

Terms of Reference - Consideration of Constitutional Issues

Background

1. The Relationship and Confidence and Supply Agreement between the National Party and the Māori Party (16 November 2008) agreed to establish a group to consider constitutional issues, including Māori representation.

Ministerial responsibilities

2. The Deputy Prime Minister and the Minister of Māori Affairs will jointly lead a Consideration of Constitutional Issues. They will consult with a Cross-party Reference Group of Members of Parliament on major findings and reports before reports are made to Cabinet.

3. The Deputy Prime Minister and the Minister of Māori Affairs will oversee a programme of engagement with the public. That programme will include the appointment of one or more advisory panels to provide expert and community perspectives on matters of substance and process.

4. The Deputy Prime Minister and the Minister of Māori Affairs may also receive and consider research and recommendations from officials, experts and the public on New Zealand's current constitutional arrangements, and possible areas for reform.

5. The Deputy Prime Minister and the Minister of Māori Affairs will report to Cabinet on the Consideration of Constitutional Issues and will be supported by a senior officials group including the Ministry of Justice (leading the Secretariat), Treasury, the Department of the Prime Minister and Cabinet (including the Cabinet Office), Te Puni Kōkiri, Department of Internal Affairs and Crown Law. Support will include administration services and policy advice.

6. The Deputy Prime Minister and the Minister of Māori Affairs will submit a final report to Cabinet by the end of 2013, with advice on the constitutional topics, including any points of broad consensus where further work is recommended.

Programme of engagement

7. Engagement and information sharing are important precursors to any discussion on changes to New Zealand's constitutional arrangements. Public understanding and acceptance is needed for enduring constitutional arrangements that reflect the values and aspirations of New Zealand as a society.

8. To facilitate the Consideration of Constitutional Issues, the Deputy Prime Minister and the Minister of Māori Affairs will oversee a programme of engagement with New Zealanders.

9. The purpose of the programme of engagement is to inform and engage New Zealanders on constitutional issues. In particular, it is to stimulate public debate and awareness of constitutional issues by providing information about New Zealand's constitutional arrangements.

10. The programme is intended to provide the Deputy Prime Minister and the Minister of Māori Affairs with an understanding of New Zealanders' perspectives on this country's constitutional arrangements, topical issues and areas where reform is considered desirable. The Deputy Prime Minister and the Minister of Māori Affairs will then recommend to Cabinet whether any further consideration of particular issues is desirable.

Subject matter of the Consideration of Constitutional Issues

11. The Consideration of Constitutional Issues will include the following topics:

Electoral matters

- Size of Parliament
- The length of the term of Parliament and whether or not the term should be fixed
- Size and number of electorates, including changing the method for calculating size
- Electoral integrity legislation

Crown-Māori relationship matters

- Māori representation, including Māori Electoral Option, Māori electoral participation, Māori seats in Parliament and local government
- The role of the Treaty of Waitangi within our constitutional arrangements

Other constitutional matters

- Bill of Rights issues (for example, property rights, entrenchment)
- Written constitution.

12. Other issues are likely to arise during public engagement. The Deputy Prime Minister and the Minister of Māori Affairs will report to Cabinet on these matters, advising whether the issue appears to be of widespread interest and merits further consideration.

13. The Deputy Prime Minister and the Minister of Māori Affairs will be mindful of other Government initiatives with constitutional implications, and will aim not to duplicate or undermine these initiatives. The Deputy Prime Minister and the Minister of Māori Affairs will also keep their ministerial colleagues informed on progress with the Consideration of Constitutional Issues with the aim of ensuring wider Government initiatives with constitutional implications are cognisant of progress.

Constitutional Advisory Panel

14. The Constitutional Advisory Panel (Panel) is an independent group established to implement the initial stage of the Consideration of Constitutional Issues. The initial stage will involve:

- a. preparing and commissioning opinion pieces on the topics within the scope of the Consideration of Constitutional Issues; and
- b. establishing a forum for sharing information and ideas on those topics amongst New Zealanders.

Responsibilities

15. The specific responsibilities of the Panel are to:

- a. report, by December 2011, to the Responsible Ministers on a proposed strategy for implementing the initial stage of the Consideration of Constitutional Issues;
- b. report, by December 2011, to the Responsible Ministers on a proposed strategy to manage interaction with other government projects;
- c. establish a forum for developing and sharing information and ideas on the topics within the scope of the Consideration of Constitutional Issues, to seek the views of all New Zealanders including Māori, in a manner that is reflective of the Treaty of Waitangi relationship and responsive to Māori consultation preferences;
- d. report, by September 2013, to the Responsible Ministers with advice on the constitutional topics, including any points of broad consensus where further work is recommended;
- e. provide regular updates (at least every 6 months) to the Responsible Ministers and the Cross-party Reference Group of Members of Parliament throughout the Consideration of Constitutional Issues; and
- f. provide input to monitoring and evaluating the Consideration of Constitutional Issues.

16. The Panel will report through the Panel co-chairs to the Deputy Prime Minister and Minister of Māori Affairs.

17. The Māori co-chair of Panel is responsible for ensuring that the Panel undertakes appropriate consultation processes with Māori, and will report to the Deputy Prime Minister and the Minister of Māori Affairs (the Responsible Ministers) about that process on an ongoing basis.

Form

18. The Panel will comprise a maximum of twelve members, including the two co-chairs, chosen and appointed by the Responsible Ministers on the basis of their knowledge of the constitutional topics and their ability to articulate the issues to a wide audience.

19. The Panel is convened by the Responsible Ministers and its Terms of Reference and deliverables have been determined by Cabinet. The Panel is not a legal entity and does not have the power to contract in its own name.

Support

20. The Panel will be supported by a secretariat based in the Ministry of Justice which will provide project management support including budget management, and manage access to governmental and external expertise.

Amendment to terms of reference

21. These terms of reference may be amended only with the agreement of the Responsible Ministers and the Co-chairs. The Responsible Ministers may need to seek Cabinet agreement to any proposed change.