

The Treasury

CAB-19-SUB-0373 Independent Fiscal Institution: Detailed Decisions

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Office of the Minister of Finance
Office of the Associate Minister of Finance

Chair

Cabinet Government Administration and Expenditure Review Committee

Independent Fiscal Institution: Detailed decisions

Proposal

- 1 This paper seeks agreement to the detailed designs of an independent fiscal institution (IFI) to be established as a new Officer of Parliament.
- 2 Cabinet will receive a separate paper later this year on the details of the establishment of a temporary unit in the Treasury to provide the policy costing function ahead of the 2020 general election.

Executive Summary

- 3 In May 2019, Cabinet agreed to establish an IFI to produce independent fiscal and economic analysis and provide a policy costing service for political parties. Cabinet also agreed to pursue the establishment of the IFI as a new Officer of Parliament.
- 4 The Cabinet decisions in this paper will inform a proposal to be submitted to the Officers of Parliament Committee (OPC). The OPC considers any proposal to create a new Officer of Parliament and leads the process to appoint a new Officer once the office is established.
- 5 Establishing an Officer of Parliament will create a single, statutorily independent person responsible for the delivery of the agreed IFI functions. We propose the new Officer will be called the Parliamentary Budget Officer (PBO) – Kaitiaki Kaupapa Rawa. The PBO will be the head of the Parliamentary Budget Office.
- 6 We propose that the PBO will be required to report on the government's compliance with its fiscal strategy following the release of each of the Treasury's *Economic and Fiscal Updates*. The reports will be made available to the public and be presented to the House of Representatives (the House) for consideration.

- 7 The PBO's policy costing service will be available to parties represented in Parliament and those that received more than 3 per cent of the party vote in the preceding general election. It will be clearly established that the costing service is intended for a political party's own platform, not the policies of other parties. In order to promote transparency, parties will be required to notify the PBO once a policy that the PBO has costed has been announced, at which point the PBO will publicly release information on the costing. The costing service will be available throughout the parliamentary term.

Background

- 8 The establishment of an IFI would fulfil election commitments made by parties that now make up the Government in relation to the Budget Responsibility Rules and Policy Costing Unit.
- 9 In August 2018, Cabinet agreed to release a discussion document on proposals to establish an IFI [CBC-18-MIN-0084].
- 10 In May 2019, Cabinet agreed to the purpose and functions of the IFI [CAB-19-MIN-0215 refers]. These are:

Purpose	
To enhance fiscal responsibility, accountability and transparency, promote better-informed public debate, and strengthen Parliamentary scrutiny.	
Fiscal council functions	Policy costing functions
<ul style="list-style-type: none">Assess compliance with the government's fiscal strategy.Comment on the Treasury's economic and fiscal forecasts.Comment on long-term fiscal sustainability and key fiscal risks.Produce research and information relating to its fiscal council functions.	<ul style="list-style-type: none">Provide financial costings of political party policies, including election manifestos and any costings requested during negotiations to form a government.Produce research and information relating to its policy costing function.

Establishing a new Officer of Parliament

- 11 Under Standing Orders, the OPC considers proposals for the creation of an Officer of Parliament. The OPC, chaired by the Speaker, seeks to achieve a consensus view on the proposal before submitting a recommendation to the House. The House takes the OPC's recommendation into account when considering legislation to establish a new Officer of Parliament, which preferably should proceed unanimously or with near unanimity.

- 12 Parliament has only rarely supported proposals to create new Officers of Parliament. If the OPC does not support the proposal to establish an IFI as an Officer of Parliament, we will return to Cabinet and seek agreement to an alternative institutional form option.
- 13 The preferred alternative institutional form option may depend on the reasons provided by the OPC for not supporting the proposal. The remaining options to establish the proposed functions in the legislative branch, are either to establish a new legislative branch department, or to establish the functions in existing legislative branch departments (the Parliamentary Service or the Office of the Clerk) or Officers of Parliament (the Office of the Auditor General). Establishing the functions in existing institutions would likely require splitting the fiscal council and policy costing functions across two institutions.

Parliamentary Budget Officer – Kaitiaki Kaupapa Rawa

- 14 We propose to seek the OPC's approval for the establishment of a new Officer of Parliament, to be named the Parliamentary Budget Officer (PBO) – Kaitiaki Kaupapa Rawa (the guardian or steward of matters relating to wealth, assets, and finance). The PBO will be the head of the Parliamentary Budget Office.
- 15 Establishing an Officer of Parliament will create a single, statutorily independent person responsible for the delivery of the agreed IFI functions. This model will provide the PBO with the necessary stature and independence to perform the agreed functions effectively. As an Officer of Parliament, the PBO will be appointed by the Governor-General on the recommendation of the House, and will be accountable to the House for the execution of their functions. The PBO's budget will be determined by the House, on the recommendation of the OPC.
- 16 We propose that the PBO will be appointed for a term of five years, that the OPC will be able to reappoint a PBO, and that there will be no limit on the number of times a PBO could be reappointed. This is the same as the terms of office for two of the three current Officers of Parliament: the Ombudsman and the Parliamentary Commission for the Environment.
- 17 We also propose that the OPC will be able to extend a PBO's term if the end of the term falls within the 12 months preceding the last possible date of a general election. This will ensure there is minimal disruption to the policy costing service in the lead up to an election. The legislation will require that an appointment or reappointment of the PBO will be made as soon as practicable once the new Parliament is in session.
- 18 We propose that the PBO will be established with provisions consistent with those of the existing Officers of Parliament in relation to the oath of office, terms of employment, resignation, removal or suspension, employees, delegations, annual reporting and audit. Annex 1 sets out the details on proposed provisions relating to leadership and the institutional form.

Fiscal council functions

- 19 The establishment of an independent body to provide fiscal and economic analysis will support transparency and help Parliament hold the government to account for the delivery of its fiscal strategy.
- 20 The primary fiscal council function of the PBO will be to provide an assessment of compliance with the government's fiscal strategy. For clarity, we are firmly of the view that setting fiscal and economic policy will remain the role of the government. It will not be the role of the PBO to make policy recommendations.
- 21 The PBO will be required to report on compliance with the fiscal strategy (which the government is required by the Public Finance Act 1989 to present to the House each year, covering a period of 10 or more consecutive years). To ensure that the release of this report is timely and effectively supports public debate, the PBO will be required to publish the report as soon as practicable following the release of each of the Treasury's economic and fiscal updates.
- 22 In addition, the PBO will be able to publish reports associated with each of their fiscal and economic analysis functions at other times as it sees fit. This could include providing commentary around long-term sustainability and key fiscal risks, such as commentary on the Treasury's *Long-term Fiscal Statements* and *Investment Statements*. Within the scope of the legislated functions, the PBO will have independence to set their own work programme.
- 23 The PBO will be required to make all their reports publicly available and will be required to present their reports to the House. It will then be up to the House to determine how it wishes to consider the report; for example, the House could take an approach consistent with Standing Order 396 that refers the reports of the existing Officers of Parliament to a relevant select committee. The PBO will be required to make themselves available to brief select committees on their reports. Annex 2 sets out more detail on the PBO's reporting processes and interactions with the House.

Policy costing functions

- 24 The establishment of an independent policy costing service will increase transparency and support better-informed public debate by providing consistent and independent information on political party policies. The establishment of this service will also level the playing field so that political parties have access to the same information when developing their policies. The features of the proposed policy costing service have been designed to reinforce these objectives.

Access to costing services

- 25 Cabinet has previously agreed that political parties represented in parliament and parties outside of parliament that receive more than 3 per cent of the party vote in the preceding general election will have access to the policy costing services of the PBO (CAB-19-MIN-0215 refers).

26 Cabinet invited us to report back on options for designing a threshold for any emergent parties, e.g. newly registered political parties, to have access to the policy costing service. We have concluded that it is preferable to limit access to political parties represented in Parliament, and those that have met the 3 per cent threshold at the preceding election (option 1 in the table below). In our view, the benefits of having a method of determining access to the service that is objective and clear outweigh the downsides of the policies of new parties not being subject to the same level of scrutiny.

27 The options considered include:

Option	Criteria for access to costing services	Assessment
1	Parties represented in Parliament, and parties that received 3 per cent of the party vote in the preceding general election.	This is the preferred option as it is objective and clear, and does not risk compromising the neutrality of the PBO, or relying on opinion polls.
2	Option 1, and in addition, the PBO (or the Chief Electoral Officer) would have discretion to provide political parties outside of parliament that have not met the 3 per cent threshold with policy costing services, if they considered it was sufficiently in the public interest to do so.	High risk that the neutrality of the PBO (or Chief Electoral Officer) would be brought into question. This may risk undermining the 3 per cent threshold, as a subjective public interest test could extend the service to parties polling under 3 per cent.
3	Option 1, and in addition, a threshold could be established for emergent parties based on opinion poll results.	The publication of opinion polls is unregulated and irregular. Whilst the broadcasting allocation uses opinion poll results it does so alongside other considerations and ultimately treats most parties outside of Parliament in a similar way, regardless of poll results.

Prioritising policy costing requests

- 28 It is expected that demand for the policy costing service will increase in advance of a general election. We propose that the PBO will be resourced to provide for increased costing capacity in an election year. Even with additional resource, it is possible that the demand for the costing service could exceed the PBO's capacity. The PBO will therefore need to have a framework to prioritise requests.
- 29 Rather than setting out the full detail of the prioritisation framework in legislation, we propose that the PBO design this framework once established. This will mean the PBO has ownership over the framework, and flexibility to review it as necessary. We would expect the PBO to consult political parties on the design of this framework.

- 30 To guide this rationing framework, we propose to establish a legislative principle that the PBO will endeavour to provide the policy costing service to eligible political parties on a fair basis. The legislation will require the PBO to design a prioritisation framework that is consistent with this principle. While it is unlikely the PBO would be able to do this precisely, we consider that its prioritisation framework should be guided by this. Establishing this principle will support the objective of 'levelling the playing field'.
- 31 Prioritisation frameworks for access to policy costing services differ between international Parliamentary Budget Officers. The Canadian PBO uses a formula that helps them to apportion analysts' time and financial resource as equally as possible across the political parties. In contrast, the Australian PBO uses a rationing framework that considers the level of representation of the requesting party, as well as a number of other factors such as the extent to which the party has recently used the PBO's services.

Power to decline a request

- 32 We do not think it should be permitted for political parties to use the service to request costings of other political parties' policies as it risks undermining the institution if the service were used for political point scoring in this way. It would be undesirable for the costing itself to become the focus of a debate, over the substance of the policy. Further, in practice it is unlikely that a party could provide specifications to the PBO that accurately captured another party's policy with the level of detail required to cost it.
- 33 We therefore propose that the policy costing service will only be available to cost policies that a political party is considering for their own platform. To help enforce this the PBO will be given the power to decline costing requests if they consider that a political party is seeking a costing for a policy that the requesting party does not intend to include in its platform. If it later becomes clear that a policy costing has been obtained from the PBO for a policy that was not intended for that party's platform, we would expect the PBO to make a public statement clarifying that their service should not be used in this way.
- 34 The PBO will also be able to decline costing requests if they do not have sufficient information or resources to undertake the costing.

Duration of the policy costing service

- 35 Cabinet has invited us to report back on whether the policy costing service should be available either throughout the parliamentary term or for a shorter period in advance of a general election [CAB-19-MIN-0215].
- 36 We propose that the policy costing service be available to eligible political parties at any time throughout the parliamentary term. This will support the PBO being used early in the policy development process and ensure policies are subject to the same scrutiny regardless of when they are announced during the parliamentary term.

- 37 Another option would be to establish a costing service that only responds to requests for a shorter period in advance of the election. If Ministers support this option, we would recommend that the costing service be available for 12 months preceding the last possible date of the general election. This would allow political parties sufficient time to refine their requests once they had received an initial costing from the PBO and to develop a fully costed package of policies for their manifesto. We estimate that at a minimum six months will be required to achieve this, however, as an election date may not be known that far in advance, and early elections could be called, we would want the service to be available for 12 months before the last possible election date.
- 38 Under this model, although the PBO would only provide costings to parties during the designated period, they will be enabled to work on costings before the designated period. Alongside this, parties should be encouraged to engage early with the PBO on their potential policies, especially where complex or new models could be required. Together, these provisions would enable the PBO to better meet costing demand during the designated period.

Publication of costings and Official Information Act 1982 considerations

- 39 We propose that the PBO be required to undertake policy costings in confidence, so that political parties retain control over the timing of policy announcements. This will provide an incentive for political parties to use the service early in the policy development process, including for policies that they may later decide they do not want to announce. We view the ability of political parties to test policies as an important benefit of the costing service.
- 40 The PBO will be prohibited from publishing any material relating to costings of policies that have not been announced. However, we think the public has a right to know if an announced policy has been costed by the PBO. As is the case in Canada, the requesting political party will be required to notify the PBO once they have publicly announced a policy that has been costed, at which point the PBO will be required to publish a costing note, setting out the fiscal impact of the policy, the policy specifications, and the costing methodology used.
- 41 If the party fails to notify the PBO of a policy announcement, the PBO would still have the power to publish the costing note if in their view the policy they had costed was the same, or substantively the same, as the announced policy. It is expected that they would only do so after consultation with the political party.
- 42 We expect that the PBO would not provide further comment on the costings it has produced, unless clarification on the technical detail is required or if the information they have produced has been misrepresented. The PBO would not provide any comment or respond to any questions on the broader merits of the policies they have costed.

- 43 We propose that the PBO will be subject to the Official Information Act 1982 (OIA). This will provide transparency over the management of the office, and the performance of the PBO's functions, but will not hinder the effectiveness of the PBO's operations. In particular, applying the OIA to the PBO would not disallow the provision of costings in confidence. Under section 18(c)(i) of the OIA, requests for information may be refused if they are contrary to the provisions of another Act, and in this case the legislation establishing the PBO would include such provisions. Once a policy has been announced, the costing specifications cease to be sensitive and the normal OIA grounds for withholding information will apply. It is unlikely that the PBO would have grounds to withhold requests for information relating to announced policies.
- 44 We also propose that the PBO be subject to the Ombudsmen Act 1975. This gives the Ombudsman the power to investigate complaints made in regard to decisions, recommendations, actions and omissions of the PBO affecting a person or a body of persons, including a political party. This would provide a mechanism for holding the PBO to account for the performance of their functions.
- 45 Of the existing officers of Parliament, the PCE is subject to the Official Information Act 1982 (OIA), and the Ombudsman and the Controller and Auditor General are not. No existing Officer of Parliament is subject to the Ombudsman Act 1975.

Existing protocols for costing political party policies

- 46 The public service will continue to cost government policy. The current protocols for costing political party policies, whereby the Treasury can provide costings with the agreement of the Minister of Finance, will be abolished following the establishment of the PBO. Any requests for costings made to a government department to cost a policy for political purposes will be declined, and the requestor will be referred to the PBO.
- 47 The current protocols for providing costings during a period of government formation will remain, whereby the State Services Commissioner coordinates responses from government departments to information requests. The PBO will be available during this period to receive costing requests from political parties.

Other features of the policy costing service model

48 Annex 3 sets out the proposed policy costing service model in more detail, covering the following issues:

- i) Access to costing services
- ii) Role of the designated political party representative
- iii) Policy costing specifications
- iv) Policy costing response
- v) Declining a costing request
- vi) Prioritising requests
- vii) Election manifestos
- viii) Access to information held by the state sector
- ix) Confidentiality
- x) Publication of costings
- xi) Provision of costings to support government formation

Other operational issues

Access to information

49 The PBO will require access to information held by the state sector entities to perform the functions. For example, to undertake policy costings, the PBO will need access to data and models held by government departments and Crown entities. To facilitate the timely publication of the PBO's reports on compliance with the government's fiscal strategy, the PBOPBOPBO will likely need access to the Treasury's economic and fiscal forecasts while they remain under embargo.

50 Legislative provisions relating to access to information will be designed to both enable the PBO to successfully undertake their functions, and appropriately safeguard public institutions and the information they hold. These provisions will ensure the PBO is provided with reasonable access to information held by the state sector, and provide grounds under which an entity could refuse to provide information, for example, where provision of information would prejudice national security and defence, commercial dealings, or wage negotiations. Further Cabinet decisions will be required to determine exactly which state sector entities these provisions will apply to, the type of information the PBO will have access to and the grounds entities will have for refusal.

Post-implementation review

51 We propose that there be an external review of the PBO's performance and operations following the 2023 election, and that this review will consider the threshold for accessing the policy costing services provided by the PBO.

Resources required

Staff requirements

- 52 Staffing decisions will be made by the PBO following their appointment. However, to assess the funding requirements for the new institution, the Treasury has estimated that the PBO will require a permanent team of up to 19 FTEs to perform its functions. This team will need to grow by approximately 6 FTEs for a temporary period before an election to provide for increased demand for costing services.

Working with Parliamentary Service and the Office of the Clerk

- 53 The PBO will have close working relationships with the Parliamentary Service and the Office of the Clerk, both during the initial establishment of the new office and on an ongoing basis. The establishment of the PBO will support the strategic vision of an integrated parliamentary precinct.
- 54 We propose that the office of the PBO will be located on the parliamentary precinct, subject to availability of space. This will foster close working relationships with the Office of the Clerk, the Parliamentary Library (which is part of Parliamentary Service), and enable the Parliamentary Service to provide shared services to the PBO including human resources, finance and payroll, and ICT services. The funding requirements for the PBO have been prepared on this basis.
- 55 Locating the office of the PBO in close proximity to the Parliamentary Library will allow the two institutions to work together to share data and resources, and to minimise any duplication. The Parliamentary Library's role is to provide information, research, analysis and reference services to Members of Parliament, Officers of Parliament and other persons employed within the Parliament Buildings. As part of this, the Parliamentary Library currently undertakes some costing work for Members of Parliament, although this forms a small proportion of their overall work. While it is likely that these requests may be redirected to the PBO in the future, we expect that Members of Parliament will continue to draw on the Parliamentary Library for information to inform policy design and development.

Relationship to the Controller and Auditor-General

- 56 The PBO and the Controller and Auditor-General will both play an important role in supporting fiscal responsibility and should work together to support improved parliamentary scrutiny, as appropriate.
- 57 At present, there is minimal overlap between the proposed functions of the PBO and the activities of the Controller and Auditor-General. Under their proposed fiscal council functions, the PBO will primarily focus on examining the extent to which the government's fiscal strategy is likely to be achieved. The Controller and Auditor-General is primarily focused on the performance and accountability of public entities and the government, including whether they have reported performance appropriately, operated within the authority of Parliament, and have been efficient and effective.

- 58 There is the potential for greater overlap in the future. The Controller and Auditor-General necessarily has wide discretion to fulfil their role. While the Auditor-General does not currently assess compliance with the government's fiscal strategy, or comment on the Treasury's economic and fiscal forecasts, the Auditor-General has provided commentary on the Treasury's *Long-term Fiscal Statement* and has signalled an intention to do so again in 2019/20. This commentary will focus primarily on the extent to which the Treasury has adequately fulfilled its requirements to report under the Public Finance Act 1989.

Financial implications

- 59 We estimate that the following funding will be required to implement this proposal:

\$ million	Operating						Capital
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears	
Establishment	-	0.7	-	-	-	-	-
Permanent institution	-	-	4.4	5.4	6.2	5.6	0.7

- 60 It is estimated that the PBO will require approximately \$5.4-6.2 million operating funding per annum. We recommend that a multi-year appropriation be established to provide the PBO with flexibility to shift funding between financial years to support the efficient delivery of service across an electoral cycle. We estimate that funding requirements will be lower in 2021/22 (\$4.4 million) as the PBO will be undertaking initial recruitment during this year.
- 61 To uphold their independence from the Executive, the budgets of Officers of Parliament are determined by the OPC and therefore are not counted against the government's Budget allowances. The proposed funding requirements for the permanent institution will be set out in the OPC proposal. Assuming the OPC agree to the proposal, it will then be up to the OPC to determine the level of funding to be provided to the PBO and agree to the establishment of appropriations.
- 62 As an Officer of Parliament, a permanent legislative authority will be established to provide for the PBO's salary and allowances. The Remuneration Authority will be responsible for determining the PBO's salary and allowances.
- 63 It is estimated that approximately \$0.7 million will be required to establish the office of the PBO. This funding will provide for initial recruitment and other establishment costs. Decisions on this funding will be taken at a later date.

Next steps

- 64 The decisions in this paper will form the basis of a proposal to be presented to the OPC for their consideration. We will report back to Cabinet on the outcome of the engagement with the OPC.

- 65 The Minister of Finance will consult the Opposition on the proposal.
- 66 These decisions will also inform drafting instructions. In order to allow drafting of legislation to occur in a timely manner, we are seeking delegated authority to make subsequent policy decisions on further matters relating to the establishment of the PBO.

Consultation

- 67 The Office of the Clerk, the State Services Commission, the Parliamentary Service (including the Parliamentary Library), the Office of the Auditor-General, the Ombudsman, and the Parliamentary Counsel Office were consulted on this paper. The Department of Prime Minister and Cabinet were informed.

Legislative implications

- 68 A new, separate Act will be required to establish a new Officer of Parliament. Legislation will be required to list the PBO in Schedule 1 of the Ombudsmen Act 1975 to make it subject to the Official Information Act 1982. Minor or consequential amendments to other legislation may be required to facilitate the delivery of the PBO's functions.

Regulatory impact analysis

- 69 A Regulatory Impact Assessment is not required because the proposed amendments have no or only minor impacts on businesses, individuals or not-for-profit entities.

Human rights

- 70 The proposals in this paper and the attached discussion document are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Te Tiriti o Waitangi

- 71 There are no direct te Tiriti o Waitangi implications associated with this proposal.

Gender implications

- 72 There are no direct gender implications associated with this proposal.

Publicity and proactive release

- 73 We will consult with the Speaker before announcing our intention to establish an IFI as a new Officer of Parliament.
- 74 We intend to proactively release this Cabinet paper and the previous Cabinet paper on the establishment of an IFI [CAB-19-MIN-0215] following this announcement.

Recommendations

We recommend that the Committee:

- 1 **note** that Cabinet has previously agreed to pursue the establishment of a new Officer of Parliament to perform the functions of an independent fiscal institution (IFI), to enhance fiscal responsibility, accountability and transparency, promote better-informed public debate, and strengthen Parliamentary scrutiny [CAB-19-MIN-0215];
- 2 **note** that the Officers of Parliament Committee (OPC) considers proposals for the creation of an Officer of Parliament, and that the OPC seeks to achieve a consensus view on the proposal before submitting its recommendation to the House;

Parliamentary Budget Officer – Kaitiaki Kaupapa Rawa

- 3 **agree** that the new Officer of Parliament will be called the Parliamentary Budget Officer – Kaitiaki Kaupapa Rawa (PBO);
- 4 **agree** that the new Officer will be the head of the Parliamentary Budget Office;
- 5 **note** that as an Officer of Parliament:
 - 5.1 the PBO will be accountable to Parliament for the execution of its functions, and will be accountable to the Speaker for the efficient management of resources;
 - 5.2 the PBO will be appointed by the Governor-General on recommendation of the House of Representatives;
 - 5.3 the PBO's budget will be determined by the House of Representatives, not the Government, that funding for the PBO will be agreed through the established OPC budget process, and that a permanent legislative authority will be established to provide for the PBO's salary and allowances;
- 6 **agree** that the PBO will be appointed for a term of 5 years, be allowed to be reappointed, and that the OPC will be able to extend a PBO's term if the end of the PBO's term falls within the 12 months preceding the last possible date of a general election, and where a term has been extended an appointment or reappointment of the PBO will be made as soon as practicable once the new Parliament is in session;
- 7 **agree** that the provisions setting out the PBO's oath of office, terms of employment, processes for resignation, removal or suspension, powers to employ staff and contractors, powers to delegate, and annual reporting and audit obligations will be consistent with the provisions in the Ombudsmen Act 1975, the Environment Act 1986, and the Public Audit Act 2001 relating to the existing Officers of Parliament (as set out in Annex 1);

Fiscal council functions

- 8 **note** that Cabinet has previously agreed that the PBO will perform the following fiscal council functions [CAB-19-MIN-0215]:
 - 8.1 assess compliance with the government's fiscal strategy;
 - 8.2 comment on the Treasury's economic and fiscal forecasts;
 - 8.3 comment on long-term fiscal sustainability and key fiscal risks; and
 - 8.4 produce research and information relating to its fiscal council functions;
- 9 **agree** that the PBO will not be permitted to make policy recommendations;
- 10 **agree** that the PBO will have a duty to deliver the legislated functions, but will not be able to otherwise be directed to undertake economic or fiscal analysis or assessments;
- 11 **agree** that the PBO will be required to assess and report on the government's compliance with its fiscal strategy as soon as practicable following the publication of the Budget Economic and Fiscal Update, and the Half-year Economic and Fiscal Update, and that these reports be required to be presented to the House;
- 12 **agree** that the PBO will be required to assess and report on the government's compliance with its fiscal strategy following the publication of the Pre-election Economic and Fiscal Update, that the publication of this report will be before election day, and if the House is no longer in session that this report be presented to the House as soon as practicable following the meeting of the new Parliament;
- 13 **agree** that the PBO will be able to produce reports at other times, as they see fit, and that these reports be required to be presented to the House;
- 14 **agree** that at the request of the House, or any select committee, the PBO (and their staff) will be required to be available to provide evidence to the House or committee on their published reports;

Policy costing functions

- 15 **note** that Cabinet has previously agreed that the PBO will perform the following policy costing functions [CAB-19-MIN-0215]:
 - 15.1 provide financial costings of political party policies, including election manifestos and any costings requested during negotiations to form a government;
 - 15.2 produce research and information relating to its policy costing function;

- 16 **note** that Cabinet has previously agreed that policy costing services will be provided to political parties in Parliament and all registered political parties that have received at least 3 per cent of the party vote in the preceding general election [CAB-19-MIN-0215];
- 17 **agree** that political parties outside of Parliament that have not met this 3 per cent threshold, including newly registered political parties and parties that experience a significant increase in support between elections, will not have access to the policy costing service;
- 18 **agree** that the PBO will be required to use the policy specifications provided by the political party to undertake a policy;
- 19 **agree** that the PBO will be required to design a framework for prioritising requests should demand for policy costing services exceed available resources;
- 20 **agree** that the PBO will be required to design this framework based on the guiding principle of providing policy costing services to all eligible political parties on a fair basis;
- 21 **agree** that requests for policy costings will be required to be made only by a single, designated political party representative of the political party, and that it will be up to the political party to determine how to appoint this representative;
- 22 **agree** that the PBO will have the power to decline costing requests if they consider that the request is not intended to support the development of the requesting political party's own policy platform, or if it does not have sufficient information or resources to undertake the costing,
- 23 **agree** that if the PBO declines a request, formal notification of the decision and the reason the PBO was unable to undertake the costing will be required to be provided to the designated political party representative;
- 24 **agree** that the PBO will be required to provide the policy costing service at all times throughout the electoral cycle;
- 25 **agree** that the PBO will be prohibited from disclosing information relating to policy costings, unless the request for information relates to a policy that it has costed and been publically announced;
- 26 **agree** that once a political party has announced a policy costed by the PBO, the designated political party representative will be required to notify the PBO in writing that the policy has been announced, at which point the PBO will publish a detailed costing note including the fiscal impact of the policy, the policy specifications, costing methodology used, and other information relating to the costing;

- 27 **note** that if the designated political party representative fails to notify the PBO of publication, the PBO will have the power to publish a costing note of a policy where the PBO considers the policy is the same, or substantively the same, as an announced policy, but that the PBO would be expected to consult the political party before publishing;
- 28 **agree** that the PBO will be required to undertake policy costings in confidence and not disclose any more information than necessary for the purposes of discharging the PBO's functions when seeking information from state sector entities, and specifically will not disclose the identity of the requesting political party;
- 29 **agree** that state sector entities will be prohibited from releasing any correspondence with the PBO, or any material that refers to a request for information from the PBO, and shall also be prohibited from disclosing the existence or absence of such information;
- 30 **agree** that Ministers will not seek information relating to specific requests by the PBO from state sector entities for which they are responsible, and that state sector entities will not share with Ministers any information relating to information requested from the PBO;
- 31 **agree** that the PBO will be subject to the Official Information Act 1982 and the Ombudsmen Act 1975;
- 32 **agree** that the PBO will not disclose Parliamentarians' correspondence with the PBO related to policy costings;
- 33 **note** that the prohibition on the PBO and state sector entities disclosing information relating to policy costings would provide grounds to withhold the information under the Official Information Act 1982;

Access to information

- 34 **agree** that the PBO will have access to information held by designated state sector entities, subject to appropriate safeguards and grounds for refusal such as where provision of information would prejudice national security and defence, commercial dealings, or wage negotiations;
- 35 **invite** the Minister of Finance and the Associate Minister of Finance (Hon Shaw) to report back to Cabinet on the design of the appropriate safeguards and grounds for refusal to be included in legislation;

Post-implementation review

- 36 **agree** there will be an external review of the PBO's performance and operations following the 2023 election and that this review will consider the policy costing service eligibility criteria;

Financial implications

- 37 **agree** that the OPC proposal will recommend the following funding profile for the permanent institution, and recommend that a multi-year appropriation be established to provide the PBO with flexibility to support the delivery of their functions across an electoral cycle:

\$ million	Operating						Capital
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears	
Parliamentary Budget Office	-	-	4.4	5.4	6.2	5.6	0.7

- 38 **note** that the budgets of Officers of Parliament are determined by the OPC and are not counted against the government's Budget allowances, but that this new funding will impact the operating balance and net core Crown debt;
- 39 **note** that we expect that in addition to this, approximately \$0.7 million of operating funding will be required in 2020/21 for the PBO establishment team, and that decisions on this funding will be taken at a later date;

Next steps

- 40 **invite** the Minister of Finance and the Associate Minister of Finance (Hon Shaw) to present a proposal to the OPC to establish a new Officer of Parliament to perform the IFI functions;
- 41 **invite** the Minister of Finance and the Associate Minister of Finance (Hon Shaw) to report back to Cabinet with an alternative institutional form option if the OPC does not approve the proposal to establish a new Officer of Parliament;
- 42 **invite** the Minister of Finance and the Associate Minister of Finance (Hon Shaw) to consult with the Speaker and the Opposition on the proposals;
- 43 **note** that, following consultation with the Speaker, we intend to make an announcement on the proposal to establish an Officer of Parliament to undertake the IFI functions and intend to proactively release this Cabinet paper at that time
- 44 **authorise** the Minister of Finance and the Associate Minister of Finance (Hon Shaw) to make any subsequent policy decisions on related details consistent with the policy proposals as necessary to prepare draft legislation, and report back to Cabinet on these decisions at the same time as it considers the draft legislation; and

- 45 invite the Treasury to issue drafting instructions to the Parliamentary Counsel Office to progress the legislative changes required to give effect to these recommendations.

Hon Grant Robertson
Minister for Finance

Hon James Shaw
Associate Minister of Finance

Date:

Annex 1: Proposed detailed institutional model

	Issue	Proposed model	Legislation
i	Accountabilities	As an Officer of Parliament, the PBO will be accountable to Parliament for the execution of its functions. The PBO will be accountable to the Speaker for the efficient management of resources.	Accountability to Parliament is established through appointment provisions and functions. Accountability to the Speaker is established through appropriations.
ii	Appointment process	As an Officer of Parliament, the Governor-General, on recommendation from the House, will appoint the PBO. The procedures for appointing new Officers of Parliament are set out in <i>Parliamentary Practice in New Zealand</i> . The appointment process will begin with the Speaker initiating consultation through the Officers of Parliament Committee (OPC) once legislation has been enacted to establish the position of the PBO. The Minister of Finance will be advised of the consultation and invited to participate. Any Member of Parliament will be able to suggest a name for appointment. The OPC, with support from SSC and an independent recruitment advisor, will draw up a short list and interview candidates. The OPC will then make a recommendation on the appointment to the House. It is convention that no proposal should be put to the House without unanimous agreement from the OPC.	Legislation will establish that the PBO shall be appointed by the Governor-General on recommendation from the House. (Standing Orders establish that the Officers of Parliament Committee is responsible for considering and recommending to the House the appointment of persons as Officers of Parliament).
iii	Oath	The PBO will take an oath of office that they will faithfully and impartially perform the duties of their office, and will maintain confidentiality as required to by their legislation. The oath must be administered by the Speaker of the House of Representatives or the Clerk of the House of Representatives.	Legislation will require the PBO take an oath of office.
iv	Term of office	The PBO will be appointed for a term of 5 years. With agreement of the House, a PBO will be able to be reappointed. If the end of the PBO's term falls within 12 months preceding the last possible date of a general election, the OPC can agree to extend the PBO's term until after the general election with the expectation that an appointment will be made as soon as practicable following return of writ.	Legislation will set out the term limit, including an option to extend the limit if the end of a term falls within the 12 months preceding the last possible date of a general election.

	Issue	Proposed model	Legislation
v	Appropriation	The Speaker will act as the responsible Minister for the appropriations for the PBO. Section 26E of the Public Finance Act 1989 provides for the budgets of Officers of Parliament to be determined, not by the Government, but by the House of Representatives. New funding for the Officers of Parliament is not counted against the Government's Budget allowances. The OPC meets annually to consider the Officers of Parliament's budgets, including any requests for new funding, alongside advice from the Treasury, and makes a recommendation to the House.	Budget legislation will provide appropriation for the PBO.
vi	Terms of employment	<ul style="list-style-type: none"> • As an Officer of Parliament, the PBO will not be considered an employee for the purposes of the State Sector Act 1988. • The Remuneration Authority will be responsible for determining the PBO's salary and allowances. • A permanent legislative authority will be established to provide for the PBO's salary and allowances. • The PBO's salary shall not be reduced during the term of their appointment. • The PBO shall not be deemed a State Sector employee for the purposes of the Government Superannuation Fund Act 1956 by reason of their employment as the PBO. • Leave entitlements will be determined by the Speaker. • The PBO will not be able to hold any other positions, without the approval of the Speaker. 	Legislation will establish all terms of employment of the PBO.
vii	Resignation, removal or suspension	The PBO can resign at any time by writing to the Governor-General. The PBO can be removed or suspended from office for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct. In the event of a vacancy (i.e. the PBO is unable to perform their duties, resigns, or is removed) an appointment will be made as soon as practicable. If a vacancy occurs when Parliament is not in session, an appointment can be made by the Governor-General in Council, but this must then be confirmed by the House once they are back in session.	Legislation will establish all procedures for resignation, removal or suspension.

	Issue	Proposed model	Legislation
viii	Employees	The PBO will have the power to employ staff and contractors. Staff and contractors employed by the PBO will not be considered to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988. Employees of the PBO will not be deemed to be a State Sector Employee for the purposes of the Government Superannuation Fund Act 1956 by reason of that person's employment by the PBO. The PBO will be obligated to operate a personnel policy that complies with the principle of being a good employer. These obligations will be the same as those defined in the State Sector Act 1988.	Legislation will establish powers to employ staff and contractors, establish the relationship to State Sector Act 1988 and Government Superannuation Fund Act 1956, and an obligation to be a good employer.
ix	Delegations	The PBO may delegate any of the functions or powers of the Office to any other specified person, except for the power to delegate, and the function of reporting to the House of Representatives. There will be no formal deputy established in legislation.	Legislation will establish powers to delegate functions.
x	Annual reporting & audit	The PBO will be required to report to the House of Representatives on the performance of its functions. The House of Representatives will appoint an auditor to audit the accounts of the PBO. The PBO may provide an annual work plan to the OPC and/or the FEC.	Legislation will establish annual reporting and audit requirements.

Annex 2: Fiscal and economic analysis reporting requirements

Issue	Proposed model	Legislation
i Reporting requirements	The PBO will be required to report on compliance with the government's fiscal strategy, which the government is required by the Public Finance Act 1989 to present to the House each year, covering a period of 10 or more consecutive years. The PBO will be able to produce reports at other times, as they see fit.	Legislation will establish that the PBO is required to report on compliance with the government's fiscal strategy, and can report on other issues within their mandate, and will establish that these reports will not provide policy recommendations.
ii Timing of reports	The PBO reports will be published as soon as practicable following the publication of the Treasury's <i>Budget Economic and Fiscal Update</i> , the <i>Half-year Economic and Fiscal Update</i> , and the <i>Pre-election Economic and Fiscal Update</i> . The publication of the PBO's report following the <i>Pre-election Economic and Fiscal Update</i> will be in advance of election day.	Legislation will establish an expectation that these reports are published as soon as practicable after the publication of the Treasury <i>Economic and Fiscal Updates</i> , and in the case of the <i>Pre-election Update</i> , publication will be in advance of election day.
iii Publication of reports and requirement to table in the House	All reports prepared by the PBO will be made publically available, and will be presented to the House. It will then be up to the House to determine how it wishes to consider these reports. The House may choose to refer all reports prepared by the PBO to the Finance and Expenditure Committee to consider on its behalf and report back to the House as appropriate. We would expect that procedures for the consideration of PBO reports will be established in Standing Orders.	Legislation will require the PBO to make all their reports publically available and present all their reports to the House.
iv If the House has been dissolved	It is likely that the publication of Treasury's <i>Pre-election Economic and Fiscal Update</i> will occur after the House has been dissolved in preparation for a general election. The PBO will still be required to prepare and publish a report. The report would not be considered by the House until the next term of Parliament.	Legislation will require, in instances where the House has been dissolved, that the House will consider the reports of the PBO once the new Parliament is in session.

Issue	Proposed model	Legislation	
v	Available to the House	At the request of the House of Representatives or any select committee of the House of Representatives, the PBO (and their staff) will be available to provide evidence to the House or committee on its published reports.	Legislation will establish that the PBO is required to be available to provide evidence to the House or a select committee.
vi	Public comments	The PBO will be available to the media to comment on its reports. In making public statements, the PBO will have due consideration for their duties, in particular the importance of the role being perceived as politically-neutral and independent. It is not the role of the PBO to make policy recommendations or comment on the quality of government policies.	Legislation will establish that it is not the role of the PBO to make policy recommendations.

Annex 3: Policy costing service model

	Issue	Proposed model	Legislation
i	Access to costing service	A policy costing can be requested at any time, by the designated political party representative of any registered political party that is currently represented in Parliament or has received at least 3 per cent of the party vote at the preceding general election.	Legislation will define the threshold for access.
ii	Role of the designated political party representative	The designated political party representative is a person appointed by the registered political party as the single point of contact for the Parliamentary Budget Office (PBO). This person can be appointed by any process the political party chooses. The role of the designated political party representative is to prioritise and coordinate costing requests on behalf of the political party, provide any clarifications or additional information requested by the PBO, and receive the policy costing once completed by the PBO. The designated political party representative could ask the PBO to stop working on a costing, or prioritise another one of their party's costing requests, at any time.	Legislation will set out the requirement for costing requests to be made by a designated political party representative from the eligible political parties.
iii	Policy costing specifications	The PBO will undertake a policy costing using specifications provided by the designated political party representative. If the policy specifications do not provide sufficient detail necessary to undertake the costing, the PBO will seek clarification or additional information from the designated political party representative.	Legislation will establish that the PBO is required to use the policy specifications provided by the political party.
iv	Policy costing response	The PBO will provide a policy costing response to the designated political party representative setting out the fiscal impact of the policy, the policy specifications, the costing methodology used, and other relevant explanatory information relating to the costing. The PBO will not provide commentary on the merits of the policy.	Legislation will require the PBO to provide the estimated fiscal impact of the policy.
v	Declining a costing request	The PBO can decline a costing request if there is insufficient information or resources available to complete the costing, or requests for costings of other political parties' policies. The PBO will provide the designated political party	Legislation will enable the PBO to decline a costing request and set out notification requirements.

	Issue	Proposed model	Legislation
		representative with formal notification of the decision to decline the request including the reasons the PBO was unable to undertake the costing.	
vi	Prioritising requests	A framework for prioritising costing requests will be developed by the PBO and designed in consultation with the designated political party representatives of all eligible political parties. The PBO shall endeavour to provide the policy costing service to eligible political parties on a fair basis.	Legislation will require the PBO to develop a prioritisation framework that works towards the principle of providing costing services on a fair basis.
vii	Election manifestos	In consultation with the designated political party representatives of all eligible political parties, the PBO will establish guidelines setting out the last date before the election that they would need to receive costing requests e.g., for political parties seeking to cost all the policies in their election manifesto. For example, political parties will likely need to engage early with the PBO, and provide all policy specifications by a specified deadline in advance of the election.	The legislation will not specify the timeframes for costing complete election manifestos.
viii	Access to information held by the state sector	The PBO will have access to information held by state sector entities. Further Cabinet decisions are required to determine exactly which state sector entities will be required to provide information to the PBO, the type of information the PBO will have access to, and the grounds entities will have for refusal.	Legislation will set out detailed provisions regarding access to information held by the state sector
ix	Confidentiality	Policy costings will be undertaken in confidence. No information relating to costings undertaken by the PBO will be released under the Official Information Act 1982, unless the PBO considers the policy has been announced by the political party. The PBO will not disclose any more information than necessary when seeking information from state sector agencies, and specifically will not disclose the identity of the requesting political party. In response to official information requests, state sector entities will withhold all information relating to requests from the PBO and will not confirm the existence or otherwise of requests from the PBO. State sector entities will not disclose to Ministers any information relating to requests from the PBO. There will be a clear expectation that Ministers will not seek information from government	Legislation will include provisions setting out confidentiality requirements on the PBO and state sector entities.

Issue	Proposed model	Legislation	
	departments relating to information requests from the PBO, nor will government departments volunteer any information to Ministers in relation to requests from the PBO.		
x	Publication of costings	Political parties can publish costings they have received at any time. The designated political party representative is required to notify the PBO once a policy costed by the PBO has been announced. The PBO will then publish the complete policy costing response (including the fiscal impact, policy specifications, and costing methodology used). Policies costed by the PBO that are never announced, or early iterations of a policy with different specifications to the announced policy will never be published by the PBO. The PBO will be able to release a costing, irrespective of whether the party has notified the PBO. We would expect this to occur following discussion with the political party.	Legislation will require the PBO to publish a costing note for a policy that has been announced, and oblige the designated political party representative to notify the PBO when a policy has been announced.
xi	Provision of costings to support government formation.	Designated political party representatives can request costings from the PBO as necessary to support a government formation process. The current protocols for providing costings during a period of government formation – whereby the State Services Commissioner coordinates responses to information requests from government departments – will remain.	Legislation will enable the PBO to provide costings to support government formation.