

Office of the Minister for Climate Change
Chair, Economic Development Committee

Adaptation legislation – scope, objectives and process

Proposal

- 1 This paper seeks your agreement to the overall scope, objectives, and process for progressing climate adaptation legislation, in the form of a Bill for a Climate Adaptation Act as part of the package of reforms to the resource management system.

Relation to government priorities

- 2 Reforming the resource management system and enabling a just transition to a climate resilient New Zealand are Government priorities. Passing the Climate Adaptation Act, along with the Natural and Built Environments Act and Strategic Planning Act, within this term of government was stated as an aim in the Labour Party 2020 manifesto and was agreed to by Cabinet in December 2020 [CAB-20-MIN-0522 refers].
- 3 Cabinet Business Committee (with Power to Act) has also “noted the intention to put the climate at the centre of government decision-making” [CBC-20-MIN-0097 refers].

Executive Summary

- 4 New Zealand’s communities, assets, infrastructure and taonga are increasingly exposed to the risks and impacts of natural hazards and climate change. Development has occurred in areas where there are high levels of risk to life and/or property and there is also increasing pressure for new development in at-risk areas. If nothing is done, the risks and costs will continue to increase.
- 5 Cabinet has agreed to develop legislation to address complex legal and technical issues associated with managed retreat and funding and financing of adaptation [CAB-20-MIN-0521]. Cabinet invited me to report back on the scope, objectives and process for a Climate Adaptation Act.
- 6 Managed retreat is an adaptive approach to risk reduction that enables people to strategically relocate assets, activities, and taonga (where possible) away from hazardous locations (for example, areas at risk from coastal or inland flooding). It is a crucial response to the risks from climate change and associated natural hazards, for which there is currently a legislative gap. The Climate Adaptation Act will fill this gap and provide a framework for making decisions about the use of managed retreat.
- 7 Managed retreat is a measure of last resort. The resource management system (including the Natural and Built Environments Act and Strategic Planning Act), and the National Adaptation Plan will provide further response tools and levers to enable and support other types of adaptive responses to natural hazards and climate change impacts. Place-based responses for how existing communities adapt, whether and how to protect existing assets, where future development is located, and

the development of new communities are a necessary context to managed retreat. These solutions need to be integrated.

- 8 I propose that the Ministerial Oversight Group have authority to make decisions on key design elements of the Climate Adaptation Act consistent with the scope and objectives outlined in this paper. These decisions will determine the degree and type of degree and type of central or local government intervention/involvement required in managed retreat processes and how the costs of adaptation are shared, as well as the critical areas of interlinkage with the wider resource management reforms.
- 9 Developing policy for managed retreat will be challenging and highly contested. Engagement and working closely with Māori as Treaty partners is critical to develop robust and enduring solutions for managed retreat. I intend to engage broadly on the policy development for the Climate Adaptation Act, including a high level public consultation at a similar time as the Natural and Built Environments Act exposure draft select committee inquiry. Final policy decisions on the Climate Adaptation Act will be brought back to Cabinet in late 2021.

Background

Previous Cabinet decisions

- 10 In December 2020 Cabinet invited me to seek agreement to the scope, objectives and process for progressing adaptation legislation (the Climate Adaptation Act), using the recommendations of the Resource Management Review Panel on the complex legal technical and financial issues associated with managed retreat as a starting point [CAB-20-MIN-0521].
- 11 In July 2020 Cabinet considered a proposed framework to guide central government intervention in strengthening community resilience [DEV-20-MIN-0120]. Cabinet invited the Minister of Local Government, in association with Community Resilience Ministers, to report back on an all hazards framework for retreating/relocating from high-risk areas (managed retreat). This framework is included in Appendix 1, and has supported the policy development process for the Climate Adaptation Act. Officials working on Community Resilience will continue policy work on natural hazards issues, including system-wide work on data and information, regulatory settings, and funding and financing, alongside the development of the Climate Adaptation Act.

Responding to risks from climate change

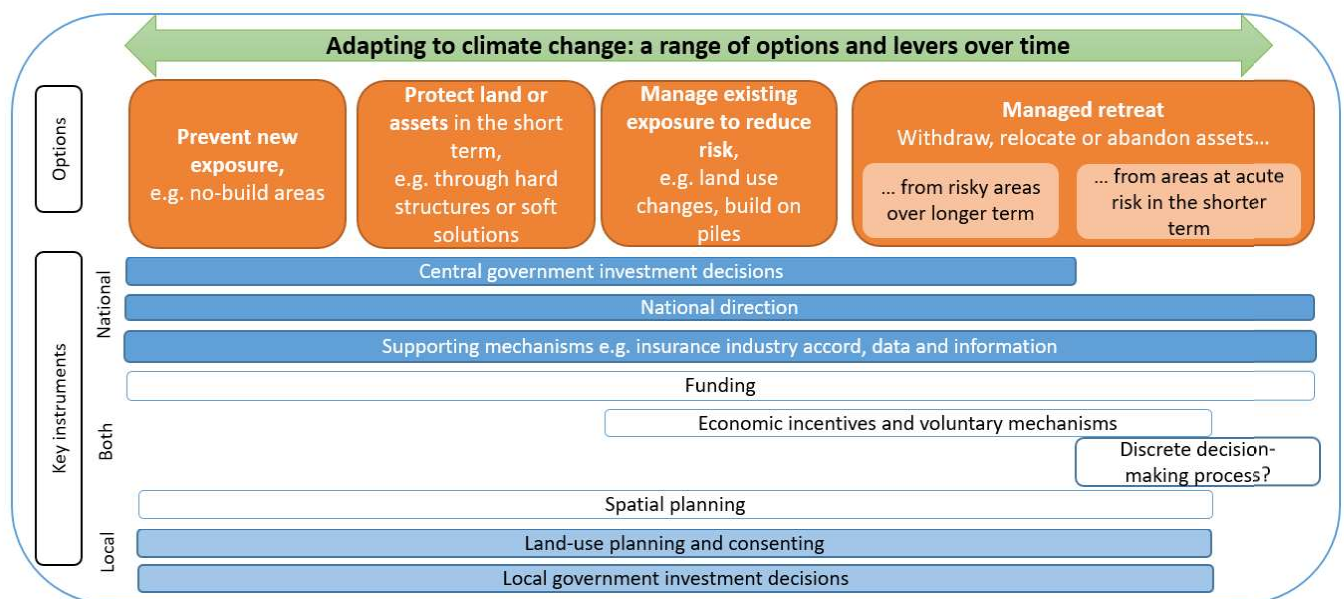
- 12 New Zealand's first National Climate Change Risk Assessment was released in August 2020. This was the first comprehensive view of the priority risks New Zealand faces from climate change.
- 13 The National Adaptation Plan will determine the actions needed as an all of government approach to manage these risks. I will report back to Cabinet later this month to seek agreement on the scope and approach of the Plan [CBC-20-MIN-0126 refers].
- 14 New Zealand's communities, assets, infrastructure and taonga are increasingly exposed to the risks and impacts of natural hazards and climate change. Development has occurred in areas where there are high levels of risk to life and/or property and there is also increasing pressure for new development in at-risk areas.

- 15 All three proposed pieces of resource management legislation (Natural and Built Environments Act, Strategic Planning Act and Climate Adaptation Act) will contribute to addressing the impacts of climate change. They also address the priority governance risks outlined in the first National Climate Change Risk Assessment (notably G1 Risk of maladaptation across all domains due to poor tools and G2 Risk that impacts will be exacerbated due to existing institutional arrangements not being fit for purpose). Governance risks are cross-cutting and relevant to all the other risk domains; addressing these will better enable action to address risks across the natural, human, economy and built environment domains.
- 16 Appendix 2 sets out the adaptation issues to be addressed across the resource management reforms and outlines how the reforms will contribute to addressing the risks in the National Climate Change Risk Assessment.

Analysis

Scope of the Climate Adaptation Act

- 17 There is a range of options available to reduce the risks and impacts of climate change and natural hazards, with managed retreat being at one end of the range.



Focus for the Climate Adaptation Act

- 18 I propose that the Climate Adaptation Act focus on processes for managed retreat. There is a range of other potential tools available for progressing wider adaptive responses, including the National Adaptation Plan, the Strategic Planning Act, the Natural and Built Environments Act and the Community Resilience programme. These tools can enable adaptive responses to prevent new exposure,¹ protect land

¹ In 2015, the Parliamentary Commissioner for the Environment wrote "New suburbs and the expensive infrastructure they require should be viewed as long-term investments. We now see building new suburbs on land prone to liquefaction in much of the country as foolish. We should see allowing new subdivisions on vulnerable coastal land as equally foolish." Parliamentary Commissioner for the Environment. (2015) *Preparing New Zealand for rising seas: certainty and uncertainty.*"

or assets, or manage existing exposure to risk where retreat is not needed or is not needed yet.

- 19 The Resource Management Review Panel recommended discrete legislation on managed retreat to address an array of complexities that are beyond the powers of other legislation, including those recommended for the Natural and Built Environments Act. Issues relating to decision-making, funding, land ownership and property rights, land acquisition and management, infrastructure provision and levels of service, liability, social and cultural ties to land, and insurance all need to be considered. Effective community engagement, appropriate tikanga and kawa, and enduring decisions will be necessary.
- 20 If there is no intervention by central or local government, unmanaged retreat may occur through insurance withdrawal (and associated withdrawal of mortgage finance) or if, or when, predicted hazards eventuate. Partial insurance retreat due to coastal inundation risk may start to happen in some areas from 2030.² 2030 is a conservative estimate. It relies on sea level rise projections from 2012 data; data from the National Climate Change Risk Assessment suggests an even shorter time horizon is possible. If this occurs people may be left with stranded assets; the distress and disruption caused is likely to be significant. Unmanaged retreat may also lead to maladaptation, high regret investment and an increase in inequitable outcomes.

Adaptation in the wider resource management system

- 21 The broader resource management system, including the Strategic Planning Act and the Natural and Built Environments Act, will also play an important part in the range of options available for progressing adaptive responses.
- 22 The Strategic Planning Act will provide for longer-term integrated planning which identifies areas that may be affected by natural hazards, including those exacerbated by climate change, and high level responses to those issues. It could also be a critical lever for delivering positive planning for communities by identifying land suitable for growth as well as locations for communities to retreat to. The greater certainty provided by this positive planning will benefit local government and communities and ultimately reduce costs and distress.

Policy areas to be developed for inclusion in the Climate Adaptation Act

- 23 I seek your agreement to the following high level policy areas and options as the basis for development of the Climate Adaptation Act:
 - 23.1 The degree and type of central government intervention/involvement required in managed retreat processes
 - 23.2 How the costs of adaptation are shared
 - 23.3 Planning processes, tools and public participation
 - 23.4 The treatment of existing uses and the scope of land acquisition powers
 - 23.5 Post-retreat land management options.

² Storey, B., Owen, S., Noy, I. & Zammit, C. (2020). *Insurance Retreat: Sea level rise and the withdrawal of residential insurance in Aotearoa New Zealand*. Report for the Deep South National Science Challenge, December 2020.

What degree and type of government intervention/involvement is required?

- 24 Roles and responsibilities for managed retreat are currently not clearly defined. Under the status quo, decisions around managed retreat are primarily left to local government and, indirectly, the insurance industry. Local government has asked for national guidance and direction from central government on managed retreat from natural hazards and the impacts of climate change.
- 25 In July 2020, the Cabinet Economic Development Committee (DEV) agreed that central government should take a more active, stewardship role of the overall system, underpinned by an initial draft set of principles³ for intervention [DEV-20-MIN-0120 refers]. Appendix 1 outlines an updated framework for considering managed retreat for all natural hazards.
- 26 Cabinet also noted that, subject to further work, central government's funding approach to building resilience would emphasise the need to invest in risk reduction to minimise long-run costs, and prioritise vulnerable communities (where significant fiscal pressures and natural hazards risks converge) to ensure their safety and wellbeing.
- 27 There is a spectrum of options which could be explored on the level of central government intervention in managed retreat processes:
- 27.1 Low intervention: legislation focuses on providing tools and processes for council-initiated and led managed retreat processes with guidance or supporting mechanisms provided by central government (which could sit outside of the legislation, eg, in national direction under the Natural and Built Environments Act)
- 27.2 Medium intervention: legislation provides a threshold/entry criteria for a joint central-local government process, or central government-led process, where exposure is particularly high or by council request
- 27.3 High intervention: legislation sets mandatory thresholds for when retreat must occur/when government will intervene (eg, unacceptably high risk to life). Such intervention may require a new agency or entity to give effect to this role, eg, overseeing planning, investment, and decision-making.
- 28 I propose to keep the scope open across this spectrum for the initial stages of policy.
- 29 The Resource Management Review Panel recommended the scope include all natural hazards and climate change impacts.⁴ I propose to progress the work with a focus on sea level rise and the impacts of climate change first. This will then enable us to assess applicability of solutions to broader natural hazards. However, it is important we do not create new inequities between communities which may face different hazards. Access to managed retreat processes should be not be constrained by whether the risk is related to climate change, or wider natural hazards. Decisions on which natural hazards are in scope will be sought from the

³ The principles for central government intervention included:

- invest in effective risk reduction;
- make risk management decisions at the level closest to the affected community
- provide effective outcomes for Māori;
- intervene where there is national interest or benefit;
- require beneficiaries of risk mitigation to pay
- ensure fairness and equity for communities, including across generations;

⁴ Climate change impacts include sea level rise, flooding, fire and drought

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Ministerial Oversight Group established for resource management reform, I anticipate in July/August 2021 (see paragraph 48 for details of the proposed use of the Ministerial Oversight Group in the development of the Climate Adaptation Act).

How the costs of adaptation are shared

- 30 There are a range of costs associated with climate change. Risk- and cost-sharing arrangements between central government, local government, the private sector, iwi/Māori, communities and individuals will be needed to address these.
- 31 A managed retreat programme will need to include a package of financial mechanisms to incentivise investment in climate resilience. Funding may also be needed to assist people to relocate, including the potential relocation of significant assets and infrastructure. Post-retreat, funding and/or financing may be needed to remediate land and support ongoing land management.
- 32 I propose to develop policy for funding and financing options, and the sharing of costs, for adaptation actions beyond just managed retreat. The range of costs that could be considered as part of a wider funding and financing package include options to:
 - 32.1 Incentivise proactive planning and preparation for adaptation action, for example supporting community engagement and local level risk assessments
 - 32.2 Incentivise and support the transition to more climate resilient locations, for example, through insurance mechanisms/signals
 - 32.3 Invest in climate-resilient infrastructure projects
 - 32.4 Fund transitional adaptation actions such as protective structures and/or nature-based solutions.
- 33 The Climate Adaptation Act is one vehicle for funding and financing mechanisms for climate change and natural hazards. Other vehicles will be considered as part of the Community Resilience and other work programmes. Some of this will draw on earlier work that has been undertaken on flood risk management. This work will also need to link with work on the Three Waters Review, local government funding and financing constraints, and transport infrastructure funding.

Planning processes, tools and public participation

- 34 Detailed provisions regarding the planning process and opportunities for public participation will be required. A particular focus will be on the criteria for when a policy of managed retreat might be adopted, and who decides.
- 35 Options relate to the level of appropriate central government intervention, from adoption of a detailed and prescriptive process for all situations, right through to a flexible approach driven by local government, communities and iwi/Māori where these groups determine the process within a set of minimum standards.
- 36 Any process will need to involve consideration of whether and when managed retreat is the most appropriate response and/or what other adaptive responses might be needed. Decisions to retreat (or implement other adaptive responses) will need to be based on reliable data and evidence and with input from a wide range of people (including local government, iwi/Māori, affected communities and the wider public).

- 37 At the end of a planning process decisions will need to be made and implemented. There are options around who holds decision-making power and how decisions can be implemented, including through plans and strategies under the Natural and Built Environments Act and Strategic Planning Act.

The role of existing uses and the scope of land acquisition powers

- 38 Managed retreat processes will impact on existing uses of land. The degree of impact, and process for modifying or extinguishing them will be considered.
- 39 Coupled with this is the issue of land acquisition and where acquisition powers sit (either within the Climate Adaptation Act or another piece of legislation).
- 40 The magnitude and timing of many climate change hazards is uncertain. Dynamic approaches to planning can enable identification of a range of options and trigger points when decisions can be revisited in the future. This raises questions about the role of the courts in the decision making and testing process, either as a facilitator or reviewer of managed retreat processes. The extent to which there are rights of appeal (on merits or points of law) and the role of judicial review will need to be considered.

Post-retreat land management options

- 41 The most appropriate management and use of land which has been retreated from will be considered (for example classification of the land as a reserve). Related to this are potential pre-retreat tenure options such as lease or licence arrangements with land occupiers.

Objectives

Climate change related resource management reform objectives

- 42 The overall climate change objective agreed by Cabinet for resource management reform is: "better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change" [CAB-20-MIN-0522].
- 43 The Ministerial Oversight Group has agreed the following outcomes in relation to climate change:
- 43.1 Costs, disruption and distress due to the impacts of climate change and natural hazards are minimised in the long term for society as a whole.
 - 43.2 Long-term and predictable arrangements for risk sharing, and funding and financing of risk reduction and adaptation action are in place.
 - 43.3 New development and communities are located and designed to be resilient to and reduce the risks from natural hazards and long-term climate impacts.
 - 43.4 Existing development and communities are proactively and equitably transitioned to reduce unacceptable risks from natural hazards and long-term climate impacts.

- 44 These outcomes sit across the whole of the resource management reform work, including the Strategic Planning Act, the Natural and Built Environments Act, and the Climate Adaptation Act.

Objectives and principles for the Climate Adaptation Act

- 45 Officials have developed the following draft objectives and principles for the Climate Adaptation Act to expand on the Resource Management Reform overall climate change outcomes. They are drawn from the Resource Management Review Panel's report, the Climate Change Adaptation Technical Working Group's report and work done by other agencies and researchers. I seek your agreement in principle to these draft objectives and principles to guide the policy development for the Climate Adaptation Act. Ministers will have opportunities to further refine these.

	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 & 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

- 46 These are consistent with the policy framework for managed retreat for all hazards developed by the Department of Internal Affairs through the Community Resilience work programme attached at Appendix 1 and have been refined for the specific climate change focus of this paper.

Process for progressing the Climate Adaptation Act

- 47 The development of the Climate Adaptation Act should be closely aligned to the development of the Strategic Planning Act, but leave open the option that the two pieces of legislation are not passed simultaneously. The proposed timeframes for developing the Climate Adaptation Act are set out below:

Milestone	Date
Policy development, Ministerial Oversight Group decisions and specific engagement with iwi/Māori and local government	April – September 2021
Green paper consultation (along broadly similar timeframes to the Natural and Built Environments Bill exposure draft select committee inquiry)	August/September 2021
Cabinet agreement to final policy decisions on the Climate Adaptation Act	September – December 2021
Climate Adaptation Bill and Strategic Planning Bill introduced to the House	December 2021
Select Committee report back	Mid-late 2022
Enactment	Late 2022

Use of Ministerial Oversight Group to make decisions

- 48 Cabinet agreed to establish a Ministerial Oversight Group to make delegated decisions on policy for the Natural and Built Environments Act, and for associated matters relating to the Strategic Planning Act and the Climate Adaptation Act [CAB-20-MIN-0522 refers]. I propose to use the Ministerial Oversight Group to make decisions for the development of the Climate Adaptation Act. I anticipate seeking final policy decisions from Cabinet in late 2021.

Engagement and consultation

- 49 The issues involved and the potential solutions are likely to be highly contested and controversial. Local government and iwi/Māori, as the Crown's Treaty partner, in particular have critical interests in this work and sufficient time needs to be allowed to work with them.
- 50 There is significant policy work to be done to further develop proposals for the Climate Adaptation Act. Funding and financing, and managed retreat solutions have not yet been tested with iwi/Māori, stakeholders (including local government) or the public. The report from the Climate Change Adaptation Technical Working Group in 2018 and the National Climate Change Risk Assessment have raised awareness of these key issues. Along with the recommendations of the Resource Management Review Panel, these provide a good platform to build from. Engagement is critical to develop robust and enduring solutions for managed retreat.
- 51 To meet the timeframes identified above I propose a 'green paper' on the issues and proposed types of solutions for adaptation and managed retreat to be consulted on along broadly similar timeframes to the Natural and Built Environments Act exposure draft consultation in June/July 2021. Ideally, this would cover the full range of adaptation policy proposals across the Strategic Planning Act and the Climate

Adaptation Act so that the positive planning aspects to facilitate adaptation are part of the consultation as well as the potential use of stronger tools and new funding solutions for managed retreat.

- 52 The green paper consultation will be in addition to targeted engagement with local government, iwi/Māori and key stakeholders throughout. Targeted engagement will be aligned with engagement on the Natural and Built Environments Act and Strategic Planning Act where appropriate. In particular there will need to be comprehensive engagement with iwi/Māori who are particularly impacted by climate change during policy development.
- 53 I propose to test the potential to engage with Te Tai Kaha, the recently formed Māori Collective⁵ on policy development for the Climate Adaptation Act. I will report back to the Ministerial Oversight Group on this potential and on the establishment of a substantive work programme.

Implementation

- 54 There will need to be a significant programme of implementation to support new legislation. I will bring proposals for an implementation programme to Cabinet when policy decisions are sought.

Financial Implications

- 55 Funding for this work programme is being sought through the Budget 2021 process.

Legislative Implications

- 56 This paper has no immediate legislative implications, but the policy proposals to be developed will be implemented through new primary legislation or changes to existing legislation.
- 57 Officials have had initial conversations with the Parliamentary Counsel Office about the timeframes for the development of the legislation to give effect to the policy proposals. PCO have noted that a timetable based on final policy decisions in October and introduction in December provides insufficient time for the development of the legislation.

Te Tiriti o Waitangi Implications

- 58 Officials will work with iwi/Māori in the development of the policy proposals to ensure that the Crown's obligations under Te Tiriti are met and broader Māori interests are understood and accounted for. Iwi/Māori are more sensitive to the impacts of climate change on livelihoods and cultural and spiritual wellbeing than non-Māori communities. A full assessment of Te Tiriti implications of any policy changes proposed will be undertaken to inform the final policy decisions.

⁵ Comprising the National Iwi Chairs Forum (through its Freshwater Iwi Leaders Group), New Zealand Māori Council, Te Wai Māori Trust, Kahui Wai Māori, and the Federation of Māori Authorities. The Collective has been formed to engage with the Crown on Māori rights and interests in freshwater and resource management reform.

Impact Analysis

Regulatory Impact Statement

- 59 A full regulatory impact statement will be provided at the time policy decisions are made on the proposals.

Climate Implications of Policy Assessment

- 60 This paper does not contain proposals which trigger a need for a Climate Implications of Policy Assessment.

Population Implications

- 61 Climate change will impact different parts of New Zealand differently. People in areas that will suffer more from coastal inundation or flooding, for example, are more likely to need to retreat at some point in the future.
- 62 The first National Climate Change Risk Assessment highlights that climate change is likely to exacerbate existing inequities and create new and additional inequities due to differential distribution of impacts.
- 63 The groups shown in the table below have a particular sensitivity to the extreme events associated with climate change.

Population group	How the proposal may affect this group
Māori	Socioeconomic disparities that exist between Māori and non-Māori communities produce conditions that increase sensitivity to climate change impacts and risks for Māori society. Māori communities are more sensitive to climate impacts on ecological systems due to dependence on primary industries for livelihoods, and the impacts of climate change on cultural and spiritual wellbeing, as well as on coastal mahinga kai, wahi tapu and urupā, and proximity of housing, marae and infrastructure to processes such as erosion and inundation.
Ethnic communities and minorities	Ethnic communities are often geographically and economically isolated from jobs, services and institutions. Discrimination also plays a major role in increasing the sensitivity of ethnic minorities. Where minorities are migrants from non-English-speaking countries, language barriers can greatly increase vulnerability to a disaster.
Women	Following disasters, women and children are often vulnerable. Evidence indicates that lower-income women experience and navigate ongoing job and house displacement, increased domestic violence and reduced access to education and childcare for children after extreme events. Unequal participation in labour markets and decision making processes compound inequalities. Research also shows that incidences of domestic violence increase following extreme events, such as fires.
Children	Disruptions created by a disaster can have significant psychological and physical impacts on children.
Youth	Extreme events can have psycho-social and other impacts on young people. Young people themselves have made clear that climate change is of particular importance to them. As seen in responses to other natural disasters, young people have often mobilised and been critical to the recovery, including as essential workers, volunteers and carers for more vulnerable members of

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	the community.
Older people	Older people are more likely to suffer health problems and experience a slower recovery. They tend to be more reluctant to evacuate their homes in a disaster. Extreme events can lead to a loss of social networks with increased risk of social isolation and dislocation which can have health impacts. Older people are more likely to experience financial issues and if they are no longer earning, will be less likely to recover from financial shocks.
Disabled people	Disabled people are represented across all other population groups. All of the indicators and impacts applying to other population groups are pertinent. For disabled people, there are other implications which make resettlement due to climate change consequences more difficult. These include, but are not limited to the suitability of new community locations, supply of accessible housing and higher costs of relocation than might apply to non-disabled people.
Renters and public housing customers	Renters and public housing customers may have less autonomy to choose where they live and less ability to move elsewhere or invest in adaptive measures.

- 64 Consideration of impacts on the groups in the table above (as well as others such as rural communities), equity and distributional impacts will need to be taken into account in the development of policy proposals for the Climate Adaptation Act.

Human Rights

- 65 The proposals in this paper do not have any immediate human rights implications.

Consultation

- 66 The following agencies have been consulted on the proposals in this paper: Department of Internal Affairs, Department of Prime Minister and Cabinet, National Emergency Management Agency, Ministry of Business, Innovation and Employment, Ministry of Social Development, Ministry of Social Development – Office for Seniors, Ministry of Social Development – Office for Disability Issues, Te Arawhiti, Ministry for Primary Industries, Ministry of Housing and Urban Development, Public Services Commission, Department of Conservation, Waka Kotahi, Ministry of Culture and Heritage, Te Puni Kokiri, Earthquake Commission, Ministry of Education, Kainga Ora, Land Information New Zealand, New Zealand Defence Force, Inland Revenue, Parliamentary Counsel Office, Ministry of Transport, the Treasury.

Communications

- 67 The resource management reform package was announced by the Minister for the Environment on 10 February. No further communications for the Climate Adaptation Act are planned at this stage.

Proactive Release

- 68 I propose to proactively release this paper, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister for Climate Change recommends that the Committee:

- 1 **note** that in December 2020, Cabinet agreed in principle to the overall approach to progressing the development of adaptation legislation and invited the Minister for Climate Change to seek Cabinet agreement to the scope, objectives and process for progressing adaptation legislation in March 2021 [CAB-20-MIN-0521];
- 2 **note** that in July 2020 Cabinet 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 **note** the framework attached at Appendix 1 outlines a systems approach to retreating/relocating from high risk areas;
- 4 **note** 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 **note** the National Adaptation Plan will determine the actions government will take to manage the risks from climate change identified in the National Climate Change Risk Assessment;
- 6 **note** that the Climate Adaptation Act needs to progress now in order to address the complex legal, financial and technical issues with managed retreat;
- 7 **agree** that the Climate Adaptation Act will contain policy that provides for processes and mechanisms for managed retreat;
- 8 **note** that the Natural and Built Environments Act and Strategic Planning Act, as well as the wider Community Resilience work programme, will also support adaptive responses;
- 9 **agree** that policy will be developed for funding and financing wider climate adaptation responses, including managed retreat;
- 10 **note** that the Climate Adaptation Act will not be the only vehicle for funding and financing mechanisms for climate change and natural hazards;
- 11 **note** 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 refers];
- 12 **agree** 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 **agree** in principle to the list of potential primary objectives and principles for the Climate Adaptation Act at paragraph 45;
- 14 **note** that the development of the Climate Adaptation Act should be closely aligned to the timeframes for development of the Strategic Planning Act, and that there are also important areas of policy alignment with the Natural and Built Environments Act;
- 15 **note** that Cabinet agreed to establish a Ministerial Oversight Group to take policy decisions on resource management reform [CAB-20-MIN-0522 refers];
- 16 **agree** that the Ministerial Oversight Group will make policy decisions required for the development of the Climate Adaptation Act;
- 17 **note** 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 **note** that I propose 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 in recommendation 12, to be consulted on at a similar time as the Natural and Built Environments Act exposure draft consultation in June/July 2021;
- 19 **agree** that I will bring the 'green paper' for consultation to Cabinet for approval;
- 20 **note** that I 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.

Authorised for lodgement

Hon James Shaw

Minister for Climate Change

Appendix 1 - Conceptual framework for a systems approach to managed retreat

Appendix 2 – Adaptation issues to be addressed and vehicles within resource management reform