

Agenda – RM Reform Ministerial Oversight Group Meeting #5

Date: Wednesday 7 April 2021, 3.30 – 4.15 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 Willie Jackson, Minister for Māori Development
 Hon Michael Wood, Minister of Transport
 Hon Kiritapu Allan, Minister of Conservation, Associate Minister for the Environment, and Associate Minister for Arts, Culture and Heritage
 Hon Phil Twyford, Associate Minister for the Environment
 Hon James Shaw, Minister of Climate Change

3.30 – 3.40	Agenda Item 1: Verbal report back on engagement with iwi/hapū and post-settlement governance entities	Lead speaker: Ministry for the Environment officials
<p>Description/key areas to focus discussion:</p> <ul style="list-style-type: none"> Ministry for the Environment (MfE) officials have been attending regional hui seeking feedback on the recommendations of chapter three of the Resource Management Review Panel report <i>‘Te Tiriti o Waitangi me te ao Māori’</i> and will provide an overview of feedback received. Minister Allan has also attended a number of these hui. 		
<p>Decisions Sought</p> <ul style="list-style-type: none"> Note officials provided a report back on engagement with iwi/hapū and post-settlement governance entities 		
<p>Supporting documents</p> <ul style="list-style-type: none"> Recommendations - RM Reform Ministerial Oversight Group Meeting #5 		
3.40 – 4.00	Agenda Item 2: Select Committee inquiry into the NBA exposure draft	Lead speaker: Minister for the Environment
<p>Description/key areas to focus discussion:</p> <ul style="list-style-type: none"> This paper sets out the approach for the Select Committee inquiry and associated Cabinet paper process and an overview of the exposure draft and accompanying paper (the Select Committee inquiry package). This paper seeks agreement to delaying the exposure draft release by one month to enable the inclusion of more detailed content on NBA plan decision-making, and sets out the implications of this proposed delay. 		
<p>Decisions Sought</p> <ul style="list-style-type: none"> Note officials' current intention to take the exposure draft, accompanying material and Select Committee inquiry information to Cabinet Environment, Energy and Climate Committee on 20 May 		

<p>2021</p> <ul style="list-style-type: none"> • Note that: <ol style="list-style-type: none"> a. the scope of the Select Committee inquiry will be directed to reviewing the NBA exposure draft b. officials will draft the inquiry Terms of Reference, notice of motion and accompanying material c. officials are conducting ongoing complementary consultation on aspects of reform policy not detailed in the NBA exposure draft. • Agree to delay completion of the Select Committee inquiry package by 1 month to enable the inclusion of additional content on the decision-making process for Natural and Built Environments Plans, with Cabinet decisions being sought in late June [recommended] <p>OR</p> <ul style="list-style-type: none"> • Agree to maintain the current timeframes, with Cabinet decisions being sought on the Select Committee inquiry package without the additional content, in late May • Agree to insert placeholder clause headings in the NBA exposure draft that will demonstrate linkages between the Climate Change Response Act 2004 and the NBA • Agree that the NBA exposure draft will cover the remaining matters set out in the paper 'Approach to Select Committee inquiry into the Natural and Built Environments Act Exposure Draft'. 		
<p>Supporting documents</p> <ul style="list-style-type: none"> • Key decisions – RM Reform Ministerial Oversight Group Meeting #5 • Recommendations - RM Reform Ministerial Oversight Group Meeting #5 • Paper 1: Approach for Select Committee inquiry into the Natural and Built Environments Act exposure draft 		
4.00 – 4.10	Agenda Item 3: Report back from the sub-group meeting discussions on the Treaty clause	Lead speaker: Minister for the Environment
<p>Description to focus discussion:</p> <ul style="list-style-type: none"> • A sub-group of Ministers met on Tuesday 7 April to discuss the Treaty clause in the Natural and Built Environments Act. This item provides an update on this meeting. <p>Ministers invited include: Minister of Finance, Minister for the Environment, Minister for Māori Crown Relations: Te Arawhiti, Minister of Local Government, Minister for Māori Development, Associate Ministers for the Environment (Min Allan and Min Twyford) and Minister Woods.</p>		
<p>Decisions Sought:</p> <ul style="list-style-type: none"> • TBC 		
<p>Supporting documents</p> <ul style="list-style-type: none"> • No supporting documents for this item 		
4.10 – 4.15	Agenda Item 4: Report backs and recommendations agreed outside of MOG meetings	Lead speaker: Minister of Finance
<p>Description/key areas to focus discussion:</p> <ul style="list-style-type: none"> • MfE and DIA officials have provided a short paper with an update on engagement with local government to date. It outlines how officials have incorporated that engagement into policy proposals. It also notes upcoming planned engagement with the local government sector. This paper is intended for noting only. • Given the number of decisions needed for the development of the exposure draft and the limited time available at the MOG meeting, three report back papers prepared by officials will be circulated and agreement sought from MOG Ministers between MOG #5 and MOG #6. These report backs are in response to actions for officials from previous MOG meetings, and cover advice on the purpose of Natural and Built Environment Plans, the NBA definition of natural and built environments, and any unintended consequences for infrastructure and development resulting from the previously agreed framing of the NBA Purpose. 		

Decisions Sought

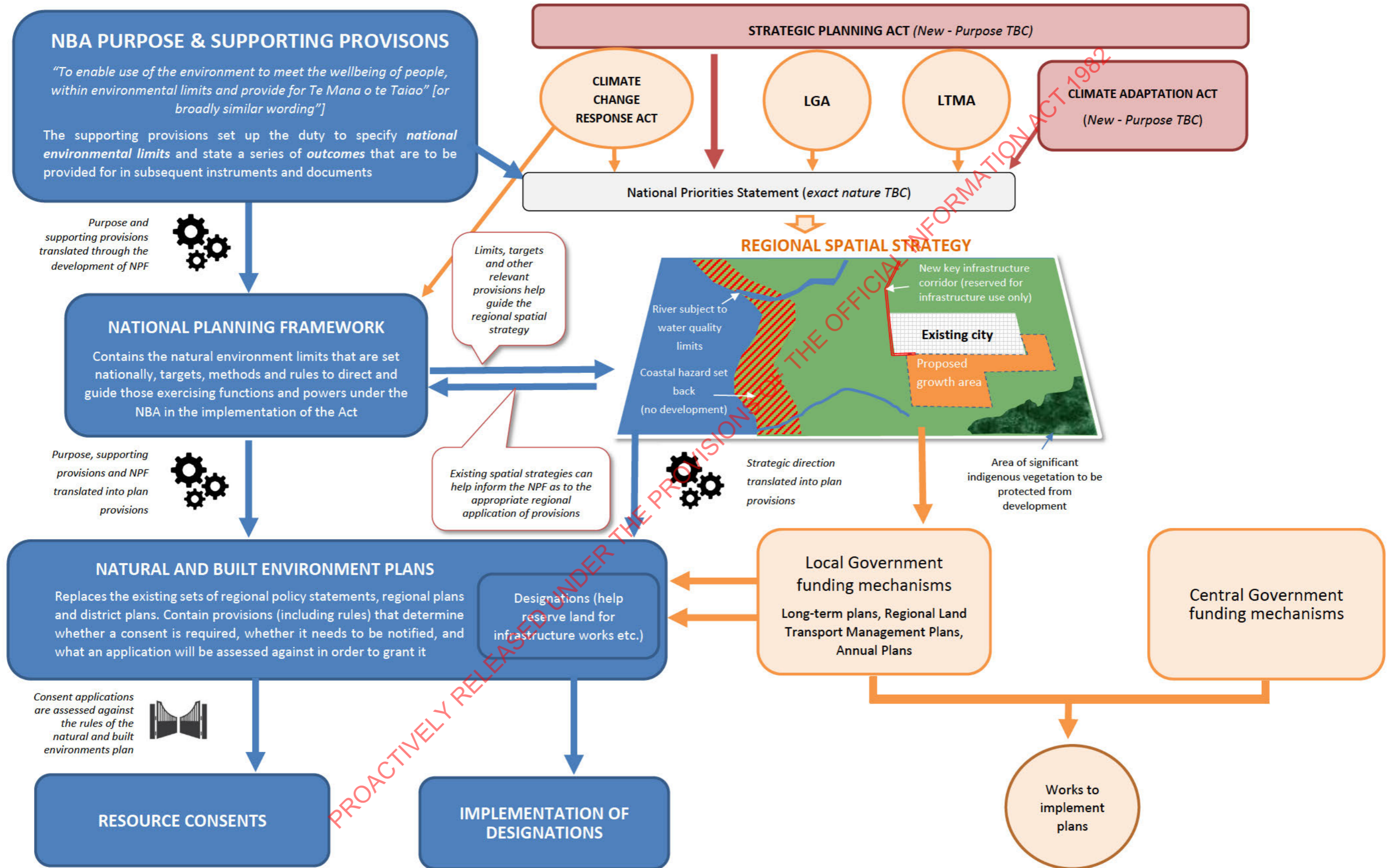
- **Note** that officials provided a written update on engagement with local government to date
- **Note** that officials have prepared report back papers on the purpose of Natural and Built Environment Plans, the NBA definition of natural and built environments, and any unintended consequences for infrastructure and development resulting from the previously agreed framing of the NBA Purpose, and that these papers will be circulated and agreement sought from MOG Ministers between MOG #5 and MOG #6.

Supporting documents

- Recommendations - RM Reform Ministerial Oversight Group Meeting #5
- Paper 2: Update on engagement with local government (for noting)
- Minute from RM Reform Ministerial Oversight Meeting #4 on 22 March 2021
- Action log from previous MOG meetings (for noting)

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Proposed future system overview diagram



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Key Decisions – RM Reform Ministerial Oversight Group Meeting #5

1. This note summarises key decisions being sought. The formal decision papers with advice and recommendations are attached separately.
2. Reform objectives agreed by Cabinet:
 - a. protect and where necessary restore the natural environment (including its capacity to provide for the wellbeing of present and future generations)
 - b. better enable development within biophysical limits, including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure
 - c. give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori
 - d. better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change
 - e. improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.

Description of decisions sought in attached papers	Context and next steps (including outstanding decisions)	Objectives met	Implications versus status quo
Approach to Select Committee inquiry into NBA exposure draft			
<ul style="list-style-type: none"> • The matters the Natural and Built Environments Act (NBA) exposure draft will cover and the timing and approach for the Select Committee inquiry. Specifically: <ul style="list-style-type: none"> ○ the scope of the Select Committee inquiry will be directed to reviewing the NBA exposure draft ○ officials will draft the inquiry Terms of Reference, notice of motion and accompanying material and that this together with the exposure draft will go to Cabinet ○ officials are conducting ongoing complementary consultation on aspects of reform policy not detailed in the NBA exposure draft. • Whether to defer the Select Committee inquiry by 1 month in order to include detail around NBA plan decision-making in the inquiry, OR progress on original timeframes without this information included. • To include placeholder clause headings in the exposure draft to show linkages between the Climate Change Response Act and the NBA. 	<p>To ensure the exposure draft and accompanying material can allow for a valuable Select Committee process, these decisions will enable/provide sufficient basis for any further:</p> <ol style="list-style-type: none"> 1) material to be developed to support the Select Committee inquiry, 2) decisions necessary to be taken to MOG, and 3) PCO drafting. 	NA	Allowing more time to develop the exposure draft will push introduction of the full NBA into early 2022. This would still enable a fulsome second Select Committee process and legislation to be passed by the end of 2022 as agreed by Cabinet.

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Recommendations – RM Reform Ministerial Oversight Group Meeting #5

Officials recommend that the MOG:

Agenda Item 1: Report back on engagement with iwi/hapū and post-settlement governance entities

1. note officials provided a report back on engagement with iwi/hapū and post-settlement governance entities

Agenda Item 2: Approach for Select Committee inquiry into the NBA exposure draft

2. note officials' current intention to take the exposure draft, accompanying material and Select Committee inquiry information to Cabinet Environment, Energy and Climate Committee on 20 May 2021
3. note that:
 - a. the scope of the Select Committee inquiry will be directed to reviewing the NBA exposure draft
 - b. officials will draft the inquiry Terms of Reference, notice of motion and accompanying material
 - c. officials are conducting ongoing complementary consultation on aspects of reform policy not detailed in the NBA exposure draft.
4. agree to delay completion of the Select Committee inquiry package by 1 month to enable the inclusion of additional content on the decision-making process for Natural and Built Environments Plans, with Cabinet decisions being sought in late June [recommended]

OR

5. agree to maintain the current timeframes, with Cabinet decisions being sought on the Select Committee inquiry package without the additional content, in late May
6. agree to insert placeholder clause headings in the NBA exposure draft that will demonstrate linkages between the Climate Change Response Act 2004 and the NBA
7. agree that the Natural and Built Environments Act exposure draft will cover the remaining matters set out in the paper *'Approach to Select Committee inquiry into the Natural and Built Environments Act Exposure Draft'*.

Agenda Item 3: Report backs and recommendations agreed outside of MOG meetings

8. note that officials provided a written update on engagement with local government to date
9. note that officials have prepared report back papers on the purpose of Natural and Built Environment Plans, the NBA definition of natural and build environments, and any unintended consequences for infrastructure and development resulting from the previously agreed framing of the NBA Purpose, and that these papers will be circulated and agreement sought from MOG Ministers between MOG #5 and MOG #6.

Paper 1: Approach for Select Committee inquiry into the Natural and Built Environments Act exposure draft (for item 3)

Purpose of this paper

1. This paper builds on Paper 1 from the Ministerial Oversight Group (MOG) meeting #4 on 22 March 2021 and sets out the intended:
 - approach for the Select Committee inquiry and associated Cabinet paper process, and
 - coverage of the exposure draft and accompanying paper.
2. This paper also seeks agreement to delaying the Select Committee inquiry process by one month to enable the inclusion of additional content on the decision-making process for Natural and Built Environments Plans, and sets out the implications of this proposed delay.

Context

3. On 14 December 2020 Cabinet made a number of decisions related to the Natural and Built Environments Act (NBA) exposure draft process [CAB-20-MIN-0522 refers], each of which have implications that officials are actively managing, as set out in the table below.

Cabinet decision	Implications and actions
<p>The Natural and Built Environments Act (NBA) exposure draft will contain its structure and indicative headings, with certain aspects fully drafted.</p> <p>The Strategic Planning Act (SPA) and the Managed Retreat and Climate Adaptation Act (CAA) will not have an exposure draft process, but that their policy direction will be signalled in the NBA supporting consultation material.</p>	<p>In order to provide meaningful feedback on the exposure draft, the Select Committee and general public will need explanations of the policy intent behind the drafting, and an indication of the policy direction for the un-drafted aspects of the reform package.</p> <p>Action: ensure the material accompanying the exposure draft addresses this, but makes it clear what is out of scope of the exposure draft process.</p>
<p>The exposure draft may signal but not include all policy details of the NBA, as these will continue to be developed in parallel to the Select Committee inquiry.</p> <p>Following its inquiry, the Select Committee will report back to the House, and the Minister for the Environment will return to Cabinet with advice on the committee's recommendations.</p>	<p>Feedback received from submitters and the Select Committee could lead to aspects of past decisions needing to be revisited. This is not uncommon for any bill process.</p> <p>Action: where needed, MOG or Cabinet will rescind past decisions and make new ones based on the new information received from the Select Committee inquiry.</p>
<p>Select Committee processes will be the primary method of engagement for stakeholders and the general public in the next stage of the reform.</p>	<p>Engagement with iwi-Māori groups as well as some targeted engagement with local government and other key stakeholders will be running concurrently to the exposure draft process. This may create confusion, and there will be constraints on information sharing during the Select Committee process.</p>

	<p>Action: officials will clarify the boundaries around what can be discussed with whom during the Select Committee process. Following the inquiry, new information will be reconciled with past decisions and discussions.</p>
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Approach for the Select Committee inquiry

4. The scope of the Select Committee inquiry into the NBA exposure draft will be directed towards considering the exposure draft, rather than the wider aspects of reform where policy decisions are yet to be made or drafted. This will enable the exposure draft to be rigorously examined within the approximately 12 week Select Committee process proposed.
5. The material accompanying the exposure draft will make it clear which matters have not been addressed at this stage, as those matters are still under development and will be included in the full NBA later on. Although the terms of reference will focus the scope of the inquiry on the exposure draft, the Select Committee may choose to comment on other matters. Following the Select Committee inquiry, all submissions will be public and officials will then be able to incorporate submitters' wider feedback and that of the committee into the development of the full NBA.
6. Officials will work with the Clerk of the committee to suggest timeframes for the submission period, with a view to ensuring the deadline for submitters provides sufficient lead-in time to prepare thorough submissions.

Overview of the exposure draft provisions

7. As set out in Paper 1 from the MOG meeting #4 on 22 March 2021, the exposure draft will include the draft purpose and principles of the NBA, as well as key provisions related to the national planning framework and natural and built environments plans. The material accompanying the exposure draft will explain the rationale for exposing these parts of the NBA early – essentially that they are fundamental aspects of the new system which warrant testing with the public before other aspects of the NBA are drafted.
8. At this time the following clauses (or similar) are expected to be in the NBA exposure draft being prepared by Parliamentary Counsel:

Part 1 Preliminary provisions

Clause: Outline of Act

Clause: Interpretation

Clause: Act binds the Crown

Part 2 Purpose and Principles

Clause: Purpose of this Act

Clause: Natural Environment Limits

Clause: Outcomes applying to the natural and built environments

Clause: [Te Tiriti o Waitangi/Treaty of Waitangi]

New part: Implementation principles

Clause: Implementation principles

New Part: National Planning Framework

Clause: Purpose of National Planning Framework

- Threshold test for 'matters of national significance' (subject to delegated decisions)

Clause: National Planning Framework made as a regulation

- Can be made in part or in full
- Will be disallowable instrument/presented to House of Representatives

Clause: Contents of National Planning framework

- Enables direction at range of scales
- Enables different types of direction (outcomes, policies, rules, methods etc)

Clause: Mandatory content for National Planning Framework

- Including urban and infrastructure (subject to delegated decisions)

Clause: Process to make National Planning Framework

- [placeholder process for developing the framework must meet the agreed principles]

Clause: [Placeholder for national planning standards, to demonstrate intention to be included in the future system]

New Part: Natural and Built Environments Plans

Clause: Purpose of NBA Plans

- Describes purpose of NBA plans

Clause: Requirement to prepare NBA plans [the decision maker TBC]

- [Placeholder only]

Clause: Functions of local authorities in relation to NBA plans

- Describes functions of territorial authorities and regional councils in relation to NBA plans.

Clause: Process for developing and changing plans – by NBA plan committee

- Placeholder for outline of the plan process principles.
- Placeholder for alternative plan change process.

Clause: Matters to be considered by NBA plan committee

- Matters that a plan decision maker must take into account when making decisions on a NBA plan. For the exposure draft this clause will include:
 - spatially identifying areas
 - other methods to resolve natural and built environment conflicts.

Clause: Content of NBA plans

- Content of a plan must meet the following principles:
 - promoting the integrated management
 - providing for kaitiakitanga and tikanga Māori and the use of mātauranga Māori
 - having particular regard to any cumulative effects
 - taking a precautionary approach

and

- implement the national planning framework and regional spatial strategies

- include outcomes, policies rules and other methods
- the ability to regulate activities and resources.

Clause: [Placeholder - additional content to outline topics a plan should address, relates to functions of territorial authorities and regional councils]

Clause: Relationship of NBA plans to other planning instruments/hierarchy

- Sets out NBA's role in implementing the national planning framework and regional spatial strategies.

Matters that will not be in the exposure draft

9. As set out in Paper 1 from the MOG meeting #4 on 22 March 2021, at this time the following clauses are **not** expected to be in the NBA exposure draft:

- Relating to the National Planning Framework:
 - National Planning Standards – detail related to process, functions and powers
 - Regulations, including emergency regulations and powers
 - Detailed provisions such as stringency and leniency, relationship to designations, water conservation orders
 - Monitoring and review requirements of national planning framework
 - Relationship to SPA and their regional spatial strategies
 - Relationship to existing use rights, activities, consents
- Relating to NBA plans:
 - Who the decision maker is on plans – **unless MOG agrees to delay the Select Committee inquiry**
 - Specifics of the plan making process [consultation engagement requirements, process steps, timeframes] – **unless MOG agrees to delay the Select Committee inquiry**
 - Overlapping functions of territorial authorities and regional councils
 - Additional matters for consideration by plan decision makers
 - Plan content – topic based matters and link to Purpose and Principles and local authorities functions
 - Legal weight of the national planning framework and regional spatial strategies in relation to NBA plans.
- **All other matters not explicitly noted under paragraph 8 above**, for example clauses related to consenting, enforcement, environmental limits, or transitional provisions.

Linking the Climate Change Response Act to the NBA in the exposure draft

10. The following objective for RM Reform was agreed by Cabinet [CAB-20-MIN-0522]:

“Better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change”.

11. Work is underway to advise on how best to make appropriate links with the Climate Change Response Act 2004 (CCRA) within the NBA so that this objective is met. However, we suggest that a placeholder clause(s) be added in the exposure draft to demonstrate that the links between the Acts will be clarified in the final NBA. The accompanying paper will also set out that further advice is planned on what these links should be.

Supporting material to accompany the exposure draft

12. Material to accompany the exposure draft is intended to provide the Select Committee and submitters with an explanation of the policy intent behind the exposure draft provisions and contextualise the exposure draft within the wider reform programme.

13. Specifically, the accompanying material will:

- contextualise the inquiry, including the reasons behind reform and objectives for reform
- briefly summarise the Resource Management Review Panel Report¹ as a foundation for reform policy development
- [REDACTED]
- explain what the exposure draft does and does not seek to do (to help focus submitters on the exposure draft and not on other evolving policy areas)
- explain the new plain language drafting style
- explain the policy intent behind the exposure draft provisions
- provide an avenue for iwi-Māori groups to express their views on the reforms/exposure draft and their role in the process, in their own words.

14. The following is a draft outline for the accompanying material that officials are working to:

- Introduction
- Background: resource management reform
 - The need for reform
 - What the Government wants reform to achieve
 - Links to other Government priorities
 - TBC: views from iwi-Māori groups on the reform more generally, the exposure draft specifically, and their role in the process
- Process: resource management reform
 - The independent review, including a description of the reform group and its process
 - The current process for reform and how the Select Committee inquiry fits in
 - Governance processes for reform, including the role of iwi-Māori groups – noting other avenues for engagement beyond the exposure draft process
 - The Select Committee inquiry, including explanation of why certain matters are included in the exposure draft, and what avenues there will be for addressing matters outside its scope
 - Next steps, including the intention to develop a reform transition plan
- A blueprint for resource management reform
 - An overview of how the three new acts will work together to achieve a balanced system
 - [REDACTED]
 - [REDACTED]
- Exposure draft interpretation
 - What is included in the NBA exposure draft?
 - How the exposure draft is written
 - Policy intent behind the exposure draft content

¹ *New Directions for Resource Management in New Zealand, 2020*

- Exposure draft itself
 - Clauses in the NBA exposure draft

Proposed change in timeframes for the inquiry and overall bill process

15. We will get significantly more value out of the Select Committee inquiry if the exposure draft and/or accompanying paper includes enough detail on the key governance and decision-making processes in the NBA (eg, decisions on natural and built environment plans). However these matters require a substantial amount of policy work and engagement with iwi-Māori groups and local government before we can seek MOG's decisions on them.
16. Officials consider delaying the inquiry process by one month would ensure the package can include, at a minimum, options for the decision-making processes. A preferred option may be drafted into the exposure draft, or options may be presented via the accompanying material. A paper will be presented to MOG 6 on these options and the next steps. One month's delay will also help ensure other aspects of the package are higher quality.
17. The implications of a month's delay are set out in the table on the next page, contrasted against the current timeframe. Introducing legislation by the end of 2021 has always been extremely tight with no contingency able to be programmed into our current planning. There has always been a risk that introduction could be delayed due to the challenge of reconciling Select Committee feedback with multiple streams of concurrent policy work.
18. Allowing more time to develop the exposure draft will push introduction of the full Bill into early 2022. This would still enable a fulsome second Select Committee process and legislation to be passed by the end of 2022 as agreed by Cabinet.

Intended Cabinet Paper Process

19. Pending decisions by the MOG on timeframes for the Select Committee inquiry, the Minister for the Environment will either take the exposure draft and package of associated material to Cabinet in late May or late June. The package will include the exposure draft contents, the accompanying material, as well as the intended approach for referring the inquiry to Select Committee (including the timing and scope of the inquiry).
20. Officials are advancing drafting of a notice of motion and terms of reference for the inquiry as well as the material to accompany the exposure draft on the basis of the approach set out in this paper.

Other reform consultation

21.

22.

Recommendations

note officials' current intention to take the exposure draft, accompanying material and Select Committee inquiry information to Cabinet Environment, Energy and Climate Committee on 20 May 2021

note that:

- a. the scope of the Select Committee inquiry will be directed to reviewing the NBA exposure draft
- b. officials will draft the inquiry Terms of Reference, notice of motion and accompanying material
- c. officials are conducting ongoing complementary consultation on aspects of reform policy not detailed in the NBA exposure draft.

agree to delay completion of the Select Committee inquiry package by 1 month to enable the inclusion of additional content on the decision-making process for Natural and Built Environments Plans, with Cabinet decisions being sought in late June [recommended]

OR

agree to maintain the current timeframes, with Cabinet decisions being sought on the Select Committee inquiry package without the additional content, in late May

agree to insert placeholder clause headings in the NBA exposure draft that will demonstrate linkages between the Climate Change Response Act 2004 and the NBA

agree that the Natural and Built Environments Act exposure draft will cover the remaining matters set out in the paper *'Approach to Select Committee inquiry into the Natural and Built Environments Act Exposure Draft'*.

Step	Current Dates	Delayed Dates	Step
MOG 5 – including decisions on Select committee inquiry package (the package) and timeframes	Wed 7 April	Wed 7 April	MOG 5 – including decisions on Select committee inquiry package (the package) and timeframes
MOG decisions incorporated into package, agency and Ministerial consultation on the package and associated Cab paper and RIS	7 April – 7 May	7 – 30 April	MOG decisions incorporated into package, agency and Ministerial consultation on the package and associated Cab paper and RIS Concurrently, officials develop the plan decision-making framework and finalise the MOG 6 papers
Lodge package for ENV on 20 May (or go to DEV the following week as a back-up option)	Thur 13 May	Mon 3 May	MOG 6 – including decisions on Natural and Built Environments Plans decision-making framework
Cabinet	24 May (or 31 May)	3 May – 11 June	MOG decisions incorporated into the Select Committee inquiry package, and additional agency and Ministerial consultation on the updated package
Exposure draft and accompanying material referred to Select Committee. <i>Note: previous week is a recess</i>	Tues 1 June	Thur 17 June	Lodge package for DEV on 23 June (no ENV that week)

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Paper 2: Update on engagement with local government (for noting, item 4)

Purpose

1. This paper provides MOG Ministers with a short update on engagement with local government to date and how officials have incorporated that engagement into policy proposals. It also notes upcoming planned engagement with the local government sector.

Background

2. MOG Ministers agreed at the first meeting on 26 January 2021 “that officials engage with local government to inform policy decisions for the exposure draft and Select Committee inquiry using, but not limited to, already available mechanisms” [MOG #1 minute para 11] in addition to Select Committee being the primary mechanism for engagement.
3. In February, the Minister for the Environment and the Minister of Local Government approved a local government engagement plan [2021-B-07614 refers] that was requested by MOG Ministers [MOG #1 minute para 12].
4. The approach to engagement balances getting quality feedback on policy proposals, maintaining confidentiality of advice to Ministers, officials’ and councils’ limited capacity, while meeting the reform timelines. In addition to existing engagement mechanisms already planned, Ministers agreed to establish a local government forum to feed into policy advice. The approach is being used for the NBA and we anticipate that engagement with local government on the SPA and CAA will build on this approach.

Summary of themes from engagement to date

5. As mandated by the engagement plan, officials from MfE with support from DIA have engaged with some local government experts, Chief Executives and Mayors on policy topics that MOG Ministers have already considered. Officials have also engaged widely with existing fora and with Local Government New Zealand (LGNZ) advisory and sector group meetings. Officials have worked with LGNZ and the local government sector to identify Chief Executives and Mayors from a spread of council types and geographical locations to ensure we receive a good range of perspectives on the reforms. We are looking to expand on the initial groupings to ensure that we achieve this.
6. We have heard broad support for the overall intent of the reforms and keenness to be engaged throughout the reform process. Some key themes emerging from initial engagement are below.

Resource management reforms overall

- Need to recognise there are inherent issues in the system that will be difficult to resolve – eg, balancing environmental protection (eg, fresh water and climate change response) with economic need for jobs and exports.
- How the transition to, and implementation of, the reforms will be done is a prominent question for local government - eg, for sequencing will the National Planning Framework be in place before new plans are made? Central government support is needed to implement the new system.
- Non-legislative elements of the reforms are also important eg, culture and capability building.

The impact on local democracy needs careful consideration

- Planning should be local, done by communities, data-driven and can meet national and regional priorities without being top-down.
- Planning requires community leadership as well as technical expertise.
- A mix of views on subsidiarity and decision-making responsibilities. A clear view that elected members are accountable to communities for activities funded through rates. This strong democratic link between raising and spending public funds is seen as important. The mixed capability of elected members was also recognised with some commenting that decision-making could be more professionalised and others noting that elected members need the right technical support.

Te Tiriti and increased participation role for Māori

- The role of Māori/iwi in planning is seen as essential, but there is a question of how it can be done to be efficient and effective. Resourcing support for mana whenua to build capacity is seen as necessary.
- In any one region, there are a large number of hapū with mana whenua – how do councils engage with all mana whenua groups? Need to co-design the council engagement process with Treaty partners.
- Co-governance between local councils and mana whenua is a complex issue. There is support for the approach, but need to acknowledge that it is time-consuming and resource-intensive and might not support the goal of quicker, more efficient planning. What to do if the relationships are not working?

A shift to a region-wide planning approach

- What is the role of territorial authorities in the new system as more functions are shifted to a regional level? This concern is also driven by the combined impacts of the three waters and resource management reforms.
- Question of regional planning boundaries – current regions are based on catchments, but communities of interest and iwi rohe boundaries are different. What is the right 'region' for planning to be done efficiently and effectively?
- How does a region accommodate the variety of local interests and priorities? Will the regional spatial strategies be focused on the urban centre(s) in each region, to the detriment of other interests?
- Some questioned the benefits of a combined region-wide NBA plan - although the value of a regional spatial strategy was generally more recognised.
- How will joint planning committees be resourced and funded? Will a territorial authority still need planning and consenting teams?
- Are regional spatial strategies top down or building on what is already in place? Many areas already have spatial plans. In addition to the Government partnerships (eg, Auckland-Hamilton corridor) there are examples such as the Kaipara District, and in the Bay of Plenty, there are three spatial plans for three different sub-regions. Concern about 'one-size-fits-all' although standard guidance and templates was considered useful.

Stronger central direction needs to be consistent and be done with local government

- Suggested that a joined-up policy approach at the national level was required on issues beyond integration of infrastructure and land use - eg, national immigration policy has meant that regional population projections and therefore infrastructure needs are quickly outdated.

- Central government should work with local government not against it [REDACTED]
- National direction needs to be consistent but also to take account of regional differences – eg, conditions in Southland are vastly different from much of the North Island.
- Central government needs to resolve conflicts between different pieces of national direction – eg, conflicts between highly productive land and urban development, or between forestry and freshwater.

Upcoming engagement

7. The next Local Government Chief Executive Forum will be on 8 April 2021. We are currently planning the content which will likely include both NBA and SPA material. We are also planning to meet a small group of Mayors again in April. There are several LGNZ fora that we will attend in May. Once the Select Committee inquiry commences in June, any engagement will need to carefully respect the Select Committee process and Parliamentary privilege.
8. Taituarā (formerly the Society of Local Government Managers) is establishing an online discussion forum for councils to discuss the reforms, and we are working with Taituarā to ensure that we participate efficiently and use the discussion forum to assist local government in submitting to the Select Committee.

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Minute from RM Reform Ministerial Oversight Group Meeting #4 on 22 March 2021 (for item 4)

MINUTE

RM Reform Ministerial Oversight Group meeting #4

Date: Monday 22 March 2021, 10:00 – 10:45am

Location: 2.1EW

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 Nanaia Mahuta, Minister of Local Government
Hon Poto Williams, Minister for Building and Construction
Hon Damien O'Connor, Minister of Agriculture
Hon Willie Jackson, Minister for Māori Development
Hon Michael Wood, Minister of Transport
Hon Kiri Allan, Minister of Conservation, Associate Minister for the Environment, and Associate Minister for Arts, Culture and Heritage
Hon Phil Twyford, Associate Minister for the Environment
Hon James Shaw, Minister for Climate Change

Apologies: Hon Megan Woods, Minister of Housing

Agenda Item 1: Actions from previous meeting

1. **confirmed** the minute of MOG meeting #3 on 8 March 2021
2. **noted** that officials have provided an overview of content in the exposure draft of the NBA and will provide further advice on the exposure draft, supporting material and scope of the Select Committee inquiry
- 3.



4.

Agenda Item 2: Further proposals for Natural and Built Environments Plans

5. **noted** that Cabinet has agreed that there will be one plan per region
6. **agreed** that officials provide further advice on the primary purpose of Natural and Built Environments Plans
7. **agreed** that a Natural and Built Environments plan structure and contents will address resource use and allocation (regional councils) and land use and subdivision (territorial authorities) matters holistically to achieve integrated management
8. **agreed** that further policy specifically on the approach for unitary authorities including Marlborough, Nelson and Tasman to develop a combined plan for that region be reported back to a future MOG
9. **agreed** that the role of Natural and Built Environments Plans is to regulate the natural and built environment at a regional and district level by:
 - a. implementing the outcomes, natural environment limits and Te Mana o te Taiao as set out in purpose and supporting provisions of the NBA
 - b. implementing the National Planning Framework and contributing to the implementation of regional spatial strategies
 - c. responding to the wellbeing of future generations and reflecting the needs of communities
10. **agreed** that regional spatial strategies play a key role in the planning system and will direct a policy and regulatory response to matters through NBA plans at a regional and district level
11. **agreed** that Natural and Built Environments plans will identify regional and district natural and built outcomes as well as how outcomes will be achieved through policies, rules and other methods, and processes (or however they may be expressed)
12. **agreed** that plan provisions can regulate activities and resources at a regional and district level by protecting, enabling, managing or prohibiting them (in the broadest sense), including through (but not exclusive to) outcomes, policies, rules and other methods, or processes
13. **agreed** that Natural and Built Environments plans have a role in:
 - a. promoting the integrated management of natural and built environments
 - b. providing for kaitiakitanga and tikanga Māori and the use of mātauranga Māori
 - c. having particular regard to any cumulative effects of the use and development of natural and built environments
 - d. taking a precautionary approach where effects on the natural environment are uncertain, unknown or little understood but have potentially significant and irreversible adverse consequences
14. **agreed** that in the process of developing Natural and Built Environments plans consideration by decision makers needs to be given to the resolution of conflicts and tensions by:
 - a. spatially identifying areas or places where development is prioritised or areas and places where protection of the natural and built environment needs to be prioritised;
 - b. other methods that seek to resolve tensions between the natural and built environment

15.



16. **noted** that the intent is for plans to be forward looking and enabling in areas where activities have been identified as being appropriate and restrictive where protection is required

17. **noted** that further work is required on the relative weight and influence of other statutory plans prepared under other legislation on Natural and Built Environments plans

18.



19. **agreed** that any new plan decision making model should:

- a. be efficient and workable
- b. provide a strategic role for Māori to ensure NBA plans include mātauranga Māori to reflect Māori interests, and
- c. give effect to the principles of Te Tiriti o Waitangi, and maintain local government accountability

20.



21. **agreed** that the plan development and plan change process be fair and proportionate to the size and scale of the process or change and must ensure:

- a. robust evaluation and analysis of the plan provisions are built into appropriate decision points
- b. effective public engagement and consultation that includes seeking views from diverse groups within the community
- c. a role for Māori that gives effect to the principles of Te Tiriti o Waitangi
- d. appropriate evidence and technical expertise including mātauranga Māori and independent advice to inform decision making
- e. a role for public and key stakeholders
- f. a role for constituent local authorities
- g. an ability to make submissions, be heard and appeal decisions (in certain circumstances)
- h. an impartial, expert and inquisitorial review hearing process (such as an expert Independent Hearing Panel)

22. **agree** that alternate plan change processes may be developed including (but not limited to) in circumstance where a change is minor, has limited impact or addresses inconsistencies, where a change is required to implement the national planning framework, a regional spatial strategy or other matter of significance

23.



24. **agreed** that regional councils retain their core natural resource functions and territorial authorities retain their core land use and subdivision functions; and gaps and overlaps as identified in the Panel's report should be clarified

25. **agreed** that if an overlap in functions remain, the Natural and Built Environments Plan must take a coordinated and consistent policy approach and indicate who is responsible for any consenting

26.



[REDACTED]

27. **agreed** that officials will work with PCO to draw together and modernise provisions relating to presumptions and existing use in Part 3 of the RMA for the NBA

28.

[REDACTED]

29. **agreed** that officials will provide advice on mechanisms in the plan making process to resolve governance and decision making issues

Agenda Item 3: Carrying over parts of the RMA for drafting

30. **agreed** that MfE officials work with PCO to carry across Parts 9A, 9B, 10, 11 and 11A of the RMA into the NBA and update in accordance with modern drafting techniques

Agenda Item 4:

[REDACTED]

31.

Agenda Item 5:

[REDACTED]

32.

Agenda Item 6: Report back to confirm framing of purpose

33. **agreed** to consider this paper at a future opportunity

Agenda Item 7:

[REDACTED]

34.

Action log from previous MOG meetings (for noting)

MOG #	Minute paragraph	Action
1	13	A process will be developed for engagement with Treaty Partners and wider Māori organisations
2		
2	15	Officials will undertake further work to ensure measures developed to avoid, remedy and mitigate (or similar) adverse effects on the environment are proportionate and do not impose unreasonable costs on development
2	27	Ministry for the Environment officials to provide advice on the reference to the quality of coastal waters in the list of natural environmental limits to the Minister for the Environment and Minister of Agriculture
2	35	Ministers to revisit decisions made about the purpose and supporting provisions of the NBA to ensure they remain fit for purpose as policy is developed and agreed on other aspects of the NBA and the SPA
2		
3	3.8	Directed officials to explicitly consider Cabinet's objective to "improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input" when progressing policy in relation to recommendation 3.6
3	3.17	Agreed to include urban and infrastructure in the mandatory list, subject to a report back from officials on the scope of the work and relative funding source
3	3.21	Agreed that officials will report back to a future MOG meeting (7 April 2021) with advice on the definitions for natural and built environments, recognising feedback that the reference to natural and built environments does not sufficiently capture the rural environment
4	6	Agreed that officials provide further advice on the primary purpose of Natural and Built Environments Plans

MOG #	Minute paragraph	Action
4	8	Agreed that further policy specifically on the approach for unitary authorities including Marlborough, Nelson and Tasman to develop a combined plan for that region be reported back to a future MOG
4		
4	27	Agreed that officials will work with PCO to draw together and modernise provisions relating to presumptions and existing use in Part 3 of the RMA for the NBA
4	29	Agreed that officials will provide advice on mechanisms in the plan making process to resolve governance and decision-making issues
4	30	Agreed that MfE officials work with PCO to carry across Parts 9A, 9B, 10, 11 and 11A of the RMA into the NBA and update in accordance with modern drafting techniques
4		
4		
4	33	Agreed to consider this paper (Report back to confirm framing of purpose) at a future opportunity

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