

Agenda – RM Reform Ministerial Oversight Group Meeting #8

Date: Monday 14 June 2021, 4.00 - 5.00 pm

Location: 2.1 EW

Chair: Hon Grant Robertson, Minister of Finance

Deputy Chair: Hon David Parker, Minister for the Environment

Attendees: Hon Kelvin Davis, Minister for Māori Crown Relations: Te Arawhiti
 Hon Megan Woods, Minister of Housing
 Hon Nanaia Mahuta, Minister of Local Government
 Hon Poto Williams, Minister for Building and Construction
 Hon Damien O'Connor, Minister of Agriculture
 Hon Peeni Henare, (Acting) Associate Minister of Culture and Heritage
 Hon Willie Jackson, Minister for Māori Development
 Hon Michael Wood, Minister of Transport
 Hon Kiritapu Allan, Associate Minister for the Environment
 Hon Dr Ayesha Verrall, (Acting) Minister of Conservation
 Hon Phil Twyford, Associate Minister for the Environment
 Hon James Shaw, Minister of Climate Change

4.00 – 4.45	Agenda Item 1: System governance	Lead speaker: Minister for the Environment
<p>Description/key areas to focus discussion:</p> <ul style="list-style-type: none"> The system governance paper seeks agreement to a set of principles to guide the design of the governance and decision-making framework for the Natural and Built Environments Act (NBA) and the Strategic Planning Act (SPA). Key matters to discuss are the proposed set of principles and in particular public participation (principle 2), representation (principle 3), accountability (principle 4) and efficiency (principle 5). 		
<p>Decisions Sought</p> <p>note that the Resource Management Review Panel:</p> <ol style="list-style-type: none"> identified as an important aspect of its proposals “<i>an emphasis on collaboration in decision-making across central and local government and mana whenua</i>” proposed a shift in decision-making from territorial authority decision-making to a more regionalised approach <p>note that implementing these recommendations requires broader consideration of governance design in order for the future system to meet the reform objectives</p> <p>agree that governance arrangements across the resource management system should be consistent with the purposes and supporting provisions of the NBA and SPA and:</p> <ol style="list-style-type: none"> ensure that roles and responsibilities are clearly identified and that when and how decisions are made are clearly defined ensure that decision-making is informed by robust information and evidence, including mātauranga Māori, with proportionate opportunities for public participation 		

3. provide for effective representation of differing interests whilst recognising that this does not mean direct representation for every constituent body
4. ensure appropriate accountability and transparency for decision-making, with conflicts of interest properly identified and managed
5. be efficient, cost-effective and workable, and encourage the wise stewardship of resources
6. ensure integrated decision-making wherever possible within regions, whilst allowing for variation to reflect the different circumstances of communities
7. give effect to the principles of Te Tiriti o Waitangi and uphold the integrity of natural resource arrangements agreed by Māori and the Crown in current Treaty settlement negotiations
8. able to be adapted over time to fit with the changing needs of communities and the environment.

note that officials will use these principles, and the set of questions set out in Appendix 1, to guide further engagement with local government and the national Māori collectives to develop efficient and workable governance and decision-making options.

agree that the broad framework that officials will use for option development is that:

- a. regional decision-making is the preferred option for planning and planning documents
- b. Regional Spatial Strategies are to be decided by a custom-made group representing central government, local government and iwi/hapū

note that officials will proceed with options development on the basis of Natural and Built Environment Plans being decided by joint committees but note that this is also being considered by the Select Committee Inquiry and officials will reassess recommendations after the Select Committee reports back

agree that MOG delegate decisions about the Minister of Conservation's existing role to the Minister of Conservation and Minister for the Environment, in consultation with other Ministers as appropriate

note that further decisions on governance, institutional and funding implications of central government's role in the future resource management system will be sought at MOG #11 and MOG #14

Supporting documents

- Key decisions – RM Reform Ministerial Oversight Group Meeting #8
- Recommendations - RM Reform Ministerial Oversight Group Meeting #8
- Paper 1: System governance and decision-making

4.45 – 5.00	Agenda Item 2: Update on the Select Committee inquiry package	Lead speaker: Minister for the Environment
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Description/key areas to focus discussion:

- The Minister for the Environment will provide an update on the next steps for the select committee inquiry package following Ministerial consultation. The package consists of the:
 - Parliamentary paper (the exposure draft and explanatory material)
 - Cabinet paper seeking approval to refer the paper to Select Committee
 - Terms of Reference for the SC inquiry
 - interim RIS and summary

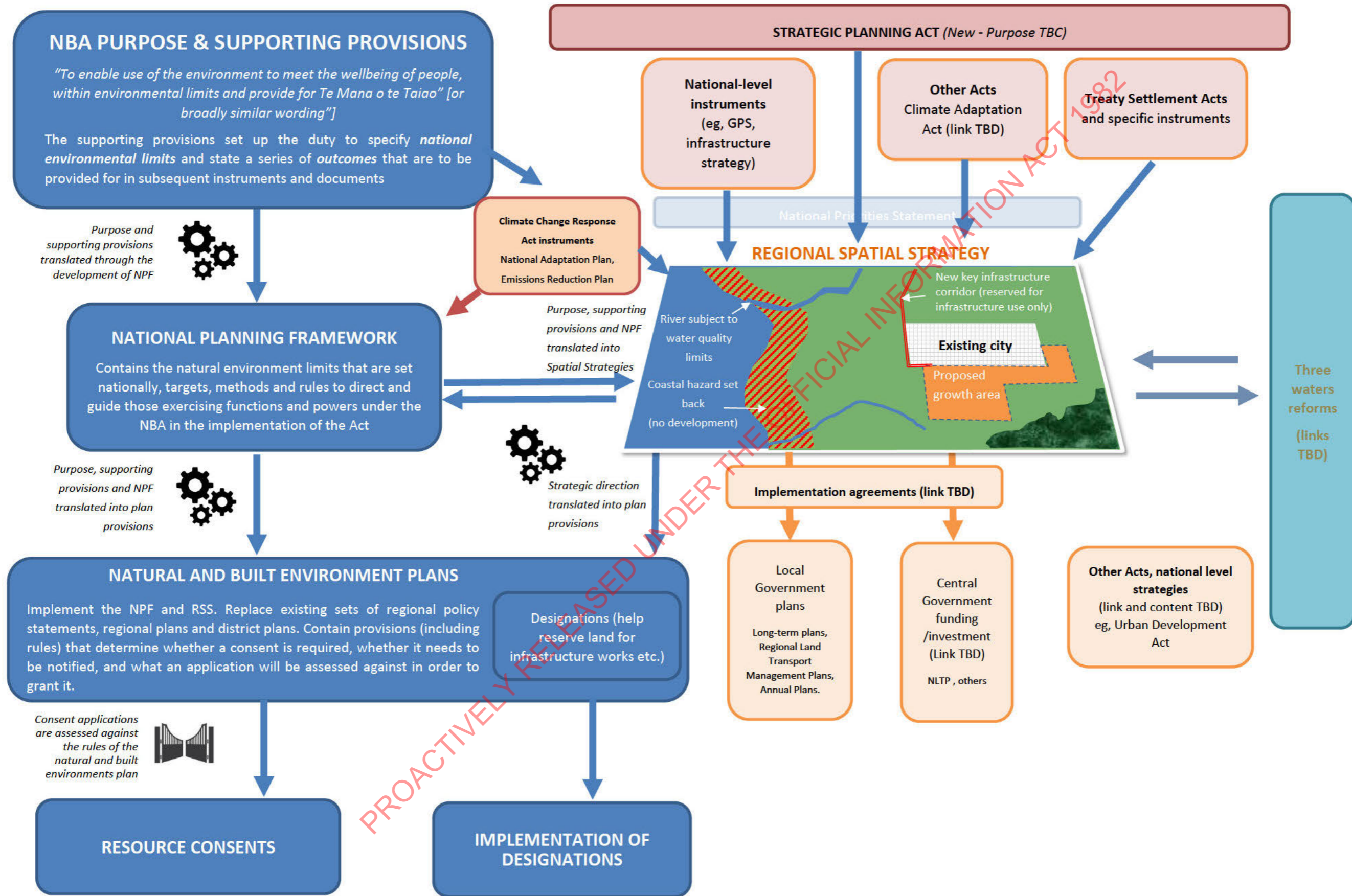
Decisions Sought

No decisions sought

Supporting documents

Oral update only

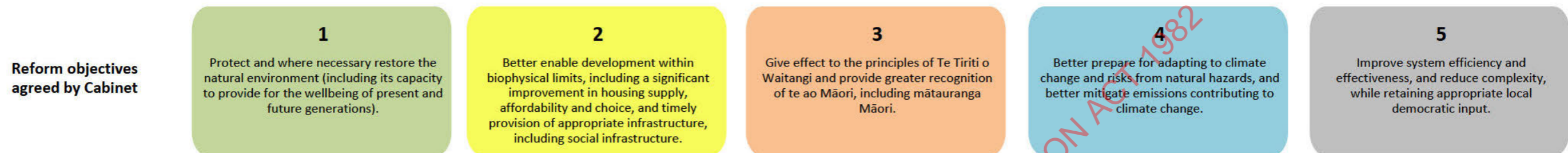
Proposed future system overview diagram



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Key Decisions – RM Reform Ministerial Oversight Group Meeting #8

This note summarises key decisions being sought. The formal decision papers with advice and recommendations are attached separately.



Description of decisions sought in attached papers	Context and next steps (including outstanding decisions)	Objectives met	Implications versus status quo
Paper 1: RM reform: System governance and decision-making			
Agree principles to guide the design of the governance and decision-making framework for the Natural and Built Environments Act and the Strategic Planning Act	<ul style="list-style-type: none"> ❖ Continued engagement with the national Māori collectives and local government using the agreed principles and design considerations ❖ Seek decisions at MOG #11 (23 Aug) on governance ❖ Seek subsequent decisions from MOG on system oversight, institutional arrangements and system funding 	All	<ul style="list-style-type: none"> ❖ The attached table sets out the eight principles and a summary of what these mean in a resource management reform context.
Agree MOG delegate decisions about the Minister of Conservation's existing role to the Minister of Conservation and Minister for the Environment.	<ul style="list-style-type: none"> ❖ The Minister of Conservation has written to the Minister for the Environment seeking agreement in-principle to carrying over the existing roles and functions in the system ❖ Officials are assessing the implications of this against the policy being progressed further down the system ie, consenting, monitoring and oversight 	1, 5	<ul style="list-style-type: none"> ❖ MfE officials agree with the intent to carry over the existing roles and functions of the Minister of Conservation.

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Key Decisions: Table 2 – Recommended principles and summary of meaning

Principle	What this means in a resource management reform context
Governance arrangements across the resource management system should be consistent with the purpose and supporting provisions of the NBA and SPA and:	<ul style="list-style-type: none"> - purposes and supporting provisions of both Acts apply to all actions as laid out in those Acts and do not need to be repeated
1. ensure that roles and responsibilities are clearly identified and that when and how decisions are made are clearly defined	<ul style="list-style-type: none"> - institutions and actors understand responsibilities across national, regional and local levels of the system - no duplication or contradictions
2. ensure that decision-making is informed by robust information and evidence, including mātauranga Māori, with proportionate opportunities for public participation	<ul style="list-style-type: none"> - processes and institutions in place to provide robust evidence and analysis across the system, including technical expertise and capability - support decision makers to make trade-offs with adequate consideration of the long-term - public participation proportionate to the nature, scale or impact of the decision being taken with flexibility at different points in the process or across the system
3. provide for effective representation of differing interests whilst recognising that this does not mean direct representation for every constituent body	<ul style="list-style-type: none"> - the participants in regional decision-making bodies are there to represent the community interests, and are not there to represent their constituent body - the public are clear who represents them and what the decision-makers mandate is - processes to establish and operate decision-making bodies provides for effective representation through selection, decision-making and dispute resolution
4. ensure appropriate accountability and transparency for decision-making, with conflicts of interest properly identified and managed	<ul style="list-style-type: none"> - the community is able to hold those that make decisions accountable in some way, recognising that this may vary depending on the nature of the decision - this could mean delegation in statute or from constituent bodies to those making the decisions - transparency means accessibility of information and publication of decisions at key steps along the process - supports integrity, trust, credibility
5. be efficient, cost-effective and workable, and encourage the wise stewardship of resources	<ul style="list-style-type: none"> - minimises transaction costs, including time - protection of long-term interest (stewardship is a key principle of Public Service Act) - connections are made between decisions, implementation, monitoring to ensure environmental outcomes improve and policies developed through plans are able to be implemented
6. ensure integrated decision-making wherever possible within regions, whilst allowing for variation to reflect the different circumstances of communities	<ul style="list-style-type: none"> - opportunities should be maximised to take advantage of the potential for the new legislative framework to support more efficient planning and reduce the complexity of decision-making - recognise local needs, circumstances and priorities while respecting national priorities and interests - local communities (at smaller scale than regional) are able to meaningfully participate and input in processes
7. give effect to the principles of Te Tiriti o Waitangi ¹ and uphold the integrity of natural resource arrangements	<ul style="list-style-type: none"> - as agreed through Cabinet objectives for reform and in the December Cabinet paper - participation in governance arrangements by Māori is necessary to give effect to the principles of Te Tiriti

¹ as per the RM Reform December Cabinet paper, Te Tiriti refers to both its English and Māori versions, as per the current definition of 'Treaty' under the RMA and the Treaty of Waitangi Act 1975.

agreed by Māori and the Crown in current Treaty settlement negotiations ²	<ul style="list-style-type: none">- bespoke arrangements may be required region-by-region to accommodate Treaty settlement arrangements- appointment and removal of Māori representatives is a matter for Māori to determine
8. able to be adapted over time to fit with the changing needs of communities and the environment.	<ul style="list-style-type: none">- recognises that governance arrangements may need to adapt or evolve over time to ensure the system remains fit-for-purpose and is enduring- the system design needs to enable this flexibility, within the parameters of primary legislation

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²as well as for rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019; and natural resource arrangements agreed by Māori and local government under existing provisions of the RMA

Recommendations – RM Reform Ministerial Oversight Group Meeting #8

Officials recommend that the RM Reform Ministerial Oversight Group:

Agenda Item 1: RM reform: System Governance

1. note that the Resource Management Review Panel:
 - 1.1. identified as an important aspect of its proposals “*an emphasis on collaboration in decision-making across central and local government and mana whenua*”;
 - 1.2. proposed a shift in decision-making from territorial authority decision-making to a more regionalised approach;
2. note that implementing these recommendations requires broader consideration of governance design in order for the future system to meet the reform objectives.
3. note that Governance arrangements across the resource management system should be consistent with the purposes and supporting provisions of the NBA and SPA and:
 1. ensure that roles and responsibilities are clearly identified and that when and how decisions are made are clearly defined
 2. ensure that decision-making is informed by robust information and evidence, including mātauranga Māori, with proportionate opportunities for public participation
 3. provide for effective representation of differing interests whilst recognising that this does not mean direct representation for every constituent body
 4. ensure appropriate accountability and transparency for decision-making, with conflicts of interest properly identified and managed
 5. be efficient, cost-effective and workable, and encourage the wise stewardship of resources
 6. ensure integrated decision-making wherever possible within regions, whilst allowing for variation to reflect the different circumstances of communities
 7. give effect to the principles of Te Tiriti o Waitangi and uphold the integrity of natural resource arrangements agreed by Māori and the Crown in current Treaty settlement negotiations
 8. able to be adapted over time to fit with the changing needs of communities and the environment.
4. note that officials will use these principles, and the set of questions set out in Appendix 1, to guide further engagement with local government and the national Māori collectives to develop efficient and workable governance and decision-making options.
5. agree that the broad framework that officials will use for option development is that:
 - 5.1. regional decision-making is the preferred option for planning and planning documents
 - 5.2. Regional Spatial Strategies are to be decided by a custom-made group representing central government, local government and iwi/hapū
6. note that officials will proceed with options development on the basis of Natural and Built Environment Plans being decided by joint committees but note that this is also being

considered by the Select Committee Inquiry and officials will reassess recommendations after the Select Committee reports back.

7. agree that MOG delegate decisions about the Minister of Conservation's existing role to the Minister of Conservation and Minister for the Environment, in consultation with other Ministers as appropriate
8. note that further decisions on governance, institutional and funding implications of central government's role in the future resource management system will be sought at MOG #11 and MOG #14.

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Paper 1: System Governance

Purpose

1. The purpose of this paper is to seek agreement to a set of principles to guide the design of the governance and decision-making framework for the Natural and Built Environments Act (NBA) and the Strategic Planning Act (SPA).

Context

2. The Ministerial Oversight Group (MOG) agreed to include the Resource Management Review Panel's (the Panel) option for NBA plan governance. This is known as the 'joint committee' approach in the exposure draft and explanatory material (MOG #6). This means that it will form part of the select committee inquiry to test the concept of the joint committee as an option for making decisions on plans prepared under the NBA (NBA plans).
3. It was also agreed at MOG #6 that a resource management system governance paper that addresses governance across NBA plans, the SPA, and Climate Adaptation Act (CAA) governance will be prepared for MOG #8.
4. It was agreed at MOG #4 that any plan decision-making model should be efficient and workable, provide a strategic role for Māori to ensure plans include mātauranga Māori to reflect Māori interests, give effect to the principles of Te Tiriti o Waitangi, and maintain local government accountability.
5. In developing the recommendations in this paper, we have assessed the governance and decision-making points across the system (national, regional, local). We have not made a detailed assessment of the proposed CAA as the Panel's report was silent on governance arrangements for that Act. However, it is anticipated that decisions on the system for NBA and SPA will be taken into account as the development of the CAA progresses.

The Resource Management Review Panel's recommended approach

6. The Panel proposed a new and extended role for central government in the resource management system and a new, stronger focus on planning at a regional level, through a collaborative approach between central government, local government and mana whenua. In making their recommendations, the Panel was guided by a set of principles including fairness, subsidiarity, well informed decisions, public participation and workability. The Panel also identified objectives it wanted to achieve including '*a system where decision-makers in the system are accountable, well advised and incentivised to achieve the system's purpose*'.
7. The Panel did not suggest major changes to the existing system of making decisions at the national level with final decisions resting with the Minister for the Environment and Cabinet. The Panel recommended the present functions of the Minister for the Environment and the Minister for Conservation should be continued in the development of national direction. The more significant change was in the process for developing national direction where it was recommended that only a Board of Inquiry process be used to develop national direction, removing the Minister for the Environment's discretion to use an alternative process.
8. To address the multiple, fragmented and unclear responsibilities for system monitoring and oversight, the Panel recommended a national environmental monitoring system, improved monitoring frameworks and strategies for filling data gaps. A National Māori

Advisory Board was proposed to monitor the performance of central and local government in giving effect to the principles of Te Tiriti, although this would not have any decision-making functions.

9. The Panel's recommendations focused on regional collaboration as the basis for decision-making ie, within existing regional boundaries. The Panel recommended a joint committee model for NBA plan-making and for preparing Regional Spatial Strategies (RSS) under the SPA. The Panel recognised that the joint committees would need to be workable with a limitation on the number of members. Selection processes will need to be used, and in some regions not all territorial authorities (TAs) and mana whenua will be able to be represented directly on the committee.
10. Table 1 below compares the features of the two committees as proposed by the Panel:

NBA Plan Committee	Regional Spatial Strategy Committee
<i>Membership</i>	
The regional council	An independent chair
Representatives of constituent territorial authorities	Local authority officials
Mana whenua in the region	Mana whenua in the region
A representative appointed by the Minister of Conservation	A central government official
<i>Public participation</i>	
Constituent groups and the public can make submissions on the NBA plan to the Independent Hearings Panel, and appeal if the committee doesn't accept recommendations	Public participation should be robust but should not include appeal rights to a court (other than judicial review)
<i>Autonomy of decision making</i>	
Fully autonomous decision-making with an Independent Hearing Panel hearing submitters	Autonomous decision-making Committee members make best endeavours to satisfy themselves that constituent bodies support the draft strategy
<i>Decision rules</i>	
Consensus decision-making	Consensus decision-making
<i>Dispute resolution</i>	
Facilitated mediation	Facilitated mediation
If mediation fails, ministerial decision-making	If mediation fails, ministerial decision-making

11. Note that the Panel recommended that both SPA and NBA committees should be autonomous in their decision-making and viewed this as an important change in the planning process.
12. Key points made by the Panel in relation to the SPA joint committees were that:
 - a governing body such as a joint committee would need to be established at the start of a spatial planning process. The governing body would be responsible for overall leadership of the process, consulting with Ministers, central government agencies, councils and mana whenua, and making decisions, including to approve the spatial strategy
 - all members would need to be suitably skilled and experienced and have the confidence of the bodies they are representing. Good collaboration and communication skills would be essential

- the central government member should be a senior official appointed from an agency that serves the responsible Minister or Ministers, or another relevant agency. The council members should generally be senior executive officers
 - the members would be required to consult with the bodies they are representing. Where selection processes are used, territorial authority members would be responsible for representing the views of all councils that selected them
 - before approving the spatial strategy, the governing body should make best endeavours to satisfy itself that the responsible Minister or Ministers, the regional council, territorial authorities and mana whenua support the draft spatial strategy.
13. In relation to the NBA combined plan committees, the Panel:
- expects councils will work very closely with their delegates on the joint committee to ensure their point of view is advanced
 - stated “it is important that any combined planning process is led by a joint planning committee which is closely representative of the region’s constituents and has a strong mandate”
 - proposed consensus-based decision-making as much as possible to recognise these committees will not always be fully representative of every iwi and hapū or territorial authority in the region, so voting rights are not at stake
 - proposed that each constituent group will continue to be entitled to make submissions on the notified plan and be heard by the Independent Hearing Panel (IHP) on points where they do not agree or request amendments to the approach taken by the joint committee. They will also continue to have standing for appeal, within the limits of the overall approach.

Governance and decision-making across the system

14. The quality of the governance and decision-making arrangements of the new system will be critical to its success. This means creating an enduring system that has legitimacy, is workable and efficient, results in quality decision-making, and gives effect to the principles of Te Tiriti.
15. The design of governance and decision-making processes needs to give effect to the reform objectives agreed by Cabinet in relation to the natural environment; housing, development, and infrastructure; the principles of Te Tiriti o Waitangi (Te Tiriti), te ao Māori and mātauranga Māori; climate change and natural hazards; and system efficiency and effectiveness, while retaining appropriate local democratic input.
16. The Ministerial Oversight Group (MOG) has made a number of decisions on the purpose and supporting provisions for the NBA and the purpose of the SPA. The governance and decision-making framework must be designed to fit in this legislative context.
17. Governance arrangements across the NBA and SPA need to be consistent and coherent. In particular, decision-making needs to be transparent, integrated and capable of taking a long-term, intergenerational perspective that embeds national, regional and local interests.
18. The major decision-making points are:
- **National level**
 - environment limits
 - national planning framework
 - system oversight

- **Regional**
 - regional spatial strategies
 - regulatory plan making
 - permissions/protections (consenting, designations).
19. The design of governance and decision-making will have a direct influence on the processes that will be set out in the legislation across the system. This will determine who is able to be involved, at what stage in the process (for example development, decisions, implementation, monitoring) and who is responsible for making decisions.
20. Governance arrangements may also need to reflect the diversity of New Zealand's regions, in terms of population size and geographic area, and to reflect of number of local authorities in each region.
21. As a result of the significance of decisions on governance through-out the system and the importance of balancing multiple and sometimes conflicting objectives, the purpose of this paper is to seek your agreement to the set of principles that we propose to use to test options and engage further with our partners. We plan to report back on progress at MOG #11.

Principles

22. We have developed eight principles to provide further guidance and specificity to the Cabinet objectives for reform to apply to the design of governance arrangements. The principles are broad design parameters that will be applied to options development and considered as part of the on-going engagement.
23. As noted earlier, the Panel was also guided by a set of principles including fairness, subsidiarity, well informed decisions, public participation and workability. These principles are still relevant and are contained in the principles below. However, in order to develop the detailed design of the future system we need to agree further specificity.
24. The recommended principles are set out below.

Principles

Governance arrangements across the resource management system should be consistent with the purposes and supporting provisions of the NBA and SPA and:

1. ensure that roles and responsibilities are clearly identified and that when and how decisions are made are clearly defined
2. ensure that decision-making is informed by robust information and evidence, including mātauranga Māori, with proportionate opportunities for public participation
3. provide for effective representation of differing interests whilst recognising that this does not mean direct representation for every constituent body
4. ensure appropriate accountability and transparency for decision-making, with conflicts of interest properly identified and managed
5. be efficient, cost-effective and workable, and encourage the wise stewardship of resources

6. ensure integrated decision-making wherever possible within regions, whilst allowing for variation to reflect the different circumstances of communities
7. give effect to the principles of Te Tiriti o Waitangi and uphold the integrity of natural resource arrangements agreed by Māori and the Crown in current Treaty settlement negotiations
8. able to be adapted over time to fit with the changing needs of communities and the environment.

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25. This section of the paper sets out the principles and their application to resource management reform. It also signals potential options to address the issues identified and when decisions will be sought.

Clarity of roles and responsibilities

Principle 1: Governance arrangements should ensure that roles and responsibilities are clearly identified and that when and how decisions are made are clearly defined

26. In the context of the future system this principle means that participants in the system are able to understand their responsibilities. It is clear when, how and who needs to make decisions and how this applies across the system for central government, local government and Māori.
27. Overall, the Panel recommended that the future system be based on streamlined and clarified roles and responsibilities, alongside a greater emphasis on partnerships.
28. Devolution from central government to regional strategies, and changes from local to regional decision-making for NBA plans and SPA strategies, without wider institutional reform means that this principle will be critical to ensure the proposed model for regional decision-making can be achieved.

The role for central government

29. Central government's role at the national level in the NBA as recommended by the Panel would not be significantly different from the current system. Central government would be required to set direction through the National Planning Framework, including environment limits. However, the Panel recommended that national direction only be developed by the Minister for the Environment, with the Minister of Conservation being the Minister responsible for the New Zealand Coastal Policy Statement.
30. The Minister of Conservation has a clear role in setting policy direction and approving plans for the coastal marine area under the RMA. Decisions on the Minister of Conservation's role in setting national policy for the coastal environment for the future system will have flow on effects for other powers, including their role in the development of NBA plans.
31. We recommend that MOG delegate decisions about the Minister of Conservation's existing role to the Minister of Conservation and Minister for the Environment. Officials are looking at the implications across the system as a whole before seeking decisions. The Department of Internal Affairs have requested the Minister of Local Government be consulted on the delegated decisions due to the implications for local government through the NBA plan-making process. The recommendation makes clear that this would be in consultation with other Ministers as appropriate (as agreed at MOG #2).
32. Central government will also have a significant new and extended role as a partnership with local government and mana whenua as part of Regional Spatial Strategy planning committees. The Panel recommended a strong role for central government in order to

address the nationally significant challenges of urban growth, environmental management and climate change and recognised the need for central government resources and co-ordination of investment.

33. Treasury have noted that it will be important to clearly delineate the role of central government in participating in these processes, and the subsequent implementation of the Regional Spatial Strategies. The Panel recognised that RSS could not direct funding processes. MfE officials agree that clarifying this will be important in setting expectations, particularly in the establishment of a spatial planning process within a region.
34. However, MfE officials also note that it is unlikely to be a one-size-fits-all approach, and funding and participation needs may change over time and within regions, particularly between the larger urbanised areas and others. We will seek further decisions at MOG #11 and MOG #14 on the governance and institutional implications.

The role for local government

35. The Panel saw that local authorities would continue to have a significant role in the future system, with an increased focus on strategic and collaborative planning. The detailed design parameters that will follow from the rest of the principles below will be important in providing the clarity and mandate for local authority's role in the future system, particularly if a successful transition to regional decision-making is to be achieved.
36. A key issue for local government will be the implications of a collaborative planning process for the roles and responsibilities of territorial authorities, especially in conjunction with the proposed shift in responsibility for the delivery of three waters services from territorial authorities to multi-regional entities.
37. It will be important for the future system to provide flexibility for local authorities to engage with their communities in a way that takes account of local circumstances. Ministry officials still see a strong role for local authorities in engaging with their communities and place-making as part of NBA regulatory plans. This has been an established feature of planning for a long time, with examples such as 'Plantalk 1976' in Dunedin which saw discussion groups providing input into the review of the council plan.

The role of Māori in the system

38. The Panel recommended a greater strategic role for Māori in the system and saw that this would be through participation in the preparation of national direction, membership of RSS and NBA plan committees, and through integrated partnership processes.

Decision-making is well informed and public participation is proportionate

Principle 2: Governance arrangements across the resource management system should ensure that decision-making is informed by robust information and evidence, including mātauranga Māori, with proportionate opportunities for public participation

Well informed decision-making

39. The intent of this principle is that the system is designed in a way that supports the difficult decisions and trade-offs being made in order to achieve the reform objectives. This will require an appropriate level of information and evidence to inform decision-making, with a focus on the long-term.
40. It will mean that decisions are informed by technical expertise and capability. Technical expertise and capability can inform decision-making through the development and preparation process. For example, using an independent hearing panel for plan-making to hear submissions and make recommendations to decision-makers, or as recommended by the Panel using a board of inquiry for the development of national direction with the ability to seek expert reports and evidence. In terms of the joint committee model proposed by the Panel, it is anticipated that these would be supported

by secretariats composed of skilled staff to support decision-makers. Decision-makers may also be technical experts. We are looking at the appropriate balance across the system, noting it is likely to be different across the National Planning Framework, RSS and NBA plans.

41. This means that the institutional structures must be capable of enabling robust analysis and provision of advice. We will be seeking decisions on institutional decision-making arrangements at MOG #14.

Public participation

42. Public participation provides the ability for the public, including local communities, iwi and hapū, to meaningfully contribute to policy development and decisions that may affect them. It enables more and better information to inform the development of policy and critique of options. This in turn creates a greater sense of ownership of decisions, improved transparency and greater legitimacy.
43. Public participation, however, imposes a cost and time constraints on decision making processes. The current RMA is comparatively open and inclusive, and this has been a recognised challenge for the effective operation of the system. The Panel used the word 'proportionate' to put parameters around the extent of public participation they proposed.
44. Under the current system public participation is highly codified. In the new system it will be important that democratic processes are enabled through more flexibility to enable participation and give legitimacy to local government input into NBA plans.
45. It was agreed at MOG #3 that the process to develop the National Planning Framework would ensure effective public consultation and provide opportunities for early engagement with decision-makers including local government. It was agreed at MOG #4 that the plan development and plan change processes be fair and proportionate and must ensure effective public engagement and consultation that includes seeking views from diverse groups in the community.
46. In our view, good system design requires clear identification of the nature, extent and timing of public participation. This supports the public in understanding their roles and responsibilities and provides for transparent processes and decision-making. However, the same level of engagement or consultation does not need to be required or prescribed across the system. The consultation or engagement should be proportionate to what is being proposed and the system must allow flexibility for that to be achieved.
47. The Legislation Design Advisory Committee Guidelines:
 - recommend including a requirement to consult when it is necessary to clearly ensure good decision-making practice
 - recognises that including procedural requirements in legislation reduces flexibility and potentially creates more complexity
 - recommend setting specific requirements for consultation if certainty is needed on scope or timing of obligations.
48. Officials are now looking at public participation across the NBA and SPA and seeking to achieve a balance between efficiency of processes and the ability to participate. Decisions will be sought at MOG #10.

Effective representation and processes

Principle 3: Governance arrangements across the resource management system should provide for effective representation of differing interests whilst recognising that this does not mean direct representation for every constituent body

49. Representation is a critical aspect of any system of governance. A core issue is the nature of the different decisions across the system, who should be represented in decision-making institutions and processes and on what basis, and how and from where decision-making is resourced.
50. In relation to the governance of the resource management system, there are a number of different aspects of representation. Each aspect raises a range of policy issues and these are particularly apparent when considering the design of the NBA and RSS joint committees proposed by the Panel.
51. First, there is the question of which particular spatial and/or group-based interests should be represented in NBA and RSS joint committees. The Panel recommended that joint committees include representatives of four distinct 'constituencies': central government, regional government, territorial authorities (TAs), and mana whenua.
52. Second, there is the question of whether each of an agreed set of 'constituencies' should be directly represented on a decision-making body or whether indirect representation is acceptable. The Panel recommended that the committees should be relatively small in order to be workable, and this means that not all TAs and mana whenua could be directly represented.
53. Third, there is the question of whether the joint committees should be representative in the sense that, among others, they comprise elected members of local government. The alternative is that joint committees are primarily appointed for their particular expertise, noting that this approach would exclude elected members. The Panel recommended that SPA joint committee members from central and local government be senior officials with relevant expertise.
54. With regard to the question of which 'constituencies' should be represented (whether directly or indirectly) on the NBA and SPA joint committees, the Panel's approach is taken as the starting point. Further work focuses on how best to design and implement the Panel's proposals.
55. Committees will need to be kept to a reasonable size in the interests of effective decision-making. This means that in some regions not all TAs and iwi/hapū will be directly represented. Given this situation, bespoke selection arrangements may be required. Various options are available including for example people from various 'constituencies' being selected to form one or more electoral colleges which then, in turn, nominate an agreed number of members of the NBA and RSS joint committees. Under such an approach the nominated members would need to 'represent' multiple (and potentially) conflicting interests.
56. In addressing representation it will also be important for rural and metropolitan communities to be represented. This could be addressed by including metropolitan and rural expertise on the joint committees.
57. Given that not all 'constituencies' would be directly represented on some of the joint committees, the Panel recommended using consensus-based decision-making for both NBA plans and RSS. Consensus decision-making occurs when no member of a committee feels sufficiently motivated to oppose a particular decision. If one member of a Committee actively oppose a decision, then consensus has not been achieved. Effectively, therefore, consensus decision-making gives each member of the panel a veto on any decision.
58. With regard to whether the joint committees should include elected members of local government, several matters deserve consideration. First, local authorities are used to having elected members rather than officials making planning decisions, although most councils currently delegate much of the process of plan making to independent commissioners. At a high level, these decisions have place-shaping and place-making implications that would commonly be seen as expressing community values and choices.

Accordingly, such decisions have historically been seen as belonging in the domain of elected members. Elected members are selected by voters to represent their interests and are accountable to voters for their decisions.

59. If the members of NBA and RSS committees representing local government are comprised of non-elected members and if the committees have final decision-rights, as recommended by the Panel, then accountability issues will arise. On the one hand, those representing local government will not be politically accountable. On the other hand, those charged with implementing and funding the decisions of the committees (ie, elected members of local government) will be responsible to voters for matters over which they have exercised little effective control. Such arrangements are not consistent with current democratic practice and may well be unworkable in practice.
60. Second, if officials from local government are selected for the joint committees, there is a risk of these officials being politicised (ie, because they will be involved in making decisions on important matters of public policy, including trade-offs between competing values and interests). Given such risks, some local authority officials are likely to be unwilling to serve on such committees.
61. The panel proposed an independent chairperson for the RSS committees, without specifying how that person should be chosen. It did not clarify whether that person would have voting rights or would be an impartial person taking no part in the substantive debate but facilitating the Committee's dialogue. We wish to engage on this further before providing advice to Ministers.
62. There are options to address these issues. One of these is whether the joint committees should have delegation through statute or from the constituencies. Another option is whether Māori should be represented by mana whenua or iwi/hapū. We are also looking closely at the processes for decision-making including whether there is a need to specify time periods in the legislation to support efficient decision-making. The range of options will be explored as we engage further with our partners in order to seek detailed decisions at MOG #11 (23 Aug).
63. Te Puni Kōkiri have noted that recognising that not all mana whenua will be able to be represented on joint committees raises risks for mana whenua and the Crown partnership/relationship if there is inequitable representation in some regions. All regions will have iwi and hapū who will expect their rangatiratanga to be recognised at the decision-making table. In their view, iwi and hapū should be co-designing with the Crown the governance approach.

Accountability and transparency of decision-making

Principle 4: Governance arrangements should ensure appropriate accountability and transparency for decision-making, with conflicts of interest properly identified and managed

Accountability

64. It is important that there is accountability for decision-makers in order for the system to be legitimate. It has generally been accepted that there should be political accountability for decisions on key issues of public policy.³
65. The Panel noted the following points in making their recommendations:
 - direct accountability to the public is generally appropriate when decisions involve determining public values

³ Productivity Commission, Better Regulations (2014)

- electoral accountability is both important and sufficient for decisions on strategic direction and funding that affect the community generally.
66. In designing the governance arrangements across the NBA and SPA officials will assess the nature of the decisions being taken, what form of accountability would be appropriate (for example, political, legal, professional and administrative accountability) and the implications of this for implementation and efficiency.
 67. Accountability is important as a concept between decisions that are made on strategic direction for communities and those that have responsibility to implement (and fund) the decisions. This is a key point that has been raised by Local Government New Zealand (LGNZ) who have suggested a principle of '*accountability follows responsibility*'. In their words this means that those who are accountable for policies and implementation need to have a meaningful role in the development and approval of those policies.
 68. It was agreed at MOG #3 that environment limits and the national planning framework would be determined by the Minister for the Environment (with the Minister of Conservation for the current New Zealand Coastal Policy Statement content). Ministers are accountable to Parliament and these decisions are therefore politically accountable.
 69. The Panel was clear that both the NBA plan and RSS joint committees should be autonomous in their decision-making. While they would consult with and seek the views of the organisations they are representing, final decisions would rest with the joint committees [and would not require prior approval of the organisations].
 70. Officials are assessing the implications of autonomous decision-making. It appears that the Panel considered that such decision-making would lead to better and more efficient decision-making and be less prone to gaming behaviour. However, autonomous decision-making has implications for accountability and risks a lack of commitment to implementation of plans by local government.
 71. The Panel was also clear that individual constituent organisations could exercise the same objection and appeal rights as other participants in the system, in relation to NBA plans. This would provide one avenue for disagreements to be legitimately expressed, however does risk creating an unintended consequence of further litigation and could be perceived as weakening the partnership model.

Transparency and conflicts of interest

72. The principle recognises the important of managing conflicts of interest, in order to support integrity, trust and credibility of the system. The legislative requirements of the Official Information Act and Local Government Official Information and Meetings Act 1987 would apply to central and local government.
73. It will be important to manage information and decision-making openly and transparently, as well as the potential for conflicts of interest for decision-making on the joint committees.

Governance arrangements are efficient, cost-effective and workable

Principle 5: Governance arrangements across the resource management system should be efficient, cost-effective and workable, and encourage the wise stewardship of resources

74. This principle means in practice that the governance and decision-making arrangements for the NBA and SPA should be designed to encourage efficient and effective decision-making processes.
75. The design of the arrangement should provide for the wise stewardship of resources, whether in terms of financial capital, human capital or natural capital.

76. The public service has an obligation to ‘support the government to pursue the long-term public interest’ and to ‘proactively promote stewardship’. The latter includes long-term capabilities, institutional knowledge and information, and systems and processes.

It is important that the governance arrangements avoid unnecessary complexity or duplication of effort. This raises the question of whether there is a case for linking the SPA and NBA joint committees in a formal sense, such that the membership is largely the same. Common membership would reduce overall transaction costs and provide strong synergies across decisions on the SPA and NBA plans within a region. This type of approach could also support a joint secretariat model.

Provide for integrated decision-making within regions

Principle 6: Governance arrangements should ensure integrated decision-making wherever possible within regions, whilst allowing for variation to reflect the different circumstances of communities

77. Integrated decision-making at a regional level has the potential to align land-use planning and infrastructure investment where housing and labour markets cross multiple territorial authorities. It also aims to assist in the achievement of outcomes across a larger spatial area.
78. The intent of this principle is to recognise that opportunities should be maximised to take advantage of the potential for the future system to support more efficient planning across a region. It supports a regional focus to decision-making but that must be balanced with the ability for local and community interests to be recognised within the system.
79. Integrated decision-making includes the development of plans and strategies, as well as the implementation.

Give effect to the principles of Te Tiriti o Waitangi and uphold Te Tiriti settlements

Principle 7: Governance arrangements across the resource management system should give effect to the principles of Te Tiriti o Waitangi and uphold the integrity of integrity of natural resource arrangements agreed by Māori and the Crown in current Treaty settlement negotiations.

80. This principle is consistent with previous decisions made by the MOG, including on how to give effect to the principles of Te Tiriti in the NBA. Decisions have not been made on how to give effect to the principles of Te Tiriti in the SPA.
81. The Panel recommended the need for a more effective strategic role for Māori in the reformed system, and considered that this would be achieved through:
- the establishment of a National Māori Advisory Board monitoring the performance of giving effect to the principles of Te Tiriti
 - the development of a National Policy Statement on giving effect to the principles of Te Tiriti
 - a role for mana whenua in joint committees for regional spatial strategies and NBA plans.
82. Feedback from iwi, hapū and other Māori groups on the National Māori Advisory Board has been mixed. Some submitters and attendees at regional hui have expressed support for aspects of the proposal, however concerns have been raised with the advisory nature of the Board and the ability to achieve effective representation. FILG and WMT, and FOMA, KWM and NZMC do not support the proposal.
83. FOMA, KWM and NZMC provided an alternative proposal known as Te Mana o te Taiao Commission. The proposal would be a Māori majority body that would inform national

policy (at the level of national direction) and have a stronger role in governance, decision-making and oversight.

84. Officials are giving further consideration to these matters subject to the decisions that have been made at MOG #7, and decisions will be sought at MOG #14 on institutional arrangements.
85. Partnership on planning committees is a key proposal for the reforms to give effect to the principles of Te Tiriti. We agree in principle to a partnership approach to planning committees, however we need to work through the detailed design including selection processes, decision-making processes and dispute resolution.
86. Governance arrangements for the whole system need to take account of the undertaking given to Māori that resource management reform will not limit options in relation to iwi and hapū rights and interests in freshwater. Māori have indicated that their participation in governance and decision-making is one element of addressing their freshwater rights and interests.
87. Māori participation will be included in the MOG #10 papers on participation. We expect this paper to provide more detail on 'how' the principles of Te Tiriti will be given effect to through the system.

Treaty Settlements

88. Governance arrangements, especially those at the regional or sub-regional level may have impact on Treaty settlement natural resource arrangements. Upholding and appropriately transitioning arrangements into the new system, and ensuring existing participatory rights are not diminished will ensure any new governance and decision-making arrangements are able to give effect to the principles of Te Tiriti.
89. Specific impacts on Treaty settlements will depend on the details of any governance and decision-making proposals and a full assessment should consider clause by clause assessments of Treaty settlements and thorough engagement with PSGEs to determine how they can be protected and appropriately transitioned (without being diminished).

The system should be able to be adapted over time

Principle 8: Governance arrangements across the resource management system should be able to be adapted over time to fit with the changing needs of communities and the environment

90. This principle means that in designing the system it is recognised that there will be the ability for the governance arrangements to be modified or adapted over time. This will ensure the system remains fit-for-purpose as circumstances change.
91. One option to address this would be to set out principles or core parameters in the primary legislation, and use secondary instruments to establish governance arrangements for regions or joint committees. This approach would allow for flexibility for the system to evolve over time within the parameters of the primary legislation.

Next steps

92. We intend to continue to engage with the national Māori collectives and local government on system wide governance matters. We will further develop options and test these against the reform objectives in order to seek further decisions from Ministers at the following upcoming Ministerial Oversight Group meetings [TBC topics]:
 - MOG #11 (23 Aug) Governance

- MOG #12 (8 Sep) Wider legislative interface, including Treaty Settlements
 - MOG #14 (Nov) Institutional arrangements and system funding
93. The decisions on the governance arrangements also have an impact on the design of processes in the NBA, for example the plan-making process or the process to develop the National Planning Framework. In order to continue to progress the policy work, the principles set out in this paper will be used to inform the design across the system.
94. It is recognised that the Select Committee Inquiry will be considering the concept of joint committees for NBA plans. Officials will carefully manage the separation between the Select Committee Inquiry process and the development of further policy and options in order to inform the development of the remainder of the NBA.

Recommendations

We recommend that the Ministerial Oversight Group:

1. **note** that the Panel:
 - 1.1. identified as an important aspect of its proposals “*an emphasis on collaboration in decision-making across central and local government and mana whenua*”
 - 1.2. proposed a shift in decision-making from territorial authority decision-making to a more regionalised approach.
2. **note** that implementing these recommendations requires broader consideration of governance design in order for the future system to meet the reform objectives.
3. **agree** that governance arrangements across the resource management system should be consistent with the purposes and supporting provisions of the NBA and SPA and:
 1. ensure that roles and responsibilities are clearly identified and that when and how decisions are made are clearly defined
 2. ensure that decision-making is informed by robust information and evidence, including mātauranga Māori, with proportionate opportunities for public participation
 3. provide for effective representation of differing interests whilst recognising that this does not mean direct representation for every constituent body
 4. ensure appropriate accountability and transparency for decision-making, with conflicts of interest properly identified and managed
 5. be efficient, cost-effective and workable, and encourage the wise stewardship of resources
 6. ensure integrated decision-making wherever possible within regions, whilst allowing for variation to reflect the different circumstances of communities
 7. give effect to the principles of Te Tiriti o Waitangi and uphold the integrity of natural resource arrangements agreed by Māori and the Crown in current Treaty settlement negotiations
 8. able to be adapted over time to fit with the changing needs of communities and the environment.
4. **note** that officials will use these principles, and the set of questions set out in Appendix 1, to guide further engagement with local government and the national Māori collectives to develop efficient and workable governance and decision-making options.
5. **agree** that the broad framework that officials will use for option development is that:

- 5.1. Regional decision-making is the preferred option for planning and planning documents
- 5.2. Regional Spatial Strategies are to be decided by a custom-made group representing central government, local government and iwi/hapū.
6. **note** that officials will proceed with options development on the basis of Natural and Built Environment Plans being decided by joint committees but note that this is also being considered by the Select Committee Inquiry and officials will reassess recommendations after the Select Committee reports back.
7. **agree** that MOG delegate decisions about the Minister of Conservation's existing role to the Minister of Conservation and Minister for the Environment, in consultation with other Ministers as appropriate
8. **note** that further decisions on governance, institutional and funding implications of central government's role in the future resource management system will be sought at MOG #11 and MOG #14.

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Appendix 1 - Design considerations across the system

System wide considerations

- What should be set in primary legislation? What can be set through secondary instruments?
- What is the appropriate allocation of roles and responsibilities between national level and regional/local level?
- What do appeal rights look like and what does that do to incentives?
- How should the system be funded? What is the impact on capability and capacity of actors in the system?
- How will the principles of Te Tiriti o Waitangi be given effect throughout the reformed system?
- What is the role for technical experts in the process and decision-making? Is it different?

National level

- What are the roles and responsibilities for the Minister for the Environment, the Minister of Conservation and other Ministers and agencies?
- What institutions or processes can be put in place to support the national interest over the long-term in decision-making?

Regional/local level

- How can processes to develop the RSS and NBA plans enable an appropriate and proportionate level of public participation?
- Who makes the final decision on the contents of RSS and NBA plans, and who can be held accountable?
- How should committee composition and memberships be determined?
- What level of autonomy should committees have in decision-making?
- What level of agreement should be required for any decision of a joint committee? What are appropriate dispute resolution processes where agreement cannot be reached?
- Should there be one regional committee to carry out planning functions under the NBA, the SPA and possibly incorporating aspects of the role of the regional transport committees under the Land Transport Management Act 2003, or should these roles be kept separate as recommended by the Resource Management Review Panel?
- How should the operation of joint committees, including the participation of Māori, be funded?

MINUTE

RM Reform Ministerial Oversight Group Meeting #7

Date: Monday 31 May 2021, 3.30 – 4.30 pm

Location: 2.1EW

Chair: Hon Grant Robertson, Minister of Finance

Deputy Chair: Hon David Parker, Minister for the Environment

Attendees: Hon Kelvin Davis, Minister of Māori Crown Relations: Te Arawhiti

Hon Megan Woods, Minister of Housing

Hon Nanaia Mahuta, Minister of Local Government

Hon Poto Williams, Minister for Building and Construction

Hon Michael Wood, Minister of Transport

Hon Phil Twyford, Associate Minister for the Environment

Hon James Shaw, Minister of Climate Change

Apologies: Hon Damien O'Connor, Minister of Agriculture

Hon Peeni Henare, Associate Minister for Arts, Culture and Heritage

Hon Willie Jackson, Minister for Māori Development

Hon Kiritapu Allan, Associate Minister for the Environment,

Hon Ayesha Verall, Minister for Conservation

Agenda Item 1: Policy decisions on the Strategic Planning Act

Refer to separate paper '*The Strategic Planning Act: purpose, function and scope of regional spatial strategies, and the integration with the resource management system*' dated 31 May 2021.

1. **agreed** to officials working with Parliamentary Counsel Office to progress drafting the SPA on the basis of the decisions in this paper

SPA Purpose Statement

2. **agreed** to using the Panel's indicative purpose for the SPA as the basis for drafting with modifications to align with the NBA
3. **agreed** that the purpose of the SPA should include reference to the promotion of the wellbeing of present and future generations through the long-term strategic integration of functions exercised under specified legislation

4. 

5. **directed** officials to ensure that work on the SPA will not limit the options that can be explored to address Māori freshwater rights and interests in upcoming work on water allocation.
6. **agreed** that definitions of terms referred to in the SPA purpose should align with the NBA definitions of those terms, including those for 'wellbeing' and 'environment'
7. **agreed** that the SPA purpose sub-clauses that describe the functions under specified legislation will be aligned with NBA clauses (as appropriate) to promote alignment between the two Acts
8. **agreed** that the 'specified legislation' referred to in the SPA purpose should include the:
 - a. Natural and Built Environments Act
 - b. Local Government Act 2002
 - c. Land Transport Management Act 2003
9. **agreed** in principle that the Climate Change Response Act 2002 should be included in the 'specified legislation' subject to further advice
10. **agreed** in principle that, dependent on final content once passed, 'specified legislation' should also include:
 - a. Acts resulting from three waters reform
 - b. the proposed Climate Adaptation Act
11. **noted** that officials will provide advice on consequential changes to other legislation for a future MOG meeting and that this may include advice to further expand the list of 'specified legislation'
12. **agreed** in principle that the SPA does not require its own outcomes but should instead provide that the NBA outcomes apply, with this decision to be revisited if necessary, following the exposure draft inquiry
13. **agreed** that the SPA contain a clause to the effect that, to assist in achieving the purpose of the SPA, those exercising functions and powers under it must:
 - a. provide for national outcomes set out in the NBA purpose/outcomes section, as directed by the NPF
 - b. consider how the relevant outcomes and objectives contained within specified national strategic plans and documents (such as Government Policy Statements) can be applied regionally

Purpose of regional spatial strategies

14. **agreed** that the purpose of regional spatial planning and the resulting regional spatial strategies is to promote overall system integration and the wellbeing of present and future generations, including by:
 - a. identifying a shared long-term high-level vision, objectives and priority actions for how a region will grow and change over time, underpinned by a robust evidence base
 - b. translating relevant national-level direction into a regional context
 - c. supporting strategic integration of statutory functions specified in the purpose of the SPA

- d. improving coordination and alignment of infrastructure investment between central government, local authorities and other infrastructure providers
 - e. providing strategic direction to other parts of the planning system
 - f. upholding relevant Treaty settlement legislation and other bespoke Māori-related legislation that amends or interacts in a relevant way with the RMA to the extent it is affected by SPA planning
15. **directed** officials that the design of the regional spatial strategies should be strategic and high level, and improve the efficiency and effectiveness of the resource management system.
16. **invited** officials to come back with further advice on how the SPA and regional spatial strategies will improve system efficiency and effectiveness

Time horizon of regional spatial strategies

17. **agreed** that regional spatial strategies should set a strategic direction for at least the next 30 years. This should be informed by longer-term data and evidence as appropriate, such as 30 to 50 years for a new transport corridor, and 100 years plus projections for climate change

Scope of regional spatial strategies

18. [REDACTED]
19. **noted** that a regional spatial strategy's focus or extent of coverage of the matters within scope will differ depending on the region and context
20. **agreed** that regional spatial strategies may also cover other matters that meet a statutory test or criteria relating to the significance of their impact on the nation or region (eg, a significant new tourist attraction that is critical to the regional economy and needs to be integrated with decisions on infrastructure investment)
21. [REDACTED]
22. **noted** that it is important that the RM system supports the efficient and cost-effective delivery of strategic infrastructure at all levels of planning, and that regional spatial strategies have an important role in ensuring that the infrastructure identified in the strategies can be implemented through subsequent designations and consents under the NBA and funding processes.
23. **noted** that officials are currently working across the RM reform programme to ensure a coherent approach to planning and infrastructure delivery that flows logically from the NPF, to SPA and into NBA plans and will provide specific recommendations at a later date

24. [REDACTED]

Level of detail within regional spatial strategies

25. **agreed** that regional spatial strategies should be strategic and high-level, and:
- a. identify indicative locations for proposed (visionary) activities rather than specific site boundaries, except where boundaries have already been identified (eg, through the National Planning Framework)

- b. include high-level information on indicative locations for future development capacity, including infrastructure corridors, and the basis (or triggers, such as a developer presenting a feasible proposal) used to guide decision-making
 - c. provide a greater level of detail for short-term elements of the strategy, and less detail and greater flexibility for changes and activities planned further out in time (medium and long-term)
 - d. inform the development of more detailed implementation agreements
26. **agreed**, subject to a) to c) above, that the level of detail included in a regional spatial strategy can vary to suit the particular area or activity
27. **noted** officials will report back on model regional spatial strategies

Evidence and strategic framework for developing regional spatial strategies

28. **agreed** that all regional spatial strategies should be informed by robust information and evidence, including mātauranga Māori that is proportionate to the level of detail required in the strategies
29. **directed** officials to provide advice for a future MOG meeting about what information and evidential requirements should be prescribed in the SPA

National Priorities Statement

30. **agreed** that a National Priorities Statement is not needed
31. 

Legal weight between NPF and spatial strategies

32. **agreed** that spatial strategies must 'implement' (eg, 'give effect to', or similar legal weighting) any provisions of the NPF that the NPF explicitly states are to be implemented through a spatial strategy
33. **agreed** that spatial strategies must be 'consistent with' (or similar legal weighting) any other provisions of the NPF (ie, those that are to be implemented through NBA plans)

Legal weight between spatial strategies and NBA plans

34. **agreed** that spatial strategies must have sufficient legal weight on NBA plans to ensure that any key strategic decisions made through the strategy are not revisited or relitigated when preparing NBA plans.

Treaty Settlement Acts

35. **noted** that Treaty settlement Acts specify the legal weight that must be applied to Treaty settlement arrangements or specific instruments in an RMA context and the purpose, functions and powers of existing governance arrangements
36. **noted** that further work, including engagement with the relevant PSGEs, will be done to identify commitments that are materially affected by the SPA and what is needed to provide for them in the SPA

Integration with instruments in other legislation

37. **agreed** to the policy intention that regional spatial strategies should have particular regard to current and future Government Policy Statements (GPS), including the GPS for land transport and the future GPS for housing and urban development

38. **agreed** that regional spatial strategies should take into account the Minister's response to the National 30-year infrastructure strategy, where they are relevant to regional spatial planning

National-level direction for regional spatial strategies

39. **agreed** in principle that if there are conflicts between different national-level direction or outcomes shaping a spatial strategy that cannot be resolved through the spatial strategy process, the NPF direction takes priority

Local level plans and other instruments

40. **agreed** with the policy intent that LTPs, Annual Plans, local authority infrastructure strategies, and RLTPs should be required to take active steps towards the 30-year strategy in regional spatial strategies, while having flexibility to consider timing and sequencing, and matters outside the resource management system as required by their respective legislation
41. **noted** that the governance model for spatial strategies will also have implications for how spatial strategies direct local instruments

42.

Agenda Item 2: Te Oranga o te Taiao

Refer to the following two papers:

- *Including Te Oranga o te Taiao in the Natural and Built Environments Act exposure draft*, dated 31 May 2021
 - *Clarifying the policy intent of inclusion of Te Oranga o te Taiao in the purpose of the Natural and Built Environments Act*, dated 02 June 2021
43. **agreed** to adopt recommendations 44 to 58 subject to further work to clarify the policy intent of the purpose. This further work would be circulated for feedback and final agreement by Friday 04 June.
44. **agreed** to include Te Oranga o te Taiao in the purpose of the exposure draft, in accordance with the indicative drafting outlined below (deletions tracked as per recommendation 57:

Purpose

(1) The purpose of this Act is to uphold Te Oranga o te Taiao and enable the ~~protection and~~ use of [natural and physical resources] to support the wellbeing⁴ of present and future generations.

(2) The purpose of this Act is to be achieved by ensuring that:

- (a) the use of [natural and physical resources] is within environmental limits⁵;
- (b) positive outcomes for the environment are provided for; and

⁴ "Wellbeing" for the purpose of the Act is to be defined as "Including the social, economic, environmental and cultural wellbeing of people and communities, and their health and safety."

⁵ The section of the Act relating to "environmental limits" should include a purpose statement (eg, the purpose of environmental limits is to protect the ecological integrity of the natural environment and human health)

(c) adverse effects of activities on the environment are avoided, remedied and mitigated.

45. **agreed** to include a definition for Te Oranga o te Taiao in the exposure draft, in accordance with the indicative drafting outlined below (deletions tracked as per recommendation 58:

Definition of Te Oranga o te Taiao

For the purposes of this Act, Te Oranga o te Taiao comprises:

- (a) the health of the natural environment; and
- (b) the inherent relationship between iwi and hapū and te Taiao; and
- (c) the interconnectedness of the natural environment and the interactions of its elements and ecosystems; and
- (d) the essential relationship between the health of the natural environment and its capacity to sustain all life.

46. **noted** that MOG has previously made decisions on outcomes to include in the exposure draft, that are currently being progressed by the Parliamentary Counsel Office.

47. **agreed** to modify outcome (e) and include outcome (f) below to support Te Oranga o te Taiao, in accordance with the indicative drafting outlined below (emphasis added):

Outcomes

- (a) the quality of air, fresh water, coastal waters, estuaries, and soils is maintained, restored, or improved
- (b) the ecological integrity and resilience of ecosystems and indigenous biodiversity, including their protection, restoration, and improvement
- (c) the protection, restoration or improvement of nationally and regionally significant:
 - (i) landscapes
 - (ii) natural features
 - (iii) areas of indigenous vegetation
- (d) the coast, lakes, rivers, wetlands and their margins:
 - (i) are protected from inappropriate subdivision use and development
 - (ii) has their natural character preserved; and
 - (iii) public access to and along them is maintained and enhanced
- (e) *the protection and restoration of the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga:*
- (f) *the protection and restoration of the mana and mauri of the elements and ecosystems within the natural environment:*
- (g) cultural heritage, including cultural landscapes, is identified, and is protected and sustained through active management in accordance with its values [for the wellbeing of present and future generations]
- (h) protected customary rights are recognised
- (i) dynamic, well-functioning urban areas that are responsive to growth and change and contribute to community and people’s wellbeing, including through:
 - (i) enabling a range of economic opportunities, including employment and education

- (ii) enabling a variety of social and cultural opportunities
- (iii) ensuring urban form is efficient, adaptable and resilient, and enables access to and between opportunities
- (j) housing supply and choice that meets the diverse and changing needs of people and communities, including:
 - (i) contributing to housing affordability
 - (ii) enabling the housing aspirations of Māori
- (k) non-urban areas enable economic growth, land use change and contribute to community wellbeing, including through:
 - (i) enabling a range of economic opportunities, including employment and education
 - (ii) enabling a variety of social and cultural opportunities
 - (iii) ensuring they are adaptable and resilient
 - (iv) the protection of highly productive land from inappropriate subdivision, use and development
 - (v) enabling protection and sustainable use of the marine environment
- (l) the ongoing provision of infrastructure services that support the wellbeing of people and communities, including through:
 - (i) supporting the use of land and economic opportunities
 - (ii) the increased generation, transmission and use of renewable energy that supports a reduction in greenhouse gas emissions
- (m) significant natural hazard and climate change risks are reduced, and resilience to the effects of natural hazards and climate change is improved
- (n) greenhouse gas emissions are reduced and removals of greenhouse gasses increased.

48. **agreed** to include the following implementation principles in the exposure draft to support Te Oranga o te Taiao, in accordance with the indicative drafting outlined below:

Implementation principles

- Provides for and promotes the integrated management of the environment
- Recognises and provides for the application of kawa, tikanga (including kaitiakitanga) and mātauranga Māori in relation to te Taiao
- Provides and promotes appropriate mechanisms for effective participation by iwi and hapū in processes under this Act
- Recognises and provides for the authority and responsibility of each iwi and hapū to protect and sustain the health and wellbeing of te Taiao in accordance with their kawa, tikanga and whakapapa relationship with te Taiao

49. **noted** that for some terms, eg, 'kaitiakitanga' and 'mātauranga Māori', officials intend to discuss appropriate definitions with iwi/Māori groups for inclusion in the NBA Bill

50. **noted** the indicative drafting above is subject to drafting changes through the Parliamentary Counsel Office process, though any drafting changes must maintain consistency with the policy intent stated in Appendix 1

51. **noted** that the MOG agreed (at MOG #6) that material relating to Te Mana/Oranga o te Taiao and the other options considered will be included in the accompanying paper to the exposure draft. The accompanying paper will also explain the work to come on this concept and seek feedback on key questions (as agreed by the MOG)

52. **agreed** that the accompanying paper to the exposure draft no longer needs to include any other options for Te Mana/Oranga o te Taiao other than the revised Te Oranga o te Taiao proposal and the option from [REDACTED]
53. **noted** that the MOG agreed (at MOG #6) that officials will continue to work with iwi/Māori groups on Te Mana [Oranga] o te Taiao (or equivalent concept)
54. **agreed** that this continued work will now focus on the revised proposal for Te Oranga o te Taiao
55. **agreed** that the policy intent outlined in the 02 June paper (as modified by Ministers and shown in tracked changes version in Attachment 1) be used to inform the drafting instructions provided to the Parliamentary Counsel Office for development of the exposure draft⁶
56. **noted** that the Parliamentary paper will make clear that the introduction of this concept must be consistent with the objectives agreed for the reform
57. **noted** that 'the protection' has been removed from sub-clause (1) of the purpose of the Bill in response to Ministerial feedback (see recommendation 44)
58. **noted** that in the definition of Te Oranga o te Taiao in recommendation 45, 'purposes' will become 'purpose' to correct a typographical error

Agenda Item 3: *Addressing gaps and inconsistencies between proposed NBA outcomes and mandatory direction in the National Planning Framework, dated 31 May 2021*

59. **agreed** to add mandatory direction on 'outcomes' for the topics covered by environmental limits
60. **agreed** to cross reference the specific relevant 'outcomes' within the existing topic areas agreed for national direction
61. **agreed** to clarify mandatory national direction on climate change is intended to cover climate change mitigation and adaptation, and natural hazard risk reduction.

⁶ Minister Kiritapu Allan (Associate Minister for the Environment) has provided specific comments on the 02 June paper which will be provided to Parliamentary Council Office for information.