



## PROACTIVE RELEASE COVERSHEET

|                        |  |                             |                   |
|------------------------|--|-----------------------------|-------------------|
| <b>Minister</b>        | Hon James SHAW   | <b>Portfolio</b>            | Climate Change    |
| <b>Name of package</b> | Proactive release of Climate Change Adaptation Bill Cabinet papers | <b>Date to be published</b> | 25 September 2023 |

### List of documents that have been proactively released

| <b>Date</b>   | <b>Title</b>   | <b>Author</b>                            |
|---------------|--|--|
| 3 August 2023 | Cabinet paper: Community-led retreat and adaptation funding – issues and options paper   | Office of the Minister of Climate Change |
| 16 June 2023  | Cabinet paper: Progressing the Climate Change Adaptation Bill  | Office of the Minister of Climate Change |
| 16 March 2021 | Cabinet paper: Adaptation Legislation: Proposed Scope, Objectives and Process  | Office of the Minister of Climate Change |
| 7 August 2023 | Cabinet Business Committee Minute of Decision: Community-led Retreat and Adaptation Funding: Issues and Options Paper Food Waste (CBC-23-MIN-0016) | Cabinet Office                           |
| 22 June 2023  | Cabinet Environment, Energy and Climate Committee Minute of Decision: Progressing the Climate Change Adaptation Bill (ENV-23-MIN-0027)             | Cabinet Office                           |
| 15 March 2021 | Cabinet Minute of Decision: Adaptation legislation – scope, objectives, and process (CAB-21-MIN-0068)  | Cabinet Office                           |

### Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

### Summary of reasons for redaction

Some information has been withheld for the reasons of confidential information entrusted to Government and confidential advice to Government.

**In confidence**

Office of the Minister of Climate Change

Cabinet Environment, Energy and Climate Committee

**Progressing the Climate Change Adaptation Bill**

**Proposal**

- 1 This paper:
  - sets out the proposed approach to progressing the Climate Change Adaptation Bill (CCAB)
  - seeks agreement to a jointly led inquiry by the Environment and Māori Affairs committees, supported by a white paper.

**Relation to government priorities**

- 2 The Government declared a climate change emergency on 2 December 2020. Cabinet agreed that climate change “demands a sufficiently ambitious, urgent, and coordinated response across government to meet the scale and complexity of the challenge” [CBC-20-MIN-0097 refers].
- 3 Action 5.1 of the National Adaptation Plan is to introduce legislation in 2023 to support managed retreat.

**Executive Summary**

- 4 The impact of climate change will increase in the coming decades, although the extent of this impact will depend on global efforts to reduce greenhouse gas emissions.
- 5 Due to New Zealand’s geography, many communities are severely exposed to natural hazards that are exacerbated by climate change. This includes increasing severity and frequency of flooding, landslides, fire, and drought. The resulting risk to life, wellbeing, property, and infrastructure is growing.
- 6 On 14 December 2020, Cabinet agreed to progress the development of adaptation legislation using the Report of the Resource Management Review Panel (the Randerson Report) as a starting point for policy development [CAB-20-MIN-0521].<sup>1</sup> The Randerson Report considered (187-188):

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<sup>1</sup> The Resource Management Review Panel (2020) *New Directions for Resource Management in New Zealand*. This report is commonly referred to as the Randerson Report.

**IN CONFIDENCE**

- discrete legislation is required to specifically address managed retreat where it is required for climate change adaptation or to reduce risks from natural hazards
  - there is a strong case for establishing a national funding mechanism to support local and central government to take necessary steps for pre-emptive adaptation and risk reduction measures.
- 7 On 15 March 2021, Cabinet agreed that the CCAB will contain policy that provides for processes and mechanisms for managed retreat [CAB-21-MIN-0068]. To support the development of legislative proposals on community-led<sup>2</sup> retreat, an Expert Working Group was established in September 2022. This group, chaired by Sir Terence Arnold, has been tasked to deliver a report in June 2023 with design options for an enduring retreat system.
- 8 On 14 June 2021, Cabinet agreed to decouple the CCAB from the wider resource management reforms [CAB-21-MIN-0225.01]. Cabinet Environment Committee (ENV) is also considering a paper from the Minister for the Environment on 22 June 2023, which reports back on a natural hazard planning framework. The development of direction on adaptation planning is within scope of this work.
- 9 Given the magnitude of retreat and adaptation funding and financing issues and options, significant public and cross-party consultation and consensus building is advisable prior to the preparation of legislation. This paper seeks Cabinet agreement to a jointly led inquiry by the Environment and Māori Affairs committees, supported by a white paper. The draft white paper would be provided to Cabinet in August 2023. The white paper will attach, and be informed by, the Expert Working Group's report.
- 10 Subject to Cabinet agreement, I will write to the committee chairs prior to August to request the initiation of the inquiry. I would ask the committees to report back in April 2024, with recommendations for legislative proposals to support the introduction of the CCAB later in that year.

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<sup>2</sup> "Managed retreat" is a commonly used term to refer to individuals and communities withdrawing from locations at risk from natural hazards. There is some dissatisfaction with this terminology within agencies and amongst commentators because of its associations with top-down decision making and a lack of choice for individuals and communities. Terminology which reinforces the importance of decisions being made at a local level with a high degree of community involvement is preferable, such as "community-led retreat" or similar.

## Government's climate work programme and role of CCAB

- 11 The National Adaptation Plan (NAP)<sup>3</sup>, the National Climate Change Risk Assessment that informs the NAP, and the Emissions Reduction Plan drive the government work programme to both mitigate and adapt to the effects of climate change. A key action under the NAP is to introduce legislation in 2023 to support retreat.
- 12 The Future of Severely Affected Locations work programme was established following Cyclone Gabrielle and the Auckland Anniversary flooding events. This work programme is considering adaptation actions and facilitating retreat in severely affected locations. Cabinet made decisions on central government funding support on 31 May 2023 [EWR-23-MIN-0044 refers]. This work programme will provide an opportunity to test actions to inform policy development for the CCAB.
- 13 See Appendix A for a diagram showing work on New Zealand's climate event response capability and proactive adaptation tools.

## Challenges with the current adaptation system

- 14 The increasing risk posed to life, wellbeing, property, and infrastructure by climate change is now well documented. Recent severe weather events demonstrate the pressing need to take action to reduce risk.
- 15 This increasing level of risk was not well understood in the past and our natural hazard management systems were not designed to manage it. The key shortcomings with the current system in relation to climate adaptation are:
  - **No direction to act** – There is currently insufficient government direction on adaptation planning, leading to variable results and inconsistency. New resource management legislation will include, once enacted, stronger provisions to support adaptation planning. Work is now underway to prepare national direction on a national hazard planning framework [CAB-23-MIN-0106 refers].
  - **Funding framework is not in place** – There is no funding framework in place to support communities to decide how to act based on a full understanding of how costs will be shared. The potentially expensive nature of adaptation actions poses an affordability challenge for local government, which is already dealing with a legacy of historical underinvestment in infrastructure.

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<sup>3</sup> The National Adaptation Plan is issued at least every six years and brings together in one place the Government's efforts to build our climate resilience. This includes: a long-term adaptation strategy; priorities, objectives, and outcomes; and actions for implementation. The first National Adaptation Plan was published in 2022.

Many councils do not have the capacity and capability to effectively plan for, fund, and implement climate change adaptation actions (particularly small, rural councils serving low-income communities). Councils consider they need a stable and predictable form of funding to make long-term financial commitments for climate adaptation. In particular, communities with properties at a very high risk are awaiting funding mechanisms for retreat.

- **There are limited powers for retreat** – The full spectrum of powers needed for retreat are not in place and retreat tends to be something that occurs post-event through bespoke legislation and planning processes.
- **Māori face barriers to participation** - The current system was not designed to give effect to te Tiriti o Waitangi. The impacts of adaptation will be significant for Māori and the Crown has Treaty obligations to meet. However, Māori are often not able to fully engage given the high demand from government for a raft of priorities. Furthermore, there has been long-term under-investment in Māori-led climate change adaptation. This contributes to inequitable decision-making.

Barriers which limit the effectiveness of Māori participation in adaptation planning include lack of:

- engagement (including by the Crown and due to capacity challenges)
- sufficient and realistic timeframes being given by requestors (requests often made late in the policy process)
- opportunity for all Māori to input into the design and consideration of policies (engagement is often targeted and focused on the same people)
- a meaningful role (and ability to enact mana motuhake and rangatiratanga)
- means to provide for engagement
- recognition of cultural impacts on Māori
- access to climate data for Māori communities.

- 16 As a consequence, our current system is not conducive to effectively reducing the risks posed by climate exacerbated natural hazards to life, wellbeing, property, and infrastructure. For example, adaptation actions are delayed or there is maladaptation (adaptation is poor or insufficient).
- 17 There is also a need to ensure the banking and insurance sectors are playing an appropriate role in supporting risk reduction and bearing the costs of the climate-related risks they take.

## Adaptation planning under resource management legislation

- 18 Councils can currently undertake adaptation planning under the Resource Management Act 1991 (RMA) on a voluntary basis.<sup>4</sup> Councils have, however, indicated that adaptation planning can be deprioritised due to other competing priorities (such as mandatory planning requirements) or a lack of funding.
- 19 The RMA is due to be replaced by the Natural and Built Environment Bill and Spatial Planning Bill (new resource management legislation). The new resource management legislation has a greater emphasis on adaptation planning. This reflects Cabinet's intent that resource management reforms better prepare for adapting to climate change and risks for natural hazards. It also reflects Cabinet's intention to "put the climate at the centre of government decision-making" [CBC-20-MIN-0097 refers].
- 20 However, there is currently no direction in place from central government to support adaptation planning and ensure it occurs. The Randerson Report found that lack of direction on natural hazard management has impacted on the extent to which plans address and manage natural hazard risks.
- 21 The foundation for adaptation planning should be an evidence-based regional risk assessment and prioritisation exercise which identifies and prioritises the natural hazard risks across the region. This will allow communities to identify and act on their greatest risks and prioritise resources for this purpose. For priority areas, more detailed adaptation planning will be required, including consideration of street and property and infrastructure-level actions where needed.
- 22 As part of the Future of Severely Affected Locations work programme, the Minister for the Environment is reporting back to ENV on 22 June 2023 on national direction to introduce a natural hazard planning framework under the RMA (see Appendix B for more information).<sup>5</sup> This work covers both existing and future development and Māori participation.
- 23 The natural hazard planning framework will ensure local authorities identify and address risk from natural hazards in a consistent and rigorous way and will underpin good decision making about future land use and adaptation planning. Subject to further work, this could include:
- identifying and prioritising circumstances in which more detailed planning for natural hazard management or adaptation responses might be needed to respond to risks and timeframes for this planning

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<sup>4</sup> The RMA gives both regional councils and territorial authorities functions in relation to the management of natural hazards. In addition, the RMA requires decision makers to recognise and provide for the management of significant risks from natural hazards and pay particular regard to the effects of climate change.

<sup>5</sup> The Minister for the Environment must also report back to ENV in June 2023 on options for preventing and restricting future development. This is intended as short-term work which would eventually be incorporated within the national hazard planning framework.

- how to ensure all adaptation options are considered when deciding how to respond to risks.
- 24 I will work with the Minister for the Environment to ensure alignment between future tools introduced to support adaptation planning (such as for retreat) and the development of the natural hazard planning framework.
- 25 An all of government data initiative is also underway to support adaptation and risk assessment through providing access to up-to-date, reliable, and well-managed data.

**Select committee inquiry and white paper to support development of CCAB**

- 26 In line with previous decisions by Cabinet (see Appendix C), the intended focus of the CCAB is retreat and adaptation funding and financing. The issues and options associated with retreat and adaptation funding and financing are of a high magnitude and will have a significant impact on present and future generations.
- 27 I therefore propose undertaking a select committee inquiry, supported by a white paper. The purpose of the inquiry is to advise the House on issues and options for adaptation, with a particular focus on adaptation funding and community-led retreat.
- 28 I propose that the inquiry be jointly led by the Environment and Māori Affairs committees. This recognises the disproportionate climate impacts on Māori and will build on the current inquiry into Māori climate adaptation.
- 29 This approach will help to:
- facilitate informed public discussion and build community consensus on issues and solutions
  - create an enduring adaptation system now and in the future
  - develop high quality solutions which target critical policy gaps in a timeframe that reflects the urgency of change needed.
- 30 As noted above, a key action under the National Adaptation Plan is to introduce legislation in 2023 to support retreat. Undertaking this inquiry will mean that legislation would likely not be introduced until the second half of 2024. I consider that the benefits outlined above of undertaking significant public consultation prior to developing and introducing legislative proposals, outweigh the impact of extending this timeframe through to 2024.

***Scope of and process for inquiry***

- 31 I propose that the inquiry be initiated by the select committees at my request, shortly following Cabinet decisions on this paper. As such, the select

**IN CONFIDENCE**

committees will set their own terms of reference. However, I consider that draft terms of reference should be provided to assist the committees to do so.

32 I propose, as terms of reference, that the select committees advise the House in April 2024 on:

- the current approach to adaptation and the problems with it
- lessons learned for adaptation from community experiences with severe weather events and natural disasters in New Zealand
- a proposed community-led retreat system, including new regulatory powers
- any other regulatory powers to support other adaptation actions (both before and after extreme events occur)
- roles and responsibilities, including for sharing costs
- sources of funding for central and local government to access
- institutional arrangements
- Māori participation, Crown obligations, and giving effect to the principles of te Tiriti o Waitangi, including setting out Crown obligations and integration of mātauranga Māori and te ao Māori across the adaptation system
- alignment and integration with existing legislation and regulatory frameworks and future systems, including the resource management system
- long-term risks and costs of continuing with current approach compared to recommended approach.

33 I propose that the report back to the House should include recommendations for legislative proposals for the CCAB.

34 I intend to prepare a white paper to support the select committees to undertake a public consultation process. The white paper would provide important information to support and shape conversations and guide policy development during the inquiry. The white paper would therefore include a series of questions relating to issues and options, to support consultation.

35 I propose reporting to Cabinet in August 2023 with a white paper based on the following general scope (see Appendix D for an indicative outline):

- overarching problem definition and objectives



- issues and options for retreat and other adaptation actions (informed by the report from the Expert Working Group in June 2023, which will be attached to the white paper)
- issues and options for funding for retreat and other adaptation responses based on work currently progressing on adaptation funding issues and options
- potential finance sector (ie banking and insurance) issues and interventions based on work currently progressing on adaptation financing options
- matters relating to te Tiriti o Waitangi and iwi, hapū and Māori, including integration of mātauranga Māori.

- 36 More information about work on each of these topic areas is provided in the following sections. I expect officials at the Ministry for the Environment to collaborate closely with other agencies in preparing the white paper. This recognises that adaptation is a cross-government issue, with particular significance for a number of portfolios.
- 37 The housing portfolio is one such area. In areas where retreat occurs, people and communities will need somewhere to relocate. One of the main risks for vulnerable households will be the risk that we retreat from places without adding additional housing supply, worsening access and affordability problems.
- 38 The consultation period for the white paper will need to align with other related policy work and consultation timings, acknowledging the interrelationships between different work programmes. This includes the consultation on the natural hazards planning framework, the proposed engagement on policy work to limit development in high-risk areas, and the Future of Severely Affected Locations work programme.
- 39 The inquiry will also need to have particular regard to the upcoming Expert Working Group report on retreat and report of the Māori Affairs Committee inquiry on Māori Climate Adaptation. The Environmental Defence Society is also undertaking research on climate adaptation and managed retreat. Two reports have been published to date, with a final report due for release later this year. I expect this work will also inform the inquiry.

***Work on retreat and adaptation pathways***

- 40 The Randerson Report considered that discrete legislation is required to specifically address managed retreat where it is required for climate change adaptation or to reduce risks from natural hazards. In particular, the Report noted that this legislation would be necessary to address an array of complexities that are beyond:

- any powers available in existing legislation, including the Public Works Act 1981
  - the powers proposed for the Natural and Built Environment Bill
  - the capacity of local government to deliver and fund.
- 41 The CCAB will need to deliver a consistent approach at a national level and likely contain powers relating to land acquisition and the potential for compensation.
- 42 Initial high level public consultation on retreat has occurred as part of consultation the draft National Adaptation Plan. This consultation took place over May to June 2022.
- 43 The feedback has influenced policy development to date and informed the establishment of the Expert Working Group to support the development of options. The Group is scheduled to deliver a final report at the end of June 2023, including options for retreat. This report will be used to inform the white paper and will also be provided directly to the select committees.
- 44 I note that the white paper may also need to consider:
- new powers for other adaptation pathways (which include avoiding, accommodating and protecting – such as through building flood defences)
  - post-event recovery powers needed for adaptation
  - new planning and dispute resolution provisions to support implementation of any new powers
  - alignment with existing legislation and regulatory frameworks and future systems.

***Work on adaptation funding and financing***

- 45 The impact of recent severe weather events demonstrates the pressing need for shifting from post-event response to proactive adaptation, where possible. Work on adaptation funding and financing is intended to support a shift to more proactive investment in risk mitigation measures and thereby reduce future risk to life, wellbeing, property, and infrastructure.
- 46 Work on funding is the primary focus and is looking at:
- clarifying the hierarchy of responsibilities for funding adaptation
  - identifying priorities for central government co-investment
  - developing a funding framework (including for managed retreat).

- 47 Work on financing is focused on identifying sources of revenue. Financing options will depend on the funding approach chosen.
- 48 Work is also underway on the role of the banking and finance sectors in supporting risk reduction and bearing the costs of the climate-related risks they take. These sectors can support a better risk management approach through the market signals they send, such as the development of innovative financial products to support resilience. These sectors can also create and amplify risk by triggering retreat and asset value loss processes.
- 49 Any financial market interventions could have a range of unintended consequences and would require significant engagement with the sectors. While financial market policy is primarily the responsibility of the Ministers of Finance, and for Commerce and Consumer Affairs, these issues need to be considered across a number of Ministerial and departmental portfolios.

***The importance of Māori participation***

- 50 Māori must participate in processes for adaptation planning, funding, and implementation for a number of significant reasons.
- 51 Māori land, communities, and businesses are disproportionately exposed to climate-related risks. A large proportion of Māori land is low-lying, located in coastal areas, or in steep marginal places prone to erosion and the impacts of heavy rain and wind.
- 52 Māori communities may not be well prepared to manage risks given income and insurance issues and challenges with the administration of Māori land. Adaptation actions such as community-led retreat will also have profound implications for Māori connection to place. Te Tiriti guarantees rangatiratanga for Māori over their resources. The Crown will need to meet kawanatanga obligations while still enabling tino rangatiratanga.
- 53 Cyclone Gabrielle and the other North Island weather events have highlighted the critical nature of climate change adaptation for iwi, hapū and whānau. This is especially so for those situated along the coastal areas (for example, Tairāwhiti). These events have also reinforced the effectiveness of iwi, hapū, and Māori-led responses, and the readiness of iwi, hapū and Māori groups to mobilise to respond to climate change impacts. These responses need to be actively supported and enabled by the Crown.
- 54 Māori participation is also vital due to the complex nature of Māori rights and interests.
- 55 Adaptation decision making needs to incorporate mātauranga Māori and prioritise outcomes for, and the decision-making ability of, whānau, hapū, iwi, Māori communities, and Māori landowners over their whenua to embody the Treaty principle of partnership. The Government will also need to adhere to commitments that have been made through Treaty Settlement legislation.

56 A key mechanism for working in partnership with Māori on the climate response is establishing a platform for Māori climate action (known as the Māori Climate Platform). This platform seeks to enable Māori-led climate action and planning and solutions at place. The platform will support implementation of the National Adaptation Plan and Emissions Reduction Plan.

57 s9(2)(f)(iv) [Redacted text]

***Upholding Māori rights and interests***

58 The Crown will need to proactively work with iwi, hapū, and Māori groups to understand how to uphold Māori rights and interests. The Future of Severely Affected Locations work programme will provide information to assist with this work. Failing to appropriately consider Māori rights and interests would strain relationships and partnerships between the Crown and Māori communities.

59 Key matters that need to be considered include:

- acknowledgement of historical and current contexts for Māori communities at place, this includes consideration of historic government policy and legislation that have forced land acquisition from Māori
- customary rights and interests and tikanga values
- whenua as taonga tuku iho (recognised in Te Tiriti) which connects tangata whenua to their land through whakapapa
- assurance that, at the start of policy design, the protection and development aspirations of Māori at place will be sought
- addressing both socio-economic impacts and opportunities for Māori communities
- recognising that mātauranga adds value to understanding current and future climate incidents, through adaptive and innovative responses which contribute to sustainable land management and environmental stewardship - Māori hold valuable mātauranga and practices that can contribute to sustainable land management and environmental stewardship.

60 The Crown must also uphold Treaty settlement and takutai moana rights and obligations. A bespoke process may be required for upholding the intent,

integrity, and effect of Treaty settlements and takutai moana rights, particularly where settlement-related land is affected.

- 61 The Crown will need to work in partnership with iwi, hapū, and Māori (including landowners) to ascertain how this might be achieved. Māori have provided feedback that aligning with the resource management Treaty settlement process could be an option.
- 62 I intend to set out the approach to engagement with iwi, hapū and Māori groups when I report to Cabinet in August on the white paper.

### **Next steps**

- 63 Subject to Cabinet approval of the recommendations in this paper, I will:
- request that the Environment and Māori Affairs committees initiate an inquiry in line with the draft terms of reference in this paper
  - explore with the committees how Ministry for the Environment officials could support the submissions process
  - prepare a draft white paper to support the inquiry, for Cabinet consideration in August 2023.

### **Implementation and public participation**

- 64 Adaptation decisions will have potentially significant consequences for all parts of society, including local authorities and their communities (including Māori), infrastructure providers, and individual property and infrastructure owners.
- 65 Gaining public understanding, acceptance and support for adaptation decisions is vital for meaningful and rapid progress. To achieve this, it is essential to prioritise meeting people's needs for participation and provide clear, tailored information.
- 66 It is important to recognise that the public, businesses, and communities are at various stages in their climate journey. To enable meaningful participation, we must meet them where they are and provide support without judgement.
- 67 The National Adaptation Plan will be instrumental to increasing the capability and capacity of communities to discuss how to plan and adapt to climate change. Four priorities underpin the current National Adaptation Plan:
- enabling better risk-informed decisions
  - driving climate-resilient development in the right places
  - laying the foundations for a range of adaptation options including retreat

- embedding climate resilience across government policy.

68 Current projects to support public participation and provide support include:

- the all of government Climate data initiative which aims to integrate climate data across government and make it more accessible to a wider range of users - this will equip more people, organisations and communities to understand and make sense of climate impacts and the resulting climate decisions and policies, and interpret them in ways which are meaningful and helpful
- the Te Puni Kokiri Hapori data capability project which aims to strengthen data infrastructure and provide communities and iwi with data and tools to create insights (the all of government data initiative will work alongside this project)
- s9(2)(f)(iv) [REDACTED]

### Financial Implications

69 This paper does not have financial implications.

### Legislative Implications

70 This paper does not have legislative implications.

### Impact Analysis

#### Regulatory Impact Statement

71 There are no regulatory proposals in this paper, and therefore Cabinet's impact analysis requirements do not apply.

#### Climate Implications of Policy Assessment

72 A Climate Implications of Policy Assessment is not required for this paper.

### Population Implications

73 Decisions on how we adapt to natural hazard risks will affect communities vulnerable to natural hazards and the impacts of climate change.

74 Communities exposed to multiple or high levels of natural hazard risks, as well as those with significant river systems and coastal land, will face greater costs reducing risks from natural hazards and adapting to climate change.

- 75 Adaptation actions, particularly retreat, could impact significantly on community identify. Policy development will take this into consideration by designing processes for community-led retreat that minimise adverse wellbeing and mental health impacts.
- 76 Areas subject to higher risk can be areas with higher socioeconomic deprivation. Both lower income homeowners and renters (who are likely to be less financially stable) may be disproportionately impacted from the impacts of climate change.
- 77 As rural communities often have high levels of land use for business purposes, implications for affected rural communities may be disproportionate. These include impacts to property and infrastructure and livelihoods as well as connection to land which has been in families for generations.
- 78 Detailed policy development will need to consider the implications on population groups including Māori, ethnic communities, low-income groups, disabled and older people, women, children and youth, and rural communities. These groups are highlighted in the National Adaptation Plan and it is intended that they will be consulted through the select committee inquiry processes.

### Human Rights

- 79 Proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### Engagement

- 80 The Randerson Report proposed the CCAB as a third piece of legislation to complete resource management reform. Significant consultation was undertaken by the Panel in preparing their report.
- 81 Initial consultation on retreat was undertaken as part of consultation on the National Adaptation Plan. Submissions were received on the retreat consultation document, *Adapt and Thrive*, from the public, key stakeholders, Māori and local government.
- 82 Throughout 2022, officials undertook targeted engagement with local government, and iwi, hapū and Māori. This included early engagement with Māori in March, May to June, and November 2022. This consultation focused on gaining an understanding of the unique perspectives across iwi/hapū/Māori groups and what a retreat system looks like for Māori.
- 83 Officials conducted further targeted engagement from the end of February to mid-April 2023 on adaptation planning including:

## IN CONFIDENCE

- targeted in-person meetings with local government and Māori partners at place (where possible) in Canterbury, Te Tairāwhiti, Otago, Wellington, Auckland, Te Tai Tokerau, and Bay of Plenty
- meeting with local government representative groups including the Resource Managers Group, Local Government Steering Group, Taituarā Resource Management Reform practitioners, Aotearoa Climate Adaptation Network, and the River Managers Special Interest Group
- regional Māori engagement as part of resource management reform, including an adaptation component, in Taranaki, Kirikiriroa, Te Arawa, Wellington, Takitimu, Tairāwhiti, Tauranga Moana, Manawatū, Ngāti Tūwharetoa, Te Tai Tokerau, Tāmaki Makaurau, Mātaatua, Te Waipounamu, and Southland.

### Agency consultation

84 Consultation has been carried out with the Ministry of Housing and Urban Development; Ministry for Culture and Heritage; Ministry of Health; Ministry of Transport; Ministry of Business, Innovation and Employment; Ministry of Primary Industries; Ministry of Social Development; the Department of Internal Affairs; the Department of Conservation; the Department of Prime Minister and Cabinet; Kainga Ora; the Treasury; the National Emergency Management Agency; Te Puni Kōkiri; Te Waihenga; Waka Kotahi; Land Information New Zealand; Toka Tū Ake EQC; and Te Arawhiti.

### Communications

85 No communications are planned at this stage, as public announcement of the proposals would take place upon introduction of the CCAB to Parliament.

### Proactive Release

86 Policy development on adaptation is ongoing and proactive release of this paper is not proposed.

### Recommendations

The Minister of Climate Change recommends Cabinet Environment, Energy and Climate Committee (ENV):

1. **note** that the Report of the Resource Management Review Panel (the Randerson Report) recommended the development of the Climate Change Adaptation Bill to provide for retreat and establish an adaptation fund;
2. **note** that Cabinet previously agreed to progress the development of adaptation legislation using the Randerson Report as a starting point for policy development [CAB-20-MIN-0121];



*Adaptation planning*

3. **note** that adaptation planning can be undertaken and directed through existing and future resource management legislation;
4. **note** that the Randerson Report found that lack of national direction on natural hazard management has impacted on the extent to which local government plans manage natural hazard risks;
5. **note** that ENV is considering a paper from the Minister for the Environment on 22 June 2023 proposing a natural hazard planning framework which would include direction on adaptation planning;

*Select committee inquiry*

6. **note** that the focus of the Climate Change Adaptation Bill will be on retreat and funding and financing, which is in line with previous decisions by Cabinet;
7. **note** the issues and options associated with retreat and adaptation funding and financing are of a high magnitude and will have a significant impact on present and future generations;
8. **note** that a select committee inquiry (supported by a white paper) would help to:
  - 8.1. facilitate informed public discussion and build community consensus on issues and solutions;
  - 8.2. create an enduring adaptation system now and in the future;
  - 8.3. develop high quality solutions which target critical policy gaps in a timeframe that reflects the urgency of change needed;
  - 8.4. build on the inquiry into Māori climate adaptation that is being progressed by the Māori Affairs Committee;
9. **note** that a key action under the National Adaptation Plan is to introduce legislation in 2023 to support retreat;
10. **note** that:
  - 10.1. undertaking this inquiry will mean that legislation will likely not be introduced until the second half of 2024;
  - 10.2. the benefits outlined above of undertaking significant public consultation prior to developing and introducing legislative proposals, outweigh the impact of extending this timeframe;
11. **authorise** the Minister of Climate Change to request that the Environment and Māori Affairs committees conduct a joint inquiry on issues and options for

**IN CONFIDENCE**

adaptation, with a particular focus on adaptation funding and community-led retreat;

12. **note** that following the select committee inquiry report back to the House, the Minister of Climate Change would return to Cabinet with advice on the recommendations arising from the inquiry and proposals for the Climate Change Adaptation Bill;

*Terms of reference for inquiry*

13. **agree** that the draft terms of reference are that the inquiry advises the House through a final report in April 2024 on:
  - 13.1. the current approach to adaptation and the problems with it;
  - 13.2. lessons learned for adaptation from community experiences with severe weather events and natural disasters in New Zealand;
  - 13.3. a proposed community-led retreat system, including new regulatory powers;
  - 13.4. any other regulatory powers to support other adaptation actions (both before and after extreme events occur);
  - 13.5. roles and responsibilities, including for sharing costs;
  - 13.6. sources of funding for central and local government to access;
  - 13.7. institutional arrangements;
  - 13.8. Māori participation, Crown obligations, and giving effect to the principles of te Tiriti o Waitangi, including setting out Crown obligations and integration of mātauranga Māori and te ao Māori across the adaptation system;
  - 13.9. alignment and integration with existing legislation and regulatory frameworks and future systems, including the resource management system;
  - 13.10. long-term risks and costs of continuing with current approach compared to recommended approach;
14. **agree** that the proposed report back to the House should include recommendations for legislative proposals for the Climate Change Adaptation Bill;
15. **authorise** the Minister of Climate Change to:
  - 15.1. refine the proposed terms of reference for the inquiry prior to formally requesting the initiation of the inquiry;

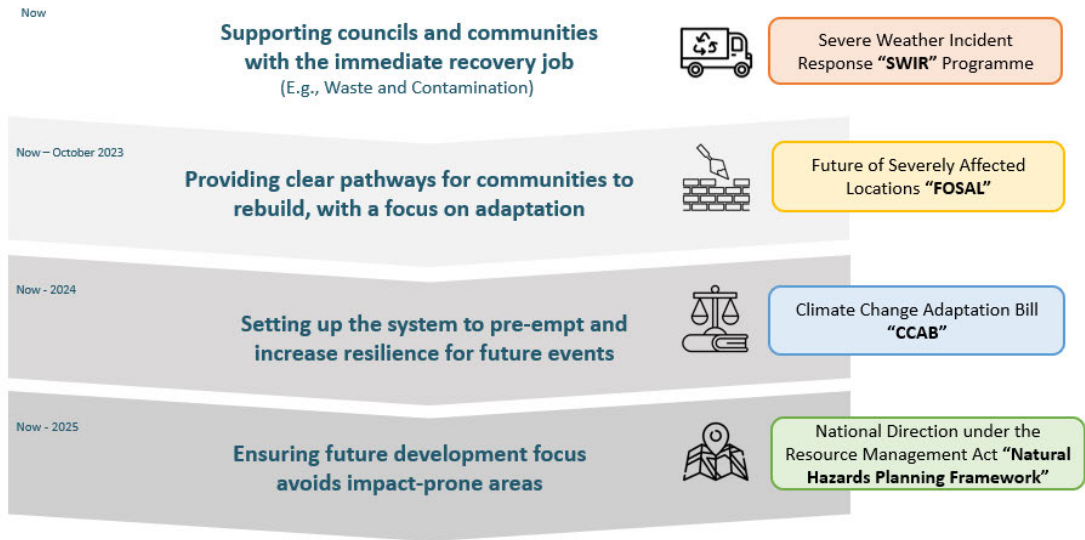
- 15.2. explore with Environment and Māori Affairs committees how Ministry for the Environment officials could support the submissions process;

*White paper to support inquiry*

16. **note** that it is intended that the inquiry focus the public submissions process on the white paper;
17. **invite** the Minister of Climate Change to seek agreement from Cabinet in August 2023, in consultation with the Ministers of Finance, Housing and Local Government, and the Minister for Emergency Management, to a white paper to support the inquiry covering:
  - 17.1. overarching problem definition and objectives;
  - 17.2. issues and options for community-led retreat and other adaptation actions (informed by the report from the Expert Working Group in June 2023, which will be attached to the white paper);
  - 17.3. issues and options for funding for community-led retreat and other adaptation responses based on work currently progressing on adaptation funding issues and options;
  - 17.4. potential finance sector (ie banking and insurance) issues and interventions based on work currently progressing on adaptation financing options;
  - 17.5. matters relating to te Tiriti o Waitangi and iwi, hapū and Māori, including integration of mātauranga Māori and te ao Māori;
18. **note** Appendix D provides an indicative outline of the white paper;
19. **note** this will include an update on approach to engagement with iwi, hapū and Māori groups.

Appendix A: Diagram of work to improve New Zealand’s climate event response capability and proactive adaptation tools

Improving New Zealand’s climate event response capability and proactive adaptation tools



## Appendix B: Natural hazard planning framework

Concerns about development in high-risk areas have been heightened by the possibility of rebuilding in cyclone-affected areas where lives and property will continue to be at risk. On 3 April 2023, Cabinet invited the Minister for the Environment, in consultation with the Minister of Housing, the Minister of Local Government and the Minister of Climate Change, to:

- a. progress work to develop national direction under the Resource Management Act 1991 to provide a natural hazard planning framework (expected to be incorporated into the National Planning Framework at a later date)
- b. report back to Cabinet Environment, Energy and Climate Committee (ENV) on this work in June 2023.

The natural hazard planning framework would:

- a. standardise mapping and risk assessment methodologies that will inform land-use planning decisions in areas of high/multi-natural hazard risks
- b. define risk thresholds by developing and implementing a standardised risk tolerance assessment, to clearly define areas that may be “tolerable” or “intolerable” to natural hazard risks
- c. standardise terminology to clearly set out what the terms “significant natural hazard risk” and “intolerable natural hazard risk” mean
- d. provide a nationally consistent policy approach to land-use planning decision-making in high/multi risk areas.

The report back on this work will be considered by ENV on 22 June 2023.

On 3 April 2023, Cabinet also invited the Minister for the Environment, in consultation with the Minister of Housing, the Minister of Climate Change, and other Ministers as appropriate, to report back to ENV (scheduled for June 2023), following targeted engagement, on the options for preventing or restricting future development in high-risk areas. This work is intended to be short-term and will be superseded by the national natural hazard planning framework.

## Appendix C: Previous Cabinet decisions on the Climate Change Adaptation Bill

Cabinet previously:

*14 December 2020 [CAB-20-MIN-0121]*

- agreed to progress the development of adaptation legislation using the Resource Management Review Panel's Report as a starting point for scoping and policy development

*15 March 2021 [CAB-21-MIN-0068]*

- agreed that the Climate Adaptation Act will contain policy that provides for processes and mechanisms for managed retreat
- agreed that the following policy areas will form the basis for the development of the Climate Adaptation Act:
  - the degree and type of central government intervention/involvement required in managed retreat processes
  - how the costs of adaptation are shared
  - planning processes, tools and public participation
  - the treatment of existing uses and the scope of land acquisition powers
  - post-retreat land management options
- agreed in principle to a list of potential primary objectives and principles for the Climate Adaptation Act
- noted that the Natural and Built Environments Act and Strategic Planning Act will also play an important part in the range of adaptation responses
- agreed that the Ministerial Oversight Group established to make decisions on resource management reform will make policy decisions required for the development of the Climate Adaptation Act

*14 June 2021 [CAB-21-MIN-0225.01]*

- agreed that the Climate Adaptation Act would be decoupled from the wider resource management reforms and that consultation would proceed in February/March 2022 as part of the National Adaptation Plan consultation

*11 April 2022 [CAB-22-MIN-0119 REVISED]*

- agreed to public consultation on options for managed retreat alongside consultation on the draft NAP in early 2022

*Climate Response Ministers Group*

In practice, due to the decision to decouple the Climate Adaptation Act from the wider Resource Management reforms, the Ministerial Oversight Group process came to an end before policy decisions for the Climate Adaptation Act were ready to be considered. Instead, the Climate Response Ministers Group (CRMG) has provided direction on policy development for the Climate Change Adaptation Bill.

On 7 December 2022, CRMG directed officials to further develop options for changes to existing cost-sharing arrangements with a focus on managed retreat and incentivising risk reduction. CRMG also directed officials to progress soft testing with key stakeholders.

### Appendix D: Draft outline of white paper

This appendix sets out a non-exhaustive draft outline of the white paper. Note that scope and content are indicative of work that is progressing but are still evolving and not limited to the matters set out in this outline.

|  |  |
|--|--|
| Foreword and introduction  |  |
| Scope of inquiry, context, status quo, problem, desired future state   |  |
| Māori participation and rights and interests in the future system and te Tiriti obligations, opportunities, and options. |  |
| Government climate adaptation programme context  | <ul style="list-style-type: none"> <li>• Government’s long-term Climate Change strategy in National Adaptation Plan and Emissions Reduction Plans</li> <li>• Work underway in severely affected locations</li> <li>• Resource management reforms will improve adaptation outcomes – work underway on national natural hazards planning framework which will include adaptation planning</li> </ul>   |
| Community-led adaptation (including decision making and implementation)  | <p>Potential options for new general powers (both before and after extreme events occur):</p> <p><small>Sec</small> Section 9(2)(f)(iv) [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Potential options for new specific powers</p> <ul style="list-style-type: none"> <li>• call-in power for central government</li> <li>• intervention powers for other regulatory systems</li> <li>• emergency powers</li> </ul> <p>Potential options for institutional arrangements</p> <p>Decision-making on what the course of adaptation action will be (managed retreat or otherwise)</p> |



|                            |  |
|----------------------------|--|
| <p>Funding and finance</p> | <p>Possible options for establishing roles and responsibilities, how costs are shared and who shares them - options could include hierarchy of responsibilities and Government Policy Statement on adaptation funding</p> <p>Possible options for funding sources:</p> <ul style="list-style-type: none"><li>■ Section 9(2)(f)(iv)</li><li>■ [Redacted]</li><li>■ [Redacted]</li><li>■ [Redacted]</li><li>■ [Redacted]</li></ul> <p>Potential options for institutional arrangements</p> <p>Possible issues and options for banking and insurance sectors to support better risk management and cost sharing (examples include data sharing agreements, innovative financial products, and cost recovery measures)</p> |
|----------------------------|--|