



Adaptation framework: draft Cabinet paper for Ministerial consultation

Date submitted: 12 March 2024

Tracking number: BRF-4410

Security level: Policy and Privacy

MfE priority: Urgent

Actions sought from Ministers		
Name and position	Action sought	Response by
To Hon Simon WATTS Minister of Climate Change	Provide feedback on the draft Cabinet paper, commence Ministerial consultation on the draft Cabinet paper, seek nominations from party leaders for Ministerial Advisory Group membership, and agree to next steps.	13 March
CC Hon Nicola WILLIS Associate Minister of Climate Change	For information only	

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment (ministerials@mfe.govt.nz).

Appendices and attachments
1. Draft Cabinet paper (including Appendix A: Draft Terms of Reference for Select Committee Inquiry)
2. Ministerial Advisory Group: Draft Terms of Reference

Key contacts at Ministry for the Environment			
Position	Name	Cell phone	First contact
Principal Author	Hannah Steans	027 224 8522	
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Minister's comments

Adaptation framework: draft Cabinet paper for Ministerial consultation

Key messages

1. Following discussion with you on 7 March, we have updated the Cabinet paper (Appendix 1) on the adaptation framework and Select Committee inquiry.
2. The Cabinet paper seeks agreement on the scope, objectives, work programme and timeframes for the adaptation framework. It also seeks agreement to debate a motion in the House on the commencement of a Finance and Expenditure Committee inquiry into adaptation, and transfer of submissions from the Environment Committee inquiry into climate adaptation to this Committee.
3. We recommend the draft Cabinet paper is circulated to your Ministerial colleagues on 12 March, with feedback due on 19 March. Following integration of feedback from Ministerial consultation and your approval, we will work with your office to lodge the Cabinet paper on Thursday 21 March.
4. This briefing also provides advice on establishing the Ministerial Advisory Group (MAG) which will support development of policy for the adaptation framework. This advice includes: a draft Terms of Reference which includes the skills, expertise and knowledge requirements for the Chair and members of the MAG, the appointments process, timelines, fees and other costs projected for the group.
5. We recommend you seek nominations from your coalition party colleagues for the MAG alongside seeking feedback on the draft Cabinet paper.
6. The draft Cabinet paper signals the intention to establish the MAG and will be followed by a separate Cabinet paper regarding appointments. We will brief you on recommended candidates on 28 March for your feedback ahead of lodging that Cabinet paper.

Recommendations

We recommend that you:

Cabinet paper

- a. **agree** to commence Ministerial consultation with your colleagues on the draft Cabinet paper and its associated appendices (Appendix 1) on 12 March, with their feedback due on 19 March

Yes | No

- b. **provide feedback** on the draft Cabinet paper and associated appendices by 19 March

- c. **agree** that you intend to lodge the Cabinet paper on 21 March for Cabinet Economic Policy Committee (ECO) on 27 March

Yes | No

Select Committee inquiry

- d. **note** that your report-back to Cabinet Legislation Committee will be fulfilled through the paper you are taking to ECO

- e. **agree** that the notice of motion and Terms of Reference to establish the new Select Committee inquiry should include that the Finance and Expenditure Committee publishes the summary of submissions from the Environment Committee inquiry into climate adaptation as part of their interim report

Yes | No

Ministerial Advisory Group

- f. **agree** to the Terms of Reference and required skillset for the Ministerial Advisory Group (MAG) outlined in Appendix 2

Yes | No

- g. **agree** that Ministry for the Environment officials can seek nominations for MAG membership from the New Zealand Banking Association, Insurance Council of New Zealand, Local Government New Zealand, government agencies working on the adaptation framework and agencies that can support diverse membership nominations

Yes | No

- h. **agree** to seek nominations for MAG members from National, ACT and NZ First parties alongside Ministerial consultation on the draft adaptation framework Cabinet paper

Yes | No

Next steps

- i. **agree** to the proposed timelines for the ECO and MAG processes as set out in Tables 3 and 4

Yes | No

- j. **agree** to go straight to Cabinet (ie, not through the Appointment and Honours Cabinet Committee) for the MAG

Yes | No

Signatures



Katherine Wilson
General Manager – Adaptation
Ministry for the Environment
12 March 2024

Hon Simon WATTS
Minister of Climate Change

Date

Adaptation framework: draft Cabinet paper for Ministerial consultation

Purpose

1. This briefing provides you with a draft Cabinet paper to circulate to your colleagues for Ministerial consultation.
2. It also provides you with advice on establishment of the Ministerial Advisory Group (MAG), to support development of policy for the adaptation framework.

Background

3. You received a draft Cabinet paper outline [BRF-4369 refers] on 6 March, for discussion with officials on 7 March. In this discussion you:
 - i provided feedback on the outline, which has been addressed in the Cabinet paper (Appendix 1) as summarised in Table 1 below
 - ii set out your preference to progress the Select Committee inquiry via the Finance and Expenditure Committee (FEC), following consultation with your colleagues as requested by the Cabinet Legislation Committee (LEG) [LEG-24-MIN-0001 refers]
 - iii set out your preference to establish the MAG and clarified the purpose of the group.
4. The attached Cabinet paper will act as the report-back requested by LEG on 15 February.
5. We understand that the purpose of the MAG would remain as described in our briefing to you of 2 February [BRF-4148 refers], namely:
 - to test ideas and hear challenges with the current legislative framework experienced by sectors directly impacted by climate change, including Treaty partners, banking, insurance, and local government
 - to be involved in a series of deep dives on particular topics alongside other external parties.
6. In the meeting on 7 March, you also noted the MAG should consider how policy developed under the adaptation framework would practically work on the ground, and whether there are key elements that are missing or out of scope. We understand from previous conversations that you would like the MAG to advise and be a sounding board for adaptation framework policy, reporting directly to you with support from the Ministry for the Environment (MfE) as Secretariat.
7. On 7 March we also discussed membership of the MAG with you, based on the update provided in BRF-4369. We discussed possible gaps in local government membership for the MAG and officials advised that a call for nominations might address this.

Analysis and advice

Cabinet paper content

8. Appendix 1 sets out the draft Cabinet paper on the adaptation framework and Select Committee inquiry for your feedback and for circulation for Ministerial consultation.
9. We have updated the Cabinet paper following your feedback on the outline [BRF-4369 refers]. We have included discussion on the MAG, Select Committee inquiry and a timeline. Table 1 outlines where we have made changes based on feedback from you and agencies.

Table 1: Changes to Cabinet paper		
Element	Ministerial and agency feedback	Description of change
Problem statement (Background section of paper)	<p><i>Minister:</i></p> <ul style="list-style-type: none"> A bit generic, needs to reflect the fragmentation in the system, need to provide leadership and clarity through high-level principles. <p><i>Agencies:</i></p> <ul style="list-style-type: none"> There are a range of issues across the risk-management system and it is not straightforward to distinguish between problems with existing natural hazard system and specific climate problems, the scope needs to be more flexible. 	<ul style="list-style-type: none"> Problem statement more specific and aligned with the objectives. Problem definition matches hazard-agnostic approach so that it reflects existing problems and notes climate change as an exacerbating factor.
Objectives	<p><i>Minister:</i></p> <ul style="list-style-type: none"> Duplication of objectives on “minimise total cost” and “reducing impact and cost of future disasters”. Bring objectives to front of paper. <p><i>Agencies</i></p> <ul style="list-style-type: none"> There needs to be better alignment between the problem statement and scope, and the objectives. 	<ul style="list-style-type: none"> Objectives brought up in the paper. Deleted previous objective 2 “reduce impact and costs of future disasters”. Minor changes to descriptions. Clarified that the objectives will guide the policy development process (ie, that these are not the principles, as those will be an output of the work).
Scope of hazards captured in the framework	<p><i>Minister:</i></p> <ul style="list-style-type: none"> Make subtler and agnostic on the hazards. 	<ul style="list-style-type: none"> Moved from climate exacerbated hazards to a more hazard-agnostic approach.
Phasing of the work programme	<p><i>Minister</i></p> <ul style="list-style-type: none"> Preference for a single phase with agreement on the four components. 	<ul style="list-style-type: none"> Reference to a 2-phased approach removed, the paper sets in-principle boundaries for the framework/Bill, and notes

	Agencies <ul style="list-style-type: none"> • general concern with the limited nature of what will be delivered through phase 1 and if this will get ahead of other work 	relationship to other systems and work.
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Agency views not directly reflected in the paper

10. Agencies have contributed useful commentary on the aims and scope of the work programme. Many of these questions we consider can be further explored in the detailed development of the four workstreams, particularly as they relate to matters that may not be directly covered by the legislation.
11. Several agencies commented on managed retreat as a key known policy gap and flagged strategic questions around the Government's role in enabling retreat (covering a spectrum of options) that may need to be landed in advance of a cost-sharing conversation.
12. Agencies have signalled a need for more clarity on what parts of the existing system the principles of the adaptation framework would seek to influence.
13. They also underscored the need to focus on the policy problems where there are big trade-offs or benefits, and the need to actively manage potentially competing priorities (eg, going for Housing Growth) throughout the development of the framework.
14. You may receive feedback along these lines through Ministerial consultation. These concerns are partially mitigated by the in-principle nature of the decisions being sought through your Cabinet paper and the intention to involve agencies throughout the policy development process.

Adaptation framework

Objectives and principles

15. The Cabinet paper includes a set of objectives, which are intended to guide the policy work to develop the adaptation framework. It is useful to have objectives agreed by Cabinet, as they will be used to assess and compare options during the policy development process. This is an approach taken by other reform programmes.
16. The objectives may be similar to, but are separate from, the decision-making principles which would be set out in adaptation legislation. Those principles should be developed as part of the adaptation framework work programme, including through input from the MAG, rather than seeking Cabinet decisions on the principles at this time.

Select Committee inquiry

17. There are three main ways that you can influence the inquiry:
 - i notice of motion
 - ii Terms of Reference (TOR)

- iii initial briefing to the Select Committee.
- 18. We recommend the TOR for the new inquiry are included in the notice of motion rather than allowing the FEC to set its own TOR. The draft TOR are appended to the draft Cabinet paper (see Appendix A in Appendix 1 to this briefing).
- 19. We will work with your office and the Office of the Clerk to draft the notice of motion following Cabinet approval.
- 20. The notice of motion will instruct the FEC to undertake an inquiry into adaptation. It will also instruct the transition of the submissions from the Environment Committee (EC) inquiry into climate adaptation to the FEC.
- 21. As the submissions to the EC inquiry had a different scope than the proposed FEC inquiry, we recommend the following approach:
 - i the initial briefing provided by officials to the FEC inquiry could provide a full summary of EC inquiry submissions, with a cover note advising which elements of the submissions are relevant to the new inquiry TOR
 - ii the TOR could suggest the FEC publish the summary of submissions from the EC inquiry as part of the proposed interim report.
- 22. This would provide submitters with assurance that their submissions have been considered and would do so at an earlier stage compared with the default approach of publishing the submissions summary at the end of the inquiry process.
- 23. The FEC may wish to call for new submissions based on the new inquiry's TOR. The FEC could choose to integrate elements of the new inquiry into the interim report.
- 24. The final report of the FEC inquiry could be based solely on the new TOR.

Ministerial Advisory Group

Terms of Reference and skillset

- 25. When establishing a Ministerially-appointed group such as the MAG, there are key steps to be followed to support consideration by Cabinet. This briefing provides advice to ensure progress is made on these steps as quickly as possible. An initial step is to evaluate nominations to the MAG against a defined set of skills, experience, and knowledge, informed by the MAG's proposed TOR. In order to complete this step, we seek your approval of the TOR (Appendix 2).

Nominations process

- 26. We propose to seek nominations for MAG membership from the following groups:
 - New Zealand Banking Association, Insurance Council of New Zealand and Local Government New Zealand as they are likely to have a very strong interest in the membership proposed due to the experience sought in banking, insurance and local government.
 - Government agencies involved in the adaptation framework work programme (the Treasury, Ministry for Housing and Urban Development, National Emergency

Management Agency, Department of Prime Minister and Cabinet, Department of Internal Affairs and the Ministry for Business, Innovation and Employment).

- Government agencies to support diversity of membership (Ministry for Women, Ministry for Pacific Peoples, Ministry of Disabled People, Te Puni Kōkiri and Ministry for Ethnic Communities).

27. We also recommend that you seek nominations from the National, Act and NZ First parties.

Costs associated with the Group

28. For the TOR and the skillset proposed, we evaluated that the MAG would fall under Group 4, level 2 of the Cabinet Fees Framework. We propose to set fees at the higher end of the range for this level to attract the most suitable candidates. The daily fees would be \$974 for the Chair, and \$616 for members.

29. The MAG operating costs will vary depending on agreed meeting arrangements. Table 2 below provides you with estimated costs and CO₂ emissions for a range of high-level assumptions. In preparing these estimates, we assumed that half the MAG membership would be located in the Wellington region, and the other half would be based outside of Wellington. To simplify the calculations, we have assumed those members would be based in Auckland.

Table 2. Estimated costs and CO₂ emissions from the MAG operations over its one-year tenure

Assumptions	MAG total fees and expenses (NZ\$)	CO₂ emissions (t/CO₂-e)
All meetings are held in person (12 meetings)	Min:* 46,000 Max:* 175,000	14.1
Half the meetings are held in person, the other half online	Min: 23,000 Max: 136,000	7.05
Meetings are held online by default, with two in-person meetings	Min: 8,000 Max: 110,000	2.35

* Minimum costs included in Table 2 capture travel costs only (no fees incurred from the membership). The maximum costs include travel costs and fees for all members.

Other considerations

Consultation and engagement

30. The Cyclone Recovery Unit and Critical Infrastructure Resilience Unit (Department of Prime Minister and Cabinet), the Treasury, the Department of Internal Affairs, the Ministry of Housing and Urban Development and the National Emergency Management Agency were consulted on the draft outline of the Cabinet paper. These agencies and key additional agencies will be consulted on the Cabinet paper concurrently with Ministerial consultation.

Risks and mitigations

Select Committee inquiry

31. We understand that you would like final policy decisions on elements of the adaptation framework for legislation to be made in October this year. The final report of the FEC inquiry into adaptation will need to be published in September if it is to influence these decisions. This means the FEC will have just over 4 months to conduct the inquiry.
32. If the FEC faces challenges in managing its workload, for example due to receiving a large number of new submissions, there is a risk that the FEC will delay their report-back to the House. This could have flow-on impacts on the timeline for introduction of the Bill.
33. This risk can be mitigated through regular discussions between yourself and the Chair of the FEC. As the inquiry progresses, if it appears the FEC will not meet the desired timeframes, we will provide you with options for how to proceed.
34. There is also a risk that submitters whose submission (or parts thereof) to the EC are outside the scope of the new inquiry may feel their submissions have not been heard properly. This could be mitigated through the summary of submissions document proposed for release as part of the FEC's interim report.

Ministerial Advisory Group

35. We understand that one of your aims for establishing the MAG is to broaden the external perspectives considered during the policy process, supporting a consensus building approach to the adaptation framework. A systematic approach to seeking nominations can help to ensure the membership of the group has broad recognition.
36. You can mitigate the risk of any gaps and any reputational risk to you by undertaking a short call for nominations with a targeted group of Ministerial and Parliamentary colleagues, government agencies, and key partners and stakeholder groups, as proposed in paragraph 26 above.
37. Note that any recommended MAG candidates will be subject to due diligence checks and conflicts of interest will need to be declared and mitigated as necessary.

Legal issues

38. No legal issues are associated with the proposals in this briefing.

Financial, regulatory and legislative implications

39. There are no regulatory or legislative implications associated with the proposals in this briefing, beyond the intention to develop legislation through the adaptation framework work programme as described in the attached Cabinet paper.
40. The establishment and operations of the MAG will have financial implications for MfE, who will need to cover for fees and expenses of the group as part of existing FY23/24 budget and will need to ensure budget is allocated through business planning for FY24/25. Officials will conduct an internal funding approval process to secure the necessary funds. Depending on the final specifications of the MAG, we estimate these costs to be between \$8,000 and \$175,000.

Next steps

41. The key actions for you from this brief are:

- i approving the Cabinet paper for Ministerial consultation
- ii seeking nominations for the MAG from National, Act and NZ First parties.

42. We propose the following next steps based on discussions with you and your office:

Table 3: Cabinet paper and CPMG timeframes	
Element	Date
Updated Cabinet paper for Ministerial consultation (including seeking of nominations for the MAG)	Tues 12 March
CPMG paper due to your office	Thurs 14 March
Ministerial consultation feedback due	Tues 19 March
Cabinet paper updated to reflect feedback	Weds 20 March
Lodge Cabinet paper	Thurs 21 March
CPMG meeting	Mon 25 March
Cabinet Economic Policy Committee	Weds 27 March
Cabinet	Tues 2 April
House in recess	Week of 1 April
Motion in House, to transfer the EC inquiry to the FEC, with new TOR	Week of 8 April
House in recess	15-26 April
FEC has first meeting re: inquiry	Week of 29 April

43. Following Cabinet consideration, officials will work with your office to:

- i draft the notice of motion (alongside the Office of the Clerk)
- ii prepare the initial briefing to the inquiry.

MAG process and timeframes

44. Subject to your approval, we will progress with MAG timeframes outlined in Table 4 below:

Table 4: MAG timeframes		
Element	Date	Commentary
Approval of TOR, skillsets, evaluation criteria and fees, and process for appointments	Tue 12 March	Your approval is required on this date to enable your Ministerial consultation on the Cabinet paper to include seeking nominations

Call for nominations with targeted groups	13–19 March	The call for nominations aligns with the Ministerial consultation period on the Cabinet paper so you can seek nominations from your Ministerial colleagues at the same time
Briefing on recommended candidates for approval	Thu 28 March	
MfE officials to conduct due diligence on recommended candidates	29 March-14 April	
Cabinet paper provided to you for approval to consult	Mon 15 April	
Ministerial consultation	16–23 April	
Cabinet paper lodged	Wed 24 April	Lodgement is one day early due to ANZAC Day.
Cabinet meeting	Mon 29 April	We understand you wish the MAG to be established as soon as possible. We seek your approval to seek decisions from Cabinet directly (skipping APH Committee)
Letters of appointment sent to members	Tue 30 April	
First MAG meeting	TBC – early May	

Appendices

Appendix 1: Draft Cabinet paper (including Appendix A: Draft Terms of Reference for Select Committee Inquiry and Appendix B: Timeframes for the Adaptation Framework)

Appendix 2: Ministerial Advisory Group: Draft Terms of Reference