



Briefing: Options on progressing the Government response to the report of the Māori Affairs Committee on Māori climate adaptation

Date submitted: 6 December 2023

Tracking number: BRF-3994

Security level: Policy and Privacy

MfE priority: Urgent

Actions sought from Ministers

<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Simon WATTS Minister of Climate Change	Provide feedback on the recommendations in this briefing	7 December 2023
CC Hon Nicola WILLIS Associate Minister of Climate Change		

Actions for Minister's office staff

Forward to Hon Tama POTAKA

Return the signed briefing to the Ministry for the Environment (ministerials@mfe.govt.nz)

Appendices and attachments

1. Māori Affairs Committee report: Briefing on Māori climate adaptation
2. Draft Cabinet paper - Government response to the report of the Māori Affairs Committee on Māori climate adaptation

Key contacts at Ministry for the Environment

<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Jaime Eaton		
Responsible Manager	Dáire Queenan	027 226 3989	
General Manager	Katherine Wilson	021 146 3122	✓

Minister's comments

Options on progressing the Government response to the report of the Māori Affairs Committee on Māori climate adaptation

Key messages

1. On 22 February 2023, the Māori Affairs Committee initiated a briefing to receive information on how climate change adaptation may affect Māori, with a particular focus on managed retreat.
2. The Committee's report (Appendix 1) was published on the Parliament's website on 5 July 2023. It makes 22 recommendations to the Government.
3. Standing Order 256 requires the Government to present a formal response within 60 working days of the report's publication. This time period was paused when Parliament dissolved, and the new deadline for the Government response is now 22 December 2023 (less than three weeks from the time you receive this briefing).
4. Given the early stages of policy on a climate adaptation framework, we recommend the Government respond with a general statement welcoming the report as a contribution to the policy work programme.
5. If you wish to meet the deadline, it would require a shorter period of agency and ministerial consultation to enable you to take a paper to Cabinet in December 2023 and present the response to the House by 22 December 2023.
6. A draft Cabinet paper and Government response has been attached for your feedback (Appendix 2). If you wish to meet the deadline, we seek your feedback on 7 December 2023 and your approval to circulate these papers for consultation on 8 December 2023.

Recommendations

We recommend that you:

- a. **note** that Standing Order 256 requires the Government to present a formal response within 60 working days of the publication of the Committee's report, with the deadline being 22 December 2023
- b. **note** that any paper presented to Cabinet or Cabinet Business Committee before the end of 2023 will require a shortened agency and ministerial consultation period
- c. **note** failing to meet this deadline would constitute a breach of the Standing Orders
- d. **note** that a breach of Standing Orders would not have direct impacts on the climate adaptation work programme.
- e. **agree** to present a general Government response to the House thanking the Committee for their report

Yes | No

- f. **agree** to present the Government response to the House

either

- i option 1 - before the end of 2023

Yes | No

or

- ii option 2 - in early 2024

Yes | No

- g. **direct** officials to update the attached Cabinet paper and response to reflect your feedback

Yes / No


- h. **authorise** officials to begin agency consultation

Yes / No

- i. **agree** to circulate the attached draft Cabinet paper, once updated with any feedback you have provided, for ministerial consultation from 8–12 December 2023.

Yes / No

Signatures



Nadeine Dommissse

**Deputy Secretary, Environmental
Management and Adaptation**

6 December 2023

Hon Simon Watts

Minister of Climate Change

Date

Options on progressing the Government response to the report of the Māori Affairs Committee on Māori climate adaptation

Purpose

1. This briefing seeks your direction on progressing the Government response to the Māori Affairs Committee's briefing on Māori climate adaptation.

Background

2. On 22 February 2023, the Māori Affairs Committee initiated a briefing to receive information on how climate change adaptation may affect Māori, with a particular focus on managed retreat.
3. Officials from the Ministry for the Environment and Te Puni Kōkiri acted as advisors to the Committee, under the authorisation of their respective Ministers.
4. The Committee's report was published on the Parliament's website on 5 July 2023. It makes 22 recommendations on principles for the Government to take into account when developing and implementing law and policy related to climate change adaptation (see Appendix 1).
5. Standing Order 256 requires the Government to present a formal response to the recommendations from committee reports within 60 working days of the reports' publication. The period of 60 working days was paused when Parliament dissolved. With 14 working days (three weeks) remaining since Parliament reconvened, this means that the response is due by 22 December 2023.

Analysis and advice

6. The Māori Affairs Committee's recommendations are broad ranging. The recommendations are grouped as:
 - adaptation planning processes
 - adaptation engagement processes
 - adaptation funding policies and frameworks.
7. Each grouping includes a recommendation to give effect to the Treaty of Waitangi and then covers more specific recommendations about that theme.
8. Given the early stages of the Government's work programme on adaptation, we recommend further analysis on these recommendations be integrated into upcoming advice to support the Government's adaptation work programme.

9. We recommend the Government present a general response to the House thanking the Committee for their contribution to the adaptation work programme and note the recommendations. (Appendix 2)
10. If you agree to present a general response, rather than a detailed response, there are two broad options for the timeframe for presenting the Government response to the Committee's briefing.
11. Option 1 is meeting the deadline of 22 December 2023. To meet this deadline, you will need to take a paper either directly to Cabinet on 18 December 2023 or Cabinet Business Committee (CBC) on 20 December 2023. This would enable you to present the response to the House before the summer recess.
12. This option is compliant with Standing Orders. However, truncated and concurrent agency and ministerial consultation would be needed, and we anticipate that it may be difficult to secure time on the Cabinet agenda. We would also need to seek your approval of a final Cabinet paper for lodgement while you are at COP28. One option to manage the process might be delegating sign out approval to your office staff, if you are broadly comfortable with the draft as attached.
13. Option 2 is to present the Government response in early 2024. This would enable you more time to develop your Cabinet paper and Government response and bring these documents to Cabinet in January 2024, following more closely the standard processes for Cabinet decision-making.
14. This option would not meet the timeframe required to comply with Standing Orders and would technically be a breach of Standing Orders. Formally, a breach may result in a sanction in the House along with reputational damage, if not managed appropriately. However, a sanction in a situation like this would be unlikely and this could be managed by writing a letter to the Committee and Cabinet Office explaining the delay.
15. In either case, you may also wish to consider making a public statement in the first part of 2024 on the Government's intended approach to progressing the adaptation framework. This could enable you to provide more detail about the Government's views on the recommendations of the Committee. We can provide you with further advice about this, if desired.

Te Tiriti analysis

16. The Committee's report describes a number of key aspects of how climate adaptation will impact iwi, hapū and Māori. This was informed by written and oral submissions as well as expert evidence from a range of Māori practitioners. The report will contribute to positive outcomes for iwi, hapū and Māori by providing a useful source of evidence for future development of adaptation policy and understanding of Treaty commitments.

17. The report is only part of the evidence base for the development of adaptation policy. It is not intended to be a substitute for engagement with Māori on substantive policy proposals as required by Treaty Settlement legislation and compliance with the principles of the Treaty of Waitangi.

Other considerations

Consultation and engagement

18. Officials intend to consult the following agencies on the draft Cabinet paper and Government Response: Ministry of Housing and Urban Development; Ministry for Culture and Heritage; Ministry of Health; Ministry of Transport; Ministry of Business, Innovation and Employment; Ministry of Primary Industries; Ministry of Social Development; the Department of Internal Affairs; the Department of Conservation; the Department of the Prime Minister and Cabinet; Kāinga Ora; the Treasury; the National Emergency Management Agency; Te Puni Kōkiri; Te Waihenga; Waka Kotahi NZ Transport Agency ; Land Information New Zealand; Toka Tū Ake EQC; and Te Arawhiti.

Risks and mitigations

19. Risks and mitigations are outlined in the body of this briefing.

Legal issues

20. Standing Order 256 requires a response within 60 working days of the publication of the Committee's report. Not complying would constitute a breach of the Standing Orders. If this deadline isn't met, you may wish to write to the Committee explaining the delay due to timing constraints following the election.

Financial, regulatory and legislative implications

21. No financial, regulatory, or legislative implications are associated with the proposals in this briefing.

Next steps

22. Once feedback has been received on your preference for proceeding with the response, officials will progress in line with your direction.
23. If you choose option one, the following steps are required to meet the deadline of 22 December 2023:
- Your office will add the Cabinet paper to Ministers' weekend bags on 8 December 2023 to begin a short phase of ministerial consultation. Officials will consult with agencies at the same time.
 - We will need to seek your final approval of the Cabinet paper for lodgement on 14 December 2023, while you are at COP28.

- You will need to secure time on the Cabinet or CBC agenda for the week beginning 18 December 2023. We suggest that CBC is an appropriate option, given the procedural nature of the Cabinet paper.
- You will need to seek confirmation that the response can be presented in the House following approval from CBC or Cabinet and before the summer recess.

24. If these timing constraints are manageable, the potential next steps are:

Table 2: Timeline of next steps	
<i>Element</i>	<i>Date</i>
<i>Minister approval of next steps</i>	7 December
<i>Agency and ministerial consultation (concurrent)</i>	8–12 December
<i>Officials update the Cabinet paper and the response with the feedback received</i>	13 December
<i>Approval to lodge and lodgement</i>	14 December
<i>Cabinet or CBC meeting</i>	18 or 20 December
<i>Response to the House</i>	Week of 18–22 December

25. If you choose option two, we will work with your office to confirm the timeline for these steps to occur.

Appendices

Please see appendices as attached via email to the Minister's office.