



BRIEFING

Implementation options for CRI consolidation

Date:	4 September 2024	Priority:	High
Security classification:	In Confidence	Tracking number:	2425-0857

Minister	Action sought	Deadline
Hon Judith Collins KC Minister of Science, Innovation and Technology	Agree to a preferred implementation pathway for CRI consolidation and provide direction on key features of the future PROs	9 September 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Landon McMillan	Manager, Science System Policy	Privacy of natural persons	✓
Dr Nic Scott	Senior Policy Advisor		

The following departments/agencies have been consulted

Minister's office to complete:

☐ Approved

☐ Noted

☐ Seen

☐ See Minister's Notes

☐ Declined

☐ Needs change

☐ Overtaken by Events

☐ Withdrawn

Comments



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Purpose

To provide you with options for pathways to consolidate Crown Research Institutes (CRIs) and seek your direction on key features of the new Public Research Organisations (PROs).

Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Agree** that the new PROs should sit closer to government than the present CRIs to ensure they focus on national benefit and the science New Zealand needs to grow our economy.

Agree / Disagree

- b **Note** that stronger levers, including changes to entity form and governance, are needed to ensure the new PROs focus on delivering national benefit, and that enabling some of these levers will require Cabinet decisions or legislation.

Noted

- c **Note** that there are non-legislative and legislative pathways available for CRI consolidation. However, the non-legislative pathway significantly limits our ability to strengthen levers and implement many of the SSAG's recommendations.

Noted

- d **Agree** that the preferred pathway for CRI consolidation is through a "dual track" process of pursuing legislative change while CRIs undertake due diligence, merge (pending CRI agreement), then have the two new transition boards work through detailed design and the practical challenges of the mergers,

Agree / Disagree

Landon McMillan
Manager, Science System Policy
Labour, Science and Enterprise, MBIE

04 / 09 / 24

Hon Judith Collins KC
Minister of Science, Innovation and Technology

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Background

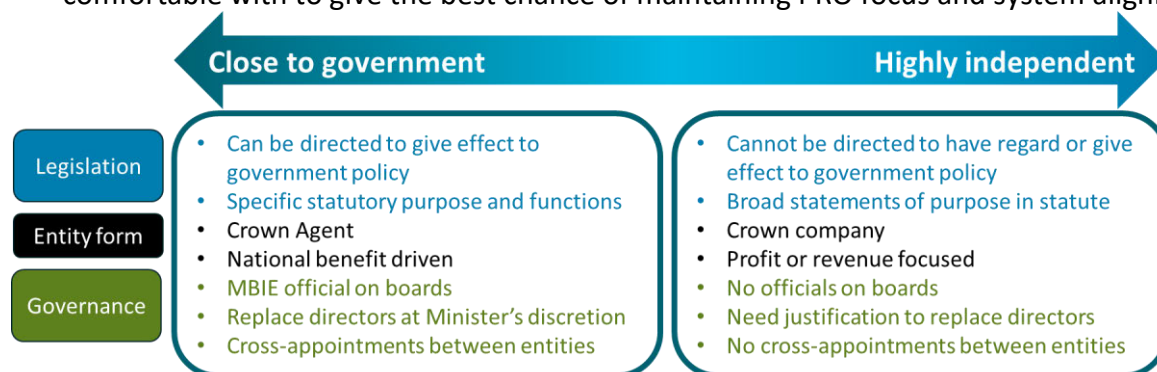
1. You indicated that your preferred option for Crown Research Institution (CRI) consolidation is to create two to three Public Research Organisations (PROs) clustered by sector and research capabilities (*briefing 2425-0701* refers).
2. You indicated that ESR should be considered separately while remaining part of the science system – ie independent from the Police, Ministry of Justice or Ministry of Health.
3. At your meeting with officials on 20 August you asked for advice on implementation pathways for consolidating the CRIs and key features of the two or three new PROs.

We need better tools to ensure the new PROs focus on delivering national benefit

4. A major goal of the Science System Advisory Group's (SSAG) proposal is to increase PRO responsiveness to government priorities. Consolidation will partly achieve this by allowing trade-offs across existing boundaries. The new PROs must be incentivised to make those trade-offs in line with government priorities, not in the interest of the entities themselves.
5. Funding is our most effective mechanism for influencing PRO activity, but experience has shown that alone it is not enough to keep them focused on national benefit. Conflicting incentives, unclear signalling and an unwillingness by all parties to deprioritise has led to undesirable behaviours and outcomes, including duplication and competition for funding.
6. Larger entities that are flexible and able to reprioritise across a wide range of activities will require greater guidance from government than the CRIs, with their narrow sector focuses.
7. Clear direction and priority setting from the Prime Minister's Science Innovation and Technology Advisory Council and the Ministry is a critical part of the system reform. The PROs will need to give effect to Government's science system strategy and priorities.

You have choices for how close the new PROs are to government

8. The CRIs operate at arm's length from government to protect science-led decision-making and make it easier for them to carry out their work. However, this has allowed them to become misaligned from changing government priorities.
9. We recommend that the new PROs sit closer to government than current CRIs do to ensure they focus on national benefit and the science New Zealand needs to grow the economy.
10. Several settings determine the extent of government influence over an organisation, as shown in the below diagram. Not all 'close to government' settings are required; however, we recommend implementing as many of the options from the left-hand side as you are comfortable with to give the best chance of maintaining PRO focus and system alignment.



This table lists discrete settings that determine government's ability to influence a Crown entity. It is not a list of the features of Crown Agents or Crown companies.

The most effective levers will require Cabinet decisions to progress

11. Many of the SSAG's suggestions can be implemented during consolidation through non-legislative mechanisms like updating company constitutions or statements of core purpose. This includes putting more scientists on the PRO boards and introducing flatter internal structures to improve transparency. Decisions on these kinds of changes can be made later in the process.
12. Some SSAG suggestions will require Cabinet decisions, including decisions on entity form and governance, and those that require legislation.

Entity form

13. Changing the form to a Crown Agent will allow you to direct them to give effect to government policy. Ministers do not have the ability to direct Crown companies to give effect to or have regard to government policy unless specifically provided in legislation.
14. For both Crown Agents and CRIs you have some ability to direct them on the content of their statements of corporate intent. For CRIs, this ability has not been used since CRI statements of core purpose were introduced by Cabinet in 2010.
15. The SSAG identified the company model of CRIs as the key driver behind those organisations prioritising institutional interests over the national benefit. MBIE's view is that settings (including the CRI form) and incentives (including financial pressures) have left CRIs little choice but to prioritise institutional interests over the system as a whole. As Crown Agents, the PROs would have delivering national benefit as their primary purpose¹.
16. The PROs can continue to engage in commercial activity as Crown Agents. This will be easier if they keep their current ability to create subsidiaries that are more commercially focused than their parent, which would require overriding section 97(a) of the Crown Entities Act.
17. The CRI form may remain more appropriate if some of the future PROs are focused on close-to-market research for sector development. There may be scope to give Ministers more powers of direction in relation to Government policy by amending the CRI Act.

Governance

Cross-appointments between SI&T governance groups

18. Appointing a member of the PM's SI&T Advisory Council to the PRO board will increase system alignment, but may be perceived as a conflict of interest. There is little risk of actual conflict preventing the cross-appointed member fulfilling this purpose. Perceived risk could be managed by putting in place information sharing protocols between the two bodies.

Science policy officials on PRO boards

19. The SSAG recommends MBIE science policy officials be appointed to PRO boards. This would provide a strong lever of influence, and is common overseas though unusual in New Zealand.
20. We have found MBIE officials on steering groups to be an effective mechanism to influence recent science investments, including the SSIF Antarctic Science and mRNA platforms.

¹ The CRI Act stipulates, as a principle of operation, that research undertaken should be for the benefit of New Zealand

21. A Cabinet decision would be needed to change a previous Cabinet agreement that senior public servants should not be appointed to the boards of entities where the same Minister is responsible for the official's department and the entity (*Cabinet circular CO (02) 5* refers).

There are legislative and non-legislative pathways available to you

22. You have three options for pathways to achieve CRI consolidation:

Option	Speed (mnths)	Comment
Dual track – legislate while CRIs undertake due diligence, merge, then new boards do final design	Medium (18+)	<ul style="list-style-type: none">Significant scope to change entitiesMBIE can take an advisory role to support the boards post-merger
Merge then legislate – merge under existing settings, take stock, then legislate to make changes	Slow (24+)	<ul style="list-style-type: none">Significant scope to change entitiesTwo-step process takes a long time, but provides opportunity to change tack
Merge only – merge under existing settings	Fast (9-12)	<ul style="list-style-type: none">Limited scope to change entitiesTimeline dependent on how willing CRI boards are to progress mergers

23. We recommend the dual track approach to allow us to make necessary changes to the PROs in the shortest time. This could be done as part of a wider science system bill or through legislation focused only on PRO reform.
24. A working group would undertake a short due diligence process, before CRI boards agree to merge under existing legislation. You would then appoint two transition boards for the newly merged entities, which will work through detailed design and implementation.
25. Making decisions now on the reappointment of directors to existing boards to maintain capability (*briefing 2425-0370* refers) will not limit your options for the future of the CRIs.

The new PRO boards will need to stop some current CRI activities due to financial constraints

26. All options can be managed within existing baselines. The future PROs will need to prioritise and make trade-offs about which of their existing activities they can continue with the available funding. Confidential advice to Government
27. The SSAG will provide further advice on SI&T funding in their second report. PRO funding will need to be considered alongside this report and in the context of the wider system changes.

Next steps

28. We will provide you with a draft Cabinet Paper on the options and pathway for achieving more effective PROs through consolidation as part of a second set of SSAG Cabinet papers.
29. We can provide you with more information:
- where in the SI&T system to locate ESR's public health and forensic science capability
 - Confidential advice to Government