesley.Baddon@mfe.govt.nz)>; 'Angus White' <[Angus.White@mfe.govt.nz](mailto:Angus.White@mfe.govt.nz)>; 'Kate Sedgley' <[Kate.Sedgley@mfe.govt.nz](mailto:Kate.Sedgley@mfe.govt.nz)>  
**Subject:** RE: RM review MCR Oral item

Thanks for forwarding on Kate, but you guys might need to consider further before commissioning?

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**From:** Rereata Hardman-Miller  
**Sent:** Thursday, 28 May 2020 10:40 AM  
**To:** 'Simon King' <[Simon.King@mfe.govt.nz](mailto:Simon.King@mfe.govt.nz)>; 'Lesley Baddon' <[Lesley.Baddon@mfe.govt.nz](mailto:Lesley.Baddon@mfe.govt.nz)>; Angus White <[Angus.White@mfe.govt.nz](mailto:Angus.White@mfe.govt.nz)>; Kate Sedgley <[Kate.Sedgley@mfe.govt.nz](mailto:Kate.Sedgley@mfe.govt.nz)>  
**Subject:** RM review MCR Oral item

Hi team

As discussed with Simon and Lesley regarding the MCR report back and talking points:

- a briefing should be sent over that will have the talking points for MCR attached
- I suggest the briefing cover:
  - issues raised during hui earlier in the year
  - high-level matters the Panel's report will cover relating to Maori, and
  - if possible in the timeframes suggesting high-level options for how engagement could occur during the next phase of the review, including for Maori (i.e. how the obligations from the previous Cab minutewill be met).

John and the Minister will have feedback, so it may take some time to land the content of the talking points

Therefore, I recommend this briefing and talking points are sent over on Thursday 11 June by 3pm to enable:

- A review by John
- Conversation on Monday 15 or Thursday 18 June
- Refinements prior to Monday 22 June

Happy to discuss further.

Relevant Cab min recs below.

Cheers

**Rereata Hardman-Miller | Private Secretary (Environment)**

Office of Hon David Parker

Parliament Buildings | Wellington | New Zealand

Ph: 04 817 8870 MOB: 022 4930 068

**Engagement with Maori**

7 **noted** the feedback from Maori that they expect to be closely involved throughout the review;

9 **agreed** that the next phase of the review, following the delivery of the Panel's report, will be a broad, open process of public consultation following Cabinet consideration of the Panel's proposals;

10 **noted** that the Minister for the Environment will direct officials to look for appropriate opportunities to collaboratively refine and co-design policy options with Maori during the next phase of the review in line with Cabinet's agreed Guidelines for Engaging with Maori

11 **noted** that the Minister for the Environment will report to the Cabinet Maori-Crown Relations: Te Arawhiti Committee report on issues for consideration arising from the review before the Panel provides its final report;

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## Document 2

**From:** [William Collin](mailto:William.Collin)  
**To:** [Stephen.Walter@parliament.govt.nz](mailto:Stephen.Walter@parliament.govt.nz)  
**Cc:** [Lesley Baddon](mailto:Lesley.Baddon); [Jo Gascoigne](mailto:Jo.Gascoigne); [Janine Smith](mailto:Janine.Smith)  
**Subject:** FW: Briefing 2020-B-06774 RM Review 10 - MCR report back  
**Date:** Tuesday, 16 June 2020 10:21:23 AM  
**Attachments:** [image002.png](#)  
[2020-B-06774 RM Review 10 – MCR report back.pdf](#)

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Kia ora Stephen,

Please find a revised version of this briefing attached to include the matters from Janine below.

New rec c) added: “c. Discuss with Ministry for the Environment officials your expectations on how we approach working with Maori in the next steps of the review”

There is also new para 32 in the body to support the rec and a new action for the Office to arrange the meeting referred to above.

Nga mihi

Will

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**From:** Lesley Baddon <[Lesley.Baddon@mfe.govt.nz](mailto:Lesley.Baddon@mfe.govt.nz)>  
**Sent:** Tuesday, 16 June 2020 9:54 AM  
**To:** William Collin <[William.Collin@mfe.govt.nz](mailto:William.Collin@mfe.govt.nz)>  
**Subject:** FW: Briefing 2020-B-06774 RM Review 10 - MCR report back

FYI – I’ll check whether this means we need to do anything more

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**From:** Stephen Walter <[Stephen.Walter@parliament.govt.nz](mailto:Stephen.Walter@parliament.govt.nz)>  
**Sent:** Tuesday, 16 June 2020 9:29 AM  
**To:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>  
**Cc:** Lesley Baddon <[Lesley.Baddon@mfe.govt.nz](mailto:Lesley.Baddon@mfe.govt.nz)>  
**Subject:** FW: Briefing 2020-B-06774 RM Review 10 - MCR report back

FYI also in case it comes up while you’re in the seat. I’ll put this note across the briefing.

Stephen Walter  
Private Secretary (Environment)  
Office of Hon David Parker  
Parliament Buildings Wellington New Zealand  
Phone 04 817 8874 Mobile 022 517 0081

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**From:** Janine Smith [<mailto:Janine.Smith@mfe.govt.nz>]  
**Sent:** Monday, 15 June 2020 11:48 PM  
**To:** Stephen Walter <[Stephen.Walter@parliament.govt.nz](mailto:Stephen.Walter@parliament.govt.nz)>  
**Cc:** Lesley Baddon <[Lesley.Baddon@mfe.govt.nz](mailto:Lesley.Baddon@mfe.govt.nz)>  
**Subject:** FW: Briefing 2020-B-06774 RM Review 10 - MCR report back

Hi both

I have just read the briefing, depending on if the minister has already received this or not – can we please either put a note over top of it (if he has already received it) or amend the briefing to be really clear under the next steps for the review that first and foremost we would like to work with the minister to get clear on his expectations on how we approach working with iwi and Maori in the next steps of the review before we do anything further.

We can suggest a meeting with him to discuss his expectations and then have the te arawhiti information as background to support such a conversation but ultimately it will be the minister's call.

This is critical to get to him before he reads it

Thanks

Janine

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**From:** William Collin <[William.Collin@mfe.govt.nz](mailto:William.Collin@mfe.govt.nz)>

**Sent:** Monday, 15 June 2020 5:07 PM

**To:** [Stephen.Walter@parliament.govt.nz](mailto:Stephen.Walter@parliament.govt.nz)

**Cc:** Rereata Hardman-Miller (Parliament) <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Janine Smith <[Janine.Smith@mfe.govt.nz](mailto:Janine.Smith@mfe.govt.nz)>; Lesley Sadler <[Lesley.Sadler@mfe.govt.nz](mailto:Lesley.Sadler@mfe.govt.nz)>; Simon King <[Simon.King@mfe.govt.nz](mailto:Simon.King@mfe.govt.nz)>; Angus White <[Angus.White@mfe.govt.nz](mailto:Angus.White@mfe.govt.nz)>; Kate Sedgley <[Kate.Sedgley@mfe.govt.nz](mailto:Kate.Sedgley@mfe.govt.nz)>; Linley Wilkinson <[Linley.Wilkinson@mfe.govt.nz](mailto:Linley.Wilkinson@mfe.govt.nz)>; Dave Karl <[Dave.Karl@mfe.govt.nz](mailto:Dave.Karl@mfe.govt.nz)>; Connie May Nisbet <[ConnieMay.Nisbet@mfe.govt.nz](mailto:ConnieMay.Nisbet@mfe.govt.nz)>; Lisa Attrill <[Lisa.Attrill@mfe.govt.nz](mailto:Lisa.Attrill@mfe.govt.nz)>; Justin Strange <[Justin.Strange@mfe.govt.nz](mailto:Justin.Strange@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>

**Subject:** Briefing 2020-B-06774 RM Review 10 - MCR report back

Kia ora Stephen,

Please find attached Briefing 2020-B-06774 RM Review 10 - MCR report back.

Te Puna link to word doc: <https://tepuna.mfe.govt.nz/otcs/cs.dll/Overview/13655505>

Mgamihi

Will

**Will Collin**

Senior Policy Analyst, Resource Management Review

Ministry for the Environment – Manatu Mo Te Taiao

Mobile: 022 0128488 | Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

Environment House, 23 Kate Sheppard Place, PO Box 10362, Wellington 6143



Ministry for the  
**Environment**  
*Manatū Mō Te Taiao*



*Making Aotearoa New Zealand  
the most liveable place in the world*  
Aotearoa - he whenua mana kura mō te tangata

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## Document 3

### RM Review 10 – MCR report back

Date Submitted:	16 June 2020	Tracking #: 2020-B-06774
Security Level	<b>In-Confidence</b>	

To Hon David Parker, Minister for the Environment	<p><b>Action sought:</b></p> <p><b>Note</b> the talking points in Appendix 1 prepared for MCR on 23 June 2020.</p> <p><b>Discuss</b> with officials your expectations on how we approach working with Māori in the next steps of the review.</p> <p><b>Discuss</b> with Minister Davis inviting those members of MCR who are not also members of ENV to attend ENV on 23 July for the Panel's report.</p>	<p><b>Response by:</b></p> <p>18 June 2020</p>
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Actions for Minister's Office Staff	<p><b>Forward</b> this report to Minister Davis and Minister Mahuta</p> <p><b>Return</b> the signed report to iwi/ENV</p> <p><b>Invite</b> members of MCR who aren't also members of ENV, to attend ENV on 23 July (subject to agreement by Minister Davis)</p> <p><b>Arrange</b> a meeting with officials to discuss an approach to working with iwi/Māori in the next steps of the review.</p>
Number of appendices and attachments #3	<p>Titles of appendices and attachments (ie separate attached documents):</p> <ol style="list-style-type: none"> <li>Talking points for the report back to MCR</li> <li>Letter on the review from Minister Davis</li> <li>Letter on the review from Minister Mahuta</li> </ol>

#### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Connie May Nisbet	0220746321	
Responsible Manager	Kate Sedgley	0220764508	
Director	Lesley Baddon	021738357	✓

### RM Review 10 – RM Review Panel engagement with Māori and report to Māori-Crown Relations Committee

#### Key Messages

- This briefing supports your oral report back to the to the Māori-Crown Relations (MCR) Committee on 23 June 2020. It outlines the process for engagement and key issues and aspirations presented by Māori to the Resource Management Review Panel (the Panel), the Panel's proposed policy responses to those issues (at a high level) and the next steps for Māori engagement on the review process.
- Draft talking points are attached as **Appendix 1**.

## Recommendations

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3. We recommend that you:

- a. **Note** the talking points in Appendix 1 prepared to support your oral report to the MCR committee on 23 June 2020
- b. **Note** that Ministry for the Environment officials will work with Te Arawhiti to develop any proposals for engagement with Māori for the next steps of the Resource Management Review process
- c. **Discuss** with Ministry for the Environment officials your expectations on how we approach working with Māori in the next steps of the review  
Yes/No
- d. **Discuss** with Minister Davis, Minister for Māori Crown Relations and Chair of the MCR Committee inviting those members of the committee that are not members of the Cabinet committee to which you take the Panel's report to attend that meeting  
Yes/No
- e. **Forward** copies of this briefing to the Minister for Māori Crown Relations and Minister for Māori Development  
Yes/No
- f. **Agree** that this briefing and appendices will be released proactively on the Ministry for the Environment's website once the Panel's Report has been released.  
Yes/No

## Signature

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Lesley Baudon  
Director, Natural and Built System:

Date: 15/6/20

Hon David Parker  
Minister for the Environment

Date:

# RM Review 10 – Resource Management Review Panel engagement with Māori and report to Māori-Crown Relations Committee

## Supporting material

### Context

1. You have agreed to take an oral item to the Cabinet Māori-Crown Relations: Te Arawhiti Committee (MCR) on 23 June 2020 (2020-B-06773 refers) in accordance with the guidelines agreed by Cabinet for ministers and departments involved in contemporary Treaty of Waitangi issues (Cabinet Circular CO (19) 3 refers).
2. The guidelines include a requirement for ministers to report to MCR when they or their agencies are considering changes to policy or regulation intended to specifically improve outcomes for Māori.
3. The Panel has provided you with a draft report and it is appropriate for you to provide an oral report back to MCR ahead of your seeking Cabinet decisions on releasing and responding to the report.
4. The Panel has considered the issues and aspirations presented to them by Māori and has responded to these issues and aspirations within their proposed reforms. Your colleagues will likely want to understand this important aspect of their work before the Panel report is considered by the Cabinet Environment, Energy and Climate Committee (ENV) on 23 July and full Cabinet on 27 July.
5. Draft talking points for this meeting are attached as **Appendix 1**. The talking points provide:
  - an overview of Panel engagement with Māori
  - key messages the Panel heard from that engagement
  - an explanation of next steps, specifically completion of the Panel process and the development of a Crown plan for engagement on future reform work.
6. We propose that, subject to the agreement of the Chair of MCR (Minister Davis), you direct your office to invite any members of the MCR committee who are not also members of the ENV committee to attend the ENV meeting on 23 July where you will seek to publicly release the Panel's report, so that they can be part of a conversation on next steps.

### Terms of reference for the Panel and the Panel process

7. The review of the resource management system is of particular interest to Māori. Māori have high expectations for their continued involvement in the reform process due to the significant impact the resource management system has on kaitiakitanga and Māori interests.
8. As the primary vehicle for making decisions around natural and physical resources, the Resource Management Act 1991 (RMA) has a huge impact on how Māori are able to participate effectively in decisions about the resources that are important to them.
9. This has been recognised in the framework of the review of the resource management system. The terms of reference for the Resource Management Review Panel, confirmed by Cabinet (CAB-19-MIN-0585.01 refers), include:
  - ensuring that Māori have an effective role in the resource management system that is consistent with the principles of the Treaty of Waitangi, ensuring appropriate mechanisms for Māori participation in the system, including giving effect to Treaty

settlement agreements, and clarifying the meaning of 'iwi authority' and 'hapū', as key issues the review should address; and

- The Panel's engagement with Māori should support the government's efforts to strengthen Māori–Crown relationships and be consistent with relevant relationship agreements established through Treaty settlements.
10. The Panel is made up of independent experts and has had secretariat support from the Ministry for the Environment (MfE).
  11. You appointed Kevin Prime, an Environment Commissioner with deep knowledge of mātauranga and tikanga Māori, as a member of the Panel to ensure that the Panel was able to draw on skills and perspectives from te Ao Māori.

## Analysis and Advice

### *RM Panel engagement with Māori*

12. Due to the condensed nature of the Panel process, engagement with Māori was limited to:
  - using the existing MfE programme of regional hui
  - conversations with pan Māori organisations and iwi with Treaty settlements which the Ministry has agreements with
  - individual experts and commentators
  - your reference groups
  - working groups set up by the Panel
  - submissions to the Panel's consultation document - *Transforming the Resource Management System: Opportunities for Change – Issues and Options* (the Issues and Options paper)
13. You established reference groups to supplement the skills of the Panel. The reference groups related to te Ao Māori the urban and built environment, and the rural and natural environment (CAB 19-MIN-0585.01 letters). The te Ao Māori reference group met with the Panel to test their proposals at a meeting on 21 January 2020. Another combined meeting was held with the Panel and the other two reference groups split between two days on 4 May and 8 May
14. In addition, a te Ao Māori working group was established by the Panel to inform the development of their proposals.
15. Despite the consultation process for the Panel's Issues and Options paper occurring during a busy consultation period, the Panel received 14 detailed and comprehensive submissions from iwi/hapū groups and 3 from pan-Māori groups.
16. Over the course of the Panel's process they also met with a number individual experts (including Sir Joe Williams and Dame Anne Salmond) as well as pan-Māori and mana whenua groups representing a range of Māori interests throughout the process, to hear their views and test the Panel's thinking. These groups included:
  - Te Kāhui Wai Māori
  - Ngā Kaihautū Tikanga Taiao (the Environmental Protection Authority Māori Advisory Committee)
  - Independent Māori Statutory Board (established under the Local Government (Auckland Council) Amendment Act 2010)

- Mana Whenua Kaitiaki Forum (for Auckland)
  - Papa Pounamu (technical interest group within NZPI).
17. During February, the Panel travelled around the country attending regional hui, engaging with iwi and hapū. Hui ranged in size from five to 50 attendees. A highlight was the attendance of schoolchildren in Gisborne who were keen to engage in better understanding the resource management system. Regardless of size or composition, the level of engagement was high and insightful about the key issues facing Māori in the resource management system. The feedback (both written and verbal) was valuable in informing the Panel's final recommendations.
  18. The Panel also met with a number of iwi with unique Treaty settlement arrangements that intersect with the RMA and their settlements include particular obligations to engage early on policy. Many settlements have provided a greater role for iwi and hapū in decision-making, offering insights into a variety of working relationships.
  19. The Panel released Transforming the Resource Management System: Opportunities for Change – Issues and Options (the Issues and Options paper, in November 2019). In the Issues and Options paper, the Panel identifies the main issues with the system and offers possible ways to address them. The paper concludes each topic with a series of questions for interested parties to consider when submitting a response.
  20. The Issues and Options paper identifies “insufficient recognition of the Treaty and lack of support for Māori participation” as a reason that the current resource management system isn't performing well. It provides a summary of key problems with the current system and questions relating to the recognition of Te Tiriti o Waitangi /the Treaty of Waitangi and te Ao Māori within the system.

#### **Issues and aspirations presented by Maori**

21. Key themes emerging from the various engagements with Māori include:
  - the precedence of the protecting and restoring the natural environment, before enabling development or other economic considerations
  - the potential to apply a “Te Manu o te Wai” concept to the whole environment
  - greater recognition of the Treaty of Waitangi in the RM system – particularly develop a Treaty clause that is stronger than the current “take into account”
  - a National Policy Statement (NPS) on the Treaty
  - proper partnerships between Māori at central and local government level
  - the use of spatial (strategic) planning in a new system
  - funding needed for iwi and hapū to participate effectively
  - poor performance by councils in compliance monitoring and enforcement
  - importance of mātauranga Māori, and cultural monitoring in upholding kaitiakitanga
  - the first come first served approach - the current water allocation model is failing Māori and the environment.

*Input from the Minister for Māori Crown Relations and the Minister for Māori Development.*

22. You invited other ministers to suggest what the review should cover.
23. The issues identified in the letters received from Minister Davis, the Minister for Māori Crown Relations, and Minister Mahuta, the Minister for Māori Development are substantially the same as those identified in hui and submissions. They are referenced in

the Panel's report within their Terms of Reference, alongside other ministerial letters on the scope of the review process.

24. In his response Minister Davis noted that the RMA had not delivered on its potential to involve Māori as Treaty partners and kaitiaki. The Minister made suggestions for the process for the review and for the scope of issues to be covered. Minister Davis recommended that the depth and breadth of Māori interests in the RMA merits the engagement approach provided by the guidelines and framework for Crown engagement with Māori and the principles for building partnerships with Māori agreed by Cabinet<sup>1</sup>. He also requested that he join a ministerial governance group to oversee the review.
25. In her response, Minister Mahuta identified the need for the resource management legislation and planning system to provide better outcomes and opportunities for whānau, hapū, iwi and Māori communities and businesses.

### The Panel's response

26. The Panel provided you with a draft report on June 8. You have agreed (2020-B-06773) to aim to report to the Cabinet Environment, Energy and Climate Committee on 15 July or 6 August seeking agreement to publically release the Panel's final report.
27. The final report will include recommendations for a new system of resource management legislation. The Panel has drawn on the engagement and advice received from Māori to identify issues in the resource management system that their recommendations should address. These are:
  - Lack of recognition and provision for the Ao Māori in the purpose and principles of the resource management system. This also includes issues with the Treaty clause in the current section 8 of the RMA
  - Limited use of the existing mechanisms for mana whenua involvement in the RMA
  - Māori involvement in the resource management processes (resource consents), and there is an opportunity in a new system to provide for a greater role for Māori at the strategic end of the system
  - Lack of monitoring central and local government performance at meeting Treaty obligations
  - Capacity and capability issues for both government (central and local) and Māori to engage on resource management matters, and lack of funding and support for Māori to participate in the system
  - Local authorities and applicants for resource consents can find it difficult to know who the mana whenua in an area are and therefore which mana whenua group(s) to engage with. This often perpetuates the problems above.
28. The Panel recommends a number of remedies for these, including proposals to:
  - amend the purpose and principles of a reformed RMA
  - develop a more integrated approach to ensuring mana whenua involvement in resource management matters
  - require mandatory provision for mana whenua participation on new joint decision making bodies for regional strategy and planning

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<sup>1</sup> Cabinet Circular CO (19) 3 - Better Co-ordination of Contemporary Treaty of Waitangi Issues

- provide for greater monitoring and system oversight of performance regarding meeting Treaty obligations
- assist local authorities to identify which mana whenua group(s) with which they should be engaging
- increase support and funding to address capacity and capability issues.

**Next steps for the Panel Report**

29. The Panel process is drawing to a close. s 9(2)(f)(iv)

[Redacted]

[Redacted]

- providing a copy of the report to members of the te Ao Māori reference and working groups and meeting with them to discuss the report.

30. The next steps for the Panel report will be to release the report for a “broad, open process for public consultation” (CAB-19-MIN-0585.01 refer). We are currently designing this process, which will include the following (draft) objectives:

- importance of the report is understood
- New Zealand public, iwi /Māori and key stakeholders feel they have been listened to and their views taken into account in the final report
- main findings of the report are clearly articulated, easily accessible and understood by a key sector stakeholders and the New Zealand public
- key influencers have the information they need to provide credible perspectives on the findings of the report
- Iwi\Māori and stakeholders are clear about the next steps in the process and the timeframe around this.

**Next steps for the Review**

31. s 9(2)(f)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

35. The Panel’s Terms of Reference outline that Cabinet is responsible for making all decisions about how to progress the review findings and, constitutionally, Cabinet is the

body responsible for determining whether potential legislation should be brought before Parliament.

36. It will be important to have clarity about what is entailed and not entailed in the concept of co-design, and where, when and how it should be applied. The Te Arawhiti guidance on Building Closer Partnerships with Māori is a useful tool for supporting officials to do this.
37. The Te Arawhiti principles for all Māori Crown engagement are as follows:
  - i. build the relationship before focusing on the work
  - ii. plan together from the start
  - iii. value each parties' contribution and knowledge
  - iv. ensure outcomes are meaningful to all parties
  - v. be open, be flexible and accept risk
  - vi. shared decision-making.

38. s 9(2)(f)(iv)



#### Consultation and Collaboration

40. Te Arawhiti were consulted on the proposed approach for the MCR report back process.

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## Appendix 1

### RM Review report back to MCR Cab Committee – Draft talking points

- In November 2019 Cabinet agreed to the scope and terms of reference for a comprehensive review of the resource management system (CAB-19-MIN-0585.01).
- I appointed a Resource Management Review Panel to undertake this work.
- The Resource Management Panel has run their own process to fulfil their Terms of Reference agreed by Cabinet.
- They have developed a report outlining a proposal for a reformed resource management system.
- The Panel's final report will be provided to me by the end of this month (June).
- I will be reporting to the ENV Cabinet Committee to seek release of the Panel's report on 23 July.
- Today I am reporting back to this Committee on the engagement with Māori to date and the key messages the Panel were provided through that engagement.
- The Panel's process reflected the high level of interest by Māori and included:
  - My appointment of Kevin Prime, who has deep knowledge of mātauranga Māori and tikanga Māori to the Panel
  - Inclusion of matters of particular interest to Māori as key issues to be addressed by the Panel in their report
  - Requiring, through the Panel's Terms of Reference, the Panel to engage extensively with Māori while developing the report.
- The Panel released "Transforming the Resource Management System: Opportunities for Change – Issues and Options" in November 2019. In the Issues and Options paper the Panel identifies the main issues to be addressed in the reform process and offers possible ways in which they might be addressed.
- The paper identifies "insufficient recognition of the Treaty and lack of support for Māori participation" as a reason the current resource management system isn't meeting current challenges. It summarises key problems with the current system and poses questions relating to the recognition of the Treaty of Waitangi and te o Māori within the system.
- The Panel sought submissions on the Issues and Options paper to better understand the issues and aspirations of Māori for the objectives of the review.
- The Panel received 14 submissions from mana whenua groups and 2 from pan-Māori groups on the Issues and Options paper.
- The Panel provided a broad opportunity to meet and discuss the Issues and Options paper. This included 12 regional hui with Māori in February 2020. It also undertook specific hui with Treaty partners who have particular obligations to engage early on policy built into their Treaty settlements.
- The Panel also met key individuals and groups on various occasions to discuss the issues test their proposals including with:
  - Te Kāhui Wai Māori
  - Ngā Kaihautū Tikanga Taiao (the Environmental Protection Authority Māori Advisory Committee)

- Independent Māori Statutory Board for Auckland
- Mana Whenua Kaitiaki Forum for Auckland
- Papa Pounamu (NZPI technical interest group)
- Sir Joe Williams
- Dame Anne Salmond.
- Feedback from submissions and regional hui highlighted the following key points
  - Māori do not support balancing economic considerations with the environment. The environment should be the primary consideration for the system
  - There was support for an approach that applies a Te Mana o te Wai type framework to the whole environment
  - Recognition of the Treaty should be increased in the new RM system, including a Treaty clause that is stronger than the current "take into account"
  - a National Policy Statement (NPS) on the Treaty should be developed
  - Māori want to see a true partnership within the system both at central and local government level
  - Support for the use of spatial planning in a new system.
  - Funding is a major barrier to Māori participation in the system
  - The current model is resource intensive for Māori and not effective
  - Māori do not consider that councils are doing a good job in compliance monitoring and enforcement
  - Mātauranga Māori's key and cultural monitoring is an important aspect of upholding kaitiakitanga
  - The water allocation model is failing for Māori and the environment and a move away from a first-come first-served regime is supported.

● s 9(2)(f)(iv)

The detail of the engagement approach with Māori as part of the next steps of the review process is still being developed.

● s 9(2)(f)(v)

I will report back again with appropriate detail once Cabinet has considered the final report from the Panel and decisions are sought on next steps.

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# Hon Kelvin Davis

MP for Te Tai Tokerau

Minister for Māori Crown Relations: Te Arawhiti

Minister of Corrections

Minister of Tourism

Associate Minister of Education



27 AUG 2019

Hon David Parker  
Minister for the Environment  
Parliament Buildings  
Private Bag 18041  
WELLINGTON 6160

**By email:** [d.parker@ministers.govt.nz](mailto:d.parker@ministers.govt.nz)

Tēnā koe David

This letter responds to the recent invitation from Cabinet to write to you with specific issues that fall within scope of the comprehensive review of the Resource Management Act 1991 (RMA) you recently announced.

I support your proposal to tackle the core problems in the resource management system. Reducing complexity and protecting the environment are important objectives and well aligned with Māori interests. On their own however these objectives are insufficient to address other fundamental problems for Māori under the RMA.

When the RMA was enacted it was widely seen as an opportunity for Māori to be more effectively involved as Treaty partners and kaitiaki in resource management. That promise has not been consistently delivered through the implementation of the RMA. Māori have consequently turned to Treaty settlements, which have produced positive but varying outcomes. The upcoming review is an opportunity to avoid the implementation problems of the RMA and to systematically build upon the progress made through Treaty settlements. The need for Māori to be better involved in decision making under the RMA was a key theme when I consulted on the scope of my portfolio.

I am pleased that the review will uphold the core principles in part 2 of the RMA. They represent some of the Crown's most progressive provisions for meeting its Treaty responsibilities in legislation. However, the policy intent of these provisions has not always been realised. The current framing of the review raises doubts that this will be directly addressed. I recommend the final scope and terms of reference require the review to realise the intent of the core principles as they relate to Māori interests.

It will be crucial for the policy proposals developed by the review group to reflect the government's current efforts to strengthen Māori Crown relationships. The review group must therefore include members with appropriate expertise in te ao Māori, as you intend. However, the appointee(s) will not have a mandate to speak for all Māori. I recommend the final terms of reference be explicitly amended to require the review group's proposals to be consistent with the Crown's duties as a Treaty partner. I also recommend you establish a Māori reference committee to assist the review group.

I am heartened that relevant aspects of Treaty settlements will be carried over in any new regime. This work will be complex but critical for ensuring the durability of settlements. I look forward to my officials working closely with the review group on this matter.

The review group's approach to engagement with Māori is not yet finalised. Given the depth and breadth of Māori interests in the RMA, the engagement approach needs to align with the guidelines and framework for Crown engagement with Māori and the principles for building partnerships with Māori agreed by Cabinet. This will require broader and more collaborative engagement with Māori than currently proposed. It will also be important for the engagement to be consistent with relevant relationship agreements established through Treaty settlements. I therefore recommend you engage with post settlement governance entities on the scope of the review.

The table below includes further information on specific issues relevant to my portfolio. Given the significance of these issues, I ask that you add members to the Ministerial governance group to oversee the review and instruct your officials to undertake a complete stocktake of issues for Māori under the RMA. At the appropriate time I also ask that you report to the Cabinet Māori Crown Relations: Te Arawhiti Committee on the issues for Māori arising from the review, as required by the Cabinet Office circular CO (19) 3 - *Better Coordination of Contemporary Treaty of Waitangi Issues*.

I appreciate the need for a focussed and efficient review of the RMA and I am confident that the issues raised in this letter can be addressed without delaying the review unduly.

Thank you for progressing this difficult but vitally important work. I look forward to the next phase.

Nāku noa, n



Hon Kelvin Davis  
Minister for Māori Crown Relations: Te Arawhiti

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Provision of the

Comprehensive RMA review – engagement issues for Māori Crown relations

The process for the review should:

1. Be consistent with Cabinet's engagement framework/guidelines for engagement with Māori and principles for building closer partnerships which, in light of the significance of the kaupapa, would require collaboration at multiple levels of Māori society.
2. Be consistent with the Cabinet Office circular (19) 3 - *Better Co-ordination of Contemporary Treaty of Waitangi Issues*.
3. Support the whole of government strategy that Cabinet has decided to develop in response to the Waitangi Tribunal's WAI 262 report.
4. Take into account work already completed on issues for Māori in resource management (including relevant reports from Waitangi Tribunal, the Iwi Leaders Group, and Kāhui Wai Māori).

Comprehensive RMA review – policy issues for Māori Crown Relations

The review group's proposals should:

1. Reinforce the significance of sections 6(e), 7(a) and 8 and provide mechanisms to ensure they are appropriately implemented.
2. Encourage partnership arrangements between Māori and agencies/local government especially in relation to planning processes.
3. Provide mechanisms for promoting the uptake of agreements under sections 33 and 36B.
4. Include procedural principles to reinforce requirements for Māori to be involved in decision making where their rights and interests are affected.
5. Address barriers which prevent fair access for Māori to natural resources (including freshwater, coastal space etc).
6. Require robust monitoring and enforcement of local government performance in relation to Māori involvement in resource management.
7. Effectively accommodate Māori land tenure.
8. Clarify the role and status of iwi management plans.
9. Ensure the durability of Treaty settlements and the integrity of the Marine and Coastal Area (Takutai Moana) are actively supported.
10. Remove barriers to effective Māori participation on hearing committees.
11. Enable more effective participation of Māori Land Court judges in Environment Court proceedings where appropriate
12. Be well integrated with other national direction relating to Māori interests.
13. Promote capacity and capability building for Māori in resource management processes.

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MP for Hauraki-Waikato

Minister for Māori Development

Minister of Local Government

Associate Minister for the Environment

30 JUL 2018

Hon David Parker  
Minister for the Environment  
Parliament Buildings

Tēnā koe David

Hau karioi ki Raukawa Moana, hau ai noa ki Te Whanganui ā Tara. Whātoro wāhau mātu, whakaneinei atu, whakatetonga. Nei rā aku mihi; tēnei ka hāro atu, tēnā ka hāro māu.

Taiope noa te au o aituā, te aupounamu ki te Honoiwairua. Taiea noa ko tā au māu i nei, hāpai ake ai, i te pūkainga kaupapa i waihotia mai.

Thank you for the opportunity to consider the proposed stage approach to resource management and planning system reform from the perspective of my Māori Development and Local Government portfolios.

#### *First stage RMA reform*

I support your proposals for a Resource Management Amendment Bill to be introduced in 2018. They will address a number of my concerns around the 2017 RMA amendments that could adversely impact public participation and local decision-making. In particular, I support reducing the limitations that the 2017 RMA amendments placed on notification and appeals, and removing powers established in the 2017 RMA amendments that may undermine local decision-making. I also support improving the compliance and enforcement mechanisms in the RMA.

#### *Second stage RMA reform*

I support that all reform to the resource management system must uphold Part 2 of the RMA, provide for local decision-making and public participation opportunities, and achieve good environmental outcomes.

I consider that any future reform to the resource management and planning system should take the opportunity to provide better outcomes and opportunities for whānau, hapū, iwi, and Māori communities and businesses.

Please find below a list of issues and opportunities associated with Māori interests in the resource management system which you could consider as part of the second stage RMA reform.

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*General environmental issues*

1.	Ensuring that Māori have a more effective and influential role in the resource management and planning system that: <ul style="list-style-type: none"><li>a. Recognises and provides for their role as kaitiaki</li><li>b. Provides for partnership arrangements between Māori and other agencies in the management of natural and physical resources</li><li>c. Ensures active protection of resources and areas of cultural significance to Māori.</li></ul>
2.	Addressing planning and consenting barriers to building on Māori land: <ul style="list-style-type: none"><li>a. Many councils do not specifically provide for papakāinga in their district plan. This could be a requirement through a range of options</li><li>b. District plans have differing frameworks and rules for Māori which are difficult for whānau, hapū and iwi to interpret and comply with, and some are overly restrictive</li><li>c. Lack of expertise among some council officers to effectively engage with Māori when making decisions that affect how Māori land can be used</li></ul>
3.	Assessing the role and status of iwi management plans in the context of Te Awa Whakahoā ā Rohe and other partnership agreements in a post-settlement context.
4.	Clarifying the term iwi authority in the RMA and how the Crown supports local authorities to determine who are the appropriate iwi authorities within their region or district.
5.	More effective implementation of the clear directives in sections 6(e), 7(a) and 8 of the RMA to recognise and provide for Māori interests through policy statements, plans and decisions on resource consents.
6.	Ensuring the planning system is agile, effective and equitable in providing for Māori interests and responding to future states, including changing water rights, interests and allocations; changing biodiversity values, and the transition to a low carbon economy.

*Whenua Māori environmental issues*

7.	Greater recognition of rangatiratanga in the planning system. Ensuring Māori can use their land for their own purposes. Need to balance any increase in environmental regulation with the need to provide rangatiratanga in accordance with Te Tiriti o Waitangi. There should be no increase in regulatory and restrictions on Māori land but rather the existing barriers need to be removed.
8.	Ensuring the planning system complements the Whenua Māori work programme to enable Māori landowners to use their land how they wish.

*Whānau Wellbeing and Māori Growth environmental issues*

9.	Reviewing development contribution applicability and potential exclusions for papakāinga developments and other developments on Māori land.
10.	Addressing overlaps in the land development system which frustrate and/or slow whānau or hapū land developments: <ul style="list-style-type: none"><li>a. Better alignment and certainty when applying for resource consents (or other permits) from different authorities</li><li>b. Better alignment and certainty between the resource and building consent processes.</li></ul>

I look forward to discussing these issues and opportunities for the second stage RMA reform further with you. Ngā mihi nui ki a koe.

Nāku noa, nā



Hon Nanaia Mahuta  
Te Minita Whanaketanga Māori

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