



Iwi/Māori provisions in the Zero Emissions Bill policies

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Security Level	IN-CONFIDENCE	MfE Priority:	Non-Urgent

	Action sought:	Response by:
To Hon James Shaw, Minister for Climate Change	For information	12 November 2018

Actions for Minister's Office Staff	Return the signed report to MfE
Number of appendices and attachments #1	Titles of appendices and attachments (ie separate attached documents): 1. Table of considerations of iwi/Māori provisions in the Zero Emissions Bill (as intended in the draft Bill Cabinet Paper dated 8 November 2018)
Note any feedback on the quality of the report	

Ministry for the Environment contacts

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Iwi/Māori provisions in the Zero Emissions Bill policies

Purpose

1. At the Officials' Meeting on Monday 5 November 2018, you requested information on how we have considered iwi/Māori issues in the Zero Emissions Bill (the Bill) policies.
2. We provided you with an earlier briefing note setting out how we are engaging with iwi/Māori and how the Treaty of Waitangi (Te Tiriti o Waitangi, the Treaty) has been considered in the Bill [briefing 2018-B-04979]. Our previous briefing related to the draft Cabinet Paper dated 10 October 2018.
3. This new briefing provides an update as a result of policy changes since 10 October 2018 that affect iwi/Māori provisions in the Bill, and is current as of 8 November 2018.
4. For clarity, this briefing sets out iwi/Māori provisions included in the Bill Cabinet Paper in a table in Appendix 1. Key iwi/Māori provisions in the Bill include:
 - specific requirements to consult with hapū, iwi and Māori and to consider matters of interest to them. This includes consideration of mātauranga Māori in the budgets and in the National Climate Change Risk Assessment and National Adaptation Plan
 - a nominating committee for the Commission, which shall include Māori representation (no fewer than two of the four nominating committee members)
 - necessary expertise on the Commission: Te Tiriti o Waitangi, te reo me ona tikanga Māori, te ōhanga Māori, mātauranga Māori, and Māori interests
 - a Māori Advisory Committee to support the Commission.
5. Note that the briefing note on the revised draft Zero Emissions Bill Cabinet Paper [2018-B-05099] that you will be receiving today (8 November 2018) outlines changes from a different version of the Cabinet Paper still, dated 5 November 2018.
6. This briefing details how recent policy changes address iwi/Māori comments on the Bill. It also discusses the reasons why some policy areas diverge from iwi/Māori views, in particular with respect to a Treaty clause in the Bill and the Māori Advisory Committee.

Amendments since the 10 October 2018 version of the Bill Cabinet Paper that affect iwi/Māori provisions in the Bill

7. In sections relating to the overall zero emissions framework, emissions budgets, adaptation, Climate Change Commission, and transitional provisions the paper now reflects that the Bill will give regard to the Treaty principles through incorporating specific requirements to consult with hapū, iwi and Māori and to consider matters of interest to them.
8. The paper previously recommended in the overall framework section that the Bill should recognise and respect the Crown's responsibility to take appropriate account of the Treaty. While we heard from the Federation of Māori Authorities (FOMA) and the New Zealand Māori Council (NZMC) that a Treaty clause should be included in the preamble of the Bill [briefing 2018-B-04858], the above approach in the Cabinet Paper is consistent with the intent to legislate specific measures that enable the Treaty principles to be given effect.
9. The Bill Cabinet paper now contains a recommendation to authorise the release of an exposure draft of the Bill for targeted consultation with iwi and Māori. This is required to enable us to engage with iwi and Māori groups during the drafting of the Bill [briefing 2018-B-05028].
10. Note also that recommendations for the review of targets allow for the Commission to

recommend a target review due to significant changes to the distribution of impacts and equity implications (including generationally), among other specific factors.

11. Recommendations for the review of emissions budgets have been amended. Submissions received from iwi/Māori recommended that exceptional circumstances be clearly defined for the review of emissions budgets. In an earlier version of the Cabinet Paper, we considered that defining the exceptional circumstances in which budgets could be revised would risk inadvertently omitting an event that should warrant such a revision. In the current version of the Cabinet Paper, budget reviews would be possible if significant changes affect the considerations on which the emissions budgets were originally formulated. These considerations are detailed in the Cabinet Paper and include mātauranga, the Māori economy, and the distribution of impacts and their equity implications.
12. Recommendations with respect to the necessary expertise of the Commission now also includes te ōhanga Māori (Māori economy) and mātauranga Māori. This is in addition to other proposed necessary expertise, which also covers Te Tiriti o Waitangi, te reo me ona tikanga Māori, and other Māori interests.
13. Clarifications were also made with respect to transitional provisions that allow the first appointments to the Commission to be made without a nominating committee. This transitional process is now clarified, with a requirement for officials supporting these appointments to seek input from hapū, iwi and Māori representative organisations and others who might have an interest.

Current policies on the Māori Advisory Committee are not supported by iwi/Māori

14. Policies that relate to the Māori Advisory Committee have not changed since our last briefing.
15. In August 2018, the Federation of Māori Authorities (FOMA), the New Zealand Māori Council (NZMC) and Iwi Leaders Group (ILG) expressed concern that to date Māori Advisory Committees were not supported as a mechanism for achieving their proposed functions to consult appropriately with hapū, iwi and Māori and consider Māori views thoroughly. They reflected that this was mostly due to the lack of resourcing, funding and weighting that would be given to the advice of previous Māori Advisory Committees.
16. Their preference was to ensure representation in the Commission, and expertise in the secretariat for these functions.
17. We agree that a Māori Advisory Committee should not detract from the need for the Commission to include relevant expertise in te ao Māori. Consultation requirements would also ensure that the Commission consult with hapū, iwi and Māori before recommending a budget or revised budget, and before giving advice about plans and policies.
18. We are concerned, however, that over time Māori advisory functions might become under-resourced in a secretariat that is focused on technical skills and expertise. We have therefore retained the Māori Advisory Committee as a means of securing these three or four positions in statute.
19. The nominating committee for the Commission will include Māori representation (no fewer than two of the four nominating committee members). The Commission will appoint the Māori Advisory Committee.

Amendments to target policies that were of particular interest to iwi/Māori submissions

20. While common themes from iwi/Māori submitters related to the Treaty principles of partnership, participation and protection, comments were also received on a broader range of issues, including in relation to the emissions reductions targets.

21. With respect to the target options presented in the consultation document, iwi/Māori submitters generally preferred the “net zero long-lived gases and stabilised short-lived gases” and “net zero emissions” options.

Net zero long-lived gases and stabilised short-lived gases

22. Iwi/Māori generally commented that the proposed stabilisation level for short-lived gases needed to be clarified, including the process around setting it.
23. Iwi/Māori submitters did not support a stabilisation of short-lived gases at current levels as they considered it lacked ambition and would not provide the necessary incentives for agriculture. This is consistent with our advice (and that of the Parliamentary Commissioner for the Environment) that suggest that methane emissions must be reduced, but do not need to reach zero [2018-B-04702]. Note that we are providing preliminary advice on an appropriate range within which the gross Domestic Targets could be set in the briefing note on the revised draft Zero Emissions Bill Cabinet Paper [2018-B-05099] that you will be receiving today (8 November 2018). Further advice will follow on 15 November 2018.
24. The current version of the Cabinet Paper is addressing this by recommending an international target to 2050 to reduce all greenhouse gases to net zero and two domestic targets to 2050 for biogenic methane and for all other greenhouse gases be set in legislation.

Plausible pathways

25. Iwi/Māori submitters also suggested that the strategic steps needed to reach the 2050 targets should be clarified. This is addressed by the introduction of emissions budgets. These will be advised by the Commission, and will assist in the achievement of the emissions reductions targets. These plausible pathways will identify the feasibility, risks and necessary measures with respect to achieving these emissions budgets/targets. This would also include clarifications on the potential contribution of forestry to emissions reductions by 2050, an area in which iwi/Māori have a particular interest.

The role of international units

26. Iwi/Māori submitters were concerned about the integrity of international emissions reduction units, with the majority in favour of achieving the target[s] through domestic action only.
27. The Cabinet Paper accommodates this perspective. It recommends that international units with high environmental integrity can be used to achieve the emissions neutrality target and the emissions budgets. The level of international units allowed into the system will be subject to the advice and recommendations of the Commission. It further recommends that domestic action only be counted towards achievement of the Domestic Targets.

Recommendations

28. We recommend that you:

- a. **note** the changes since the 10 October 2018 version of the Bill Cabinet Paper that affect iwi/Māori provisions
- b. **note** that the table appended provides the latest policy provisions which respond to Treaty principles

Signature



Sue-Ellen Fenelon
Manager
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9/11/18.

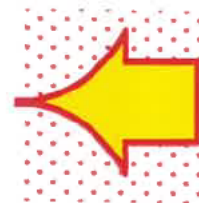
Date



Hon James Shaw
Minister for Climate Change

10/10/18

Date



Appendix 1. Table of considerations of iwi/Māori provisions in the Zero Emissions Bill (as set out in the draft Bill Cabinet Paper dated 8 November 2018)

Function in the Bill	Crown-Māori partnership	Engagement and consultation with a wider range of Māori perspectives (participation)	Consideration of Māori interests and support for a just transition (protection)
Targets review			Following its target review, the Commission may recommend the Government amend any or all of the targets due to significant changes in the distribution of impacts and equity implications (including generationally).
Budget setting		<p>When recommending an emissions budget, the Commission must consult with hapū, iwi and Māori. The Commission must also have regard to a range of matters. These include mātauranga, the Māori economy, and distributional impacts.</p> <p>This does not limit the power of the Commission to consult broadly in preparing any of its advice.</p> <p>Should the proposed emissions budget depart from the Commission's advice, the Minister must decide whether further consultation with persons and/or sectors that are likely to have an interest in the level of an emissions budget is necessary. In doing so, the Minister must consider the scope of the Commission's consultation and be satisfied that adequate consultation has occurred (eg, ensuring that hapū, iwi and Māori have been consulted).</p>	<p>When preparing its advice on emissions budgets, the Commission must have regard to:</p> <ul style="list-style-type: none"> science, including a broader range of knowledge (such as mātauranga Māori) the likely impact of the decision on the economy and the competitiveness of particular sectors of the economy, including the Māori economy the distribution of impacts and their equity implications in the capacity to mitigate and adapt to climate change, for example across regional, social, cultural and intergenerational circumstances <p>When determining the emissions budgets, the responsible Minister must have regard to the same matters listed above.</p>

Function in the Bill	Crown-Māori partnership	Engagement and consultation with a wider range of Māori perspectives (participation)	Consideration of Māori interests and support for a just transition (protection)
Budget review		Same as for budget setting.	<p>The Commission may recommend that existing emissions budgets are revised when significant changes have affected the considerations on which the emissions budgets were originally formulated (as per the considerations listed above).</p> <p>When determining whether to revise a budget, the responsible Minister must take the Commission's advice and considerations required when setting emissions budgets (as per the considerations listed above).</p>
Plans and policies		Same as for budget setting.	<p>The responsible Minister must prepare a plan, which will include a strategy to recognise and mitigate impacts on workers, regions, hapū, iwi and Māori, and wider communities, including how any action can be funded.</p> <p>The responsible Minister must ensure that the plans and policies appropriately represent and articulate te ao Māori perspectives.</p>
National Climate Change Risk Assessment		There would be no consultation requirement for the NCCRA, as it is intended to be the evidence base that will inform the development of the National Adaptation Plan.	<p>In preparing the NCCRA, the Commission must take into account:</p> <ul style="list-style-type: none"> economic, social, health, environmental and cultural impacts of climate change, including on hapū, iwi and Māori

Function in the Bill	Crown-Māori partnership	Engagement and consultation with a wider range of Māori perspectives (participation)	Consideration of Māori interests and support for a just transition (protection)
National Adaptation Plan		<p>When preparing a National Adaptation Plan, the responsible Minister must:</p> <ul style="list-style-type: none"> • seek input from hapū, iwi and Māori, local government and any stakeholders the Minister considers relevant • undertake public consultation on the draft National Adaptation Plan • have regard to any submissions and feedback provided in relation to the draft National Adaptation Plan. 	<p>When preparing the National Adaptation Plan, the responsible Minister must take into account:</p> <ul style="list-style-type: none"> • economic, social, health, environmental and cultural impacts of climate change, including impacts of hapū, iwi and Māori • the distribution of these impacts across society, taking particular account of vulnerable groups or sectors • the capacity and capability of communities or entities to undertake adaptation action, including how any actions will be funded • the best available information, including scientific and technical advice, and mātauranga Māori <p>The responsible Minister must prepare an National Adaptation Plan that sets out matters including measures and indicators that will enable regular monitoring and reporting on the implementation of the strategies, policies and proposals.</p> <p>[The below is not in the Cabinet Paper but relevant for iwi/Māori considerations.]</p>

Function in the Bill	Crown-Māori partnership	Engagement and consultation with a wider range of Māori perspectives (participation)	Consideration of Māori interests and support for a just transition (protection)
			<p>The Ministry considers that it would make sense to commission further work in the context of the development of the National Adaptation Plan to develop indicators to measure the state of cultural impacts. These could form one part of a suite of indicators against which the Plan could be assessed in the future, and where practicable they could also be used by the Ministry's Environmental Reporting programme.</p> <p>To implement this action fully, however, particular additional work would need to be commissioned. This is likely to require significant additional resourcing for which budget has not yet been allocated. We plan to seek additional budget to support this work.</p>
The Commission performing its functions		<p>As laid out above, the Commission must consult with hapū, iwi and Māori before:</p> <ul style="list-style-type: none"> recommending an emissions budget or revised emissions budget giving advice about plans and policies for meeting an emissions budget. 	<p>When performing its functions, the Commission will consider matters including:</p> <ul style="list-style-type: none"> economic impacts, including, for example, impact on the ability for Māori to access economic opportunities social and environmental circumstances, including regional and sector differences at a local level.
Appointment of Commissioners	Nominations of Commissioners would be drawn from a statutory nominating committee, which	The responsible Minister must consult with hapū, iwi and Māori before recommending the appointment of a person as a	Before recommending appointments to the Commission, the responsible Minister must have regard to the need for the Commission to include both technical and professional

Function in the Bill	Crown-Māori partnership	Engagement and consultation with a wider range of Māori perspectives (participation)	Consideration of Māori interests and support for a just transition (protection)
	shall include Māori representation (no fewer than two of the four nominating committee members).	<p>Commissioner (including as chairperson or deputy chairperson).</p> <p>The Bill will allow the first appointments to be made without a statutory nominating committee. The process will be supported by officials, who will be required to seek input from hapū, iwi and Māori, and others who might have an interest, before advising the Minister on a list of potential candidates.</p>	<p>skills, experience, expertise and innovative approaches relevant to:</p> <ul style="list-style-type: none"> the environmental, social, economic and distributional impacts of climate change, including regional and sector differences at a local level, and climate change policy interventions Te Tiriti o Waitangi, te reo me ona tikanga Māori, te ōhanga Māori, mātauranga Māori, and other Māori interests
Māori Advisory Committee	<p>The Bill will establish a Māori Advisory Committee to the Commission, whose functions are to:</p> <ul style="list-style-type: none"> facilitate effective engagement between the Commission and iwi, as well as the wider Māori community give advice and assistance to the Commission in considering te ao Māori perspectives. 		