



Cabinet

Minute of Decision

McGuinness Institute title:
[CAB-21-MIN-0068] Adaptation
Legislation: Proposed Scope,
Objectives and Process

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Adaptation Legislation: Proposed Scope, Objectives and Process

Portfolio **Climate Change**

On 15 March 2021, following reference from the Cabinet Economic Development Committee (DEV) Cabinet:

- 1 **noted** that in December 2020, Cabinet:
 - 1.1 agreed to proceed with resource management reform on the basis of the Resource Management Review Panel's recommendations, while noting that further work and refinement is needed in some areas [CAB-20-MIN-0522];
 - 1.2 invited the Minister of Climate Change to report back in March 2021 on the scope, objectives and process for progressing the proposed Climate Adaptation Act (the Climate Adaptation Act) [CBC-20-MIN-0121];
- 2 **noted** that in July 2020, DEV agreed to a framework to guide central government intervention in strengthening community resilience, and invited the Minister of Local Government to report back on a framework for retreating/relocating from high risk areas (managed retreat) [DEV-20-MIN-0120];
- 3 **noted** that the framework, attached as Appendix 1 to the paper under CAB-21-SUB-0068, outlines a systems approach to retreating/relocating from high risk areas;
- 4 **noted** that the Community Resilience Programme will continue to progress policy work on policy issues relating to natural hazards and the effects of climate change, including system-wide work on data and information, regulatory settings, and wider approaches to funding and financing, alongside the development of the Climate Adaptation Act;
- 5 **noted** that the National Adaptation Plan will determine the actions the government will take to manage the risks from climate change identified in the National Climate Change Risk Assessment;
- 6 **noted** that the Climate Adaptation Act needs to progress now in order to address the complex legal, financial and technical issues with managed retreat;
- 7 **agreed** that the Climate Adaptation Act will contain policy that provides for processes and mechanisms for managed retreat;
- 8 **noted** that the proposed Natural and Built Environments Act and Strategic Planning Act, as well as the wider Community Resilience work programme, will also support adaptive responses;

- 9 **agreed** that policy be developed for funding and financing wider climate adaptation responses, including managed retreat;
- 10 **noted** that the Climate Adaptation Act will not be the only vehicle for funding and financing mechanisms for climate change and natural hazards;
- 11 **noted** that Community Resilience Ministers will consider wider approaches to funding and financing of natural hazards and the effects of climate change, drawing on earlier work undertaken on flood risk management [DEV-20-MIN-0120];
- 12 **agreed** that the following policy areas will form the basis for the development of the Climate Adaptation Act:
- 12.1 the degree and type of central government intervention/involvement required in managed retreat processes;
 - 12.2 how the costs of adaptation are shared;
 - 12.3 planning processes, tools and public participation;
 - 12.4 the treatment of existing uses and the scope of land acquisition powers;
 - 12.5 post-retreat land management options;

- 13 **agreed in principle, subject to** the paragraphs below, to the following list of potential primary objectives and principles for the Climate Adaptation Act:

	Scope area 1: Processes for managed retreat	Scope area 2: Funding and financing
Primary objectives	<ul style="list-style-type: none"> To set clear roles, responsibilities and processes for managed retreat from areas of unacceptable risk To provide stronger tools for councils to modify or extinguish existing uses of land To provide clarity on tools and processes for acquiring land and related compensation. To clarify local government liability for decision-making on managed retreat, and the role of the courts. To provide clear criteria for when central government will intervene (or not) in a managed retreat process 	<ul style="list-style-type: none"> To reduce hardship due to the impacts of climate change To incentivise better long-term investment decisions concerning climate change risk To reduce liabilities, including contingent liabilities to the Crown, To support the role of banking and insurance in facilitating risk management
Principles	<ul style="list-style-type: none"> Managed retreat processes are efficient, fair, open and transparent Communities are actively engaged in conversations about risk and in determining options for risk management There is flexibility as to how managed retreat processes play out in different contexts Iwi/ Māori are represented in governance and management and have direct input and influence in managed retreat processes, and outcomes for Iwi/Māori are supported Protection of the natural environment and the use of nature-based solutions are prioritised 	<ul style="list-style-type: none"> Limit Crown's fiscal exposure Minimise moral hazard Solutions are designed to be as simple as possible Ensure fairness and equity for and between communities, including across generations Beneficiaries of risk mitigation should contribute to costs Minimise cost over time by providing as much advance notice as possible Solutions support system coherence and the overall adaptation system response Risks and responsibilities are appropriately shared across parties including property owners, local government, central government, and banking and insurance industries

- 14 **noted** that the development of the Climate Adaptation Act should be closely aligned to the timeframes for the development of the proposed Strategic Planning Act, and that there are also important areas of policy alignment with the proposed Natural and Built Environments Act;
- 15 **noted** that on 14 December 2020, Cabinet agreed to establish a Ministerial Oversight Group to take policy decisions on resource management reform, comprising the Ministers of Finance (Chair), Māori Crown Relations: Te Arawhiti, Housing, Environment (Deputy Chair), Local Government, Building and Construction, Agriculture, Māori Development, Transport, Conservation, Associate Environment and Associate Minister for Arts, Culture and Heritage (Hon Kiri Allan), Associate Environment (Hon Phil Twyford), and Climate Change [CAB-20-MIN-0522];
- 16 **agreed** that the Ministerial Oversight Group will make policy decisions required for the development of the Climate Adaptation Act;
- 17 **noted** that engagement is critical to bring iwi/Māori as the Crown's Treaty partner, stakeholders and the public along, to reduce the political risks associated with the options, and to develop robust and enduring solutions for managed retreat;
- 18 **noted** that the Minister of Climate Change proposes a 'green paper' on objectives and principles for the Climate Adaptation Act and the issues and proposed types of solutions,

based on the list of policy areas referred to in paragraph 12 above, to be consulted on at a similar time as the Natural and Built Environments Act exposure draft consultation in June/July 2021;

- 19 **invited** the Minister of Climate Change to submit the ‘green paper’ to Cabinet for approval;
- 20 **noted** that the Minister of Climate Change will test the potential to engage with Te Tai Kaha, the recently formed Māori Collective, on policy development for the Climate Adaptation Act, and will seek decisions on this approach from the Ministerial Oversight Group.

Michael Webster
Secretary of the Cabinet