

21 October 2025

REF: OIA 87953

[REDACTED]

Tēnā koe [REDACTED]

Request for Official Information: Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines

On 10 August 2025 you requested the following information under the Official Information Act 1982 (OIA) from the Ministry of Foreign Affairs and Trade:

“2018 0719 Draft Cabinet paper on CMR and Engagement that was sent out for agency consultation and the response of agencies to that, and the final version of the Cabinet paper.”

Your request was transferred to the Office of Treaty Settlements and Takutai Moana: Te Tari Whakatau on 8 September 2025 and accepted on 9 September. On 22 September we responded partially to your request regarding the Cabinet papers and requested clarification on part of your request relating to agency feedback.

On 22 September you confirmed that your request is for the following information:

- The correspondence from agencies who provided feedback on the draft Cabinet paper; and
- The relevant sections of an aide memoire dated 31 July 2018, 'Revised Cabinet paper for Ministerial consultation: Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines and summary of submissions from engagement process' including:
 1. A section on agency feedback;
 2. A summary of agency feedback on the "new agency" in Appendix One; and
 3. In Appendix Two, a summary of agency feedback on "the role of the proposed new agency and existing agencies".

On 26 September we sought an extension to the due date from 9 October to 17 October.

Response to your request

We now attach in Appendix One, a response to the request of information for agency feedback as confirmed on 22 September. There are 31 documents which are released in three parts given the size of the documents (documents 1-10, documents 11-20 and documents 21-31).

Proactive release

When Te Tari Whakatau acknowledged receipt of your OIA request, we advised we may proactively release your OIA response on our website. After considering our response to your request, we can advise that it will be published no earlier than 20 working days from the date of this letter at www.whakatau.govt.nz. Your personal and other identifying information will be removed.

If you have any concerns about the information in this response being published on our website please contact us by e-mailing officialcorrespondance@whakatau.govt.nz by 5.00pm within 10 working days from the date of this letter.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about this process is available at www.ombudsman.parliament.nz or phone 0800 802 602.

Nāku noa, nā



Lucy Bolton
Manager Policy

Appendix One: Table of documents provided under the Official Information Act 1982

Document number	Date	Document description	Extent of information proposed to be provided	Page
1.	2018 07 31	Aide memoire Revised Cabinet paper for Ministerial Consultation: Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines and summary of submissions from engagement process.	Release in part. Parts withheld as out of scope	1-12
2.	Undated	Compilation of agency comment on draft, Table 1 of 2: Comments from Treasury, MBIE, DOC, DIA, Oranga Tamariki, Justice, MPI, Ministry for Women. Table 2 of 2: Comments from Social Investment Agency, NZ Police, MOH, MFAT, MSD and MOE	Release in part. Withhold parts under s 9 (2)(g)(i)	13-18
3.	2018 07 23	E-mail from Kim Aiomanu (Family violence Multi Agency Team (MAT team), RE MAT feedback Cabinet paper. Cabinet paper attached	Release in part. Parts withheld as out of scope	19-49
4.	2018 07 26	E-mail from Justine Smith, DIA, Draft Cabinet paper for agency consult: Final scope of CMR & engagement framework	Release in full	50-52
5.	2018 07 26	E-mail from Neil Deans, DOC, RE Draft Cabinet paper for agency consult: Final scope of CMR & engagement framework, Cabinet paper attached	Release in full	53-79
6.	2018 07 26	E-mail from Beth Goodwin, MBIE response to CMR Cabinet paper	Release in full	80-82
7.	2018 07 26	E-mail from Rachel Robson, Ministry for Women, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	83-85
8.	2018 07 26	E-mail from Tipene Chrisp, MOE, Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	86-87
9.	2018 07 26	E-mail from Ana Bidois, MOH, Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework, Cabinet paper attached	Release in full	88-113

Document number	Date	Document description	Extent of information proposed to be provided	Page
10.	2018 07 26	E-mail from Marian Horan, MPI, Comments from MPI on Cab paper	Release in full	114-115
11.	2018 07 26	E-mail from Eleonora De Crescenzo, MSD, MSD Feedback – Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	116-118
12.	2018 07 26	E-mail from Jason Mataio, NZ Police, Police comment: Draft Cab paper for agency consult – Final scope of CMR & engagement framework	Release in full	119-121
13.	2018 07 27	E-mail from Carolyn Van Leuven, Corrections, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	122-125
14.	2018 07 27	E-mail from Helene Peyroux, MCH, RE: Draft Cab paper	Release in full	126-128
15.	2018 07 27	E-mail from John Riley, MfAT, RE: Draft Cab paper for agency consult: Final scope of CMR & Engagement framework	Release in part. Withhold part under 9(2)(a)	129-131
16.	2018 07 27	Anna Johnston, MOJ, Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in part. Withhold parts under s 9 (2)(g)(i)	132-135
17.	2018 07 27	E-mail from Eleonora De Crescenzo, MSD feedback – Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	136-138
18.	2018 07 27	E-mail from Tessa Bercic, Oranga Tamariki, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework, Cabinet paper attached	Release in full	139-166
19.	2018 07 27	E-mail from Katherine Gordon, SIA, Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in part. Withheld part under 9(2)(a)	167-168
20.	2018 07 27	E-mail from Rahera Ohia, TPK, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	169-171
21.	2018 07 27	E-mail from Jason Clark, Treasury, RE: Draft Cab paper for agency consult CMR & engagement framework	Release in full	172-174
22.	2018 08 09	E-mail from Justine Smith, DIA, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	175-179

Document number	Date	Document description	Extent of information proposed to be provided	Page
23.	2018 08 16	E-mail from Neil Deans, DOC, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	180-185
24.	2018 08 16	E-mail from Monique Esplin, MCH, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	186-189
25.	2018 08 22	E-mail from Jason Clarke, Treasury, Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	190-195
26.	2018 08 24	E-mail from Jason Clarke, Treasury, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	196-204
27.	2018 08 23	E-mail from Jason Clarke, Treasury, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	205-211
28.	2018 08 30 2 03 pm	E-mail from Sally Ann Spencer, Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	212-221
29.	2018 08 30 2 18 pm	E-mail from Sally Ann Spencer, Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	222-232
30.	2018 08 15	E-mail from Anna Johnston, MOJ, RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework	Release in part. Withhold parts under s 9 (2)(g)(i)	233-239
31.	2018 08 15	E-mail from Eleonora De Crescenzo, MSD, RE: MSD feedback – Cab paper for agency consult: Final scope of CMR & engagement framework	Release in full	240-244

Reasons for withholding under section 9 of the Official Information Act 1982i

s 9(2)(a) – protect the privacy of natural persons, including the deceased.

s 9(2)(b) – protect information that would:

- (i) – disclose a trade secret;
- (ii) – unreasonably prejudice commercial position of subject.

s 9(2)(ba) – protect information where making it available would:

- (i) – prejudice the supply of similar information; or
- (ii) – likely otherwise damage the public interest.

s 9(2)(c) – prejudice to measures protecting health or safety of the public.

s 9(2)(d) – prejudice to substantial economic interests of New Zealand.

s 9(2)(e) – prejudice to measures that prevent or mitigate material loss to members of the public.

s 9(2)(f) – maintain the constitutional conventions which protect:

- (i) – communications by or with the Sovereign or their representative; or
- (ii) – collective and individual ministerial responsibility; or
- (iii) – the political neutrality of officials; or
- (iv) – the confidentiality of advice tendered by Ministers and Crown officials.

s 9(2)(g) – maintain the effective conduct of public affairs through:

- (i) – the free and frank expression of opinions;
- (ii) – the protection from improper pressure or harassment.

s 9(2)(h) – maintain legal professional privilege.

s 9(2)(i) – enable the Crown holding the information to carry out commercial activities.

s 9(2)(j) – negotiations sensitive.

s 9(2)(k) – prevent the disclosure of information for improper gain or advantage.

Reasons for refusing information under section 18 of the Official Information Act 1982i

s 18(a) – good reasons by virtue of s 6, 7 or 9 of the Act:

s 18(b) – the department or Minister or organisation neither confirms nor denies the existence or non-existence of the information:

s 18(c) – making the information available would –

- (i) – be contrary to a specified enactment; or
- (ii) – constitute contempt of court or the House of Representatives.

s 18(d) – the information is, or will soon be, publicly available:

s 18(e) – the information requested does not exist, or cannot be found:

s 18(f) – the information cannot be made available without substantial collation or research:

s 18(g) – the information is not held by the department or Minister of the Crown or organisation, and the person dealing with the request has no grounds for believing that it is:

- (v) – held by another department, Minister of the Crown or organisation, or by a local authority; or

s 18(da) – the request is made by a defendant or person acting on behalf of a defendant and is –

- (iii) – information that could be sought under the Criminal Disclosures Act 2008; or
- (iv) – information that could be sought under that Act and that has been disclosed or withheld under that Act:

(vi) – connected more closely with the functions of another department or Minister of the Crown or organisation or local authority:

s 18(h) – the request is frivolous or vexatious or the information requested is trivial.

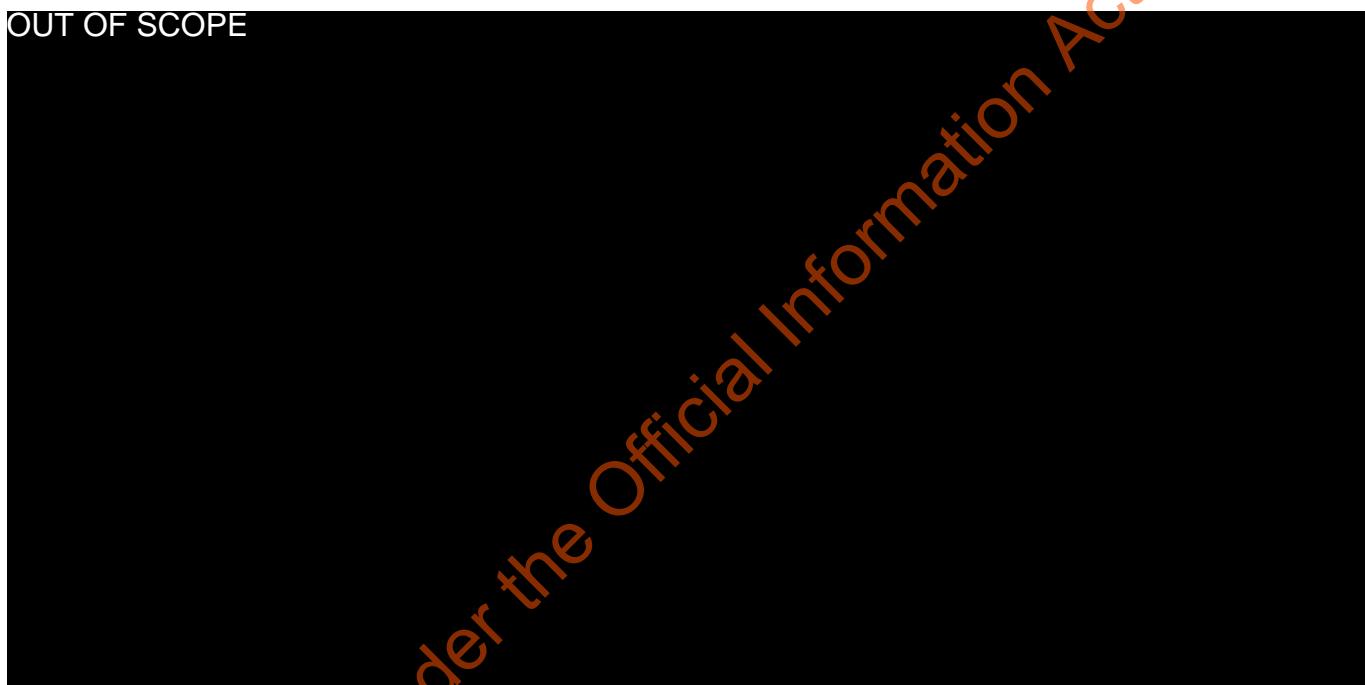
ⁱ Please see the Official Information Act 1982 for full version of sections 9 and 18 of the Act.

Aide Memoire

To: Hon Kelvin Davis, Minister for Crown/Māori Relations
Date: 31 July 2018
From: Lil Anderson, Deputy Secretary – Crown/Māori Relations Roopū
Report #: 2018/19 - 021

Revised Cabinet paper for Ministerial consultation: Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines and summary of submissions from engagement process

OUT OF SCOPE



Agency feedback on draft

3. We circulated a draft of the paper to 24 agencies for comment on 19 July 2018. Those agencies are listed in paragraph 90 of the draft paper. The main issues raised by agencies (specific agency feedback on each of these issues is attached at the appendices indicated) were:

- the need for more detail and rationale on the new agency and discussion of what other options were explored (**Appendix One**);
- the need to be clearer about the difference between what Te Puni Kōkiri already does and what the new agency would do (**Appendix Two**);
- what more the paper can say about additional support and resources for agencies to lift their capability to engage with Māori in the short-term; and
- more detail on the suggestion of the Minister being “the voice of the relationship”.

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Appendix One: Agency feedback on “new agency”

Agency	Comment
Treasury	<p>Requires more analysis in general.</p> <p>Consideration should be given to setting up a process to undertake this work including situating the paper and the proposals within the CMR context including</p> <ul style="list-style-type: none"> • further articulation of the link between the proposals and the State Sector Act reforms, • reference to the Government Priorities and • work being undertaken by the CMR Committee to develop indicators and measures to track progress. <p>Requires more analysis and consideration of other structural options before a recommendation of a new Central agency is tenable. Questions to be answered include:</p> <ul style="list-style-type: none"> • why the functions articulated in the paper cannot be undertaken by an existing agency such as TPK? • Articulation of the space these functions will occupy relative to existing agencies • What the financial and fiscal implications of the proposals are and when funding will be sought <p>Appreciate Minister’s desire to keep the paper succinct and to imbue it with the voices of those he engaged with. Ministers’ need enough information to make informed decisions.</p>
MBIE	<ul style="list-style-type: none"> • Query whether a new agency is the best structure. • There is a risk of public sector deflecting responsibility for Māori partnership to the new agency. • Housing Crown-Māori Partnerships together with OTS creates a tension – it risks a perception of the agency as Treaty- or grievance-tainted rather than forward looking. <p>Would like a stronger sense in the paper that what is being set up is intended to be durable, eg dismissing TPK as an option because a restructure of that agency would take too long to do, is not consistent with that message. The point on durability also goes to establishing the right framework, and may also play into how the agency works.</p>
DOC	<p>Some suggestions include that:</p> <ul style="list-style-type: none"> • There could be a direction to Crown agencies to look at how they can form better relationships with Māori and report to the new agency on what they’re doing; • Agencies could be asked to interrogate their legislation and suggest legislative proposals that to assist the Crown-Māori relationship (eg over decision-making delegations in the Conservation Act; see comment below). • Effectiveness of Treaty settlement redress could be reviewed. <p>Paper raises a number of operational questions, including:</p> <ul style="list-style-type: none"> • What is the role of the proposed new agency in relation to other existing Crown agencies? • What is the process to integrate Crown responses and engagement across agencies, particularly in determining which are national or ‘hard’ issues, or matters of importance (para 25.4) and how can these be made more consistent? • What is proposed to be the usual Crown approach towards national engagement on issues; will these need to be run past the new agency before they occur and potentially joined up (para 39.4.1)? • Could the reference to the relative independence of the Minister being akin to the role of that of the Attorney-General be clarified as to how that relates to other Ministerial or agency functions? • To what extent would the partnership benefit from increasing Māori capacity/capability?
DIA	<ul style="list-style-type: none"> • Needs stronger analysis around the proposal to form a new agency (possibly do this via a table in the appendices, showing the options and evaluating them) or flag it as a key issue raised and report back with options. • Suspect there’s a bit of lifting to do on this proposal and it might be worth your while to take the time to work through this. • Value of this paper is in reflecting back the feedback and I’d be disappointed to see any of the richness of this narrative taken out or scaled back so potentially all you need to do is confirm the scope of the portfolio and identify issues to report back on.

Agency	Comment
	<ul style="list-style-type: none"> • Being deliberate and explicit about this approach also potentially addresses any concern the paper is missing 'the Crown response'.
Oranga Tamariki	<p>Concerned the rationale for having a stand-alone central agency is not compelling. Recognise the strong feedback from stakeholders, it would be good to include a more detailed analysis of all the options considered.</p> <ul style="list-style-type: none"> • It would be useful to clearly note the implications of the work of this new entity other agencies. Greater role clarity between the work of the new agency and Te Puni Kokiri would be particularly helpful. • Proposal is likely to have significant implications for both the Finance and Māori Development portfolios - suggest the respective Ministers of these portfolios are involved in discussions involving the setting up of any new entity. • We also note the proposal of the Minister of Crown/Māori Relations to be a role similar to that of Attorney-General. What legislative provisions will be used to guide the role? • Recommend that the proposal be amended to reflect the need for further work in this area (ie identifying options on what the entity should look like, criteria to analyse these options and then a final recommendation to Cabinet which outlines the rationale for a new entity and likely costs/impacts). • Suggest a panel, or cross-agency working group be established to inform and lead this work.
Justice	<ul style="list-style-type: none"> • Paper says that locating responsibility for the Crown-Māori relationship within the Ministry of Justice has negative connotations for Māori. Although this is a clear statement of a problem, we are not sure that it is sufficient alone to justify a new agency. • It is not clear how a new agency would advance the Crown/Māori relationship, and whether the additional costs (eg, overheads) of a new agency are justified. • Paper should consider alternative options for addressing the problem. There is at least one option not discussed in the paper - a departmental agency (either within the Ministry of Justice or another agency), which would provide a separate identity and high degree of autonomy. A departmental agency, which relies on another agency for its corporate functions, could be a stepping stone to a stand-alone agency. It is a safe way to approach the issue because it is easier to adjust if we don't get it quite right. A stand-alone agency with a narrow purpose would be more difficult to change or combine with other functions if it proved to be the wrong approach. • Paper should articulate the risks of the preferred approach. For example, paragraph 43 states that the alternative option of transferring functions to Te Puni Kōkiri (TPK) would require time to restructure that we do not have to waste. This ignores the fact that establishing a new department is likely to be more disruptive than transferring functions to an existing agency with all the corporate infrastructure already in place. • It is important to take a long term view of what such an agency's role would be and to articulate how that role would fit in with the role of other agencies. Paragraph 43 of the paper says that TPK leads Māori Public Policy, advises on policy affecting Māori wellbeing, monitors policy and legislation, advocates for Māori and supports Māori capability. It is not clear how this role differs from the role of acting in the interests of the relationship. Several of the functions described in para 39 seem closely aligned with the functions of TPK, including helping government to better engage with Māori on matters of importance, finding opportunities for active partnerships between the Crown and Māori, lifting public sector performance to better respond to Māori issues, and improving the Crown's responses to contemporary Treaty issues. Similar questions arise with regard to MoJ's responsibility for constitutional policy. • Is it possible for the paper not to seek agreement to a new agency at this stage? There is a risk that this issue could distract from, or impede progress on, the other matters addressed in the paper, such as the proposed engagement framework. Could the paper instead report back on what those consulted said about the institutional arrangements, note some of the issues this raises, and outline the further work / next steps required? • Alternatively could the paper be delayed to allow for the big ideas to be better developed? Another form of document could be produced to provide a basis for early discussions between Ministers.

Agency	Comment
MPI	<ul style="list-style-type: none"> • it would be useful to include some more information on potential options to address the public feedback about having the Crown/Māori partnership based within MoJ. This could be more convincing and consider all options such as a departmental agency within DPMC and record all the trade offs with the many options – though perhaps that is another paper!
Ministry for Women	<p>Need a stronger case for a separate agency rather than one attached to an existing agency than is set out in paras 40-44, along with more design detail. The Child Poverty Team in the DPMC would be one possible model.</p> <ul style="list-style-type: none"> • What powers and levers would the agency have to give it the status of a central agency in its own right? • What are the funding and other resourcing implications (including any cost duplication eg back-office costs)? • What would its role be relative to other portfolios – and especially the Māori Development one? How can we ensure the CMR minister or agency's involvement in the 'hard issues' built future capability in the relevant agencies rather than detract from that (or allow agencies to abdicate their responsibilities). <p>Request the Minister for Māori Development be part of any ministerial group responsible for deciding final arrangements, not only because of the interaction between the two portfolios, but also, critically, because Minister Mahuta is the most senior wāhine Māori in Cabinet. To exclude her perpetuates the marginalisation of wāhine Māori highlighted by the Mana Wāhine Treaty claims. For the same reason the paper should include a gender analysis section, even if not strictly required by cabinet rules.</p> <ul style="list-style-type: none"> • Given there isn't time to work through the machinery of government issues by September, one option might be to use this paper to set up an overall intention or get agreement in principle, with a series of report-backs on design details, like the powers and functions for the new semi-independent ministerial role; the placement, role, functions, interfaces and resourcing of a new agency; and proposals for capability building, including who would be responsible for what.

Appendix Two: Agency feedback on the role of the proposed new agency and existing agencies

Agency	Comment
MBIE	<ul style="list-style-type: none"> The government is big, and Crown Maori relationships need to be owned by as many of its actors as possible (including local government). We think it would be helpful to make explicit that expectation of other agencies (incl local government) in this paper – to avoid the ‘deflection of responsibility’ risk. This will reinforce the mandate for those of us already working on this within government. Agencies will need to upskill their own staff and appropriately resource the relevant projects. We'd like it to be clearer what role the agency will have and how they will interact with teams/individuals already be doing this mahi within their agencies. We think you intend that the agency would support and not replace those people – that's worth making explicit, and explaining how you would support them (or if not yet determined, mentioning that in work programme). For us, one sign of success will be if the CMR agency, wherever it is homed, has porous borders (i.e. it shares its staff, and staff are shared with it), and its resources and information are widely shared.. See value in the agency taking on an audit, or ‘checks and balances’ role – helping guide agencies towards building relationships they (agencies) need to hold. Would like to see more detail about how the proposals will be implemented. We acknowledge your Minister likes a short paper, so it may be a request for supplementary information to government departments about this, rather than for Cabinet. In particular, we eagerly await more info on how the agency would support agencies in upskilling or increasing capacity to deliver the vision in the paper.
Oranga Tamariki	<ul style="list-style-type: none"> Paper lacks clarity about the implications for the role of Te Puni Kōkiri and the Māori Development portfolio. Needs to be a well-defined set of parameters between these portfolios and how they interact with each other. If not, there is likely to be ongoing confusion and duplication across the public service particularly in areas of engagement and development of policy. This could be a great opportunity for the government to have a good look at all of its machinery with direct Crown/Māori Relations responsibilities. There is a chance that government could run risk of confusing itself and its partner by creating a new agency without looking carefully at how all the moving parts work together.
MPI	<ul style="list-style-type: none"> Paper should better articulate the difference between the role of TPK and the new agency – otherwise there is no clear need for the new agency.
Ministry of Health	<ul style="list-style-type: none"> The role of Crown Māori Relations (or partnership) ideally should be as the steward for Crown/Māori relationships or partnerships with TPK as the implementers
MFAT	<ul style="list-style-type: none"> On trade negotiations, both MFAT and TPK are both performing roles where we see ourselves as protecting and advancing the interests of Māori (often in consultation with MPI, MBIE, MoH, NZTE, Customs, Education NZ). I think TPK are adding value and have significantly upskilled themselves in trade policy. I see CMR's role being more around checking our engagement practices periodically and suggesting improvements as opposed to being across the policy detail that TPK are now across. In any case there should be clear delineation of roles to avoid duplication and to be mindful of government resource.
Corrections	<ul style="list-style-type: none"> There appears to be a particular prospect of confusion with the role of Te Puni Kokiri. The paper refers to Te Puni Kokiri as being unsuitable for the role because it has a function of ‘advocating for Maori’. Our understanding is that Te Puni Kokiri is the key advisor on the Crown-Māori relationship, and a monitor of other agencies’ performance, but it is not an advocate for Maori per se. We think the paper needs to clearly set out why both agencies are needed and shouldn't be combined; and if there are two agencies, it will need to be very clear what functions each have and how they work together. A role of the proposed new agency is to lift public sector performance with regard to relationships with Maori, but this seems to be a core role of Te Puni Kokiri, particularly in terms of the monitoring functions set out under its establishment act. If this envisaged role for

Agency	Comment
	Te Puni Kokiri is not being fulfilled, should we be asking whether it would be as effective (or better) to ensure that it is, rather than create a new agency?
MSD	<ul style="list-style-type: none"> • Clarity will be needed on how the new portfolio aligns with the role of Te Puni Kōkiri. We are also interested to hear how the new agency would work with other Ministries in their areas of expertise.

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Document 2

Table 1 of 2: Comments from Treasury, MBIE, DOC, DIA, Oranga Tamariki, Justice, MPI, Ministry for Women

Section in draft for comment	Treasury	MBIE	DOC	DIA	Oranga Tamariki	Justice	MPI	Ministry for Women	
General	The paper should seek agreement that further work be undertaken on a number of the issues/options raised rather than seeking agreement to specific options	<ul style="list-style-type: none"> MBIE supports this work and recognises its huge importance. MBIE recently confirmed 'Partnership with Māori' as one of its 8 organisational priorities for how we will contribute to a productive, sustainable and inclusive economy, so we welcome your work. Explicitly describe the objective, the basis or purpose for the enduring relationship with Māori – the moral imperative, what kind of NZ are we trying to create together. 	DOC supports the paper, particularly the forward-looking focus, long term view and integration of the Crown-Māori partnership in a separate agency.	<ul style="list-style-type: none"> Congratulations on the paper. We're really excited to see this work unfold. 	<ul style="list-style-type: none"> Overall we are appreciative of the work that has gone into this. We find that the paper is well-written and provides a good overview of the feedback from the engagement on this work thus far. 	<ul style="list-style-type: none"> The paper demonstrates really strong process of engagement with Māori and, through the views expressed by Māori, creates a strong case for a change in the way the public service engages in the Crown-Māori relationship. We support the drive for bold ideas and breaking away from old ways of doing things. It also raises some important constitutional and human rights issues. Think it would be worthwhile for you to talk to the Family Violence Multi-Agency Team. That team has been doing a lot of thinking on machinery of government and the role of a central agent in that context. Suggest the paper contain a Treaty of Waitangi analysis. Paper should mention the Declaration on the Rights of Indigenous Peoples, the principal international human rights document addressing indigenous rights. The paper deals with Māori rights to engagement and autonomy, which directly relate to the place of the Declaration and issues such as free, prior and informed consent. The domestic implementation of the Declaration is currently monitored by TPK 	<ul style="list-style-type: none"> MPI is actively seeking support to engage with Māori. We are very keen to be involved in developing resources to support public sector capability. 	<ul style="list-style-type: none"> The Ministry for Women strongly recommends in light of the Mana Wahine Kaupapa claims, under current action with the Waitangi Tribunal, that any new measures to address Crown-Māori relations must explicitly recognise the role and voice of ngā wahine Māori – the paper as it is, does not do this. The ongoing development of the Crown-Māori relations portfolio we request will include te mana o te wahine Māori, as represented by the most senior Māori woman in government. <p>In general we strongly support the goals of the paper, and agree having someone with overall responsibility for the relationship would be helpful. The elements to progress the goals are largely there, but most need considerable building up, particularly with regard to how the new roles and structures would work in practice, and to reflect the 'bold and brave' rhetoric.</p>	
Themes from engagement process	<ul style="list-style-type: none"> Suggest further analysis on what the Crown's perspective on some of the issues raised in the hui is. Suggest the DCE's group be used to co-ordinate further work. Supports Minister writing to his colleagues about the implications of the issues raised at the hui for their portfolios - suggest that these need to be worked through and co-ordinated via a DCE's group. Ministers should have a strong sense of what work is currently being undertaken or is planned to be undertaken to address some of the issues raised before new options are considered. 			<ul style="list-style-type: none"> The paper notes that local government was an issue raised then doesn't mention it again (para 16.4.1). Minister for Local Govt is very conscious of the issues experienced by local government and iwi as they endeavour to forge collaborative, strategic relationships and continues to seek advice on how central government can better support local government and iwi in this space. DIA's work fits within the broad umbrella and being linked to the Crown-Māori Relations kaupapa and they will continue to seek alignment and work alongside your team. Suggest being clear about the extent to which local government is included in the scope of the portfolio, or if not, why not. I also suggest including a sentence along the lines of: <u>"The Minister and Associate Minister of Local Government are aware of the issues being experienced by local government and iwi. Māori and officials are developing advice on how central government can better support local government and iwi to forge better relationships."</u> Which reminds me, is your Minister intending to send a letter to our Minister on the issues raised about local government during the CMR engagement process? Like others, I like the way in which the voices of the people who had taken the time to engage on this with us were reflected in the paper. It upholds the integrity of the kōrero. In my mind folding this into the Cabinet paper/system this is a soft expression of partnership. 					
Priority areas	Ministers require time to consider potential implications such as constitutional change.		<p>DOC may be able to provide some examples of current engagement to inform the proposed partnership case studies, given its acknowledged s 4 Conservation Act role to give effect to the Treaty principles. A particular area of interest may be DOC's Te Pukenga Atawhai training programme to better equip staff culturally with a marae-based approach.</p>	<p>Interested in relationship indicators work as they could potentially be useful for local government.</p>		<ul style="list-style-type: none"> Support renewed focus on constitutional issues, which are integral to a healthy Crown-Māori relationship. Paper appears to propose that constitutional responsibility for Te Tiriti o Waitangi be separated from all other constitutional issues, which would remain with the Minister of Justice. But Te Tiriti is a foundational part of our constitutional arrangements. Splitting responsibility for Te Tiriti from other constitutional arrangements would detract from its centrality, and may not be workable. It is important not to conflate the constitutional discussion with 'institutional arrangements'. <p>s 9(2)(g)(i)</p> <ul style="list-style-type: none"> Questioning the future of the Waitangi Tribunal without any discussion (at paragraph 50) risks diminishing the importance the Tribunal has placed in our history and its place in our constitutional fabric. Suggest the paper not make specific suggestions at this stage because it is not necessary to support the recommendations made in the paper. <p>s 9(2)(g)(i)</p> <p>s 9(2)(g)(i)</p> <p>s 9(2)(g)(i)</p> <p>s 9(2)(g)(i)</p> <p>s 9(2)(g)(i)</p>		<ul style="list-style-type: none"> Needs more on how the new roles will support ongoing development of Crown-Māori capability across the public sector will work, beyond the engagement guidelines <p>How can we ensure the new unit doesn't cannibalise already scarce Māori capability from other areas where it is needed to develop and implement policy to benefit Māori?</p>	

Section in draft for comment	Treasury	MBIE	DOC	DIA	Oranga Tamariki	Justice	MPI	Ministry for Women
Vision				<ul style="list-style-type: none"> Agree with intention to be bold and aspirational, it's the only way to effect change at pace. Also strongly agree with the statement around not being focused on transactional issues – it's our objective in the local government space as well. Significant time and energy is taken up by the 'chum' of frustrating transactional issues and it creates a barrier to a more strategic relationship taking shape. Para 23/24 foreshadows a vision for 2040. It would be good to be able to articulate what this vision is in the future in a really practical, tangible way and I think local government / the on-the-ground issues, is a part of the picture. 				
New agency (paras X-X)	<p>Requires more analysis in general. Consideration should be given to setting up a process to undertake this work including situating the paper and the proposals within the CMR context including</p> <ul style="list-style-type: none"> further articulation of the link between the proposals and the State Sector Act reforms, reference to the Government Priorities and work being undertaken by the CMR Committee to develop indicators and measures to track progress. <p>Requires more analysis and consideration of other structural options before a recommendation of a new Central agency is tenable. Questions to be answered include:</p> <ul style="list-style-type: none"> why the functions articulated in the paper cannot be undertaken by an existing agency such as TPK? Articulation of the space these functions will occupy relative to existing agencies What the financial and fiscal implications of the proposals are and when funding will be sought <p>Appreciate Minister's desire to keep the paper succinct and to imbue it with the voices of those he engaged with. Ministers' need enough information to make informed decisions.</p>	<p>Some suggestions include that:</p> <ul style="list-style-type: none"> There could be a direction to Crown agencies to look at how they can form better relationships with Māori and report to the new agency on what they're doing; Agencies could be asked to interrogate their legislation and suggest legislative proposals that to assist the Crown-Māori relationship (eg over decision-making delegations in the Conservation Act; see comment below). Effectiveness of Treaty settlement redress could be reviewed. <p>Paper raises a number of operational questions, including:</p> <ul style="list-style-type: none"> What is the role of the proposed new agency in relation to other existing Crown agencies? What is the process to integrate Crown responses and engagement across agencies, particularly in determining which are national or 'hard' issues, or matters of importance (para 25.4) and how can these be made more consistent? Would like a stronger sense in the paper that what is being set up is intended to be durable, eg dismissing TPK as an option because a restructure of that agency would take too long to do, is not consistent with that message. The point on durability also goes to establishing the right framework, and may also play into how the agency works. 	<ul style="list-style-type: none"> Needs stronger analysis around the proposal to form a new agency (possibly do this via a table in the appendices, showing the options and evaluating them) or flag it as a key issue raised and report back with options. Suspect there's a bit of lifting to do on this proposal and it might be worth your while to take the time to work through this. Value of this paper is in reflecting back the feedback and I'd be disappointed to see any of the richness of this narrative taken out or scaled back so potentially all you need to do is confirm the scope of the portfolio and identify issues to report back on. What is proposed to be the usual Crown approach towards national engagement on issues; will these need to be run past the new agency before they occur and potentially joined up (para 39.4.1)? Could the reference to the relative independence of the Minister being akin to the role of that of the Attorney-General be clarified as to how that relates to other Ministerial or agency functions? To what extent would the partnership benefit from increasing Māori capacity/capability? 	<p>Concerned the rationale for having a stand-alone central agency is not compelling.</p> <p>Recognise the strong feedback from stakeholders, it would be good to include a more detailed analysis of all the options considered.</p> <ul style="list-style-type: none"> It would be useful to clearly note the implications of the work of this new entity other agencies. Greater role clarity between the work of the new agency and Te Puni Kōkiri would be particularly helpful. Proposal is likely to have significant implications for both the Finance and Māori Development portfolios - suggest the respective Ministers of these portfolios are involved in discussions involving the setting up of any new entity. We also note the proposal of the Minister of Crown/Māori Relations to be a role similar to that of Attorney-General. What legislative provisions will be used to guide the role? Recommend that the proposal be amended to reflect the need for further work in this area (ie identifying options on what the entity should look like, criteria to analyse these options and then a final recommendation to Cabinet which outlines the rationale for a new entity and likely costs/impacts). Suggest a panel, or cross-agency working group be established to inform and lead this work. 	<ul style="list-style-type: none"> Paper says that locating responsibility for the Crown-Māori relationship within the Ministry of Justice has negative connotations for Māori. Although this is a clear statement of a problem, we are not sure that it is sufficient alone to justify a new agency. It is not clear how a new agency would advance the Crown/Māori relationship, and whether the additional costs (eg, overheads) of a new agency are justified. Paper should consider alternative options for addressing the problem. There is at least one option not discussed in the paper - a departmental agency (either within the Ministry of Justice or another agency), which would provide a separate identity and high degree of autonomy. A departmental agency, which relies on another agency for its corporate functions, could be a stepping stone to a stand-alone agency. It is a safe way to approach the issue because it is easier to adjust if we don't get it quite right. A stand-alone agency with a narrow purpose would be more difficult to change or combine with other functions if it proved to be the wrong approach. Paper should articulate the risks of the preferred approach. For example, paragraph 43 states that the alternative option of transferring functions to Te Puni Kōkiri (TPK) would require time to restructure that we do not have to waste. This ignores the fact that establishing a new department is likely to be more disruptive than transferring functions to an existing agency with all the corporate infrastructure already in place. It is important to take a long term view of what such an agency's role would be and to articulate how that role would fit in with the role of other agencies. Paragraph 43 of the paper says that TPK leads Māori Public Policy, advises on policy affecting Māori wellbeing, monitors policy and legislation, advocates for Māori and supports Māori capability. It is not clear how this role differs from the role of acting in the interests of the relationship. Several of the functions described in para 39 seem closely aligned with the functions of TPK, including helping government to better engage with Māori on matters of importance, finding opportunities for active partnerships between the Crown and Māori, lifting public sector performance to better respond to Māori issues, and improving the Crown's responses to contemporary Treaty issues. Similar questions arise with regard to MoJ's responsibility for constitutional policy. Is it possible for the paper not to seek agreement to a new agency at this stage? There is a risk that this issue could distract from, or impede progress on, the other matters addressed in the paper, such as the proposed engagement framework. Could the paper instead report back on what those consulted said about the institutional arrangements, note some of the issues this raises, and outline the further work / next steps required? Alternatively could the paper be delayed to allow for the big ideas to be better developed? Another form of document could be produced to provide a basis for early discussions between Ministers. 	<p>Need a stronger case for a separate agency rather than one attached to an existing agency than is set out in paras 40-44, along with more design detail. The Child Poverty Team in the DPMC would be one possible model.</p> <ul style="list-style-type: none"> What powers and levers would the agency have to give it the status of a central agency in its own right? What are the funding and other resourcing implications (including any cost duplication eg back-office costs)? What would its role be relative to other portfolios – and especially the Māori Development one? How can we ensure the CMR minister / agency's involvement in the 'hard issues' built future capability in the relevant agencies rather than detract from that (or allow agencies to abdicate their responsibilities). <p>Request the Minister for Māori Development be part of any ministerial group responsible for deciding final arrangements, not only because of the interaction between the two portfolios, but also, critically, because Minister Mahuta is the most senior wahine Māori in Cabinet. To exclude her perpetuates the marginalisation of wahine Māori highlighted by the Mana Wāhine Treaty claims. For the same reason the paper should include a gender analysis section, even if not strictly required by cabinet rules.</p> <p>Given there isn't time to work through the machinery of government issues by September, one option might be to use this paper to set up an overall intention or get agreement in principle, with a series of report-backs on design details, like the powers and functions for the new semi-independent ministerial role; the placement, role, functions, interfaces and resourcing of a new agency; and proposals for capability building, including who would be responsible for what.</p>		

Section in draft for comment	Treasury	MBIE	DOC	DIA	Oranga Tamariki	Justice	MPI	Ministry for Women
Role of Minister	Further analysis on why an Attorney-General type function is proposed. Treasury is supportive of Crown-Law's offer to engage further with CMR roopu on this issue.					<p>Do not support the proposal that the Minister for the Crown-Māori Partnership not be bound by collective responsibility. We don't think the comparison with Attorney-General's role is apt as the two situations are not analogous. The Attorney-General is exempt from collective responsibility only when exercising law officer functions. In all other matters, the Attorney-General is bound by collective responsibility.</p> <p>The independence of the Attorney-General relates to the expression of opinions but they still hold a warrant from the Governor-General and still represent the Crown, as do Ministers. This does not mean Ministers must always advocate for the interests of the Crown above all others. They must act in the public interest but they do not need an exemption from collective responsibility to do so. If this proposal is to be progressed, the paper should explain how a requirement to 'act in the interests of the Crown-Māori relationship' would operate in practice and what it means for collective responsibility should be articulated.</p>		<p>What would 'acting in the interests of the Crown/Māori relationship' mean in practice?</p> <ul style="list-style-type: none"> It would not be the same as acting as an advocate for either Māori or the Crown, but rather the ability to stand back from the relationship sufficiently to make independent judgements on what might be needed – by definition likely to be an uncomfortable place at times. <p>What powers and levers might the minister hold that they don't have now? Does it mean they would be exempt from the usual collective responsibility of Cabinet, for example, and able to hold position and make contrary public statements like the Commissioner for the Environment?</p>
Name of portfolio		<ul style="list-style-type: none"> The word 'partnership' is a big term. It has connotations of shared governance, shared decision making (eg on budgets), shared responsibility. Suggest the paper needs to set out the implications or expectations that will be created by using that term, and to seek agreement from Cabinet about what exactly it means. If it is this broader meaning above, there needs to be a workstream about how it will move the public sector to that model. We suggest you draw a link to the SSC work about state sector reform. There is always going to be the issue of the disparity of resources and time between a large multi-faceted government with multiple concurrent projects, engaging with smaller (often under-resourced) stakeholders. The expectation of increased engagement by agencies underpinning the proposal is likely to exacerbate this issue. To enable a true partnership, government will need to consider how Māori are resourced to engage. 			<p>The paper needs to be realistic around its intentions to establish true partnerships with iwi and Māori, given our constitutional and legislative arrangements. A clear Crown/Māori Relations definition of what a 'partnership' is could help.</p>			
Roles of new agency and TPK/other departments		<ul style="list-style-type: none"> The government is big, and Crown Maori relationships need to be owned by as many of its actors as possible (including local government). We think it would be helpful to make explicit that expectation of other agencies (incl local government) in this paper – to avoid the 'deflection of responsibility' risk. This will reinforce the mandate for those of us already working on this within government. Agencies will need to upskill their own staff and appropriately resource the relevant projects. We'd like it to be clearer what role the agency will have and how they will interact with teams/individuals already be doing this mahi within their agencies. We think you intend that the agency would support and not replace those people – that's worth making explicit, and explaining how you would support them (or if not yet determined, mentioning that in work programme). For us, one sign of success will be if the CMR agency, wherever it is based, has porous borders (i.e. it shares its staff, and staff are shared with it), and its resources and information are widely shared.. See value in the agency taking on an audit, 'checks and balances' role – helping guide agencies towards building relationships they (agencies) need to hold. Would like to see more detail about how the proposals will be implemented. We acknowledge your Minister likes a short paper, so it may be a request for supplementary information to government departments about this, rather than for Cabinet. In particular, we eagerly await more info on how the agency would support agencies in upskilling or increasing capacity to deliver the vision in the paper. 			<ul style="list-style-type: none"> Paper lacks clarity about the implications for the role of Te Puni Kōkiri and the Māori Development portfolio. Needs to be a well-defined set of parameters between these portfolios and how they interact with each other. If not, there is likely to be ongoing confusion and duplication across the public service particularly in areas of engagement and development of policy. This could be a great opportunity for the government to have a good look at all of its machinery with direct Crown/Māori Relations responsibilities. There is a chance that government could run risk of confusing itself and its partner by creating a new agency without looking carefully at how all the moving parts work together. 	<p>Paper should better articulate the difference between the role of TPK and the new agency – otherwise there is no clear need for the new agency.</p>		
Institutional arrangements				<p>Would like to stay close to the work you do on considering how we shape the New Zealand constitution going forward. Underpinning a number of the issues between iwi/Māori and local government is the fact that the parties fundamentally disagree on the nature and status of their relationship. My team is starting to shape up some thinking on the implications of the Three Waters Review for local government – it's early days and I'll keep you in the loop on it – but one question we're looking to fold into that thinking is whether there is an opportunity to recalibrate the local government/Māori relationship and I see a potential convergence with the constitutional workstream you've foreshadowed in this paper.</p>				

Section in draft for comment	Treasury	MBIE	DOC	DIA	Oranga Tamariki	Justice	MPI	Ministry for Women
Engagement Framework		<ul style="list-style-type: none"> The objective needs to guide the resources like the engagement framework – without an explicit purpose, these resources are rudderless. Would like to see this framed in a more deliberate, proactive way – to build relationships for the sake of the wider Crown-Māori relationship. If agencies only begin to engage with Māori when there is an ‘issue’ to discuss, we’ve already failed. Suggest to keep frameworks and plans not too rigid – especially for the ill-informed regarding Māori – as most instances require flexibility when engaging. A significant issue will be the tension between “nimble” policy making and high quality engagement. This may require trade-offs. Engagement framework identifies the issue of being aware of multiple engagement processes involving each Māori stakeholder – is there a role for coordination of engagement? 	<ul style="list-style-type: none"> There is a typo on the right hand side section 3 How to Engage under ‘involve’ of the word ‘decision’. In the ‘collaborate/co-design’ area should there be reference to the nature of the Māori role in decision-making, given for the ‘empower’ category it is acknowledged as Māori deciding? The issue of who decides is a significant issue for DOC in that there is sometimes tension between Māori aspirations in decision-making and the extent of statutory delegations to make decisions. Such issues are key considerations to be worked through in the partnership, with questions of accountability and what are administrative or political decisions being crucial. In some cases the ability to enable collaboration or co-design may be restricted due to legislative constraints. Such issues are shortly being traversed in the Supreme Court in the Ngai Tai concessions case. 	<ul style="list-style-type: none"> Guidance documents are useful and necessary tools but on their own, do not effect the change required. This is consistent with DIA advice to its Ministers on options for better supporting local government and iwi. Suggest drawing out the reason why engagement matters, and painting a picture of what can be achieved for New Zealanders when we do get this right. What’s the value proposition not just for central government and iwi, but for the regions and our communities? What’s the opportunity? It needs to be a persuasive piece. 	<ul style="list-style-type: none"> The guidance provides a good high-level overview about engaging with Māori but does not articulate how an agency might usefully distinguish iwi interests from other kaupapa-Māori organisation interests. There is an absence of information in the engagement material about any processes for establishing formal partnership agreements with iwi and or Maori groups. We understand that there has previously been work conducted by MOJ/TPK in this area. This then begs the question of the role of the CMR entity in terms of monitoring the health or state of those relationships. Would be good to see what thinking there has been around building capability within Māori communities and aligning existing strategies and work programmes at a local level, which is an issue that our iwi partners have highlighted as a priority for them. 		<ul style="list-style-type: none"> MPI engages with Māori in several ways. We have statutory engagement, economic development opportunities, and policy development. Engagement framework as drafted probably doesn’t support the many statutory engagements we are required to have. For example, customary fisheries and our relationship with TOKM. Will additional material be targeted to support that mahi? Will the current framework be expanded and recognise legal obligations? The framework does a good job articulating at a high level a way of working and sets some principles. It would be good to have further practical information. For example, where do we go to get information on tikanga Māori? What does an engagement strategy look like? Perhaps resources can be targeted at staff with different skills in a staged way? 	
Engagement Guidelines			<ul style="list-style-type: none"> While the paper emphasises the importance of implementation of commitments the engagement guidelines in the attachments make little reference to the settlement commitments side. For example the first attachment “Crown engagement with Maori” does not even mention treaty settlements and commitments and the second attachment (“Engagement Guidelines”) only mentions it as below the text of which focuses on identifying the relevant iwi authority (as opposed to Post Settlement Governance Entity?) for redress issues rather than the fact there may be legally binding commitments which might be the more important message: any additional or specific requirements under Treaty of Waitangi settlements. This should include a plan to identify who the relevant iwi authorities are and, once identified, should consider their capacity to be able to consult and the different timeframes for agreement/approval by the relevant iwi authorities. 				<p><i>Number 3 – how to engage.</i> This will pose challenges ensuring staff have the capability to understand what is significant and what is minor.</p> <p><i>Number 2 – who to engage with</i> While we see the merits of the national, local, regional categories, in practice there will be large overlaps in spheres of interest. On a case by case basis you may need to consult over multiple categories.</p> <p>MPI works with Māori who fall into different groups (individuals, whānau, hapū and iwi) and also with Māori land and interest owners, Māori business owners, and Māori interest groups. Perhaps these could be reflected in the lists under local, regional, and national?</p> <p>TOKM can provide a resource to establish contact lists. This provides info on iwi, hapū and marae contacts. Agencies probably need to develop their own lists for business and interest groups ie FOMA and maybe this should be clear to prevent people from just talking to iwi type entities about things that relate to Māori businesses, Māori lands, etc?</p>	

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Table 2 of 2: Comments from Social Investment Agency, NZ Police, MOH, MFAT, Corrections, MSD and MOE

Para in draft provided for comment	Social Investment Agency	NZ Police	MOH	MFAT	Corrections	MSD	MOE
General	<p>The SIA has no specific comment on the content of the paper, which is clear in its intent and scope.</p> <p>The SIA considers it likely that on an ongoing basis, its work will be of relevance to the Crown/Māori partnership. It will therefore ensure that it continues to maintain its flexible and proactive approach to engagement with Māori and with iwi collective groups as issues and initiatives of significance to Māori arise.</p> <p>The SIA will also continue to maintain active communication with the Crown/Māori Partnership unit or agency.</p>	<ul style="list-style-type: none"> • NZ Police acknowledge CMRU efforts to date to support an authentic and genuine conversation with Māori. • NZ Police are committed to the same values, as such we appreciate the work that has been put into having nation-wide discussions with iwi, community and other groups about the portfolio. • On the whole we have no objections to the paper, and see value in the proposed resources. 	<ul style="list-style-type: none"> • We suggest this paper is split into two papers. The first paper should only outline the proposed priority areas (i.e. the scope of the CMR portfolio) and the engagement process. • The second paper should outline how this could be done (e.g. a new central agency). This is essentially an options paper for Minister's to consider how this could be achieved. This will allow your Minister to discuss and test options with other Cabinet Minister's. 		<ul style="list-style-type: none"> • Our overarching comment from an Ara Poutama Aotearoa perspective is that we're very supportive of taking a bold approach and will look forward to working with any new agency. • Our high-level thoughts are not all specifically and obviously Corrections-related, but they are relevant to how agencies work together – which is vital to our work with Maori in keeping communities safe and changing lives. 	<p>Our general comment is that we are supportive of the kaupapa.</p>	<p>We are generally supportive of the direction of travel and have no specific comments. We will be interested in the progress of some of these proposals.</p>
Themes from engagement process							
Priority areas					<p>The paper notes the possible consideration of the future role for the Waitangi Tribunal. The sense is that the paper is suggesting that the Crown, through setting up this new agency, making the Minister more independent, and creating better coordination across agencies with regard to treaty issues, will ensure treaty compliance. Does this imply that the Crown is planning to assume the role of monitoring and adjudicating on treaty compliance for itself? We're not convinced that Maori will accept a relegation of a role for the Tribunal as a truly independent after the Crown-Māori relationship.</p>		
Vision					<ul style="list-style-type: none"> • A new, stand-alone central agency raises a number of complicated issues that need to be given careful thought and that Ministers will need visibility of before making decisions. • The decision to adopt that particular proposal over other options (e.g. sitting within DPMC) needs to be set out in the paper. • Have you considered whether bipartisan parliamentary support should be sought for any of the measures proposed in the paper? Otherwise there is a risk that a future change in government will see them unwind, which will ultimately not be helpful to the Crown-Māori relationship. • Is it clear that Maori themselves will support the notion of a Minister of the Crown being the advocate for the Crown-Māori partnership within Government, rather than, say, someone of their own selection? • As you know, frequent feedback from iwi is that they have too many government agencies to deal with, and that they want a more coordinated approach. It is crucial that we all keep working on improving the way we work together and our coordination and we don't fall into the trap of another agency being another Crown car up the driveway. In that respect it's good to see that an object of the new agency would be to ensure better Crown coordination in regard to relationships with Maori and treaty issues. • Regardless of what happens in regard to a new agency, or any agency or unit's specific focus on Crown-Māori partnerships, ALL departments/agencies need to take responsibility for having capability to work with Maori. • The new agency is proposed to be a quasi-independent advocate for the Crown-Māori relationship. However, it is intended that it include the Office of Treaty Settlements, the Crown's negotiator of treaty settlements. We wonder whether this aspect would be supported by Maori, especially those fresh from what can be difficult negotiations 	<ul style="list-style-type: none"> • While having more support and guidance on Māori engagement offers clear benefits we would like to express our concern that a new agency may create more fragmentation and confusion for both agencies and stakeholders if roles and responsibilities are not well clarified and communicated. • We are interested to hear how a new agency would align with existing teams in other agencies to create positive synergies and overall improvements. 	
New agency (paras X-X)							

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Para in draft provided for comment	Social Investment Agency	NZ Police	MOH	MFAT	Corrections	MSD	MOE
Role of Minister				<p>Para 8: We don't have a problem with the requirement to share engagement plans with interested agencies including CMR. Note: As part of our Māori Engagement Strategy MFAT will be developing an engagement protocol. The protocol will sit above of and inform our engagement planning (with Māori audiences) in areas of interest to them e.g. environment, trade, human rights, cultural diplomacy etc. We look forward to consulting with interested agencies on this development but expect that once we have agreement, particularly on engagement principles and practice, there would not be a need for the same level of consultation, including with CMR, on individual engagement plans across all of the Ministry's work. Where CMR has confidence in an agency's engagement practices we think checking periodically to review progress is appropriate – we are often working to tight deadlines which Māori also have an interest in seeing met.</p> <p>Other</p> <ul style="list-style-type: none"> • 16.1.2 Strongly Agree • 22. No mention of whether and how to take forward WAI 262 findings (has often been raised in MFAT's engagement with Maori) yet it remains of ongoing concern to Maori. Some Maori have requested a national hui and a consolidated response from the Crown on what its doing on progress to date. Update? • 39.2.1.1 see also our response to para 7 in (b). Note that Māori interests are increasingly moving offshore and ask if the scan will extend to include that interest. • 39.2.1.2 Interested also for advice on the implementation of these principles for partnership development • 39.5.1.4. Strongly Agree - ref our work to lift MFAT's mātauranga Māori capability and capacity over the next 5 years. This will include recognition of reo, tikanga and engagement competencies. • 70-71. We have a good working relationship with Iwi Chairs so will be watching this space closely 	<p>The intended independence for the Minister as the voice of the Crown-Māori partnership will need to be very carefully thought through (in what respects would the Minister be independent? in what situations would they be bound by collective Cabinet responsibility? etc) and will require widespread support.</p>		
Name of portfolio							
Roles of new agency and TPK				<p>The role of Crown Māori Relations (or partnership) ideally should be as the steward for Crown/Māori relationships or partnerships with TPK as the implementers</p> <p>On trade negotiations, both MFAT and TPK are both performing roles where we see ourselves as protecting and advancing the interests of Māori (often in consultation with MPI, MBIE, MoH, NZTE, Customs, Education NZ). I think TPK are adding value and have significantly upskilled themselves in trade policy. I see CMR's role being more around checking our engagement practices periodically and suggesting improvements as opposed to being across the policy detail that TPK are now across. In any case there should be clear delineation of roles to avoid duplication and to be mindful of government resource.</p>	<ul style="list-style-type: none"> • There appears to be a particular prospect of confusion with the role of Te Puni Kokiri. The paper refers to Te Puni Kokiri as being unsuitable for the role because it has a function of 'advocating for Maori'. Our understanding is that Te Puni Kokiri is the key advisor on the Crown-Māori relationship, and a monitor of other agencies' performance, but it is not an advocate for Maori per se. We think the paper needs to clearly set out why both agencies are needed and shouldn't be combined; and if there are two agencies, it will need to be very clear what functions each have and how they work together. • A role of the proposed new agency is to lift public sector performance with regard to relationships with Maori, but this seems to be a core role of Te Puni Kokiri, particularly in terms of the monitoring functions set out under its establishment act. If this envisaged role for Te Puni Kokiri is not being fulfilled, should we be asking whether it would be as effective (or better) to ensure that it is, rather than create a new agency? 	<p>Clarity will be needed on how the new portfolio aligns with the role of Te Puni Kokiri. We are also interested to hear how the new agency would work with other Ministries in their areas of expertise.</p>	
Institutional arrangements							
Engagement Framework	<p>The SIA has reviewed the proposed framework and guidelines. They appear to be consistent with the approach currently under way regarding engagement on investing for social wellbeing and the data use and protection policy. The SIA project team undertaking the engagement nonetheless intends to review the approach in the near future to confirm it is addressing all relevant considerations highlighted in the framework and guidelines.</p> <p>Police, over time, have developed a joint understanding with Māori about how and for what purposes to engage marae, hapū, iwi, other groups and at the national level about our work, particularly co-design of operational initiatives. The questions proposed in the guidelines certainly align with our current practise. While there is always room to improve, the robust relationships we have developed over time with our Māori partners means there is free and frank exchange about how Police can do better where shared interests are concerned</p>					<p>Agencies working with iwi and Māori groups need to be resourced to build their capacity and capability. How will agencies be supported given the level of work required to engage well and ensure an enduring relationship /partnership can emerge as a result?</p>	
Engagement Guidelines						<p>The guidelines could perhaps be more focused and better structured. There is a balance to be found for a tool that is both versatile and comprehensive - this is a good starting point.</p>	

Document 3

From: Kendrick, Jamie <Jamie.Kendrick@justice.govt.nz>
Sent: Monday, July 23, 2018 4:29 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Henderson, Rewi <Rewi.Henderson@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: FW: MAT feedback Cabinet paper
Importance: High

Cab paper feedback



Jamie Kendrick
 Senior Policy Advisor | Crown/Māori Relations Unit
 Ministry of Justice | Tāhū o te Ture
 Justice Centre | 19 Aitken Street | DX SX10111 | Wellington
 DDI: + 64 4 494 9928
jamie.kendrick@justice.govt.nz

From: Aiomanu, Kim
Sent: Monday, 23 July 2018 4:17 p.m.
To: Kendrick, Jamie <Jamie.Kendrick@justice.govt.nz>; Henderson, Rewi <Rewi.Henderson@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Cc: ben paki (pakib@tpk.govt.nz) <pakib@tpk.govt.nz>; Cranston, Hannah <Hannah.Cranston@justice.govt.nz>
Subject: RE: MAT feedback Cabinet paper
Importance: High

Kia Ora Crown/Maori Partnership team

Please find attached MAT feedback on your draft Cabinet paper. If you have any queries or would like to discuss the advice please feel free to call me Kim ph 027-229-5928

I could not change the draft engagement framework if you could send that to me separately I have some feedback to reflect my substantive advice – kindest regards Kim

If you would like to see my notes from the Mana Wahine claim happy to share Kim

From: Mathieson, Michael
Sent: Friday, 20 July 2018 8:44 a.m.
To: Kendrick, Jamie <Jamie.Kendrick@justice.govt.nz>; Aiomanu, Kim <Kim.Aiomanu@justice.govt.nz>; kim.aiomanu@tpk.govt.nz
Subject: FW: Cabinet paper and notes from CM/TPK/MAT hui

Hi Kim

I haven't seen this paper, but Jamie may be able to help.

Thanks

Michael

From: Aiomanu, Kim
Sent: Thursday, 19 July 2018 4:58 p.m.
To: Mathieson, Michael <Michael.Mathieson@justice.govt.nz>
Cc: Cranston, Hannah <Hannah.Cranston@justice.govt.nz>; kim.aiomanu@tpk.govt.nz
Subject: FW: Cabinet paper and notes from CM/TPK/MAT hui

Kia ora Michael

Please are you able to send Hannah and I a copy of the below cabinet paper – I would like to prepare short advice for MAT to share with MoJ. Please if can you send it to my TPK and MoJ address as I will be at TPK tomorrow.

Thank you in advance Kim

From: Aiomanu, Kim
Sent: Thursday, 19 July 2018 12:46 p.m.
To: Cranston, Hannah <Hannah.Cranston@justice.govt.nz>
Cc: Anslow, Beth <Beth.Anslow@justice.govt.nz>; Holden, Sarah <Sarah.Holden@justice.govt.nz>
Subject: FW: Cabinet paper and notes from CM/TPK/MAT hui
Importance: High

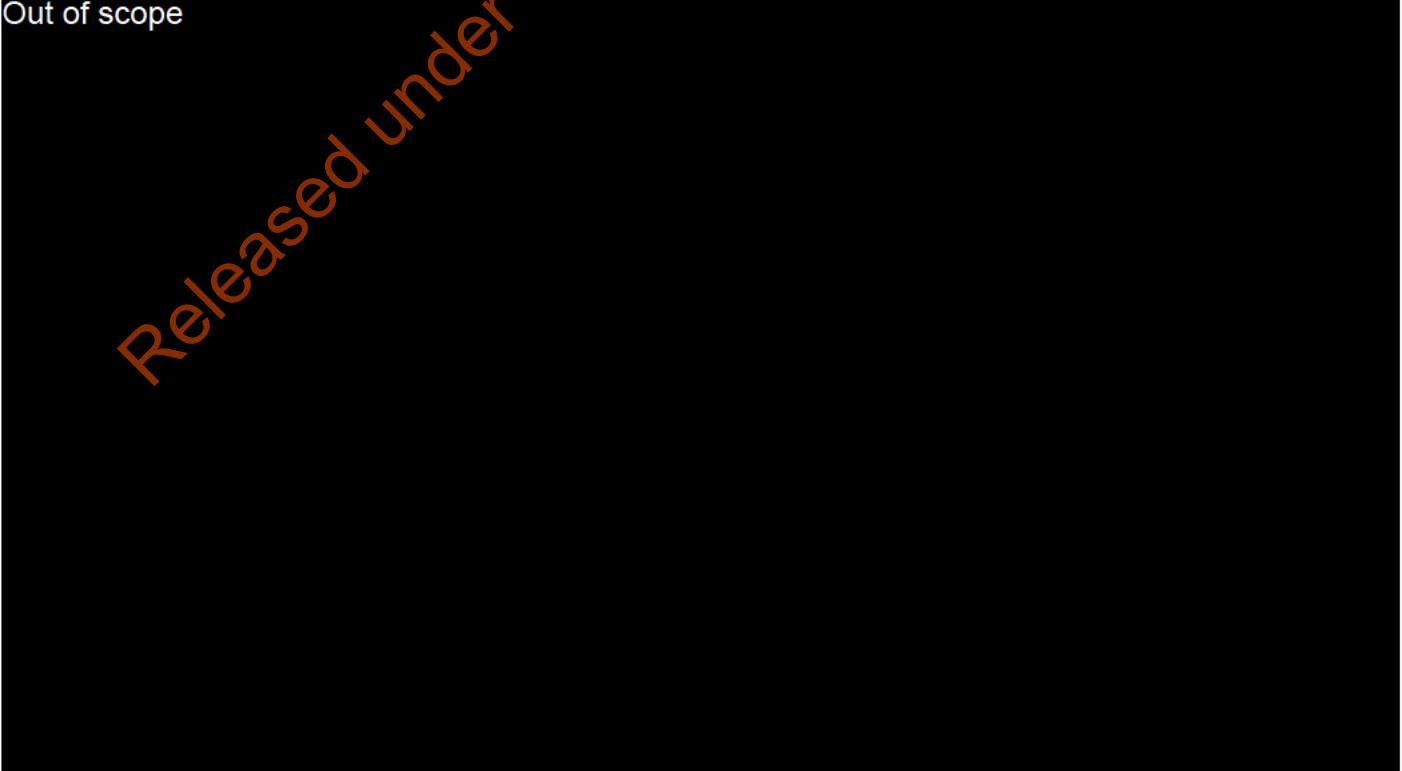
Kia ora Hannah

1. Please can MAT get a copy of the Draft cab paper on scope of portfolio and expectations for strong CM relations for the sector out for feedback today. I would like to provide some feedback on it for us to send to MoJ or CM – to help us be all aligned and future focused re strong CM relations etc.

Can someone help me locate that inside MoJ?

Please advise - cheers Kim

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~~In Confidence~~

Office of the Minister for Crown/Māori Relations
Chair, Cabinet Crown/Māori Relations Committee

Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines

Proposal

1. This paper outlines public feedback on the scope of the Crown/Māori Relations portfolio (the portfolio) and seeks Cabinet approval for:
 - 1.1 me to seek agreement from the Prime Minister of the proposed final scope of the portfolio; and
 - 1.2 the overall Crown/Māori engagement framework (including the Crown's intent for, and values to underpin, the relationship and guidelines to help government engagement with Māori).

Executive Summary

2. [To come]

Background

Establishment and initial scope of Crown/Māori Relations portfolio

3. The establishment of the portfolio indicates a desire from this government to focus on the opportunities that settling claims makes possible. This requires us to look at ways to demonstrate a true and practical partnership is possible beyond the Treaty settlement negotiating table. It signals a need for the Crown and Māori to move forward together¹.
4. In March 2018 I advised Cabinet of the responsibilities and priority areas in the *initial* scope of the portfolio.
5. The responsibilities were to:
 - 5.1 look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - 5.2 build the Crown's understanding and honouring of its Treaty obligations;
 - 5.3 increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - 5.4 ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - 5.5 provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship.
6. The initial scope included another responsibility – “identify and drive projects which enhance partnership between the Crown and Māori which are outside the scope of other Ministers’

portfolios". Upon further consideration, and following the engagement process I consider that the priority area set out in paragraph [5.1] above sufficiently covers the intent of that responsibility so I propose to remove it from the final scope.

7. The priority areas were:

- 7.1 'Take the lead on resetting Crown/Māori relationships on hard issues';
- 7.2 'Find opportunities for active partnerships between the Crown and Māori';
- 7.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability';
- 7.4 'Help government to better engage with Māori on matters of importance';
- 7.5 'Lift public sector performance to better respond to Māori issues'; and
- 7.6 'Improve the Crown's responses to contemporary Treaty issues'.

Interim guidance for Ministers and the public sector on engagement with Māori

8. In March Cabinet agreed guidance for use by government in engaging with Māori prior to the completion of a Crown/Māori Engagement Framework (the **interim guidance**). Key parts of the interim guidance were:

- 8.1 strong active partnership with Māori in the design and implementation of the process and outcomes is required where the impact of the issue or proposal will be significant for Māori;
- 8.2 engagement should be broad and include discussions with relevant national Māori organisations where there are issues of national significance; and
- 8.3 engagement should be undertaken through existing iwi regional fora or with affected iwi/hapū and/or regional/local based Māori organisations where there are issues of regional or local significance.

9. In March I also informed cabinet that I would engage with Māori to discuss the initial scope and priorities before I reported back to Cabinet.

Comment

10. The comment section is structured in the following way;

- 10.1 sub-section one outlines the engagement process and some of the feedback I received on the portfolio (and other portfolios);
- 10.2 sub-section two sets out my vision for the Crown/Māori relationship;
- 10.3 sub-section three seeks confirmation of the priority areas and final scope of my portfolio;
- 10.4 sub-section four sets out decisions I seek from Cabinet on new elements of the portfolio and scope that were not in the initial scope; and
- 10.5 sub-section five contains the overall Crown/Māori engagement framework that I seek approval for.

Sub-section One: The engagement process

11. When I became the Minister for Crown/Māori Relations, I didn't want to repeat the mistakes of the past. Those mistakes included instances where governments decided they knew what was best for Māori, sat in Wellington and wrote up a strategy, then went out to whānau, hapū and iwi and told them what the government had decided will be in their best interests. That approach doesn't work. Instead I took the time to go around the country and ask what we needed to do to strengthen the relationship and what my priorities as Minister should be.
12. I sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May. I held 32 hui attended by over 1600 people and received around 230 submissions. I completed the engagement process with a whole day wānanga held at Parliament with a selection of twelve people who had attended the hui or made a submission.
13. Submissions were made by individuals, groups and organisations, by Māori and non-Māori, by people who supported the portfolio and by people who did notⁱⁱ.
14. When I started the engagement process I expected to hear people say they didn't see the value in a closer Crown/Māori relationship, or that we need a separate Māori Parliament. Instead, the overwhelming feedback has been that New Zealanders do value the Crown/Māori relationship but that it needs to be a real partnership and for us to achieve that requires the government to up its game in a number of areas.

What people told me

15. People used the engagement process to tell me about a range of things of interest to them but also to provide views on the questions I asked specifically about whether my initial priority areas were right.
16. I received a range of suggestions about what my priorities should be in this portfolio. I have categorised feedback from the engagement process as follows:
 - 16.1 suggestions about the name of the portfolio and its placement within the public service, including:
 - 16.1.1 proper resourcing, namingⁱⁱⁱ and placement of, the portfolio within the public service^{iv}
 - 16.1.2 being clear about the difference between the portfolio and the Māori Development portfolio^v;
 - 16.1.3 that specific legislation^{vi} or a separate government agency^{vii} be set up to support Crown/Māori Relations;
 - 16.2 the priorities in the initial scope of the portfolio, including:
 - 16.2.1 the portfolio should take a long-term (15-20 year) view of the relationship^{viii};
 - 16.2.2 that I should co-develop a modern day forward looking Treaty based framework that will guide the Crown/Māori relationship^{ix};

*Tautoko the recognition that
Crown/Māori Relations need
strengthening
(Whangarei hui, 8 April)*

16.2.3 that I must find ways for Māori ethics on good relations to determine all Crown relations with Māori”^x

16.3 other priorities that were not in the initial scope of the portfolio, including:

- 16.3.1 that the portfolio needs a mandated monitoring role if it is to be effective^{xi};
- 16.3.2 considering how we shape the New Zealand constitution going forward as it is a core issue that underpins better relationships between the Crown and Māori^{xii}; and

16.4 issues relating to other Ministers portfolios, including:

- 16.4.1 Local Government – concerns were expressed about the lack of Māori representation and ability for Māori to be decision-makers in local government issues and access to local government being difficult and having nowhere left to go if local government don’t cooperate^{xiii};
- 16.4.2 Education – people thought work should be done to address unconscious bias from teachers^{xiv} and ensure that New Zealand history and te reo Māori are core components of the curriculum^{xv};
- 16.4.3 Health – people thought more money should be invested in: communities supporting whānau dealing with family violence,^{xvi} drug addiction^{xvii} and mental health issues (whānau are crying out for help);^{xviii} and prevention services rather than the district health boards and district health boards should have more Māori representation^{xix};
- 16.4.4 Criminal justice – early intervention and holistic approaches to address mental health issues with targeted care and support for tane and gang members (many of whom are damaged);^{xx} and culturally competent rehabilitation services are needed to support transitioning of prisoners back into society and to reduce tangata whenua over-representation in the criminal justice system;^{xxi}
- 16.4.5 Environment - People supported environmental issues remaining a priority for government and that Māori are at the forefront of seeking sustainable management practices and environmental protection but are under-resourced and under-credited when engaging with officials^{xxii}.

17. A summary of the issues raised most often and what people told me through the engagement process using quotes from submitters, is attached as **Appendix One**.

18. I have written to relevant Ministers about issues that were raised in relation to their portfolios. A table outlining broadly what I advised Ministers of is attached as **Appendix Two**.

19. I was encouraged that our instincts about what the portfolio should do and focus on (as set out in my March paper) were largely in line with what I heard in the engagement process. That process, by and large, endorsed the priority areas in the initial scope of the portfolio.

“[The priority areas under the initial scope] are some good fundamentals of how to connect with Māori”

(online submission 6, para 1075)

20. Suggestions about other areas the portfolio could focus on warranted serious consideration; in deciding what to recommend as priority workstreams in the final scope of the portfolio I have not accepted all the feedback but arrived at what I consider to be ambitious, but achievable goals to strengthen the Crown/Māori relationship.

Sub-section Two: My vision

21. Through the engagement process Māori set a challenge for this portfolio – to be bold and to be brave^{xxiii}. People reminded me that I need to ensure that we are not just focussed on transactional issues, that we need to be aspirational too^{xxiv}. I agree with hui attendees who told me we need to change the kōrero from ‘what Māori cost the country’ to ‘what value add can be achieved by appropriately partnering with Māori’^{xxv}. I want more from this portfolio than words and promises^{xxvi} and people told me they did too^{xxvii}.

22. In the concluding chapters of the report on the Wai 262 claim, Justice Joe Williams articulated the challenge facing the nation:

“[We] should shift our view of the Treaty from that of a breached contract, which can be repaired in the moment, to that of an exchange of solemn promises made about our ongoing relationships. It is the historical settlement process itself that allows us to shift our attention in this way from the past to the future... After decades of profound social and political change, and a generation long focus on the resolution of past grievances, we are now ready to enter a new stage in the relationship.

While the Treaty makes it a constitutional responsibility to adjust the Crown–Māori relationship, even without the Treaty the country would have a social and political responsibility to do so.

Some New Zealanders are uneasy about these ideas because they require us to jettison some long-held assumptions about who and what we are... History and the future both demand that we make the leap to acceptance of Māori culture and identity as a founding pillar of our national project. This is not just a matter of justice (though it is that, of course). Demographics, economics, and geo-politics suggest it is now a matter of necessity.”^{xxviii}

23. I told hui participants that I am looking at 2040 and trying to work out where we want to be as a nation. While keen to conclude historical Treaty settlements, this government is looking beyond Treaty settlement negotiations. We need to shift the relationship from one focussed on historical grievance to one focussed on true partnership^{xxix}. Achieving this change requires decisive and active leadership – we cannot assume the renewed relationship established by Treaty settlements will continue to flourish if nobody drives that to happen^{xxx}.

24. My vision is to realise the true promise of the Treaty, and Treaty settlements, for all New Zealanders ahead of the 200-year anniversary of its signing in 2040. The vision draws from the promises of the protection of rights, interests, resources and equality for all New Zealanders.

Sub-section Three: Confirm priority areas under initial scope in final scope

25. In light of the feedback I have received at hui and through submissions I seek Cabinet agreement that the following priority workstreams, with minor changes to those approved under the initial scope of the portfolio in March, be confirmed in the final scope I will propose to the Prime Minister:

25.1 take the lead on resetting Crown/Māori relationships on hard issues;

25.2 find opportunities for active partnerships between the Crown and Māori. To do this I will examine existing partnership models that are working to understand why they are successful so that their success might be replicated;

25.3 measure the health of the Crown/Māori relationship over time to drive accountability;

25.4 help government to better engage with Māori on matters of importance and on complex issues that disproportionately adversely impact on Māori^{xxxii};

25.5 support Māori capability and capacity to deal with government;

25.6 lift public sector performance to better respond to Māori issues; and

25.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues.

26. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

27. I acknowledge the review of the State Sector Act 1988 the Minister for State Services is leading. This will go some way to addressing a theme that emerged from the Crown/Māori Relations engagement hui that greater accountability is required to ensure Ministers and public sector chief executives and their departments deliver results^{xxxiii}.

Sub-section Four: Decisions sought on new things from Cabinet

Name of portfolio

28. I propose changing the name of the portfolio to 'Crown/Māori Partnership'.

29. This proposal is consistent with feedback I received about the relationship envisaged by the Treaty being a partnership^{xxxiv} and the priority outcome assigned to the Cabinet Crown/Māori Relations Committee to 'build closer partnerships with Māori'. The Committee has been asked to have initial oversight for all of the programmes, initiatives and projects within that priority outcome.

30. I received a number of suggestions for an alternative name for the portfolio – 'Crown/Tangata Whenua Relations^{xxxv}', 'Iwi, Māori/Crown Relations'^{xxxvi}, 'Minister of Te Tiriti Crown Māori Partnership'^{xxxvii} or Minister for Crown Reconciliation^{xxxviii}.

31. I propose that as Minister I should act in the interests of the Crown/Māori relationship or partnership. I do not consider my role should be one of advocacy on behalf of either partner in the relationship – this will require a level of independence most other Ministers are not required to have.

32. I propose my role have a similar level of independence as the Attorney-General. In describing the role of Attorney-General Hon Sir Michael Cullen said that it "uniquely combines the obligation to act on some matters independently, free of political considerations, with the political partisanship that is associated with other Ministerial office. My fundamental responsibility, when acting as Attorney, is to act in the public interest".

"The very name Crown/Māori Relations is not reflective of that partnership and does not acknowledge our constitutional framework underpinned by Te Tiriti"

(Submission #Q65)

33. I seek Cabinet agreement that, when acting as Minister for Crown/Māori Partnership, my responsibility is to act in the interests of the Crown/Māori relationship.

A new standalone agency

WHAT PEOPLE TOLD ME ABOUT THE NEED FOR A NEW AGENCY

34. People across the country discussed the placement of the portfolio within the public service and the support it receives^{xxxviii}. Some people thought the unit supporting the portfolio should not sit within the Ministry of Justice^{xxxix} and said confining discussions within a Ministry of Justice lens is limiting^{xl}. One suggestion was that the portfolio should sit within the Department of Prime Minister and Cabinet, with secondary support from Te Puni Kōkiri^{xli}. I received strong feedback that the portfolio needs its own agency^{xlii}; many people were convinced that giving the Crown/Māori partnership proper standing requires it to have mana. People expressed concerns about whether the intent of the portfolio can transform the way central and local government operate. It cannot achieve that if it is hidden within a large government department.

35. Other submitters assumed a separate Ministry had already been established^{xliii} and had suggestions for how it could lead government agencies in better understanding of and providing for the relationships of Māori with whenua and resources^{xliv}. People were concerned that the portfolio should be properly resourced^{xlv}.

WHAT WOULD A NEW AGENCY DO?

36. I consider there is a gap in the public sector framework for the type of agency and service this portfolio should provide. I further consider that such an agency should be a central agency.

37. A new central agency is essential, in my view, to achieve the authority to effect the change we need to see in the relationship if we are going to realise the benefits of it. Achieving the change we seek is not a three-year job. Making the change to the system required under each of the priority areas requires the status and capability of a central agency.

38. I propose that the new agency house the Crown/Māori Relations Unit, the Post-Settlement Commitments Unit (PSCU) and the Office of Treaty Settlements (OTS) – all currently placed within the Ministry of Justice. PSCU is responsible for safeguarding the durability of historical Treaty settlements – I consider this a key responsibility of my portfolio. There would be no change to the functions of OTS and PSCU but as Treaty settlements wind up it would allow the expertise gained in Treaty settlements over the years to be carried through to the agency supporting the renewed relationship.

39. In addition, a new central agency would undertake the following work on the priority areas of the portfolio:

39.1 'Take the lead on resetting Crown/Māori relationships on hard issues':

39.1.1 Continuing the work we have been doing to reset the relationship on issues this government inherited where the Crown/Māori relationship had reached an impasse;

39.1.2 the key 'hard issues' I have been working with Ministers on to date are: discussions to resolve issues raised in the Kōhangā Reo National Trust Treaty claim; addressing concerns around the proposal to establish an ocean sanctuary around the Kermadecs/Rangitāhua Islands; establishing a

path ahead for water discussions; and protecting Māori interests in the establishment of the Urban Development Authority;

39.2 'Find opportunities for active partnerships between the Crown and Māori'.

39.2.1 In order to seek new opportunities for active partnerships I will develop a project scope and plan to:

39.2.1.1 undertake a scan across government to identify and develop Crown/Māori partnership examples across the economic, cultural, social, **health, justice, family violence, violence within whānau and sexual violence**, and environment sectors; and

39.2.1.2 identify and document broad principles for partnership development that can be shared across the public sector.

39.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability':

39.3.1 The Committee is familiar with the work produced to date under this workstream. We are creating a set of relationship indicators which measure the maturity and performance of the Crown/Māori partnership. The indicators could focus on how the overall relationship is working and the generic mechanisms for achieving results, rather than the results themselves.

39.4 'Help government to better engage with Māori on matters of importance'.

39.4.1 The engagement framework discussed further in paragraphs [55-69] is an important element of the work under this priority workstream. The new agency will have an ongoing role in providing assurance over proposed engagement plans of other agencies and evaluating whether engagement is effective.

39.5 'Lift public sector performance to better respond to Māori issues and on complex issues that disproportionately adversely impact on Māori'. A re-occurring theme was that negative outcomes demonstrate the government's poor record in dealing fairly with Māori.^{xlv}

39.5.1 This workstream intends to improve public sector capability in responding to Māori issues **and issues that disproportionately adversely impact on Māori**, including improving the:

39.5.1.1 understanding of the value of a strong Crown/Māori relationship and the potential contribution of Māori in the delivering better results for Māori and New Zealand;

39.5.1.2 understanding of Māori perspectives and Treaty issues and their incorporation in policy and frontline service delivery;

39.5.1.3 awareness of different aspirations, **realities and world views among whānau, hapū, iwi and Māori (including wahine^{xlvii}, urban Māori, gang communities, rangatahi, Māori providers, and regional and national roopu such as the Māori Women's Welfare League)^{xlviii}** when considering policy development and implementation;

39.5.1.4 staff cultural competency, including capability in reo and tikanga to engage with Māori appropriately, and the recognition and acknowledgement of these competencies in agencies' workforces; and

39.5.1.5 awareness of Treaty settlement commitments;

39.6 'Improve the Crown's responses to contemporary Treaty issues'.

39.6.1 As we work towards completing historical settlements, we need to look at the way we deal with contemporary issues and Waitangi Tribunal kaupapa inquiries. I believe we need to show more leadership in this area and part of our initial work will look at establishing guidelines to ensure we take an open and modern approach to ensuring policy and practices are consistent with the Treaty and effective for Māori^{xlix}.

WHY AN EXISTING AGENCY CANNOT DO THIS?

40. I have arrived at my decision to seek your support for a new standalone agency having considered whether the functions I propose should be carried out by an existing agency; I conclude that they should not.

41. Agencies people have suggested could carry out this function – the Department of Prime Minister and Cabinet, Te Puni Kōkiri or the Ministry of Justice (where the Crown/Māori Relations Unit currently resides) – conduct their work admirably. Giving the vision and functions of the portfolio the mana they deserve will be difficult to achieve if the support I receive from the public service is buried as an adjunct in a large agency.

42. Having this work carried out by the Ministry of Justice is not ideal for several reasons. The continued association of Māori and "Māori issues" with the justice system blurs the understanding and status of the new portfolio. Many Māori who made submissions on the portfolio expressed concerns or objections to this association^l. Retaining the proposed functions within the Ministry of Justice would challenge my ability to achieve the "cut through" we need to elevate the relationship. It would be more difficult to influence the transformative change I seek if the agency supporting me is a peer agency to all others and not a central agency, whose core focus is strengthening our whole of government's Crown/Māori Partnership.

43. Te Puni Kōkiri leads Māori Public Policy, advises on policy affecting Māori wellbeing and monitors policy and legislation. These are important functions focussed on advocating for Māori and supporting Māori capability but they are crucially different to the role I propose of acting in the interests of the relationship. In addition, transferring the functions I propose to Te Puni Kōkiri would unnecessarily overcomplicate their job and require time to restructure that we do not have to waste.

"There is concern at this portfolio sitting within the ministry of justice given the negative implications associated with the relationship of the ministry to the Courts and ultimately the prison system"

(Hui with Māori Womens Welfare League (para 8))

44. I also note that in order to transform the government's ability to address the complex problems of sexual violence, family violence and violence within whānau Cabinet recently agreed to establish a new dedicated agent with a stewardship role for the performance of the whole-of-government response to family violence and sexual violence [CAB-18-MIN-0146]. Although the form of that entity is to yet be decided, like the hui I recently undertook, Māori experts called for that particular new agent to have a structure that gives it independence, visibility, power, and the ability to critique across government and not be swayed by government departments.ⁱⁱ Cabinet has agreed that that new agent will be advised and supported by a Māori advisory body and tauwi body.

45. The paramount status of the Treaty of Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples as the basis of our Crown/Māori Partnershipⁱⁱⁱ requires the Crown to develop a powerful new mechanism to ensure government agencies, implement as business as usual, transformative partnerships which actively protect the inherent mana or tino rangatiratanga of all tangata whenua.^{iv} This cannot be achieved by a government agency with multiple foci or required to provide substantive advice on multiple issues.

46. I therefore seek Cabinet agreement to the establishment of a new standalone agency for Crown/Māori Partnership with the final make up to be agreed between myself and the Minister for State Services, the Minister of Justice and the Minister for Treaty of Waitangi Negotiations.

Other institutional arrangements

47. I propose an additional workstream called 'Develop the scope of a conversation about institutional arrangements'.

48. If my proposal that we establish a new central agency is agreed by Cabinet then an element of this workstream will have been achieved. A revived conversation about other institutional arrangements supporting the Crown/Māori partnership can and should take place on a longer timeframe.

49. On the issue of the constitution people said the current constitutional status of Te Tiriti is unsatisfactory^{iv} and that "constitutional reform would strengthen the Crown/Māori relationship and provide the foundation for the consistent application of policy to support the Crown in meeting its obligations"^{iv}.

50. People told me it is important to include Pākehā in the Crown/Māori partnership^v and that focussing on weaving stronger connections between Pākehā and Māori would create greater tolerance and understanding^{vii}. It is also important to build an appreciation of the Crown/Maori Partnership and knowledge of the Treaty of Waitangi with our immigrant population groups.

51. This is an issue governments have skirted around for generations and about which a lot of thinking has been done. I do not think it would serve the citizens of New Zealand well to try to jump to a solution on this quickly nor is that solution to immediately 'embed' the Treaty as our constitution. Whatever the level of knowledge about it, the constitution fundamentally affects the lives of every New Zealander. I am keen to look at some of the less controversial steps towards change.

"The most important priority to ensure a peaceful and productive future for all new Zealanders is to progress the discussion – and move towards – Treaty-based constitutional arrangements"
(Submission #R26)

52. Issues that should be covered by further work on this kaupapa include Treaty clauses in legislation, potentially establishing a Treaty commissioner and examining the future role of the Waitangi Tribunal as historical Treaty settlements draw to a close over the next few years.

Coordinating significant Crown/Māori Events

53. I have received overwhelmingly positive feedback on how 'Waitangi Week' was conducted this year. I was told that it is very positive for Ministers to spend quality time engaging with Māori across a much wider spectrum and that it needs to continue^{lviii}.

54. Cabinet approval of this workstream will mandate this portfolio to oversee the organisation of significant Crown/Māori events, of which we have several upcoming, including:

54.1 Ratana 100th Anniversary (November 2018); and

54.2 Waitangi 2019 (February 2019).

Conclusion

55. I seek Cabinet agreement that the following priority workstreams be added to the final scope I propose to the Prime Minister:

55.1 develop the scope of, and timing for, a conversation about the institutional arrangements supporting the Crown/Māori partnership; and

55.2 coordinating significant Crown/Māori events.

56. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

Sub-section Five: "Getting the relationship right requires the Crown to be consistent"^{lxi} (Engagement Framework)

57. In March I told Cabinet that we needed to establish a framework, underpinned by a statement of the Crown's intent for the Crown/Māori relationship and a set of values, to guide Ministers and public sector agencies engagement with Māori.

58. People told me existing frameworks "challenge our ability to assert our Rangatiratanga and the Crown's ability, to work with us, to fulfil [its] responsibilities under Te Tiriti legislation, and our Deed of Settlement"^{lxi}. They also told me that "part of getting the relationship right is ensuring consistency by the Crown, in all its faces, with Māori"^{lxi}. Māori very strongly feel that they are 'not just another ethnic minority'^{lxi}, the unique status of Māori as tangata whenua^{lxi} and as signatories to the Treaty must be reflected in how the Government engages with Māori.

59. It is vital that the engagement framework is of practical use to agencies. Government has thought about how it engages with Māori before. There has been no shortage of guidance documents produced over the years that have had the good intention of guiding best practice in engaging with Māori. None of them, however, have produced the desired effect across the public sector.

"Despite it being [a] statutory obligation for Crown and local government entities to engage, support and consult with Māori, the process itself is just a box-ticking exercise"

(online submission 87-document supplied)

60. Appendix Four is the proposed engagement framework.

61. The framework builds on the interim engagement approach approved by Cabinet in March, and has been developed following a review of a range of literature and previously developed work.^{lxiv} What is notably different about this framework is that it has been materially informed by reviewing the current landscape as well as what I heard from the people throughout my national Crown/Māori Relations engagement. The roadshow and submission feedback provided me with insight into a number of areas where intentional improvements could strengthen Crown/Māori engagement and partnerships.

62. I have been told about the lack of capability in the public sector in Māori engagement^{lxv}, institutional racism^{lxvi} and unconscious bias^{lxvii}. People told me there is a need for a sea change in the way the public service engages with Māori^{lxviii}.

63. I want public servants to have tools that will help them do a better job of engaging with Māori. Government processes, and outcomes for all New Zealanders, will be improved with a more capable public sector. The engagement framework has been designed with its intended users in mind.

64. An aspect of public sector engagement with Māori that clearly came through what people were telling me was that the engagement needs to be flexible^{lxix} and "fit for purpose". Deciding what engagement is appropriate on a particular issue must be guided by the key questions about what is the issue, what is the impact on Māori and who among Māoridom should be engaged. People told me there need to be opportunities for hapū engagement on matters relevant to hapū^{lxx}.

65. Engagement cannot be an afterthought or a 'tick-the-box' exercise. Māori do not want to be treated as a stakeholder to be consulted once decisions have been made.^{lxxi} People told me that embedding policies that prescribe engagement at the beginning of any initiative will ensure full involvement rather than retrospective involvement"^{lxxii}. Māori know how to develop their own effective solutions.^{lxxiii} Policies and programmes need to be co-designed/co-created in collaboration with Māori right from the beginning – based on developing a shared understanding of the problems/issues and co-designing the options and solutions to strengthen the Crown-Māori relationship and to ensure their success.^{lxxiv} Māori participation needs to be compensated even if they are employed.^{lxxv} Locally designed solutions to locally defined solutions in partnership with Māori are needed.^{lxxvi}

66. Since Cabinet approved the interim engagement approach in March, my officials have been reviewing agencies' engagement approaches to ensure the principles of effective engagement have been applied and the processes are broad and inclusive. It is my intention that my officials will continue to provide an assurance role and develop an evaluation process to understand if the framework is assisting to produce effective engagement with Māori. My officials will also provide further targeted advice, tools and support to assist agencies. Te Puni Kōkiri are also playing a complimentary role in reviewing some engagement strategies with a particular focus on implementation within the regions.

Guidelines for agency use in engaging with Māori

67. The guidelines to accompany the engagement framework are attached as Appendix Five.

68. Engagement with Māori needs to be based on developing effective working and ongoing relationships. These relationships are based on positive experiences, trust and confidence. An effective, efficient and inclusive engagement process should reflect how Māori perspectives and cultural values have been included. Throughout the development of their

engagement processes agencies should be guided by the following principles: engage early, be inclusive, think broadly^{lxxvii}.

69. The guidelines attempt to provide departments with immediate, practicable and implementable advice on how to engage with Māori. We recognise in some instances further detail or context will be developed to assist departments in applying the guidelines - for example greater clarification on the “who” and the “how” of engagement or what is meant by open-ended terms like “audience” and “impact”.
70. Officials from the Crown/Māori Relations Unit will continue to provide an assurance role and develop an evaluation process to continue efforts to support effective engagement with Māori. This will include developing tools and other supporting material to enhance both the framework and guidelines, exemplar material (what good looks like), usable process maps for key tasks and engagement tools (e.g. application of the impact tool specific to different context and environmental conditions).
71. The engagement framework and guidelines are available for immediate use. They are intended to be living documents which may be revised over time to align with developing best practice.

How does the Iwi Chairs Forum fit within the framework?

72. I expect people to ask how the Iwi Chairs Forum fits within the new engagement framework. You can see from the engagement framework that depending on what the issue is and its impact on Māori it may be entirely appropriate to consult the Iwi Leaders Forum on matters.
73. As many Māori reminded me across the country, however, the Crown’s responsibilities are to all Māori, not just iwi leaders^{lxxviii}. The engagement framework has been crafted to assist agencies to decide if and when the expertise represented by the Iwi Leaders Forum is appropriate to include in an engagement process.

“The Crown’s responsibilities are to all Māori, not just iwi leaders.”
(Waitara hui, 5 May)

Consultation

74. [The following departments were consulted on this paper: State Services Commission, The Treasury, Te Puni Kōkiri, the Crown Law Office, Ministry for the Environment, Oranga Tamariki, Ministry for Business, Innovation and Employment, Ministry for Culture and Heritage, Ministry of Health, Ministry for Primary Industries, Department of Conservation, New Zealand Police, Ministry for Social Development, Ministry of Education, Land Information New Zealand, Statistics New Zealand and the Social Investment Agency. The Department of the Prime Minister and Cabinet was informed.]

Financial Implications

Crown/Māori Relations Appropriation

75. [Discuss impact of standalone agency and options for either a new Vote or a new appropriation.]

Human Rights

76. The proposals in this paper will help this Government to meet many of its human rights obligations to Māori.

Legislative Implications

77. This paper has no legislative implications.

Regulatory Impact Analysis

78. □

Publicity

79. If Cabinet agrees to the recommendations in this paper, and the Prime Minister approves the final scope of the portfolio, I intend to publish this paper on the Ministry of Justice website. I want the people who made submissions and attended the hui to be able to see for themselves that I have listened to their feedback.

80. I propose that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference.

Next steps

81. Following Cabinet consideration of this paper I will write to the Prime Minister seeking approval for final scope of my portfolio.

82. Table One below sets out the next steps for each of the priority workstreams that were in the initial scope of the portfolio and that I propose be confirmed in the final scope.

Table One: Next steps for priority workstreams

Priority workstream	Intended next steps
Reset relations on hard issues	<ul style="list-style-type: none"> Continue scanning the Crown/Māori environment for 'hard issues'
Overview, Data and Indicators	<ul style="list-style-type: none"> Report back to Cabinet Crown/Māori Relations Committee on Indicators in November 2018
Public sector capability	<ul style="list-style-type: none"> Develop and test prototype cultural capability module with agencies over August and September 2018 Report back to Cabinet on approach to public sector capability (with the Minister for State Services and the Minister for Māori Development) in November 2018
Partnership/co-design	<ul style="list-style-type: none"> Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and November 2018. Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. Report back to Committee on prototype guidance in November 2018 Paper on Kōhanga Reo discussions in September/November 2018

Priority workstream	Intended next steps
Support Māori capability and capacity to deal with government	<ul style="list-style-type: none"> [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> Report back to Committee proposing a work programme for a conversation about institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> Action as required ahead of major events

Recommendations

83. The Minister for Crown/Māori Relations recommends that the Committee:

- note that Cabinet approved the responsibilities and priority areas of the initial scope of the Crown/Māori Relations portfolio in March 2018 [CAB-18-MIN-0078 Minute];
- note that the Minister for Crown/Māori sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May 2018;

Final scope of the Crown/Māori Relations portfolio

- agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the responsibilities of the Minister for Crown/Māori Relations under the final scope of the Crown/Māori Relations portfolio be to:
 - look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - build the Crown's understanding and honouring of its Treaty obligations;
 - increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship;
- agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the priority workstreams of the Minister for Crown/Māori Relations portfolio in 2017/18 under the final scope of the Crown/Māori Relations portfolio be to:
 - take the lead on resetting Crown/Māori relationships on hard issues;
 - find opportunities for active partnerships between the Crown and Māori;
 - measure the health of the Crown/Māori relationship over time to drive accountability;
 - help government to better engage with Māori on matters of importance and on complex issues that disproportionately adversely impact on Māori;

- 4.5 support Māori capability and capacity to deal with government;
- 4.6 lift public sector performance to better respond to Māori issues;
- 4.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues;
- 4.8 develop the scope of, and timing for, a conversation about the institutional arrangements underpinning the Crown/Māori relationship; and
- 4.9 coordinate significant Crown/Māori events.

Portfolio name and standalone agency

5. agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister to change the name of the portfolio from 'Crown/Māori Relations' to 'Crown/Māori Partnership';
6. agree that the Minister for Crown/Māori Partnership's responsibility is to act in the interests of the Crown/Māori relationship;
7. agree to the establishment of a new standalone agency for Crown/Māori Relations with the final make up to be agreed between the Minister for Crown/Māori Relations, the Minister for State Services, the Minister of Justice and the Minister for Treaty of Waitangi Negotiations;

Next steps for each priority workstream

8. note that, subject to Cabinet approval of the final scope of the portfolio, I will undertake the further work outlined in the table below for each of the priority workstreams;

Priority workstream	Next steps
Reset relations on hard issues	<ul style="list-style-type: none"> • Continue scanning the Crown/Māori environment for 'hard issues'
Overview, Data and Indicators	<ul style="list-style-type: none"> • Report back to Cabinet Crown/Māori Relations Committee on Indicators in November 2018
Public sector capability	<ul style="list-style-type: none"> • Develop and test prototype cultural capability module with agencies over August and September 2018 • Report back to Cabinet on approach to public sector capability (with the Minister for State Services the Minister for Māori Development) in November 2018
Partnership/co-design	<ul style="list-style-type: none"> • Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and November 2018. • Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> • Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> • Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. • Report back to Committee on prototype guidance in November 2018 • Paper on Kōhanga Reo discussions in September/November 2018

Support Māori capability and capacity to deal with government	<ul style="list-style-type: none"> • [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> • Report back to Committee proposing a work programme for a conversation about institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> • Action as required ahead of major events

Crown/Māori Engagement Framework

9. note that the engagement framework and guidelines build on the interim engagement approach approved by Cabinet in March and are intended to provide practical advice on how to engage with Māori;
10. agree that the engagement framework and guidelines are available for immediate use;
11. agree that officials from the Crown/Māori Relations Unit will continue to provide an assurance role, develop an evaluation process and provide further targeted advice, tools and support to assist Government to better engage with Māori on matters of importance;
12. agree that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference

Appropriation

13. [potentially decision on new appropriation or a separate Vote]

Authorised for lodgement

Hon Kelvin Davis
Minister for Crown/Māori Relations

Crown/Māori Relations Portfolio submission comments

June 2018

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“

Comments received from: Individuals Organisations OTHER

Despite it being a statutory obligation for Crown and local government entities to engage, support and consult with Māori, the process itself is just a box-ticking exercise. THE CRUCIAL ELEMENT OF THE TREATY RELATIONSHIP CONCERN'S GOVERNANCE AND CO-GOVERNANCE BETWEEN THE CROWN AND IWİ, HAPU AND WHĀNAU - BETWEEN KAWANATANGA AND RANGATIRATANGA. The relationships first and foremost should be place-based and values-based. Inequitable and demand-driven engagement practices - engaging with non-mandated individuals. SOMETHING I FIND HUGELY UPSETTING IS THE EXTENT TO WHICH THE PUBLIC SERVICE RELIES ON MĀORI TO FILL CULTURAL CAPABILITY GAPS (E.G. DIAL A MIHI ETC). CEOs of public service departments need ongoing targeted training (to be prioritised over public servants and including history). Ideally they would attend noho marae. There should be detailed guidance for departments on what they should offer in terms of cultural capability training. The Treaty relationship is between hapu and the Crown, and that therefore must be the primary relationship on the national level. Crown [needs] to co-invest with us, in building our capability and capacity to proactively and constructively engage.

The role you have with Māori in the future, must not be in conflict with the Minister for Māori Affairs portfolio responsibilities or Minister for Treaty Settlement. UNNECESSARY GIVEN EVERY MINISTER OF THE CROWN ALREADY HAS AN OBLIGATION TO ENSURE THE HEALTH OF THE CROWN'S RELATIONSHIP WITH MĀORI. Rename the portfolio Minister for Crown Reconciliation. CMR to monitor, audit compliance of Crown entities, agencies and Local Government against Te Tiriti, and report to hapū.

Marae visits are a wonderful way to break down these barriers too and reduce the 'us and them' feeling. IF EVERY CHILD GETS TAUGHT MĀORI FROM A YOUNG AGE THEY WILL GROW UP BEING OPEN TO, AND UNDERSTANDING, TE AO MĀORI A LOT MORE. The first step here is to increase the numbers of qualified teachers, in order to be able to offer these courses throughout our education system. Iwi have shown that given the opportunity to thrive economically, the social issues will improve as well. REGIONAL AND LOCAL LEVEL INVOLVEMENT SHOULD BE A FOCUS. CULTURAL IMPACT REPORTS FROM LOCAL COMMUNITIES TAKE INTO ACCOUNT PEOPLE, PLACE AND SPECIES AND SHOULD NOT BE OVERLOOKED.

I agree that local government is a vital issue that must be addressed. LOCAL GOVERNMENT IS STILL CARRYING OUT THE CROWN'S WORK, AND THEY NEED TO BE INCLUDED IN THE PARTNERSHIP WITH MĀORI. Local government is an essential piece of the healthy relationship puzzle, and any legal niceties around it not technically being part of the Crown, should be laid as far aside as possible, for practical reasons. FEW COUNCILS HAVE INTERNAL POLICY ADVICE ON WHAT THEIR OBLIGATIONS TO MĀORI ARE. Local government is where you need to start. Legislate for formal representation.

If the Crown starts to return land loss not just pay iwi out. START LISTENING TO MĀORI, SO THAT WE AS MĀORI CAN DEVELOP. The Crown should try to envisage what this society might have looked like if Europeans simply migrated. There is a need to have our peoples' mana re-written into every Law book by our learned leaders and assisted by our elders.

If the Crown starts to return land loss not just pay iwi out. START LISTENING TO MĀORI, SO THAT WE AS MĀORI CAN DEVELOP. The Crown should try to envisage what this society might have looked like if Europeans simply migrated. There is a need to have our peoples' mana re-written into every Law book by our learned leaders and assisted by our elders. We expect that there will be specific issues relating to our legislation, our respective obligations under Te Tiriti o Waitangi and our Deed of Settlement that require direct, and in some cases exclusive engagement between ourselves and the Crown.

Working with Māori

Captures comments about how agencies engage with Māori, how they should engage with Māori, and who they should engage with. It also includes comments on agencies' internal capability, how agencies work together, and what should happen to improve how the public sector operates.

Māori-centred development

Captures comments about Māori economic development, cultural development, and development opportunities centred on Māori specifically.

Local government issues

Captures comments about the relationship between the Crown and local government, local government capacity, capability and engagement on issues involving Māori, resource management and funding issues.

Crown/Māori Relations Roopū (portfolio)

Captures comments about the establishment of the Crown/Māori Relations portfolio, potential functions of the portfolio (such as auditing other agencies), where the Crown/Māori Relations Roopū should be located, and the impact of the portfolio on all New Zealanders.

Rangatiratanga (Māori rights)

Captures comments relating to tino rangatiratanga, legal processes (e.g. Waitangi Tribunal) and connections to international frameworks (e.g. UNDRIP).

Constitutional changes

Captures comments about constitutional change. It also includes comments about educating all New Zealanders on the value of the Crown/Māori relationship, and the benefits Māori generate for all New Zealanders.

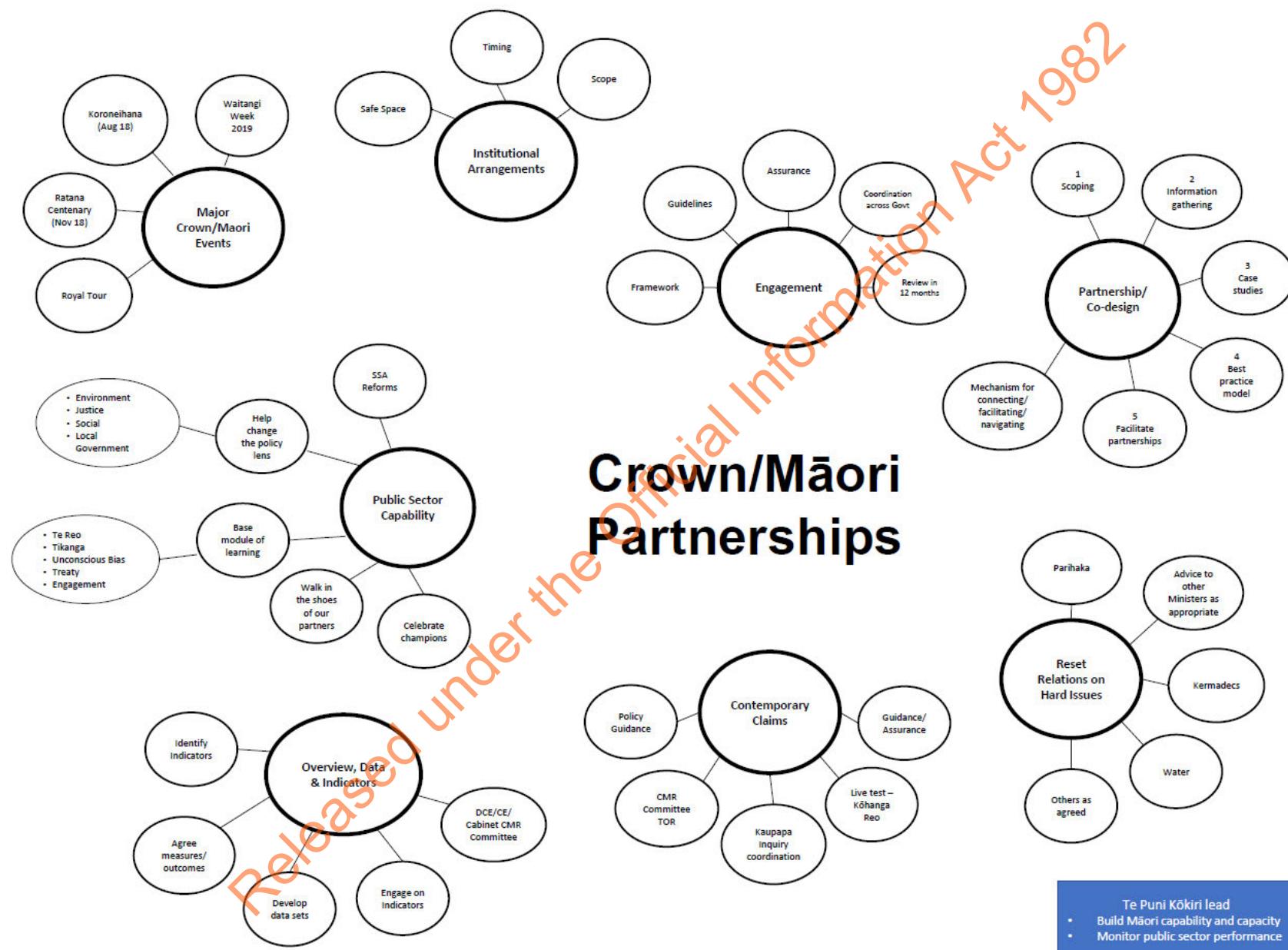
Appendix Two: High-level themes communicated to Ministers PROTOTYPE – TO BE UPDATED

Theme	What people told the Minister
Name of portfolio and placement in the public service	<ul style="list-style-type: none"> There is a lot of support for the establishment of the portfolio, however, many hui attendees were said that the portfolio: <ul style="list-style-type: none"> should have the right level of influence across government; be properly resourced; and requires a standalone Ministry. Many people said the name of the portfolio needs to reference the Treaty partnership more clearly.
Local government	<ul style="list-style-type: none"> There is inadequate Māori representation. Limited capability within councils to work with Māori in a meaningful way. Māori want: <ul style="list-style-type: none"> to be at the decision-making table; and to co-design processes (not to be consulted on documents that have been nearly fully developed).
State Sector capability	<ul style="list-style-type: none"> Public sector seen as barriers and lacking ability to deal with Māori. Māori want: <ul style="list-style-type: none"> to be dealt with fairly and with understanding; for public sector to know about the Treaty, and what the Crown/Māori relationship means for their organisation and their behaviour; and for public sector to join up when dealing with their community.
Engagement with Māori	<ul style="list-style-type: none"> Constantly being asked to rubber stamp things late in the process and not told the full story Want Government to speak to other people i.e. Māori providers, national and urban rophu (like Maori Women's Welfare League), rangatahi, whānau, hapū as well as Iwi Chairs. Māori want: <ul style="list-style-type: none"> A consistent approach to engagement; to co-design policy and processes (not to be consulted on documents that have been nearly fully developed), and <ul style="list-style-type: none"> services to be developed that are responsive to Māori needs/aspirations; and For public sector to be joined up rather than having different hui every week.
NZ history / reo education	<ul style="list-style-type: none"> Tamariki and all New Zealanders should be taught New Zealand history. Every child should have access to te reo education.
Social issues	<ul style="list-style-type: none"> Negative outcomes demonstrate the government's poor record in dealing fairly with Māori. Māori want to be part of the solution for social issues that disproportionately adversely impact on Māori e.g. drug and alcohol addictions, mental health issues, poor health status, poverty, homelessness, violence within whānau, high rates of Māori imprisonment. Māori want to be partners in locally co-designed solutions to locally defined problems.

Theme	What people told the Minister
Regional Economic Development	<ul style="list-style-type: none"> • Māori are seeking to be recognised as partners in economic development in the regions • Want help building their own capability to engage better with Government.
Constitutional Reform	<ul style="list-style-type: none"> • The Crown needs to fully acknowledge, and give effect to the Treaty/ Te Tiriti and He Whakaputanga. • The Treaty needs to be given prominence in the New Zealand constitution • The Crown/Māori Relations portfolio should be based on Treaty.
Treaty settlements	<ul style="list-style-type: none"> • Some groups are concerned about how their Treaty settlements are being implemented with Crown not honouring promises. • Some people are concerned about the process and/or progress of the negotiations of their iwi.

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Appendix Three: Crown/Māori Partnership Diagram



Appendix Four: Engagement framework

Released under the Official Information Act 1982

Appendix Five: Engagement framework guidelines

Released under the Official Information Act 1982

Endnotes

ⁱ From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 2

ⁱⁱ Submissions - NOL45, OLS84-document; Hui notes – Kaitaia (para 346)

ⁱⁱⁱ Submissions - OLS84-document

^{iv} Hui notes – Māori Womens Welfare League (para 8), Whangarei (para 400);
^v [Source quote]

^{vi} Hui notes - Gisborne (para 582)

^{vii} Hui notes - Hokianga (para 443)

^{viii} Hui notes - Hokianga (para 442); Submissions: OLS94 (para 2122)

^{ix} [Source quote]

^x [Source quote]

^{xi} Hui notes - Gisborne (paras 580 + 588), Hastings (paras 595 + 620) and Rotorua hui (para 721);
Māori business, professional and social enterprise focus group hui (para 220)

^{xii} Hui notes - Kaikohe (para 472), Thames (para 653); Submissions: NOL18 (paras 7 & 10)

^{xiii} Hui notes - Hokianga (para 428), Palmerston North (para 813)

^{xiv} Hui notes - Kaitaia (para 361), Hastings (para 622)

^{xv} Hui notes - Nelson (para 507), Huntly (para 597), Auckland (para 779), Whakatāne (para 938)

^{xvi} Keeping wahine and whānau safe from violence within whānau was raised at hui in Huntly and
Hastings (oral confirmation by Crown/Māori Relations official with multi-agency team 22 June 2018).
Elder abuse needs to investigated and addressed, hui notes Tahuau Function Centre, Nelson, 14
April 2018, retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>.

^{xvii} Hui notes, Kaitaia College, 7 April, page 3, retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

^{xviii} Hui notes, Terenga Paraoa Marae, Whangarei, 8 April page 2, Hui notes Manutuke Marae, 21 April
2018, page 2 retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

^{xix} Hui notes - Gisborne (para 585),

^{xx} Hui notes – Waiwhetu Marae, Lower Hutt, 10 May 2018, hui notes Matai Whetu Marae, Thames, 28
April, page 3, retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

^{xxi} Hui notes – Kohewhata Marae, Kaikōhe, 13 April page 2

^{xxii} Hui notes - Taupō (para 875)

^{xxiii} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph
25; Submissions - OLS90 (para 2030); Hui notes – Human Rights Commission (para 35), Palmerston
North (para 905)

^{xxiv} [Source quote]

^{xxv} [Source quote]

^{xxvi} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph
14

^{xxvii} Submissions - OLS87 (para 1985)

^{xxviii} Waitangi Tribunal letter, *Ko Aotearoa Tenei*, chapter 9.3

^{xxix} Hui notes – Federation of Māori Authorities (para 321)

^{xxx} Hui notes – Gisborne (para 545)

^{xxxi} Such as addressing family violence and sexual violence [CAB -18-MIN-0146 refers]. Numerous hui
called for central and local government to work with Māori as partners to address complex social
issues which disproportionately adversely impact on Māori (hui notes Local Government, 13 March
2018; hui notes Kaitaia College, Kaitaia, 7 April, hui notes Tahuau Function Centre, Nelson, 14 April
2018; Manutuke Marae, 21 April 2018; and Tuahivi Marae 15 April, retrieved from
<https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>).

^{xxxii} Hui notes – Nelson (para 506)

^{xxxiii} Hui notes – Invercargill (para 828), Kaitaia (para 359); Submissions: NOL85

^{xxxiv} Submissions - OLS28

^{xxxv} Notes of hui – Gisborne (para 571)

^{xxxvi} Hui notes – Auckland (para 770)

^{xxxvii} Submissions - OLS84-document

^{xxxviii} Submissions - OLS64 (para 1689)

xxxix Hui notes – Waitara (para 753); Submissions: NOL22 (paras 26-27)

xl Hui notes – Waitara (para 753); Submissions: NOL36 (para 1)

xli Submissions: NOL22 (para 30)

xlii Hui notes – Hokianga (para 443), Auckland (para 770); Submissions: OL52, OL94

xliii Submissions – OLS13 (para 1168)

xliv Submissions – NOL20 (page 8)

xlv Submissions – OLS82 (para 1923)

xlvi Hui notes Kohewhata Marae, Kaihoe, 13 April 2018

xlvii The Mana Wahine Claim before the Waitangi Tribunal highlights the failure of the Crown to uphold the rangatiratanga and rights of Māori women and to engage with them as rangatira in their own right and not to impose gendered assumptions upon the role of Māori women that both create and enable exclusion. The claim alleges the Crown's policies and practises have attacked wahine Māori status as kaitiaki of Te Ao Māori tikanga and kawa, and Papatuanuku who assures the survival of all (discussed in WAI 2700 Mana Wahine Kaupapa Inquiry Statement of Claim 4 July 2018, by Dr Leone Pihama et al (pages 8, 62)

xlviii Hui notes Whare Waka 19 March, page 3, Hui notes, Whare Waka, Wellington, 12 April 2018, page 2, Hui notes Terenga Paraoa Marae, Whangarei, 8 April 2018, hui notes Manutuke Marae, 21 April, retrieved from retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

xlix From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 17

¹ Hui notes – Māori Women's Welfare League (para 1), Huntly (para 668); Submissions: OLS52-document

ⁱⁱ 'Final notes from Māori Experts Hui 11 May 2018 and 23 February 2018 – Influencing new organisational arrangements within the public sector to eliminate violence within whānau and sexual violence' – Te Puni Kokiri and Multi-Agency Team for Family and Sexual Violence

ⁱⁱⁱ Hui notes – Human Rights Commission, 13 March 2018 page 2

ⁱⁱⁱ The inherent nature of mana and tino rangatiratanga is discussed in WAI 2700 Mana Wahine Kaupapa Inquiry Statement of Claim 4 July 2018, by Dr Leone Pihama et al (pages 11-13)

^{iv} Submissions – NOL18 (paras 7 & 10)

^{iv} Submission - NOL19 (paras 4.10-4.13 & 4.18),

^v [Submissions: OLS24 (para 1334)]

^{vii} Submissions – OLS59 (para 1634)

^{viii} [Source quote]

^{ix} [Source quote]

^{ix} [Sourced from NOL submission]

^x Submissions – OL12 (para 1143)

^{xii} [Source quote]

^{xiii} [Source quote]

^{xiv} Te Puni Kōkiri Te Hanga Whanaungatanga mō te Hononga Hāngai ki te Māori: Building Relationships for Effective Engagement with Māori; Waitangi Tribunal Wai 262: Ko Aotearoa Tēnei; New Zealand Government Online Engagement; International Association for Public Participation IAP2's Public Participation Spectrum; Department of the Prime Minister and Cabinet Public Participation.

^{lxv} Hui notes – Hokianga (para 429), Nelson (para 508), Christchurch (para 540), Gisborne (para 578), Thames (para 638 + 654), Huntly (para 682), Rotorua (para 717), Whanganui (para 741)

^{lxvi} Hui notes – Kaitaia (para 341), Whangarei (para 403), Nelson (para 488 + 508), Christchurch (para 522), Gisborne (para 546 + 580), Hastings (para 594-595 + 615 + 617), Huntly (para 683), Whanganui (para 733), Auckland (para 781), Wellington (para 809), Invercargill (para 822), Taupō (para 878), Palmerston North (para 889), Whakatāne (para 918)

^{lxvii} Hui notes – Kaitaia (para 361), Taupō (para 878), Whakatāne (para 938),

^{lxviii} Hui notes - Thames (para 638 + 654),

^{lxix} Submissions – OLS94 (para 1490)

^{lxx} Hui notes – Kaitāia (para 337)

^{lxxi} Hui notes Hokianga, Omapere, 13 April page 3 retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

^{lxxii} [Source quote]

lxxiii Hui notes Omāhu Marae, 22 April 2018 retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

lxxiv Hui notes University Chancellors' group of representatives, 27 March, page 2, hui notes Tuahiwi Marae, 15 April 2018 retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

lxxv Hui notes Manutuke Marae, 21 April 2018 retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

lxxvi hui notes Tuahiwi Marae, 15 April 2018 retrieved from <https://www.justice.govt.nz/maori-land-treaty/crown-maori-relations/feedback-from-hui/>

lxxvii Hui notes – Māori Womens Welfare League

lxxviii Hui notes – Kaitaia (para 350), Whangarei (para 394), Hokianga (para 441), Rotorua (para 709), Waitara (para 739 & 7480, Wellington (para 806)

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Document 4

From: Justine Smith <Justine.Smith@dia.govt.nz>
Sent: Thursday, July 26, 2018 1:17 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: FW: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DIA]

Hi Patrick,

Below is our feedback on the draft Cabinet paper:

1. First up, congratulations on the paper. We're really excited to see this work unfold. Our particular focus as you know is how this relates to local government.
2. The paper notes that local government was an issue raised then doesn't mention it again (para 16.4.1). Our Minister is very conscious of the issues experienced by local government and iwi as they endeavour to forge collaborative, strategic relationships (or not, as the case may be) and continues to seek advice on how central government can better support local government and iwi in this space. I think of this work as fitting within the broad umbrella and being linked to the Crown-Maori Relations kaupapa so will continue to seek alignment and work alongside your team. I suggest being clear about the extent to which local government is included in the scope of the portfolio, or if not, why not. I also suggest including a sentence along the lines of: "*The Minister and Associate Minister of Local Government are aware of the issues being experienced by local government and iwi/Maori and officials are developing advice on how central government can better support local government and iwi to forge better relationships.*" Which reminds me, is your Minister intending to send a letter to our Minister on the issues raised about local government during the CMR engagement process?
3. Like others, I like the way in which the voices of the people who had taken the time to engage on this with us were reflected in the paper. It upholds the integrity of the korero. In my mind folding this into the Cabinet paper/system this is a soft expression of partnership.
4. We'd like to stay close to the work you do on considering how we shape the New Zealand constitution going forward. Underpinning a number of the issues between iwi/Maori and local government is the fact that the parties fundamentally disagree on the nature and status of their relationship. My team is starting to shape up some thinking on the implications of the Three Waters Review for local government – it's early days and I'll keep you in the loop on it – but one question we're looking to fold into that thinking is whether there is an opportunity to recalibrate the local government/Maori relationship and I see a potential convergence with the constitutional workstream you've foreshadowed in this paper.
5. I agree with the intention to be bold and aspirational, it's the only way to effect change at pace. I also strongly agree with the statement around not being focused on transactional issues – it's our objective in the local government space as well. Significant time and energy is taken up by the 'churn' of frustrating transactional issues and it creates a barrier to a more strategic relationship taking shape.
6. Para 23/24 foreshadows a vision for 2040. It would be good to be able to articulate what this vision is in the future in a really practical, tangible way and I think local government / the on-the-ground issues, is a part of the picture.
7. Agree that there needs to be stronger analysis around the proposal to form a new agency. You could possibly do this via a table in the appendices, showing the options and evaluating them. Or flag it as a key issue raised and report back with options. I suspect there's a bit of lifting to do on this proposal and it might be worth your while to take the time to work through this. The value of this paper is in reflecting back the feedback and I'd be disappointed to see any of the richness of this narrative taken out or scaled back so potentially all you need to do is confirm the scope of the portfolio and identify issues to report back on. Being deliberate and

explicit about this approach also potentially addresses the point that Heather raised about it missing 'the Crown response'.

8. I'm interested in the relationship indicators work and will follow up on this with your team (Esther?) as they could potentially be useful for local government.
9. I'm on the same page about guidance documents – useful and necessary tools but on their own, do not effect the change required. This is consistent with my advice to our Ministers on options for better supporting local government and iwi.
10. As mentioned yesterday, I suggest drawing out the reason why engagement matters, and painting a picture of what can be achieved for New Zealanders when we do get this right. What's the value proposition not just for central government and iwi, but for the regions and our communities? What's the opportunity? It needs to be a persuasive piece.
11. Please add DIA to the list of departments that have been consulted, ta.

Just finally, I'm facilitating a hui today with TPK, CMR (Rewi), MfE and the PSU to share information about all of the work being done in our silos in the local government/Maori space. As I understand it, Rewi has been tasked with identifying models of engagement/best practice. Our Ministers have expressed interest in identifying these, diagnosing why the work or not, what they achieve and finding more opportunities/platforms for these to be shared. I suspect MfE is also interested in this, so there's an opportunity to work together on this.

Warm regards,
Justine

Justine Smith | Partnerships Director
Central Local Government Partnerships Group
Department of Internal Affairs Te Tari Taiwhenua
Ph | 027 282 9976

Auckland Policy Office, Tower Centre, Level 6, 45 Queen Street, Auckland 1143 | PO Box 106-483, Auckland 1143, New Zealand | www.dia.govt.nz



Te Tari Taiwhenua
Internal Affairs

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 7:02 PM
To: Justine Smith; Jane Fletcher; Helen Wyn
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DIA]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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- (2) do not act on this email in any other way.

Thank you.

Document 5

From: Neil Deans <ndeans@doc.govt.nz>
Sent: Thursday, July 26, 2018 2:59 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Chris Nees <cnees@doc.govt.nz>; Peter Brunt <pbrunt@doc.govt.nz>; John Arathimos <jarathimos@doc.govt.nz>; Bronwyn Barnard <BBarnard@doc.govt.nz>; Tim Bamford <tbamford@doc.govt.nz>; Mervyn English <menglish@doc.govt.nz>; Bruce Parkes <bparkes@doc.govt.nz>; Tata Lawton <tlawton@doc.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DOC]

Thank you Patrick

The Department of Conservation supports the paper, particularly the forward-looking focus, long term view and integration of the Crown-Māori partnership in a separate agency. A copy of the paper is attached, with a few corrections and comments in track changes.

Some suggestions include that:

- There could be a direction to Crown agencies to look at how they can form better relationships with Māori and report to the new agency on what they're doing;
- Agencies could be asked to interrogate their legislation and suggest legislative proposals that to assist the Crown-Māori relationship (eg over decision-making delegations in the Conservation Act; see comment below).
- Effectiveness of Treaty settlement redress could be reviewed.

The paper does raise a number of operational questions, however, including the following:

- What is the role of the proposed new agency in relation to other existing Crown agencies?
- What is the process to integrate Crown responses and engagement across agencies, particularly in determining which are national or 'hard' issues, or matters of importance (para 25.4) and how can these be made more consistent?
- What is proposed to be the usual Crown approach towards national engagement on issues; will these need to be run past the new agency before they occur and potentially joined up (para 39.4.1)?
- Could the reference to the relative independence of the Minister being akin to the role of that of the Attorney-General be clarified as to how that relates to other Ministerial or agency functions?
- To what extent would the partnership benefit from increasing Māori capacity/capability?

On the Crown Engagement with Māori Appendix 4 there is a typo on the right hand side section 3 How to Engage under 'Involve' of the word 'decision'. On this section, we ask whether in the 'collaborate/co-design' area there should be reference to the nature of the Māori role in decision-making, given for the 'empower' category it is acknowledged as Māori deciding. The issue of who decides is a significant issue for DOC in that there is sometimes tension between Māori aspirations in decision-making and the extent of statutory delegations to make decisions. Such issues are key considerations to be worked through in the partnership, with questions of accountability and what are administrative or political decisions being crucial. In some cases the ability to enable

collaboration or co-design may be restricted due to legislative constraints. Such issues are shortly being traversed in the Supreme Court in the Ngāi Tai concessions case.

While the paper emphasises the importance of implementation of commitments the engagement guidelines in the attachments make little reference to the settlement commitments side. For example the first attachment “Crown engagement with Maori” does not even mention treaty settlements and commitments and the second attachment (“Engagement Guidelines”) only mentions it as below the text of which focuses on identifying the relevant iwi authority (as opposed to Post Settlement Governance Entity?) for redress issues rather than the fact there may be legally binding commitments which might be the more important message:

- any additional or specific requirements under Treaty of Waitangi settlements. This should include a plan to identify who the relevant iwi authorities are and, once identified, should consider their capacity to be able to consult and the different timeframes for agreement/approval by the relevant iwi authorities

DOC may be able to provide some examples of current engagement to inform the proposed partnership case studies, given its acknowledged s 4 Conservation Act role to give effect to the Treaty principles. A particular area of interest may be DOC’s Te Pukenga Atawhai training programme to better equip staff culturally with a marae-based approach.

Please contact me if you have further questions or need clarification.

Regards

Neil Deans
Principal Advisor
Department of Conservation—*Te Papa Atawhai*
Level 2, Desk 2.37, Conservation House, Wellington 6143
027 4394 381
www.doc.govt.nz

Conservation leadership for our nature
Tākina te hī, tiakina te hā, o te ao tūroa

From: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Sent: Thursday, 19 July 2018 7:01 p.m.
To: Chris Nees <cnees@doc.govt.nz>; Peter Brunt <pbrunt@doc.govt.nz>; John Arathimos <jarathimos@doc.govt.nz>; Neil Deans <ndeans@doc.govt.nz>; Bronwyn Barnard <BBarnard@doc.govt.nz>; Tim Bamford <tbamford@doc.govt.nz>; Mervyn English <menglish@doc.govt.nz>; Bruce Parkes <bparkes@doc.govt.nz>; Tata Lawton <tlawton@doc.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DOC]

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Ngā mihi,
Patrick Southee
+64 22 466 9290

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Office of the Minister for Crown/Māori Relations
Chair, Cabinet Crown/Māori Relations Committee

Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines

Proposal

1. This paper outlines public feedback on the scope of the Crown/Māori Relations portfolio (the portfolio) and seeks Cabinet approval for:
 - 1.1 me to seek agreement from the Prime Minister of the proposed final scope of the portfolio; and
 - 1.2 the overall Crown/Māori engagement framework (including the Crown's intent for, and values to underpin, the relationship and guidelines to help government engagement with Māori).

Executive Summary

2. [To come]

Background

Establishment and initial scope of Crown/Māori Relations portfolio

3. The establishment of the portfolio indicates a desire from this government to focus on the opportunities that settling claims makes possible. This requires us to look at ways to demonstrate a true and practical partnership is possible beyond the Treaty settlement negotiating table. It signals a need for the Crown and Māori to move forward together.ⁱ
4. In March 2018 I advised Cabinet of the responsibilities and priority areas in the *initial* scope of the portfolio.
5. The responsibilities were to:
 - 5.1 look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - 5.2 build the Crown's understanding and honouring of its Treaty obligations;
 - 5.3 increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - 5.4 ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - 5.5 provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship.
6. The initial scope included another responsibility – “identify and drive projects which enhance partnership between the Crown and Māori which are outside the scope of other Ministers’

portfolios". Upon further consideration, and following the engagement process I consider that the priority area set out in paragraph [5.1] above sufficiently covers the intent of that responsibility so I propose to remove it from the final scope.

7. The priority areas were:

- 7.1 'Take the lead on resetting Crown/Māori relationships on hard issues'; Commented [ND1]: How are 'hard issues' defined? Who determines when something crosses this threshold?
- 7.2 'Find opportunities for active partnerships between the Crown and Māori';
- 7.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability'; Commented [ND2]: Can you advise the process to determine this health, or is this yet to be determined?
- 7.4 'Help government to better engage with Māori on matters of importance';
- 7.5 'Lift public sector performance to better respond to Māori issues'; and
- 7.6 'Improve the Crown's responses to contemporary Treaty issues'.

Interim guidance for Ministers and the public sector on engagement with Māori

- 8. In March Cabinet agreed guidance for use by government in engaging with Māori prior to the completion of a Crown/Māori Engagement Framework (the **interim guidance**). Key parts of the interim guidance were:
 - 8.1 strong active partnership with Māori in the design and implementation of the process and outcomes is required where the impact of the issue or proposal will be significant for Māori;
 - 8.2 engagement should be broad and include discussions with relevant national Māori organisations where there are issues of national significance; and Commented [ND3]: How does the Crown collectively remain mutually informed about and decide on what are issues of national significance? What is the process to so engage? There is later reference in one of the appendices that it is nationally significant if it affects all Māori in Aotearoa. Many of the issues we deal with are in this category.
 - 8.3 engagement should be undertaken through existing iwi regional fora or with affected iwi/hapū and/or regional/local based Māori organisations where there are issues of regional or local significance.
- 9. In March I also informed cabinet that I would engage with Māori to discuss the initial scope and priorities before I reported back to Cabinet.

Comment

- 10. The comment section is structured in the following way;
 - 10.1 sub-section one outlines the engagement process and some of the feedback I received on the portfolio (and other portfolios);
 - 10.2 sub-section two sets out my vision for the Crown/Māori relationship;
 - 10.3 sub-section three seeks confirmation of the priority areas and final scope of my portfolio;
 - 10.4 sub-section four sets out decisions I seek from Cabinet on new elements of the portfolio and scope that were not in the initial scope; and
 - 10.5 sub-section five contains the overall Crown/Māori engagement framework that I seek approval for.

Sub-section One: The engagement process

11. When I became the Minister for Crown/Māori Relations, I didn't want to repeat the mistakes of the past. Those mistakes included instances where governments decided they knew what was best for Māori, sat in Wellington and wrote up a strategy, then went out to whānau, hapū and iwi and told them what the government had decided will be in their best interests. That approach doesn't work. Instead I took the time to go around the country and ask what we needed to do to strengthen the relationship and what my priorities as Minister should be.
12. I sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May. I held 32 hui attended by over 1600 people and received around 230 submissions. I completed the engagement process with a whole day wānanga held at Parliament with a selection of twelve people who had attended the hui or made a submission.
13. Submissions were made by individuals, groups and organisations, by Māori and non-Māori, by people who supported the portfolio and by people who did notⁱⁱ.
14. When I started the engagement process I expected to hear people say they didn't see the value in a closer Crown/Māori relationship, or that we need a separate Māori Parliament. Instead, the overwhelming feedback has been that New Zealanders do value the Crown/Māori relationship but that it needs to be a real partnership and for us to achieve that requires the government to up its game in a number of areas.

What people told me

15. People used the engagement process to tell me about a range of things of interest to them but also to provide views on the questions I asked specifically about whether my initial priority areas were right.
16. I received a range of suggestions about what my priorities should be in this portfolio. I have categorised feedback from the engagement process as follows:
 - 16.1 suggestions about the name of the portfolio and its placement within the public service, including:
 - 16.1.1 proper resourcing, namingⁱⁱⁱ and placement of, the portfolio within the public service^{iv};
 - 16.1.2 being clear about the difference between the portfolio and the Māori Development portfolio^v;
 - 16.1.3 that specific legislation^{vi} or a separate government agency^{vii} be set up to support Crown/Māori Relations;
 - 16.2 the priorities in the initial scope of the portfolio, including:
 - 16.2.1 the portfolio should take a long-term (15-20 year) view of the relationship^{viii};
 - 16.2.2 that I should co-develop a modern day forward looking Treaty based framework that will guide the Crown/Māori relationship^{ix};

*Tautoko the recognition that
Crown/Māori Relations need
strengthening
(Whangarei hui, 8 April)*

Commented [ND4]: While this is a personal statement, this may not reflect successes where these have happened. Would it be helpful to also acknowledge some successes? Good examples are mentioned in para 25.2.

16.2.3 that I must find ways for Māori ethics on good relations to determine all Crown relations with Māori^x

16.3 other priorities that were not in the initial scope of the portfolio, including:

- 16.3.1 that the portfolio needs a mandated monitoring role if it is to be effective^{xi};
- 16.3.2 considering how we shape the New Zealand constitution going forward as it is a core issue that underpins better relationships between the Crown and Māori^{xii}; and

16.4 issues relating to other Ministers portfolios, including:

- 16.4.1 Local Government – concerns were expressed about the lack of Māori representation and ability for Māori to be decision-makers in local government issues and access to local government being difficult and having nowhere left to go if local government don't cooperate^{xiii};
- 16.4.2 Education – people thought work should be done to address unconscious bias from teachers^{xiv} and ensure that New Zealand history and te reo Māori are core components of the curriculum^{xv};
- 16.4.3 Health – people thought money should be invested in prevention services rather than the district health boards and district health boards should have more Māori representation^{xvi}; and
- 16.4.4 Environment - People supported environmental issues remaining a priority for government and that Māori are at the forefront of seeking sustainable management practices and environmental protection but are under-resourced and under-credited when engaging with officials^{xvii}.

17. A summary of the issues raised most often and what people told me through the engagement process, using quotes from submitters, is attached as **Appendix One**.

18. I have written to relevant Ministers about issues that were raised in relation to their portfolios. A table outlining broadly what I advised Ministers of is attached as **Appendix Two**.

19. I was encouraged that our instincts about what the portfolio should do and focus on (as set out in my March paper) were largely in line with what I heard in the engagement process. That process, by and large, endorsed the priority areas in the initial scope of the portfolio.

"[The priority areas under the initial scope] are some good fundamentals of how to connect with Māori"

(online submission 6, para 1075)

20. Suggestions about other areas the portfolio could focus on warranted serious consideration; in deciding what to recommend as priority workstreams in the final scope of the portfolio I have not accepted all the feedback but arrived at what I consider to be ambitious, but achievable goals to strengthen the Crown/Māori relationship.

Sub-section Two: My vision

21. Through the engagement process Māori set a challenge for this portfolio – to be bold and to be brave^{xviii}. People reminded me that I need to ensure that we are not just focussed on transactional issues, that we need to be aspirational too^{xix}. I agree with hui attendees who told

me we need to change the kōrero from ‘what Māori cost the country’ to ‘what value add can be achieved by appropriately partnering with Māori’^{xx}. I want more from this portfolio than words and promises^{xxi} and people told me they did too^{xxii}.

22. In the concluding chapters of the report on the Wai 262 claim, Justice Joe Williams articulated the challenge facing the nation:

“[We] should shift our view of the Treaty from that of a breached contract, which can be repaired in the moment, to that of an exchange of solemn promises made about our ongoing relationships. It is the historical settlement process itself that allows us to shift our attention in this way from the past to the future... After decades of profound social and political change, and a generation long focus on the resolution of past grievances, we are now ready to enter a new stage in the relationship.

While the Treaty makes it a constitutional responsibility to adjust the Crown–Māori relationship, even without the Treaty the country would have a social and political responsibility to do so.

Some New Zealanders are uneasy about these ideas because they require us to jettison some long-held assumptions about who and what we are... History and the future both demand that we make the leap to acceptance of Māori culture and identity as a founding pillar of our national project. This is not just a matter of justice (though it is that, of course). Demographics, economics, and geo-politics suggest it is now a matter of necessity.”^{xxiii}

23. I told hui participants that I am looking at 2040 and trying to work out where we want to be as a nation. While keen to conclude historical Treaty settlements, this government is looking beyond Treaty settlement negotiations. We need to shift the relationship from one focussed on historical grievance to one focussed on true partnership^{xxiv}. Achieving this change requires decisive and active leadership – we cannot assume the renewed relationship established by Treaty settlements will continue to flourish if nobody drives that to happen^{xxv}.

24. My vision is to realise the true promise of the Treaty, and Treaty settlements, for all New Zealanders ahead of the 200-year anniversary of its signing in 2040. The vision draws from the promises of the protection of rights, interests, resources and equality for all New Zealanders.

Sub-section Three: Confirm priority areas under initial scope in final scope

25. In light of the feedback I have received at hui and through submissions I seek Cabinet agreement that the following priority workstreams, with minor changes to those approved under the initial scope of the portfolio in March, be confirmed in the final scope I will propose to the Prime Minister:

- 25.1 take the lead on resetting Crown/Māori relationships on hard issues;
- 25.2 find opportunities for active partnerships between the Crown and Māori. To do this I will examine existing partnership models that are working to understand why they are successful so that their success might be replicated;
- 25.3 measure the health of the Crown/Māori relationship over time to drive accountability;
- 25.4 help government to better engage with Māori on matters of importance;
- 25.5 support Māori capability and capacity to deal with government;

- 25.6 lift public sector performance to better respond to Māori issues; and
- 25.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues.

26. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

27. I acknowledge the review of the State Sector Act 1988 the Minister for State Services is leading. This will go some way to addressing a theme that emerged from the Crown/Māori Relations engagement hui that greater accountability is required to ensure Ministers and public sector chief executives and their departments deliver results^{xxvi}.

Sub-section Four: Decisions sought on new things from Cabinet

Name of portfolio

- 28. I propose changing the name of the portfolio to 'Crown/Māori Partnership'.
- 29. This proposal is consistent with feedback I received about the relationship envisaged by the Treaty being a partnership^{xxvii} and the priority outcome assigned to the Cabinet Crown/Māori Relations Committee to 'build closer partnerships with Māori'. The Committee has been asked to have initial oversight for all of the programmes, initiatives and projects within that priority outcome.
- 30. I received a number of suggestions for an alternative name for the portfolio – 'Crown/Tangata Whenua Relations'^{xxviii}, 'Iwi, Māori/Crown Relations'^{xxix}, 'Minister of Te Tiriti Crown Māori Partnership'^{xxx} or Minister for Crown Reconciliation^{xxxi}.
- 31. I propose that as Minister I should act in the interests of the Crown/Māori relationship or partnership. I do not consider my role should be one of advocacy on behalf of either partner in the relationship – this will require a level of independence most other Ministers are not required to have.
- 32. I propose my role have a similar level of independence as the Attorney-General. In describing the role of Attorney-General Hon Sir Michael Cullen said that it "uniquely combines the obligation to act on some matters independently, free of political considerations, with the political partisanship that is associated with other Ministerial office. My fundamental responsibility, when acting as Attorney, is to act in the public interest".
- 33. I seek Cabinet agreement that, when acting as Minister for Crown/Māori Partnership, my responsibility is to act in the interests of the Crown/Māori relationship.

"The very name Crown/Māori Relations is not reflective of that partnership and does not acknowledge our constitutional framework underpinned by Te Tiriti"

(Submission #Q65)

A new standalone agency

WHAT PEOPLE TOLD ME ABOUT THE NEED FOR A NEW AGENCY

- 34. People across the country discussed the placement of the portfolio within the public service and the support it receives^{xxxii}. Some people thought the unit supporting the portfolio should not sit within the Ministry of Justice^{xxxiii} and said confining discussions within a Ministry of Justice lens is limiting^{xxxiv}. One suggestion was that the portfolio should sit within the

Department of Prime Minister and Cabinet, with secondary support from Te Puni Kōkiri^{xxxv}. I received strong feedback that the portfolio needs its own agency^{xxxvi}; many people were convinced that giving the Crown/Māori partnership proper standing requires it to have mana. People expressed concerns about whether the intent of the portfolio can transform the way central and local government operate. It cannot achieve that if it is hidden within a large government department.

35. Other submitters assumed a separate Ministry had already been established^{xxxvii} and had suggestions for how it could lead government agencies in better understanding of and providing for the relationships of Māori with whenua and resources^{xxxviii}. People were concerned that the portfolio should be properly resourced^{xxxix}.

WHAT WOULD A NEW AGENCY DO?

36. I consider there is a gap in the public sector framework for the type of agency and service this portfolio should provide. I further consider that such an agency should be a central agency.

37. A new central agency is essential, in my view, to achieve the authority to effect the change we need to see in the relationship if we are going to realise the benefits of it. Achieving the change we seek is not a three-year job. Making the change to the system required under each of the priority areas requires the status and capability of a central agency.

38. I propose that the new agency house the Crown/Māori Relations Unit, the Post-Settlement Commitments Unit (**PSCU**) and the Office of Treaty Settlements (**OTS**) – all currently placed within the Ministry of Justice. PSCU is responsible for safeguarding the durability of historical Treaty settlements – I consider this a key responsibility of my portfolio. There would be no change to the functions of OTS and PSCU but as Treaty settlements wind up it would allow the expertise gained in Treaty settlements over the years to be carried through to the agency supporting the renewed relationship.

39. In addition, a new central agency would undertake the following work on the priority areas of the portfolio:

39.1 'Take the lead on resetting Crown/Māori relationships on hard issues':

39.1.1 Continuing the work we have been doing to reset the relationship on issues this government inherited where the Crown/Māori relationship had reached an impasse;

39.1.2 the key 'hard issues' I have been working with Ministers on to date are: discussions to resolve issues raised in the Kōhanga Reo National Trust Treaty claim; addressing concerns around the proposal to establish an ocean sanctuary around the Kermadecs/Rangitāhua Islands; establishing a path ahead for water discussions; and protecting Māori interests in the establishment of the Urban Development Authority;

39.2 'Find opportunities for active partnerships between the Crown and Māori'.

39.2.1 In order to seek new opportunities for active partnerships I will develop a project scope and plan to:

39.2.1.1 undertake a scan across government to identify and develop Crown/Māori partnership examples across the economic, cultural, social and environment sectors; and

39.2.1.2 identify and document broad principles for partnership development that can be shared across the public sector.

39.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability':

Commented [PB5]: Is this changing to partnership?

39.3.1 The Committee is familiar with the work produced to date under this workstream. We are creating a set of relationship indicators which measure the maturity and performance of the Crown/Māori partnership. The indicators could focus on how the overall relationship is working and the generic mechanisms for achieving results, rather than the results themselves.

39.4 'Help government to better engage with Māori on matters of importance'.

39.4.1 The engagement framework discussed further in paragraphs [55-69] is an important element of the work under this priority workstream. The new agency will have an ongoing role in providing assurance over proposed engagement plans of other agencies and evaluating whether engagement is effective.

39.5 'Lift public sector performance to better respond to Māori issues'.

39.5.1 This workstream intends to improve public sector capability in responding to Māori issues, including improving the:

- 39.5.1.1 understanding of the value of a strong Crown/Māori relationship and the potential contribution of Māori in the delivering better results for Māori and New Zealand;
- 39.5.1.2 understanding of Māori perspectives and Treaty issues and their incorporation in policy and frontline service delivery;
- 39.5.1.3 awareness of different aspirations and world views among whānau, hapū, iwi and Māori when considering policy development and implementation;
- 39.5.1.4 staff cultural competency, including capability in reo and tikanga to engage with Māori appropriately, and the recognition and acknowledgement of these competencies in agencies' workforces; and
- 39.5.1.5 awareness of Treaty settlement commitments;

39.6 'Improve the Crown's responses to contemporary Treaty issues'.

39.6.1 As we work towards completing historical settlements, we need to look at the way we deal with contemporary issues and Waitangi Tribunal kaupapa inquiries. I believe we need to show more leadership in this area and part of our initial work will look at establishing guidelines to ensure we take an open and modern approach to ensuring policy and practices are consistent with the Treaty and effective for Māori¹⁴.

Commented [PB6]: This will need resourcing to perform this role; ensuring advice is based on credible linkages and experience; and that there is a framework to guide the level of engagement required and the appropriate methods.

WHY AN EXISTING AGENCY CANNOT DO THIS?

40. I have arrived at my decision to seek your support for a new standalone agency having considered whether the functions I propose should be carried out by an existing agency; I conclude that they should not.
41. Agencies people have suggested could carry out this function – the Department of Prime Minister and Cabinet, Te Puni Kōkiri or the Ministry of Justice (where the Crown/Māori Relations Unit currently resides) – conduct their work admirably. Giving the vision and functions of the portfolio the mana they deserve will be difficult to achieve if the support I receive from the public service is buried as an adjunct in a large agency.
42. Having this work carried out by the Ministry of Justice is not ideal for several reasons. The continued association of Māori and “Māori issues” with the justice system blurs the understanding and status of the new portfolio. Many Māori who made submissions on the portfolio expressed concerns or objections to this association^{xli}. Retaining the proposed functions within the Ministry of Justice would challenge my ability to achieve the “cut through” we need to elevate the relationship. It would be more difficult to influence the transformative change I seek if the agency supporting me is a peer agency to all others and not a central agency.
43. Te Puni Kōkiri leads Māori Public Policy, advises on policy affecting Māori wellbeing and monitors policy and legislation. These are important functions focussed on advocating for Māori and supporting Māori capability but they are crucially different to the role I propose of acting in the interests of the relationship. In addition, transferring the functions I propose to Te Puni Kōkiri would unnecessarily overcomplicate their job and require time to restructure that we do not have to waste.
44. I therefore seek Cabinet agreement to the establishment of a new standalone agency for Crown/Māori Partnership with the final make up to be agreed between myself and the Minister for State Services, the Minister of Justice and the Minister for Treaty of Waitangi Negotiations.

Other institutional arrangements

45. I propose an additional workstream called ‘Develop the scope of a conversation about institutional arrangements’.

46. If my proposal that we establish a new central agency is agreed by Cabinet then an element of this workstream will have been achieved. A revived conversation about other institutional arrangements supporting the Crown/Māori partnership can and should take place on a longer timeframe.

47. On the issue of the constitution people said the current constitutional status of Te Tiriti is unsatisfactory^{xliii} and that “constitutional reform would strengthen the Crown/Māori relationship and provide the foundation for the consistent application of policy to support the Crown in meeting its obligations”^{xliii}.

48. People told me it is important to include Pākehā in the Crown/Māori partnership^{xliv} and that focussing on weaving stronger connections between Pākehā and Māori would create greater tolerance and understanding^{xlv}.

49. This is an issue governments have skirted around for generations and about which a lot of thinking has been done. I do not think it would serve the citizens of New Zealand well to try to jump to a solution on this quickly nor is that solution to immediately ‘embed’ the Treaty as our constitution. Whatever the level of knowledge about it, the constitution fundamentally affects the lives of every New Zealander. I am keen to look at some of the less controversial steps towards change.

50. Issues that should be covered by further work on this kaupapa include Treaty clauses in legislation, potentially establishing a Treaty commissioner and examining the future role of the Waitangi Tribunal as historical Treaty settlements draw to a close over the next few years.

“The most important priority to ensure a peaceful and productive future for all new Zealanders is to progress the discussion – and move towards – Treaty-based constitutional arrangements”
(Submission #R26)

Coordinating significant Crown/Māori Events

51. I have received overwhelmingly positive feedback on how ‘Waitangi Week’ was conducted this year. I was told that it is very positive for Ministers to spend quality time engaging with Māori across a much wider spectrum and that it needs to continue^{xvi}.

52. Cabinet approval of this workstream will mandate this portfolio to oversee the organisation of significant Crown/Māori events, of which we have several upcoming, including:

52.1 Ratana 100th Anniversary (November 2018); and

52.2 Waitangi 2019 (February 2019).

Conclusion

53. I seek Cabinet agreement that the following priority workstreams be added to the final scope I propose to the Prime Minister:

53.1 develop the scope of, and timing for, a conversation about the institutional arrangements supporting the Crown/Māori partnership; and

53.2 coordinating significant Crown/Māori events.

54. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

Sub-section Five: "Getting the relationship right requires the Crown to be consistent"^{xvii} (Engagement Framework)

55. In March I told Cabinet that we needed to establish a framework, underpinned by a statement of the Crown's intent for the Crown/Māori relationship and a set of values, to guide Ministers and public sector agencies engagement with Māori.

56. People told me existing frameworks "challenge our ability to assert our Rangatiratanga and the Crown's ability, to work with us, to fulfil [its] responsibilities under Te Tiriti legislation, and our Deed of Settlement"^{xviii}. They also told me that "part of getting the relationship right is ensuring consistency by the Crown, in all its faces, with Māori"^{xix}. Māori very strongly feel that they are "not just another ethnic minority"ⁱⁱ; the unique status of Māori as tangata whenuaⁱⁱ and as signatories to the Treaty must be reflected in how the Government engages with Māori.

57. It is vital that the engagement framework is of practical use to agencies. Government has thought about how it engages with Māori before. There has been no shortage of guidance documents produced over the years that have had the good intention of guiding best practice in engaging with Māori. None of them, however, have produced the desired effect across the public sector.

58. **Appendix Four** is the proposed engagement framework.

59. The framework builds on the interim engagement approach approved by Cabinet in March, and has been developed following a review of a range of literature and previously developed work.ⁱⁱ What is notably different about this framework is that it has been materially informed by reviewing the current landscape as well as -what I heard from the people throughout my national Crown/Māori Relations engagement. The roadshow and submission feedback provided me with insight into a number of areas where intentional improvements could strengthen Crown/Māori engagement and partnerships.

60. I have been told about the lack of capability in the public sector in Māori engagementⁱⁱⁱⁱ, institutional racism^{liv} and unconscious bias^{lv}. People told me there is a need for a sea change in the way the public service engages with Māori^{vi}.

61. I want public servants to have tools that will help them do a better job of engaging with Māori. Government processes, and outcomes for all New Zealanders, will be improved with a more capable public sector. The engagement framework has been designed with its intended users in mind.

62. An aspect of public sector engagement with Māori that clearly came through what people were telling me was that the engagement needs to be flexible^{vii} and "fit for purpose". Deciding what engagement is appropriate on a particular issue must be guided by the key questions about what is the issue, what is the impact on Māori and who among Māoridom should be engaged. People told me there need to be opportunities for hapū engagement on matters relevant to hapū^{viii}.

63. Engagement cannot be an afterthought or a "tick-the-box" exercise. People told me that embedding policies that prescribe engagement at the beginning of any initiative will ensure full involvement rather than retrospective involvement^{ix}.

64. Since Cabinet approved the interim engagement approach in March, my officials have been reviewing agencies' engagement approaches to ensure the principles of effective engagement have been applied and the processes are broad and inclusive. It is my intention that my officials will continue to provide an assurance role and develop an evaluation process to understand if the framework is assisting to produce effective engagement with Māori. My officials will also provide further targeted advice, tools and support to assist agencies. Te Puni Kōkiri are also playing a complementary role in reviewing some engagement strategies with a particular focus on implementation within the regions.

Guidelines for agency use in engaging with Māori

65. The guidelines to accompany the engagement framework are attached as [Appendix Five](#).

66. Engagement with Māori needs to be based on developing effective working and ongoing relationships. These relationships are based on positive experiences, trust and confidence. An effective, efficient and inclusive engagement process should reflect how Māori perspectives and cultural values have been included. Throughout the development of their engagement processes agencies should be guided by the following principles: engage early, be inclusive, think broadly¹⁸².

67. The guidelines attempt to provide departments with immediate, practicable and implementable advice on how to engage with Māori. We recognise in some instances further detail or context will be developed to assist departments in applying the guidelines - for example greater clarification on the "who" and the "how" of engagement or what is meant by open-ended terms like "audience" and "impact".

68. Officials from the Crown/Māori Relations Unit will continue to provide an assurance role and develop an evaluation process to continue efforts to support effective engagement with Māori. This will include developing tools and other supporting material to enhance both the framework and guidelines, exemplar material (what good looks like), usable process maps for key tasks and engagement tools (e.g. application of the impact tool specific to different context and environmental conditions).

69. The engagement framework and guidelines are available for immediate use. They are intended to be living documents which may be revised over time to align with developing best practice.

How does the Iwi Chairs Forum fit within the framework?

70. I expect people to ask how the Iwi Chairs Forum fits within the new engagement framework. You can see from the engagement framework that depending on what the issue is and its impact on Māori it may be entirely appropriate to consult the Iwi Leaders Forum on matters.

71. As many Māori reminded me across the country, however, the Crown's responsibilities are to all Māori, not just iwi leaders¹⁸³. The engagement framework has been crafted to assist agencies to decide if and when the expertise represented by the Iwi Leaders Forum is appropriate to include in an engagement process.

"The Crown's responsibilities are to all Māori, not just iwi leaders."
(Waitara hui, 5 May)

Consultation

72. [The following departments were consulted on this paper: State Services Commission, The Treasury, Te Puni Kōkiri, the Crown Law Office, Ministry for the Environment, Oranga

Commented [PB7]: In support of the framework, the added value of this agency could benefit from considering the following question. It is recommended that this agency takes the lead in providing this information to agencies during the review process envisaged:

- Has the government engaged recently on this, or any other issues, with this Maori group and what was the result?

Tamariki, Ministry for Business, Innovation and Employment, Ministry for Culture and Heritage, Ministry of Health, Ministry for Primary Industries, Department of Conservation, New Zealand Police, Ministry for Social Development, Ministry of Education, Land Information New Zealand, Statistics New Zealand and the Social Investment Agency. The Department of the Prime Minister and Cabinet was informed.]

Financial Implications

Crown/Māori Relations Appropriation

73. [Discuss impact of standalone agency and options for either a new Vote or a new appropriation.]

Human Rights

74. No human rights implications arise as a result of this paper.

Legislative Implications

75. This paper has no legislative implications.

Regulatory Impact Analysis

76. []

Publicity

77. If Cabinet agrees to the recommendations in this paper, and the Prime Minister approves the final scope of the portfolio, I intend to publish this paper on the Ministry of Justice website. I want the people who made submissions and attended the hui to be able to see for themselves that I have listened to their feedback.

78. I propose that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference.

Next steps

79. Following Cabinet consideration of this paper I will write to the Prime Minister seeking approval for final scope of my portfolio.

80. Table One below sets out the next steps for each of the priority workstreams that were in the initial scope of the portfolio and that I propose be confirmed in the final scope.

Table One: Next steps for priority workstreams

Priority workstream	Intended next steps
Reset relations on hard issues	<ul style="list-style-type: none">Continue scanning the Crown/Māori environment for 'hard issues'
Overview, Data and Indicators	<ul style="list-style-type: none">Report back to Cabinet Crown/Māori Relations Committee on Indicators in November 2018
Public sector capability	<ul style="list-style-type: none">Develop and test prototype cultural capability module with agencies over August and September 2018Report back to Cabinet on approach to public sector capability (with the Minister for State Services and the Minister for Māori Development) in November 2018

Priority workstream	Intended next steps
Partnership/co-design	<ul style="list-style-type: none"> Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and November 2018. Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. Report back to Committee on prototype guidance in November 2018 Paper on Kōhanga Reo discussions in September/November 2018
Support Māori capability and capacity to deal with government	<ul style="list-style-type: none"> [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> Report back to Committee proposing a work programme for a conversation about institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> Action as required ahead of major events

Recommendations

81. The Minister for Crown/Māori Relations recommends that the Committee:

- note that Cabinet approved the responsibilities and priority areas of the initial scope of the Crown/Māori Relations portfolio in March 2018 [CAB-18-MIN-0078 Minute];
- note that the Minister for Crown/Māori sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May 2018;

Final scope of the Crown/Māori Relations portfolio

- agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the responsibilities of the Minister for Crown/Māori Relations under the final scope of the Crown/Māori Relations portfolio be to:
 - look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - build the Crown's understanding and honouring of its Treaty obligations;
 - increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship;

4. agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the priority workstreams of the Minister for Crown/Māori Relations portfolio in 2017/18 under the final scope of the Crown/Māori Relations portfolio be to:

- 4.1 take the lead on resetting Crown/Māori relationships on hard issues;
- 4.2 find opportunities for active partnerships between the Crown and Māori;
- 4.3 measure the health of the Crown/Māori relationship over time to drive accountability;
- 4.4 help government to better engage with Māori on matters of importance;
- 4.5 support Māori capability and capacity to deal with government;
- 4.6 lift public sector performance to better respond to Māori issues;
- 4.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues;
- 4.8 develop the scope of, and timing for, a conversation about the institutional arrangements underpinning the Crown/Māori relationship; and
- 4.9 coordinate significant Crown/Māori events.

Portfolio name and standalone agency

5. agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister to change the name of the portfolio from 'Crown/Māori Relations' to 'Crown/Māori Partnership';
6. agree that the Minister for Crown/Māori Partnership's responsibility is to act in the interests of the Crown/Māori relationship;
7. agree to the establishment of a new standalone agency for Crown/Māori Relations with the final make up to be agreed between the Minister for Crown/Māori Relations, the Minister for State Services, the Minister of Justice and the Minister for Treaty of Waitangi Negotiations;

Next steps for each priority workstream

8. note that, subject to Cabinet approval of the final scope of the portfolio, I will undertake the further work outlined in the table below for each of the priority workstreams;

Priority workstream	Next steps
Reset relations on hard issues	<ul style="list-style-type: none"> • Continue scanning the Crown/Māori environment for 'hard issues'
Overview, Data and Indicators	<ul style="list-style-type: none"> • Report back to Cabinet Crown/Māori Relations Committee on Indicators in November -2018
Public sector capability	<ul style="list-style-type: none"> • Develop and test prototype cultural capability module with agencies over August and September 2018

DRAFT FOR AGENCY CONSULTATION ONLY

	<ul style="list-style-type: none"> Report back to Cabinet on approach to public sector capability (with the Minister for State Services the Minister for Māori Development) in November 2018
Partnership/co-design	<ul style="list-style-type: none"> Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and November 2018. Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. Report back to Committee on prototype guidance in November 2018 Paper on Kōhanga Reo discussions in September/November 2018
Support Māori capability and capacity to deal with government	<ul style="list-style-type: none"> [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> Report back to Committee proposing a work programme for a conversation about institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> Action as required ahead of major events

Crown/Māori Engagement Framework

9. note that the engagement framework and guidelines build on the interim engagement approach approved by Cabinet in March and are intended to provide practical advice on how to engage with Māori;
10. agree that the engagement framework and guidelines are available for immediate use;
11. agree that officials from the Crown/Māori Relations Unit will continue to provide an assurance role, develop an evaluation process and provide further targeted advice, tools and support to assist Government to better engage with Māori on matters of importance;
12. agree that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference.

Appropriation

13. [potentially decision on new appropriation or a separate Vote]

Authorised for lodgement

Hon Kelvin Davis
Minister for Crown/Māori Relations

Appendix One: High-level summary of all feedback (from submissions and hui) PROTOTYPE – TO BE UPDATED

Crown/Māori Relations Portfolio submission comments

June 2018

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Comments received from: Individuals Organisations OTHER

“Despite it being a statutory obligation for Crown and local government entities to engage, support and consult with Māori, the process itself is just a box-ticking exercise. THE CRUCIAL ELEMENT OF THE TREATY RELATIONSHIP CONCERNs GOVERNANCE AND CO-GOVERNANCE BETWEEN THE CROWN AND IWI, HAPU AND WHĀNAU - BETWEEN KAWANATANGA AND RANGATIRATANGA. The relationships first and foremost should be place-based and values-based. Inequitable and demand-driven engagement practices - engaging with non-mandated individuals. SOMETHING I FIND HUGELY UPSETTING IS THE EXTENT TO WHICH THE PUBLIC SERVICE RELIES ON MĀORI TO FILL CULTURAL CAPABILITY GAPS (E.G. DIAL A MIHI ETC). CEOs of public service departments need ongoing targeted training (to be prioritised over public servants and including history). Ideally they would attend noho marae. There should be detailed guidance for departments on what they should offer in terms of cultural capability training. The Treaty relationship is between hapu and the Crown, and that therefore must be the primary relationship on the national level. Crown [needs] to co-invest with us, in building our capability and capacity to proactively and constructively engage.

Marae visits are a wonderful way to break down these barriers too and reduce the 'us and them' feeling. IF EVERY CHILD GETS TAUGHT MĀORI FROM A YOUNG AGE THEY WILL GROW UP BEING OPEN TO, AND UNDERSTANDING, TE AO MĀORI A LOT MORE. The first step here is to increase the numbers of qualified teachers, in order to be able to offer these courses throughout our education system. Iwi have shown that given the opportunity to thrive economically, the social issues will improve as well. REGIONAL AND LOCAL LEVEL INVOLVEMENT SHOULD BE A FOCUS. CULTURAL IMPACT REPORTS FROM LOCAL COMMUNITIES TAKE INTO ACCOUNT PEOPLE, PLACE AND SPECIES AND SHOULD NOT BE OVERLOOKED.

I agree that local government is a vital issue that must be addressed. LOCAL GOVERNMENT IS STILL CARRYING OUT THE CROWN'S WORK, AND THEY NEED TO BE INCLUDED IN THE PARTNERSHIP WITH MĀORI. Local government is an essential piece of the healthy relationship puzzle, and any legalities around it not technically being part of the Crown, should be set aside as far as possible, for practical reasons. FEW COUNCILS HAVE INTERNAL POLICY ADVICE ON WHAT THEIR OBLIGATIONS TO MĀORI ARE. Local government is where you need to start. Legislate for formal representation.

The role you have with Māori in the future, must not be in conflict with the Minister for Māori Affairs portfolio responsibilities or Minister for Treaty Settlement. UNNECESSARY GIVEN EVERY MINISTER OF THE CROWN ALREADY HAS AN OBLIGATION TO ENSURE THE HEALTH OF THE CROWN'S RELATIONSHIP WITH MĀORI. Rename the portfolio Minister for Crown Reconciliation, CMR to monitor, audit compliance of Crown entities, agencies and Local Government against Te Tiriti, and report to hapu.

If the Crown starts to return land loss not just pay Iwi out. START LISTENING TO MĀORI, SO THAT WE AS MĀORI CAN DEVELOP. The Crown should try to envisage what this society might have looked like if Europeans simply migrated. There is a need to have our peoples' mana re-written into every Law book by our learned leaders and assisted by our elders.

If the Crown starts to return land loss not just pay Iwi out. START LISTENING TO MĀORI, SO THAT WE AS MĀORI CAN DEVELOP. The Crown should try to envisage what this society might have looked like if Europeans simply migrated. There is a need to have our peoples' mana re-written into every Law book by our learned leaders and assisted by our elders. We expect that there will be specific issues relating to our legislation, our respective obligations under Te Tiriti o Waitangi and our Deed of Settlement that require direct, and in some cases exclusive engagement between ourselves and the Crown.

Working with Māori

Captures comments about how agencies engage with Māori, how they should engage with Māori, and who they should engage with. It also includes comments on agencies' internal capability, how agencies work together, and what should happen to improve how the public sector operates.

Māori-centred development

Captures comments about Māori economic development, cultural development, and development opportunities centred on Māori specifically.

Local government issues

Captures comments about the relationship between the Crown and local government, local government capacity, capability and engagement on issues involving Māori, resource management and funding issues.

Crown/Māori Relations Roopū (portfolio)

Captures comments about the establishment of the Crown/Māori Relations portfolio, potential functions of the portfolio (such as auditing other agencies), where the Crown/Māori Relations Roopū should be located, and the impact of the portfolio on all New Zealanders.

Rangatiratanga (Māori rights)

Captures comments relating to tino rangatiratanga, legal processes (e.g. Waitangi Tribunal) and connections to international frameworks (e.g. UNDRIP).

Constitutional changes

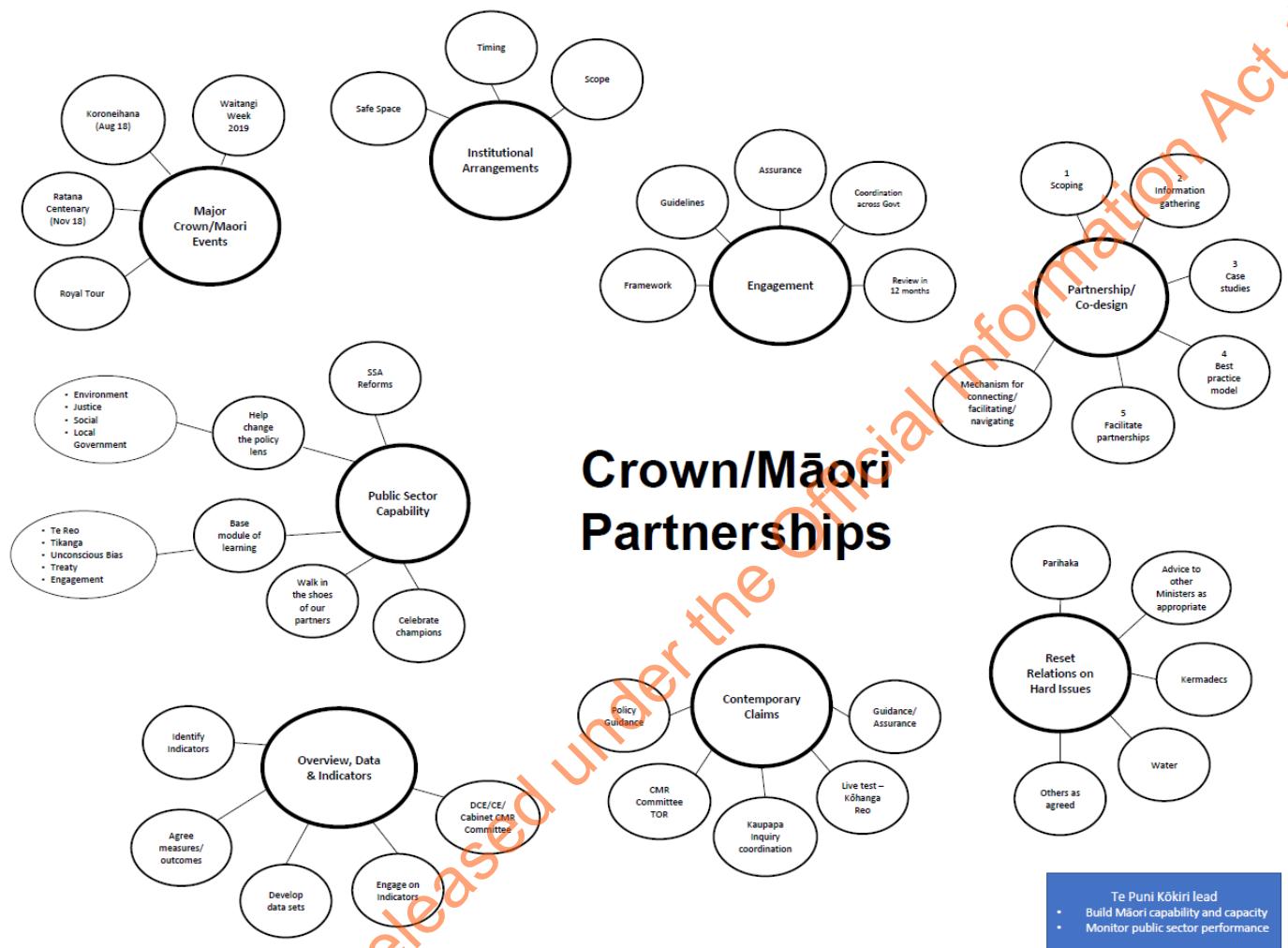
Captures comments about constitutional change. It also includes comments about educating all New Zealanders on the value of the Crown/Māori relationship, and the benefits Māori generate for all New Zealanders.

References

Appendix Two: High-level themes communicated to Ministers PROTOTYPE – TO BE UPDATED

Theme	What people told the Minister
Name of portfolio and placement in the public service	<ul style="list-style-type: none"> There is a lot of support for the establishment of the portfolio, however, many hui attendees were said that the portfolio: <ul style="list-style-type: none"> should have the right level of influence across government; be properly resourced; and requires a standalone Ministry. Many people said the name of the portfolio needs to reference the Treaty partnership more clearly.
Local government	<ul style="list-style-type: none"> There is inadequate Māori representation. Limited capability within councils to work with Māori in a meaningful way. Māori want: <ul style="list-style-type: none"> to be at the decision-making table; and to co-design processes (not to be consulted on documents that have been nearly fully developed).
State Sector capability	<ul style="list-style-type: none"> Public sector seen as barriers and lacking ability to deal with Māori. Māori want: <ul style="list-style-type: none"> to be dealt with fairly and with understanding; for public sector to know about the Treaty, and what the Crown/Māori relationship means for their organisation and their behaviour; and for public sector to join up when dealing with their community.
Engagement with Māori	<ul style="list-style-type: none"> Constantly being asked to rubber stamp things late in the process and not told the full story Want Government to speak to other people, whānau, hapū as well as Iwi Chairs. Māori want: <ul style="list-style-type: none"> A consistent approach to engagement; to co-design policy and processes (not to be consulted on documents that have been nearly fully developed), and <ul style="list-style-type: none"> services to be developed that are responsive to Māori needs/aspirations; and For public sector to be joined up rather than having different hui every week.
NZ history / reo education	<ul style="list-style-type: none"> Tamariki and all New Zealanders should be taught New Zealand history. Every child should have access to te reo education.
Regional Economic Development	<ul style="list-style-type: none"> Māori are seeking to be recognised as partners in economic development in the regions Want help building their own capability to engage better with Government.
Constitutional Reform	<ul style="list-style-type: none"> The Crown needs to fully acknowledge, and give effect to the Treaty/ Te Tiriti and He Whakaputanga. The Treaty needs to be given prominence in the New Zealand constitution The Crown/Māori Relations portfolio should be based on Treaty.
Treaty settlements	<ul style="list-style-type: none"> Some groups are concerned about how their Treaty settlements are being implemented with Crown not honouring promises. Some people are concerned about the process and/or progress of the negotiations of their iwi.

Appendix Three: Crown/Māori Partnership Diagram



Appendix Four: Engagement framework

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Appendix Five: Engagement framework guidelines

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Endnotes

ⁱ From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 2

ⁱⁱ Submissions - NOL45, OLS84-document; Hui notes – Kaitaia (para 346)

ⁱⁱⁱ Submissions - OLS84-document

^{iv} Hui notes – Māori Womens Welfare League (para 8), Whangarei (para 400);
^v [Source quote]

^{vi} Hui notes - Gisborne (para 582)

^{vii} Hui notes - Hokianga (para 443)

^{viii} Hui notes - Hokianga (para 442); Submissions: OLS94 (para 2122)

^{ix} [Source quote]

^x [Source quote]

^{xi} Hui notes - Gisborne (paras 580 + 588), Hastings (paras 595 + 620) and Rotorua hui (para 721); Māori business, professional and social enterprise focus group hui (para 220)

^{xii} Hui notes - Kaikohe (para 472), Thames (para 653); Submissions: NOL18 (paras 7 & 10)

^{xiii} Hui notes - Hokianga (para 428), Palmerston North (para 813)

^{xiv} Hui notes - Kaitaia (para 361), Hastings (para 622)

^{xv} Hui notes - Nelson (para 507), Huntly (para 597), Auckland (para 779), Whakatāne (para 938)

^{xvi} Hui notes - Gisborne (para 585),

^{xvii} Hui notes - Taupō (para 875)

^{xviii} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 25, Submissions - OLS90 (para 2030); Hui notes – Human Rights Commission (para 35), Palmerston North (para 905)

^{xix} [Source quote]

^{xx} [Source quote]

^{xxi} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 14

^{xxii} Submissions - OLS87 (para 1985)

^{xxiii} Waitangi Tribunal letter, *Ko Aotearoa Tenei*, chapter 9.3

^{xxiv} Hui notes – Federation of Māori Authorities (para 321)

^{xxv} Hui notes – Gisborne (para 545)

^{xxvi} Hui notes – Nelson (para 506)

^{xxvii} Hui notes – Invercargill (para 828), Kaitaia (para 359); Submissions: NOL85

^{xxviii} Submissions - OLS28

^{xxix} Notes of hui – Gisborne (para 571)

^{xxx} Hui notes – Auckland (para 770)

^{xxxi} Submissions - OLS84-document

^{xxii} Submissions - OLS64 (para 1689)

^{xxiii} Hui notes – Waitara (para 753); Submissions: NOL22 (paras 26-27)

^{xxiv} Hui notes – Waitara (para 753); Submissions: NOL36 (para 1)

^{xxv} Submissions: NOL22 (para 30)

^{xxvi} Hui notes – Hokianga (para 443), Auckland (para 770); Submissions: OL52, OL94

^{xxvii} Submissions – OLS13 (para 1168)

^{xxviii} Submissions – NOL20 (page 8)

^{xxix} Submissions – OLS82 (para 1923)

^{xl} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 17

^{xi} Hui notes – Māori Womens Welfare League (para 1), Huntly (para 668); Submissions: OLS52-document

^{xii} Submissions – NOL18 (paras 7 & 10)

^{xiii} Submission - NOL19 (paras 4.10-4.13 & 4.18),
^{xiv} [Submissions: OLS24 (para 1334)]

^{xv} Submissions – OLS59 (para 1634)

^{xvi} [Source quote]

^{xvii} [Source quote]

^{xviii} [Sourced from NOL submission]

^{xix} Submissions – OL12 (para 1143)

ⁱ [Source quote]

ⁱⁱ [Source quote]

ⁱⁱⁱ Te Puni Kōkiri Te Hanga Whanaungatanga mō te Hononga Hāngai ki te Māori: *Building Relationships for Effective Engagement with Māori*; Waitangi Tribunal Wai 262: *Ko Aotearoa Tēnei*; New Zealand Government *Online Engagement*; International Association for Public Participation IAP2's *Public Participation Spectrum*; Department of the Prime Minister and Cabinet *Public Participation*.

ⁱⁱⁱ Hui notes – Hokianga (para 429), Nelson (para 508), Christchurch (para 540), Gisborne (para 578), Thames (para 638 + 654), Huntly (para 682), Rotorua (para 717), Whanganui (para 741)

^{iv} Hui notes – Kaitaia (para 341), Whangarei (para 403), Nelson (para 488 + 508), Christchurch (para 522), Gisborne (para 546 + 580), Hastings (para 594-595 + 615 + 617), Huntly (para 683), Whanganui (para 733), Auckland (para 781), Wellington (para 809), Invercargill (para 822), Taupō (para 878), Palmerston North (para 889), Whakatāne (para 918)

^{lv} Hui notes – Kaitaia (para 361), Taupō (para 878), Whakatāne (para 938),

^{vi} Hui notes - Thames (para 638 + 654),

^{vii} Submissions – OLS94 (para 1490)

^{viii} Hui notes – Kaitāia (para 337)

^{ix} [Source quote]

^{lx} Hui notes – Māori Womens Welfare League

^{xi} Hui notes – Kaitaia (para 350), Whangarei (para 394), Hokianga (para 441), Rotorua (para 709), Waitara (para 739 & 7480), Wellington (para 806)

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Document 6

From: Beth Goodwin <Beth.Goodwin@mbie.govt.nz>
Sent: Thursday, July 26, 2018 5:56 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Cc: Hinemaua Rikirangi <Hinemaua.Rikirangi@mbie.govt.nz>; Pereri Hathaway <Pereri.Hathaway@mbie.govt.nz>; Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: MBIE response to CMR Cabinet paper [IN-CONFIDENCE]

Kia ora Patrick

Thanks for opportunity to respond – MBIE supports this work and recognises its huge importance. We recently confirmed ‘Partnership with Māori’ as one of MBIE’s 8 organisational priorities for how we will contribute to a productive, sustainable and inclusive economy, so we welcome your work. The below points are more suggesting how to make it work.

I’ve tried to arrange our comments from broadest/big picture, down to fairly narrow.

Purpose

First, we think the paper needs to explicitly describe the objective, the basis or purpose for the enduring relationship with Māori – the moral imperative, what kind of NZ are we trying to create together. This also needs to guide the resources like the engagement framework – without an explicit purpose, these resources are rudderless.

‘Partnership’

The word ‘partnership’ is a big term. It has connotations of shared governance, shared decision making (eg on budgets), shared responsibility. We suggest the paper needs to set out the implications or expectations that will be created by using that term, and to seek agreement from Cabinet about what exactly it means. If it is this broader meaning above, there needs to be a workstream about how it will move the public sector to that model. We suggest you draw a link to the SSC work about state sector reform.

There is always going to be the issue of the disparity of resources and time between a large multi-faceted government with multiple concurrent projects, engaging with smaller (often under-resourced) stakeholders. The expectation of increased engagement by agencies underpinning the proposal is likely to exacerbate this issue. To enable a true partnership, government will need to consider how Māori are resourced to engage.

The agency responsible

We query whether a new agency is the best structure. We think there is a risk of public sector deflecting responsibility for Māori partnership to the new agency. We suggest that housing Crown-Māori Partnerships together with OTS creates a tension – it risks a perception of the agency as Treaty- or grievance-tainted rather than forward looking.

Linked to this, we’d like a stronger sense in the paper that what is being set up is intended to be durable, eg dismissing TPK as an option because a restructure of that agency would take too long to do, is not consistent with that message. The point on durability also goes to establishing the right framework, and may also play into how the agency works.

Interaction between Crown-Māori Partnerships agency and the wider government

The government is big, and Crown Maori relationships need to be owned by as many of its actors as possible (including local government). We think it would be helpful to make explicit that expectation of other agencies (incl local government) in this paper – to avoid the ‘deflection of responsibility’ risk noted above. This will reinforce the mandate for those of us already working on this within government. Agencies will need to upskill their own staff and appropriately resource the relevant projects.

We'd like it to be clearer what role the agency will have and how they will interact with teams/individuals already be doing this mahi within their agencies. We think you intend that the agency would support and not replace those people – that's worth making explicit, and explaining how you would support them (or if not yet determined, mentioning that in work programme). For us, one sign of success will be if the CMR agency, wherever it is homed, has porous borders (i.e. it shares its staff, and staff are shared with it), and its resources and information are widely shared.

We see value in the agency taking on an audit, or ‘checks and balances’ role – helping guide agencies towards building relationships they (agencies) need to hold.

Engagement framework

We would like to see this framed in a more deliberate, proactive way – to build relationships for the sake of the wider Crown-Māori relationship. If agencies only begin to engage with Māori when there is an ‘issue’ to discuss, we’ve already failed.

We suggest to keep frameworks and plans not too rigid – especially for the ill-informed regarding Māori – as most instances require flexibility when engaging.

Implementation

We would like to see more detail about how the proposals will be implemented. We acknowledge your Minister likes a short paper, so it may be a request for supplementary information to government departments about this, rather than for Cabinet. In particular, we eagerly await more info on how the agency would support agencies in upskilling or increasing capacity to deliver the vision in the paper.

Other comments

- A significant issue will be the tension between “nimble” policy making and high quality engagement. This may require trade-offs.
- The engagement framework identifies the issue of being aware of multiple engagement processes involving each Māori stakeholder – is there a role for coordination of engagement?

Ngā mihi
Beth

BETH GOODWIN
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Document 7

From: Rachel Robson <Rachel.Robson@women.govt.nz>
Sent: Thursday, July 26, 2018 4:56 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Lis Cowey <Lis.Cowey@women.govt.nz>; Riripeti Reedy <Riripeti.Reedy@women.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Ministry for Women]

Kia ora Patrick

Thanks for the opportunity to comment on these papers. I understand there was a good discussion at the CMR Dep Secs meeting yesterday, so these comments expand on the issues discussed there.

The Ministry for Women strongly recommends in light of the Mana Wahine Kaupapa claims, under current action with the Waitangi Tribunal, that any new measures to address Crown-Maori relations must explicitly recognise the role and voice of ngā wāhine Māori – the paper as it is, does not do this. The ongoing development of the Crown-Maori relations portfolio we request will include te mana o te wahine Māori, **as represented by the most senior Māori woman in government.**

Specifically we request the Minister for Māori Development be part of any ministerial group responsible for deciding final arrangements, not only because of the interaction between the two portfolios, but also, critically, because Minister Mahuta is the most senior wāhine Māori in Cabinet. To exclude her perpetuates the marginalisation of wāhine Māori highlighted by the Mana Wāhine Treaty claims. For the same reason the paper should include a gender analysis section, even if not strictly required by cabinet rules.

In general we strongly support the goals of the paper, and agree having someone with overall responsibility for the relationship would be helpful. The elements to progress the goals are largely there, but most need considerable building up, particularly with regard to how the new roles and structures would work in practice, and to reflect the ‘bold and brave’ rhetoric.

Areas where more is needed include:

- What would ‘acting in the interests of the Crown/Māori relationship’ mean in practice?
 - It would not be the same as acting as an advocate for either Māori or the Crown, but rather the ability to stand back from the relationship sufficiently to make independent judgements on what might be needed – by definition likely to be an uncomfortable place at times.
 - What powers and levers might the minister hold that they don’t have now? Does it mean they would be exempt from the usual collective responsibility of Cabinet, for example, and able to hold position and make contrary public statements like the Commissioner for the Environment?
- Need a stronger case for a separate agency rather than one attached to an existing agency than is set out in paras 40-44, along with more design detail. The Child Poverty Team in the DPMC would be one possible model.
 - What powers and levers would the agency have to give it the status of a central agency in its own right?
 - What are the funding and other resourcing implications (including any cost duplication eg back-office costs)?

- What would its role be relative to other portfolios – and especially the Māori Development one? How can we ensure the CMR minister or agency's involvement in the 'hard issues' built future capability in the relevant agencies rather than detract from that (or allow agencies to abdicate their responsibilities).
- Needs more on how the new roles will support ongoing development of Crown-Māori capability across the public sector will work, beyond the engagement guidelines
 - How can we ensure the new unit doesn't cannibalise already scarce Māori capability from other areas where it is needed to develop and implement policy to benefit Māori?

Given there isn't time to work through the machinery of government issues by September, one option might be to use this paper to set up an overall intention or get agreement in principle, with a series of report-backs on design details, like the powers and functions for the new semi-independent ministerial role; the placement, role, functions, interfaces and resourcing of a new agency; and proposals for capability building, including who would be responsible for what.

Also, in earlier emails the team indicated proposals for a contemporary Treaty framework would be included in this paper rather than the previous one on kaupapa inquiries and contemporary claims as originally proposed. What has happened to that idea?

Please let us know if there's anything we can do to help further develop the ideas in the paper.

Ngā mihi

Rachel



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From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 7:21 p.m.
To: Rachel Robson; Riripeti Reedy; Lis Cowey
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Ministry for Women]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southée
+64 22 466 9290

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Thank you.

Document 8

From: Tipene Chrisp <Tipene.Chrisp@education.govt.nz>
Sent: Thursday, July 26, 2018 4:34 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Apryll Parata <Apryll.Parata@education.govt.nz>; Wayne Ngata <Wayne.Ngata@education.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MOE]

Hi Patrick.

Thank you for sending this paper through. We are generally supportive of the direction of travel and have no specific comments. We will be interested in the progress of some of these proposals.

Tipene Chrisp | Senior Policy Manager | Maori Education
DDI +6444637720 | Mobile 027 5732576

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 7:12 p.m.
To: Tipene Chrisp <Tipene.Chrisp@education.govt.nz>; Apryll Parata <Apryll.Parata@education.govt.nz>; Wayne Ngata <Wayne.Ngata@education.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MOE]

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Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 9

From: Ana_Bidois@moh.govt.nz <Ana_Bidois@moh.govt.nz>
Sent: Thursday, July 26, 2018 9:49 AM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Alison_Thom@moh.govt.nz
Subject: Re: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MOH]

Kia ora Patrick

Thank you for providing the Ministry of Health the opportunity to provide comments on this cab paper. Mihi to you and the team on drafting this paper. Below are our overall comments with specific track changes in the cab paper.

We suggest this paper is split into two papers. The first paper should only outline the proposed priority areas (i.e. the scope of the CMR portfolio) and the engagement process.

The second paper should outline how this could be done (e.g. a new central agency). This is essentially an options paper for Minister's to consider how this could be achieved. This will allow your Minister to discuss and test options with other Cabinet Minister's.

The role of Crown Māori Relations (or partnership) ideally should be as the steward for Crown/Māori relationships or partnerships with TPK as the implementers.

Ngā mihi,

Ana Bidois

Chief Advisor | Kaitohu Mātua | Māori Leadership

Waea: 04 816 2253 | **Waea pūkoro:** 021 242 7795 | **Timēra:** Ana_Bidois@moh.govt.nz



From: "Southee, Patrick" <Patrick.Southee@justice.govt.nz>
To: "Ana_Bidois@moh.govt.nz" <Ana_Bidois@moh.govt.nz>, "alison_thom@moh.govt.nz" <alison_thom@moh.govt.nz>, "Anderson, Lillian" <Lillian.Anderson@justice.govt.nz>, "Kaipara, Moana" <Moana.Kaipara@justice.govt.nz>, "Houlbrooke, Rachel" <Rachel.Houlbrooke@justice.govt.nz>, "Tali, Maria" <Maria.Tali@justice.govt.nz>, "Kupenga, Te Rau" <TeRau.Kupenga@justice.govt.nz>, "Warbrick, Tia" <Tia.Warbrick@justice.govt.nz>
Date: 19/07/2018 07:13 p.m.
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MOH]

Kia ora kōrua,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Thank you.

[attachment "2018 0719 Draft Cab paper for agency consult - Final CMR scope and engagement framework.docx" deleted by Ana Bidois/MOH] [attachment "2018 0719 Draft Cab paper for agency consult - Final CMR scope and EF - App 4.pdf" deleted by Ana Bidois/MOH]

[attachment "2018 0719 Draft Cab paper for agency consult - Final CMR scope and EF - App 5.pdf" deleted by Ana Bidois/MOH]

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In Confidence

Office of the Minister for Crown/Māori Relations
Chair, Cabinet Crown/Māori Relations Committee

Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines

Proposal

1. This paper outlines public feedback on the scope of the Crown/Māori Relations portfolio (the portfolio) and seeks Cabinet approval ~~for to~~:
 - 1.1 ~~me to~~ seek agreement from the Prime Minister of the proposed final scope of the portfolio; and
 - 1.2 ~~the overall outline the~~ Crown/Māori engagement framework (including the Crown's intent for, and values to underpin, the relationship and guidelines to help government engagement with Māori).

Executive Summary

2. [To come]

Background

Establishment and initial scope of Crown/Māori Relations portfolio

3. The establishment of the portfolio indicates a desire from this government to focus on the opportunities that settling claims makes possible. This requires us to look at ways to demonstrate a true and practical partnership is possible beyond the Treaty settlement negotiating table. It signals a need for the Crown and Māori to move forward together.ⁱ
4. In March 2018 I advised Cabinet of the responsibilities and priority areas in the *initial* scope of the portfolio.
5. The responsibilities were to:
 - 5.1 look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - 5.2 build the Crown's understanding and honouring of its Treaty obligations;
 - 5.3 increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - 5.4 ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - 5.5 provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship.
6. The initial scope included another responsibility – “identify and drive projects which enhance partnership between the Crown and Māori which are outside the scope of other Ministers’

portfolios". Upon further consideration, and following the engagement process I consider that the priority area set out in paragraph [5.1] above sufficiently covers the intent of that responsibility so I propose to remove it from the final scope.

7. The priority areas were:

- 7.1 'Take the lead on resetting Crown/Māori relationships on hard issues';
- 7.2 'Find opportunities for active partnerships between the Crown and Māori';
- 7.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability';
- 7.4 'Help government to better engage with Māori on matters of importance';
- 7.5 'Lift public sector performance to better respond to Māori issues'; and
- 7.6 'Improve the Crown's responses to contemporary Treaty issues'.

Interim guidance for Ministers and the public sector on engagement with Māori

- 8. In March Cabinet agreed guidance for use by government in engaging with Māori prior to the completion of a Crown/Māori Engagement Framework (the **interim guidance**). Key parts of the interim guidance were:
 - 8.1 strong active partnership with Māori in the design and implementation of the process and outcomes is required where the impact of the issue or proposal will be significant for Māori;
 - 8.2 engagement should be broad and include discussions with relevant national Māori organisations where there are issues of national significance; and
 - 8.3 engagement should be undertaken through existing iwi regional fora or with affected iwi/hapū and/or regional/local based Māori organisations where there are issues of regional or local significance.
- 9. In March I also informed cabinet that I would engage with Māori to discuss the initial scope and priorities before I reported back to Cabinet.

Comment

- 10. The comment section is structured in the following way;
 - 10.1 sub-section one outlines the engagement process and some of the feedback I received on the portfolio (and other portfolios);
 - 10.2 sub-section two sets out my vision for the Crown/Māori relationship;
 - 10.3 sub-section three seeks confirmation of the priority areas and final scope of my portfolio;
 - 10.4 sub-section four sets out decisions I seek from Cabinet on new elements of the portfolio and scope that were not in the initial scope; and
 - 10.5 sub-section five contains the overall Crown/Māori engagement framework that I seek approval for.

Commented [AB1]: Suggest you also include how the paper is framed i.e. in the voice of Māori participants

Sub-section One: The engagement process

11. When I became the Undertaking this new portfolio as the Minister for Crown/Māori Relations, I didn't want to repeat the mistakes of the past did not want to perpetuate previous mistakes by the Crown. To scope the priority areas for this new portfolio I initiated an engagement process with whānau, hapū and iwi to test the initial scope. These mistakes included instances where governments decided they knew what was best for Māori, sat in Wellington and wrote up a strategy, then went out to whānau, hapū and iwi and told them what the government had decided will be in their best interests. That approach doesn't work. Instead I took the time to go around the country and ask what we needed to do to strengthen the relationship and what my priorities as Minister should be.

12. I sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May. I held 32 hui attended by over 1600 people and received around 230 submissions. I completed the engagement process with a whole day wānanga held at Parliament with a selection of twelve people who had attended the hui or made a submission.

13. Submissions were made by individuals, groups and organisations, by Māori and non-Māori, by people who supported the portfolio and by people who did notⁱⁱ.

14. When I started the engagement process I expected to hear people say they didn't see the value in a closer Crown/Māori relationship, or that we need a separate Māori Parliament. Instead, the overwhelming feedback has been that New Zealanders do value the Crown/Māori relationship but that it needs to be a real partnership and for us to achieve that requires the government to up its game in a number of areas.

What people told me

15. People used the engagement process to tell me about a range of things of interest to them but also to provide views on the questions I asked specifically about whether my initial priority areas were right.

16. I received a range of suggestions about what my priorities should be in this portfolio. I have categorised feedback from the engagement process as follows:

16.1 suggestions about the name of the portfolio and its placement within the public service, including:

- 16.1.1 proper resourcing, namingⁱⁱⁱ and placement of, the portfolio within the public service^{iv};
- 16.1.2 being clear about the difference between the portfolio and the Māori Development portfolio^v;
- 16.1.3 that specific legislation^{vi} or a separate government agency^{vii} be set up to support Crown/Māori Relations;

16.2 the priorities in the initial scope of the portfolio, including:

- 16.2.1 the portfolio should take a long-term (15-20 year) view of the relationship^{viii};

Commented [AB2]: Acknowledging this section is in the voice of the Minister we suggest this is framed slightly differently.

DRAFT FOR AGENCY CONSULTATION ONLY

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*Tautoko the recognition that
Crown/Māori Relations need
strengthening
(Whangarei hui, 8 April)*

16.2.2 that I should co-develop a modern day forward looking Treaty based framework that will guide the Crown/Māori relationship^{ix};

16.2.3 that I must find ways for Māori ethics on good relations to determine all Crown relations with Māori^x;

16.3 other priorities that were not in the initial scope of the portfolio, including:

- 16.3.1 that the portfolio needs a mandated monitoring role if it is to be effective^{xi};
- 16.3.2 considering how we shape the New Zealand constitution going forward as it is a core issue that underpins better relationships between the Crown and Māori^{xii}; and

16.4 issues relating to other Ministers portfolios, including:

- 16.4.1 Local Government – concerns were expressed about the lack of Māori representation and ability for Māori to be decision-makers in local government issues and access to local government being difficult and having nowhere left to go if local government don't cooperate^{xiii};
- 16.4.2 Education – people thought work should be done to address unconscious bias from teachers^{xiv} and ensure that New Zealand history and te reo Māori are core components of the curriculum^{xv};
- 16.4.3 Health – people thought money should be invested in prevention services rather than the district health boards and district health boards should have more Māori representation^{xvi}; and
- 16.4.4 Environment - People supported environmental issues remaining a priority for government and that Māori are at the forefront of seeking sustainable management practices and environmental protection but are under-resourced and under-credited when engaging with officials^{xvii}.

17. A summary of the issues raised most often and what people told me through the engagement process, using quotes from submitters, is attached as **Appendix One**.

18. I have written to relevant Ministers about issues that were raised in relation to their portfolios. A table outlining broadly what I advised Ministers of is attached as **Appendix Two**.

19. I was encouraged that our instincts about what the portfolio should do and focus on (as set out in my March paper) were largely in line with what I heard in the engagement process. That process, by and large, endorsed the priority areas in the initial scope of the portfolio.

“[The priority areas under the initial scope] are some good fundamentals of how to connect with Māori”

(online submission 6, para 1075)

20. Suggestions about other areas the portfolio could focus on warranted serious consideration; in deciding what to recommend as priority workstreams in the final scope of the portfolio I have not accepted all the feedback but arrived at what I consider to be ambitious, but achievable goals to strengthen the Crown/Māori relationship.

Sub-section Two: My vision

21. Through the engagement process Māori set a challenge for this portfolio – to be bold and to be brave^{xviii}. People reminded me that I need to ensure that we are not just focussed on transactional issues, that we need to be aspirational too^{xix}. I agree with hui attendees who told me we need to change the kōrero from ‘what Māori cost the country’ to ‘what value add can be achieved by appropriately partnering with Māori’^{xx}. I want more from this portfolio than words and promises^{xxi} and people told me they did too^{xxii}.
22. In the concluding chapters of the report on the Wai 262 claim, Justice Joe Williams articulated the challenge facing the nation:

“[We] should shift our view of the Treaty from that of a breached contract, which can be repaired in the moment, to that of an exchange of solemn promises made about our ongoing relationships. It is the historical settlement process itself that allows us to shift our attention in this way from the past to the future... After decades of profound social and political change, and a generation long focus on the resolution of past grievances, we are now ready to enter a new stage in the relationship.

While the Treaty makes it a constitutional responsibility to adjust the Crown–Māori relationship, even without the Treaty the country would have a social and political responsibility to do so.

Some New Zealanders are uneasy about these ideas because they require us to jettison some long-held assumptions about who and what we are... History and the future both demand that we make the leap to acceptance of Māori culture and identity as a founding pillar of our national project. This is not just a matter of justice (though it is that, of course). Demographics, economics, and geo-politics suggest it is now a matter of necessity.”^{xxiii}

23. I told hui participants that I am looking at 2040 and trying to work out where we want to be as a nation. While keen to conclude historical Treaty settlements, this government is looking beyond Treaty settlement negotiations. We need to shift the relationship from one focussed on historical grievance to one focussed on true partnership^{xxiv}. Achieving this change requires decisive and active leadership – we cannot assume the renewed relationship established by Treaty settlements will continue to flourish if nobody drives that to happen^{xxv}.
24. My vision is to realise the true promise of the Treaty, and Treaty settlements, for all New Zealanders ahead of the 200-year anniversary of its signing in 2040. The vision draws from the promises of the protection of rights, interests, resources and equality for all New Zealanders.

Sub-section Three: Confirm priority areas under initial scope in final scope

25. In light of the feedback I have received at hui and through submissions I seek Cabinet agreement that the following priority workstreams, with minor changes to those approved under the initial scope of the portfolio in March, be confirmed in the final scope I will propose to the Prime Minister:
 - 25.1 take the lead on resetting Crown/Māori relationships on hard issues;
 - 25.2 find opportunities for active partnerships between the Crown and Māori. To do this I will examine existing partnership models that are working to understand why they are successful so that their success might be replicated;
 - 25.3 measure the health of the Crown/Māori relationship over time to drive accountability;

- 25.4 help government to better engage with Māori on matters of importance;
- 25.5 support Māori capability and capacity to deal with government;
- 25.6 lift public sector performance to better respond to Māori issues; and
- 25.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues.

26. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

27. I acknowledge the review of the State Sector Act 1988 the Minister for State Services is leading. This will go some way to addressing a theme that emerged from the Crown/Māori Relations engagement hui that greater accountability is required to ensure Ministers and public sector chief executives and their departments deliver results^{xxvi}.

Sub-section Four: Decisions sought on new things from Cabinet

Name of portfolio

28. I propose changing the name of the portfolio to 'Crown/Māori Partnership'.
29. This proposal is consistent with feedback I received about the relationship envisaged by the Treaty being a partnership^{xxvii} and the priority outcome assigned to the Cabinet Crown/Māori Relations Committee to 'build closer partnerships with Māori'. The Committee has been asked to have initial oversight for all of the programmes, initiatives and projects within that priority outcome.
30. I received a number of suggestions for an alternative name for the portfolio – 'Crown/Tangata Whenua Relations'^{xxviii}, 'Iwi, Māori/Crown Relations'^{xxix}, 'Minister of Te Tiriti Crown Māori Partnership'^{xxx} or Minister for Crown Reconciliation^{xxxi}.
31. I propose that as Minister I should act in the interests of the Crown/Māori relationship or partnership. I do not consider my role should be one of advocacy on behalf of either partner in the relationship – this will require a level of independence most other Ministers are not required to have.
32. I propose my role have a similar level of independence as the Attorney-General. In describing the role of Attorney-General Hon Sir Michael Cullen said that it "uniquely combines the obligation to act on some matters independently, free of political considerations, with the political partisanship that is associated with other Ministerial office. My fundamental responsibility, when acting as Attorney, is to act in the public interest".
33. I seek Cabinet agreement that, when acting as Minister for Crown/Māori Partnership, my responsibility is to act in the interests of the Crown/Māori relationship.

"The very name Crown/Māori Relations is not reflective of that partnership and does not acknowledge our constitutional framework underpinned by Te Tiriti"

(Submission #Q65)

Commented [AB3]: These seem like functions Te Punī Kōkiri are or supposed to be doing?

Commented [AB4]: This might be need to be explained further about what "partnership" means and looks like and with whom i.e. is it with Iwi, providers, people?

Agree partnership gives it more mana, but am conscious this will raise Māori expectations.

Commented [AB5]: This needs to be explored more, pros and cons of having this role, means more accountability for your Minister, potentially also legal implications i.e. cases directly against the Minister for failure to hold up Crown/Māori partnerships? Explore some of the unintended consequences with Crown Law.

A new standalone agency

WHAT PEOPLE TOLD ME ABOUT THE NEED FOR A NEW AGENCY

34. People across the country discussed the placement of the portfolio within the public service and the support it receives^{xxxii}. Some people thought the unit supporting the portfolio should not sit within the Ministry of Justice^{xxxiii} and said confining discussions within a Ministry of Justice lens is limiting^{xxxiv}. One suggestion was that the portfolio should sit within the Department of Prime Minister and Cabinet, with secondary support from Te Puni Kōkiri^{xxxv}. I received strong feedback that the portfolio needs its own agency^{xxxvi}; many people were convinced that giving the Crown/Māori partnership proper standing requires it to have mana. People expressed concerns about whether the intent of the portfolio can transform the way central and local government operate. It cannot achieve that if it is hidden within a large government department.
35. Other submitters assumed a separate Ministry had already been established^{xxxvii} and had suggestions for how it could lead government agencies in better understanding of and providing for the relationships of Māori with whenua, and resources^{xxxviii}. People were concerned that the portfolio should be properly resourced^{xxxix}.

WHAT WOULD A NEW AGENCY DO?

36. I consider there is a gap in the public sector framework for the type of agency and service this portfolio should provide. I further consider that such an agency should be a central agency.
37. A new central agency is essential, in my view, to achieve the authority to effect the change we need to see in the relationship if we are going to realise the benefits of it. Achieving the change we seek is not a three-year job. Making the change to the system required under each of the priority areas requires the status and capability of a central agency.
38. I propose that the new agency house the Crown/Māori Relations Unit, the Post-Settlement Commitments Unit (**PSCU**) and the Office of Treaty Settlements (**OTS**) – all currently placed within the Ministry of Justice. PSCU is responsible for safeguarding the durability of historical Treaty settlements – I consider this a key responsibility of my portfolio. There would be no change to the functions of OTS and PSCU but as Treaty settlements wind up it would allow the expertise gained in Treaty settlements over the years to be carried through to the agency supporting the renewed relationship.
39. In addition, a new central agency would undertake the following work on the priority areas of the portfolio:
 - 39.1 'Take the lead on resetting Crown/Māori relationships on hard issues':
 - 39.1.1 Continuing the work we have been doing to reset the relationship on issues this government inherited where the Crown/Māori relationship had reached an impasse;
 - 39.1.2 the key 'hard issues' I have been working with Ministers on to date are: discussions to resolve issues raised in the Kōhangā Reo National Trust Treaty claim; addressing concerns around the proposal to establish an ocean sanctuary around the Kermadecs/Rangitāhua Islands; establishing a path ahead for water discussions; and protecting Māori interests in the establishment of the Urban Development Authority;
 - 39.2 'Find opportunities for active partnerships between the Crown and Māori'.

Commented [AB6]: Need to include some commentary on the current Crown view on establishing new agencies. Is there an appetite for new agencies let alone a central agency?

Commented [AB7]: This section needs to be beefed up more. As reiterated at the DCE's meeting – what was the problem this trying to solve? Is it 'rangatiratanga' or status of Māori as a partner?

Commented [AB8]: A new agency is still a Crown construct, so how will this ensure 'Māori partnership' is included?

Commented [AB9]: Why? Need to outline more of the rationale and other options that were considered.

Commented [AB10]: This paper needs to distinguish between the functions and roles of TPK vis-à-vis the Crown Māori Relations portfolio. The distinction is the CMR are the stewards and TPK are the implementers?

39.2.1 In order to seek new opportunities for active partnerships I will develop a project scope and plan to:

- 39.2.1.1 undertake a scan across government to identify and develop Crown/Māori partnership examples across the economic, cultural, social and environment sectors; and
- 39.2.1.2 identify and document broad principles for partnership development that can be shared across the public sector.

39.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability':

39.3.1 The Committee is familiar with the work produced to date under this workstream. We are creating a set of relationship indicators which measure the maturity and performance of the Crown/Māori partnership. The indicators could focus on how the overall relationship is working and the generic mechanisms for achieving results, rather than the results themselves.

39.4 'Help government to better engage with Māori on matters of importance'.

39.4.1 The engagement framework discussed further in paragraphs [55-69] is an important element of the work under this priority workstream. The new agency will have an ongoing role in providing assurance over proposed engagement plans of other agencies and evaluating whether engagement is effective.

39.5 'Lift public sector performance to better respond to Māori issues'.

39.5.1 This workstream intends to improve public sector capability in responding to Māori issues, including improving the:

- 39.5.1.1 understanding of the value of a strong Crown/Māori relationship and the potential contribution of Māori in the delivering better results for Māori and New Zealand;
- 39.5.1.2 understanding of Māori perspectives and Treaty issues and their incorporation in policy and frontline service delivery;
- 39.5.1.3 awareness of different aspirations and world views among whānau, hapū, iwi and Māori when considering policy development and implementation;
- 39.5.1.4 staff cultural competency, including capability in reo and tikanga to engage with Māori appropriately, and the recognition and acknowledgement of these competencies in agencies' workforces; and
- 39.5.1.5 awareness of Treaty settlement commitments;

39.6 'Improve the Crown's responses to contemporary Treaty issues'.

39.6.1 As we work towards completing historical settlements, we need to look at the way we deal with contemporary issues and Waitangi Tribunal kaupapa inquiries. I believe we need to show more leadership in this area and part of

our initial work will look at establishing guidelines to ensure we take an open and modern approach to ensuring policy and practices are consistent with the Treaty and effective for Māori^{xl}.

WHY AN EXISTING AGENCY CANNOT DO THIS?

40. I have arrived at my decision to seek your support for a new standalone agency having considered whether the functions I propose should be carried out by an existing agency; I conclude that they should not.
41. Agencies people have suggested could carry out this function – the Department of Prime Minister and Cabinet, Te Puni Kōkiri or the Ministry of Justice (where the Crown/Māori Relations Unit currently resides) – conduct their work admirably. Giving the vision and functions of the portfolio the mana they deserve will be difficult to achieve if the support I receive from the public service is buried as an adjunct in a large agency.
42. Having this work carried out by the Ministry of Justice is not ideal for several reasons. The continued association of Māori and “Māori issues” with the justice system blurs the understanding and status of the new portfolio. Many Māori who made submissions on the portfolio expressed concerns or objections to this association^{xli}. Retaining the proposed functions within the Ministry of Justice would challenge my ability to achieve the “cut through” we need to elevate the relationship. It would be more difficult to influence the transformative change I seek if the agency supporting me is a peer agency to all others and not a central agency.
43. Te Puni Kōkiri leads Māori Public Policy, advises on policy affecting Māori wellbeing and monitors policy and legislation. These are important functions focussed on advocating for Māori and supporting Māori capability but they are crucially different to the role I propose of acting in the interests of the relationship. In addition, transferring the functions I propose to Te Puni Kōkiri would unnecessarily overcomplicate their job and require time to restructure that we do not have to waste.
44. I therefore seek Cabinet agreement to the establishment of a new standalone agency for Crown/Māori Partnership with the final make up to be agreed between myself and the Minister for State Services, the Minister of Justice and the Minister for Treaty of Waitangi Negotiations.

Other institutional arrangements

45. I propose an additional workstream called ‘Develop the scope of a conversation about institutional arrangements’.

Commented [AB11]: This is already being discussed in Wai 2575, so how can we ensure this workstream also lines up with what possible recs coming out from the Waitangi Tribunal and what other Ministers may want to do to resolve issues in their portfolio's?

46. If my proposal that we establish a new central agency is agreed by Cabinet then an element of this workstream will have been achieved. A revived conversation about other institutional arrangements supporting the Crown/Māori partnership can and should take place on a longer timeframe.

47. On the issue of the constitution people said the current constitutional status of Te Tiriti is unsatisfactory^{xliii} and that “constitutional reform would strengthen the Crown/Māori relationship and provide the foundation for the consistent application of policy to support the Crown in meeting its obligations”^{xliii}.

48. People told me it is important to include Pākehā in the Crown/Māori partnership^{xliv} and that focussing on weaving stronger connections between Pākehā and Māori would create greater tolerance and understanding^{xlv}.

49. This is an issue governments have skirted around for generations and about which a lot of thinking has been done. I do not think it would serve the citizens of New Zealand well to try to jump to a solution on this quickly nor is that solution to immediately ‘embed’ the Treaty as our constitution. Whatever the level of knowledge about it, the constitution fundamentally affects the lives of every New Zealander. I am keen to look at some of the less controversial steps towards change.

50. Issues that should be covered by further work on this kaupapa include Treaty clauses in legislation, potentially establishing a Treaty commissioner and examining the future role of the Waitangi Tribunal as historical Treaty settlements draw to a close over the next few years.

Coordinating significant Crown/Māori Events

51. I have received overwhelmingly positive feedback on how ‘Waitangi Week’ was conducted this year. I was told that it is very positive for Ministers to spend quality time engaging with Māori across a much wider spectrum and that it needs to continue^{xvi}.

52. Cabinet approval of this workstream will mandate this portfolio to oversee the organisation of significant Crown/Māori events, of which we have several upcoming, including:

52.1 Ratana 100th Anniversary (November 2018); and

52.2 Waitangi 2019 (February 2019).

Commented [AB12]: Suggest these are better done by TPK rather than CMR

Conclusion

53. I seek Cabinet agreement that the following priority workstreams be added to the final scope I propose to the Prime Minister:

53.1 develop the scope of, and timing for, a conversation about the institutional arrangements supporting the Crown/Māori partnership; and

53.2 coordinating significant Crown/Māori events.

54. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

Sub-section Five: "Getting the relationship right requires the Crown to be consistent"^{xxvii} (Engagement Framework)

55. In March I told Cabinet that we needed to establish a framework, underpinned by a statement of the Crown's intent for the Crown/Māori relationship and a set of values, to guide Ministers and public sector agencies engagement with Māori.

56. People told me existing frameworks "challenge our ability to assert our Rangatiratanga and the Crown's ability, to work with us, to fulfil [its] responsibilities under Te Tiriti legislation, and our Deed of Settlement"^{xxviii}. They also told me that "part of getting the relationship right is ensuring consistency by the Crown, in all its faces, with Māori"^{xxix}. Māori very strongly feel that they are "not just another ethnic minority"^{xi}; the unique status of Māori as tangata whenuaⁱⁱ and as signatories to the Treaty must be reflected in how the Government engages with Māori.

57. It is vital that the engagement framework is of practical use to agencies. Government has thought about how it engages with Māori before. There has been no shortage of guidance documents produced over the years that have had the good intention of guiding best practice in engaging with Māori. None of them, however, have produced the desired effect across the public sector.

58. **Appendix Four** is the proposed engagement framework.

59. The framework builds on the interim engagement approach approved by Cabinet in March, and has been developed following a review of a range of literature and previously developed work.ⁱⁱ What is notably different about this framework is that it has been materially informed by reviewing the current landscape as well as what I heard from the people throughout my national Crown/Māori Relations engagement. The roadshow and submission feedback provided me with insight into a number of areas where intentional improvements could strengthen Crown/Māori engagement and partnerships.

60. I have been told about the lack of capability in the public sector in Māori engagementⁱⁱⁱⁱ, institutional racism^{liv} and unconscious bias^{lv}. People told me there is a need for a sea change in the way the public service engages with Māori^{vi}.

61. I want public servants to have tools that will help them do a better job of engaging with Māori. Government processes, and outcomes for all New Zealanders, will be improved with a more capable public sector. The engagement framework has been designed with its intended users in mind.

62. An aspect of public sector engagement with Māori that clearly came through what people were telling me was that the engagement needs to be flexible^{vii} and "fit for purpose". Deciding what engagement is appropriate on a particular issue must be guided by the key questions about what is the issue, what is the impact on Māori and who among Māoridom should be engaged. People told me there need to be opportunities for hapū engagement on matters relevant to hapū^{viii}.

63. Engagement cannot be an afterthought or a "tick-the-box" exercise. People told me that embedding policies that prescribe engagement at the beginning of any initiative will ensure full involvement rather than retrospective involvement^{ix}.

64. Since Cabinet approved the interim engagement approach in March, my officials have been reviewing agencies' engagement approaches to ensure the principles of effective engagement have been applied and the processes are broad and inclusive. It is my intention that my officials will continue to provide an assurance role and develop an evaluation process to understand if the framework is assisting to produce effective engagement with Māori. My officials will also provide further targeted advice, tools and support to assist agencies. Te Puni Kōkiri are also playing a complimentary role in reviewing some engagement strategies with a particular focus on implementation within the regions.

Guidelines for agency use in engaging with Māori

65. The guidelines to accompany the engagement framework are attached as **Appendix Five**.

66. Engagement with Māori needs to be based on developing effective working and ongoing relationships. These relationships are based on positive experiences, trust and confidence. An effective, efficient and inclusive engagement process should reflect how Māori perspectives and cultural values have been included. Throughout the development of their engagement processes agencies should be guided by the following principles: engage early, be inclusive, think broadly¹⁸.

67. The guidelines attempt to provide departments with immediate, practicable and implementable advice on how to engage with Māori. We recognise in some instances further detail or context will be developed to assist departments in applying the guidelines - for example greater clarification on the "who" and the "how" of engagement or what is meant by open-ended terms like "audience" and "impact".

68. Officials from the Crown/Māori Relations Unit will continue to provide an assurance role and develop an evaluation process to continue efforts to support effective engagement with Māori. This will include developing tools and other supporting material to enhance both the framework and guidelines, exemplar material (what good looks like), usable process maps for key tasks and engagement tools (e.g. application of the impact tool specific to different context and environmental conditions).

69. The engagement framework and guidelines are available for immediate use. They are intended to be living documents which may be revised over time to align with developing best practice.

How does the Iwi Chairs Forum fit within the framework?

70. I expect people to ask how the Iwi Chairs Forum fits within the new engagement framework. You can see from the engagement framework that depending on what the issue is and its impact on Māori it may be entirely appropriate to consult the Iwi Leaders Forum on matters.

71. As many Māori reminded me across the country, however, the Crown's responsibilities are to all Māori, not just iwi leaders¹⁹. The engagement framework has been crafted to assist agencies to decide if and when the expertise represented by the Iwi Leaders Forum is appropriate to include in an engagement process.

"The Crown's responsibilities are to all Māori, not just iwi leaders."
(Waitara hui, 5 May)

Consultation

72. [The following departments were consulted on this paper: State Services Commission, The Treasury, Te Puni Kōkiri, the Crown Law Office, Ministry for the Environment, Oranga

Commented [AB13]: What does engagement mean. Is this the same as consultation? If it is need to outline how. If it's the same, then there are legal ruling on what consultation means which will need to be reflected in this paper.

Also, should reiterate all Crown agencies need to continue to do their own engagement.

Commented [AB14]: This is true, but who 'Māori' is in this equation becomes important, as new partnerships with 'Māori' as an unintended consequence moves away from the traditional Māori groups like iwi and hapū. In post-settlement or contemporary phase this might be appropriate but needs to be tested more with Māori.

There might end up being a hierarchy of 'Māori' groups in some portfolio areas. Using the health example we have iwi, Māori clinicians, national associations, Māori health groups, whānau, hapū, and individuals.

Tamariki, Ministry for Business, Innovation and Employment, Ministry for Culture and Heritage, Ministry of Health, Ministry for Primary Industries, Department of Conservation, New Zealand Police, Ministry for Social Development, Ministry of Education, Land Information New Zealand, Statistics New Zealand and the Social Investment Agency. The Department of the Prime Minister and Cabinet was informed.]

Financial Implications

Crown/Māori Relations Appropriation

73. [Discuss impact of standalone agency and options for either a new Vote or a new appropriation.]

Human Rights

74. No human rights implications arise as a result of this paper.

Legislative Implications

75. This paper has no legislative implications.

Regulatory Impact Analysis

76. []

Publicity

77. If Cabinet agrees to the recommendations in this paper, and the Prime Minister approves the final scope of the portfolio, I intend to publish this paper on the Ministry of Justice website. I want the people who made submissions and attended the hui to be able to see for themselves that I have listened to their feedback.

78. I propose that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference.

Next steps

79. Following Cabinet consideration of this paper I will write to the Prime Minister seeking approval for final scope of my portfolio.

80. Table One below sets out the next steps for each of the priority workstreams that were in the initial scope of the portfolio and that I propose be confirmed in the final scope.

Table One: Next steps for priority workstreams

Priority workstream	Intended next steps
Reset relations on hard issues	<ul style="list-style-type: none">Continue scanning the Crown/Māori environment for 'hard issues'
Overview, Data and Indicators	<ul style="list-style-type: none">Report back to Cabinet Crown/Māori Relations Committee on Indicators in November 2018
Public sector capability	<ul style="list-style-type: none">Develop and test prototype cultural capability module with agencies over August and September 2018Report back to Cabinet on approach to public sector capability (with the Minister for State Services and the Minister for Māori Development) in November 2018

Priority workstream	Intended next steps
Partnership/co-design	<ul style="list-style-type: none"> Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and November 2018. Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. Report back to Committee on prototype guidance in November 2018 Paper on Kōhanga Reo discussions in September/November 2018
Support Māori capability and capacity to deal with government	<ul style="list-style-type: none"> [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> Report back to Committee proposing a work programme for a conversation about institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> Action as required ahead of major events

Recommendations

81. The Minister for Crown/Māori Relations recommends that the Committee:

- note that Cabinet approved the responsibilities and priority areas of the initial scope of the Crown/Māori Relations portfolio in March 2018 [CAB-18-MIN-0078 Minute];
- note that the Minister for Crown/Māori sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May 2018;

Final scope of the Crown/Māori Relations portfolio

- agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the responsibilities of the Minister for Crown/Māori Relations under the final scope of the Crown/Māori Relations portfolio be to:
 - look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - build the Crown's understanding and honouring of its Treaty obligations;
 - increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship;

4. agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the priority workstreams of the Minister for Crown/Māori Relations portfolio in 2017/18 under the final scope of the Crown/Māori Relations portfolio be to:

- 4.1 take the lead on resetting Crown/Māori relationships on hard issues;
- 4.2 find opportunities for active partnerships between the Crown and Māori;
- 4.3 measure the health of the Crown/Māori relationship over time to drive accountability;
- 4.4 help government to better engage with Māori on matters of importance;
- 4.5 support Māori capability and capacity to deal with government;
- 4.6 lift public sector performance to better respond to Māori issues;
- 4.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues;
- 4.8 develop the scope of, and timing for, a conversation about the institutional arrangements underpinning the Crown/Māori relationship; and
- 4.9 coordinate significant Crown/Māori events.

Commented [AB15]: I will see these as existing roles for TPK

Portfolio name and standalone agency

5. agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister to change the name of the portfolio from 'Crown/Māori Relations' to 'Crown/Māori Partnership';
6. agree that the Minister for Crown/Māori Partnership's responsibility is to act in the interests of the Crown/Māori relationship;
7. agree to the establishment of a new standalone agency for Crown/Māori Relations with the final make up to be agreed between the Minister for Crown/Māori Relations, the Minister for State Services, the Minister of Justice and the Minister for Treaty of Waitangi Negotiations;

Next steps for each priority workstream

8. note that, subject to Cabinet approval of the final scope of the portfolio, I will undertake the further work outlined in the table below for each of the priority workstreams;

Priority workstream	Next steps
Reset relations on hard issues	<ul style="list-style-type: none"> • Continue scanning the Crown/Māori environment for 'hard issues'
Overview, Data and Indicators	<ul style="list-style-type: none"> • Report back to Cabinet Crown/Māori Relations Committee on Indicators in November 2018
Public sector capability	<ul style="list-style-type: none"> • Develop and test prototype cultural capability module with agencies over August and September 2018

DRAFT FOR AGENCY CONSULTATION ONLY

	<ul style="list-style-type: none"> Report back to Cabinet on approach to public sector capability (with the Minister for State Services the Minister for Māori Development) in November 2018
Partnership/co-design	<ul style="list-style-type: none"> Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and November 2018. Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. Report back to Committee on prototype guidance in November 2018 Paper on Kōhanga Reo discussions in September/November 2018
Support Māori capability and capacity to deal with government	<ul style="list-style-type: none"> [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> Report back to Committee proposing a work programme for a conversation about institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> Action as required ahead of major events

Crown/Māori Engagement Framework

9. note that the engagement framework and guidelines build on the interim engagement approach approved by Cabinet in March and are intended to provide practical advice on how to engage with Māori;
10. agree that the engagement framework and guidelines are available for immediate use;
11. agree that officials from the Crown/Māori Relations Unit will continue to provide an assurance role, develop an evaluation process and provide further targeted advice, tools and support to assist Government to better engage with Māori on matters of importance;
12. agree that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference.

Appropriation

13. [potentially decision on new appropriation or a separate Vote]

Authorised for lodgement

Hon Kelvin Davis
Minister for Crown/Māori Relations

Appendix One: High-level summary of all feedback (from submissions and hui) PROTOTYPE – TO BE UPDATED

Crown/Māori Relations Portfolio submission comments

June 2018

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“Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat. Ut enim ad minim veniam, quis nostrud exercitation ullamcorper suscipit lobortis.

Comments received from: Individuals Organisations OTHER

“Despite it being a statutory obligation for Crown and local government entities to engage, support and consult with Māori, the process itself is just a box-ticking exercise. THE CRUCIAL ELEMENT OF THE TREATY RELATIONSHIP CONCERNs GOVERNANCE AND CO-GOVERNANCE BETWEEN THE CROWN AND IWI, HAPU AND WHĀNAU - BETWEEN KAWANATANGA AND RANGATIRATANGA. The relationships first and foremost should be place-based and values-based. Inequitable and demand-driven engagement practices - engaging with non-mandated individuals. SOMETHING I FIND HUGELY UPSETTING IS THE EXTENT TO WHICH THE PUBLIC SERVICE RELIES ON MĀORI TO FILL CULTURAL CAPABILITY GAPS (E.G. DIAL A MIHI ETC). CEOs of public service departments need ongoing targeted training (to be prioritised over public servants and including history). Ideally they would attend noho marae. There should be detailed guidance for departments on what they should offer in terms of cultural capability training. The Treaty relationship is between hapu and the Crown, and that therefore must be the primary relationship on the national level. Crown [needs] to co-invest with us, in building our capability and capacity to proactively and constructively engage.

Marae visits are a wonderful way to break down these barriers too and reduce the 'us and them' feeling. IF EVERY CHILD GETS TAUGHT MĀORI FROM A YOUNG AGE THEY WILL GROW UP BEING OPEN TO, AND UNDERSTANDING, TE AO MĀORI A LOT MORE. The first step here is to increase the numbers of qualified teachers, in order to be able to offer these courses throughout our education system. Iwi have shown that given the opportunity to thrive economically, the social issues will improve as well. REGIONAL AND LOCAL LEVEL INVOLVEMENT SHOULD BE A FOCUS. CULTURAL IMPACT REPORTS FROM LOCAL COMMUNITIES TAKE INTO ACCOUNT PEOPLE, PLACE AND SPECIES AND SHOULD NOT BE OVERLOOKED.

I agree that local government is a vital issue that must be addressed. LOCAL GOVERNMENT IS STILL CARRYING OUT THE CROWN'S WORK, AND THEY NEED TO BE INCLUDED IN THE PARTNERSHIP WITH MĀORI. Local government is an essential piece of the healthy relationship puzzle, and any legalities around it not technically being part of the Crown, should be set aside as far as possible, for practical reasons. FEW COUNCILS HAVE INTERNAL POLICY ADVICE ON WHAT THEIR OBLIGATIONS TO MĀORI ARE. Local government is where you need to start. Legislate for formal representation.

The role you have with Māori in the future, must not be in conflict with the Minister for Māori Affairs portfolio responsibilities or Minister for Treaty Settlement. UNNECESSARY GIVEN EVERY MINISTER OF THE CROWN ALREADY HAS AN OBLIGATION TO ENSURE THE HEALTH OF THE CROWN'S RELATIONSHIP WITH MĀORI. Rename the portfolio Minister for Crown Reconciliation, CMR to monitor, audit compliance of Crown entities, agencies and Local Government against Te Tiriti, and report to hapu.

If the Crown starts to return land loss not just pay Iwi out. START LISTENING TO MĀORI, SO THAT WE AS MĀORI CAN DEVELOP. The Crown should try to envisage what this society might have looked like if Europeans simply migrated. There is a need to have our peoples' mana re-written into every Law book by our learned leaders and assisted by our elders.

If the Crown starts to return land loss not just pay Iwi out. START LISTENING TO MĀORI, SO THAT WE AS MĀORI CAN DEVELOP. The Crown should try to envisage what this society might have looked like if Europeans simply migrated. There is a need to have our peoples' mana re-written into every Law book by our learned leaders and assisted by our elders. We expect that there will be specific issues relating to our legislation, our respective obligations under Te Tiriti o Waitangi and our Deed of Settlement that require direct, and in some cases exclusive engagement between ourselves and the Crown.

Working with Māori

Captures comments about how agencies engage with Māori, how they should engage with Māori, and who they should engage with. It also includes comments on agencies' internal capability, how agencies work together, and what should happen to improve how the public sector operates.

Māori-centred development

Captures comments about Māori economic development, cultural development, and development opportunities centred on Māori specifically.

Local government issues

Captures comments about the relationship between the Crown and local government, local government capacity, capability and engagement on issues involving Māori, resource management and funding issues.

Crown/Māori Relations Roopū (portfolio)

Captures comments about the establishment of the Crown/Māori Relations portfolio, potential functions of the portfolio (such as auditing other agencies), where the Crown/Māori Relations Roopū should be located, and the impact of the portfolio on all New Zealanders.

Rangatiratanga (Māori rights)

Captures comments relating to tino rangatiratanga, legal processes (e.g. Waitangi Tribunal) and connections to international frameworks (e.g. UNDRIP).

Constitutional changes

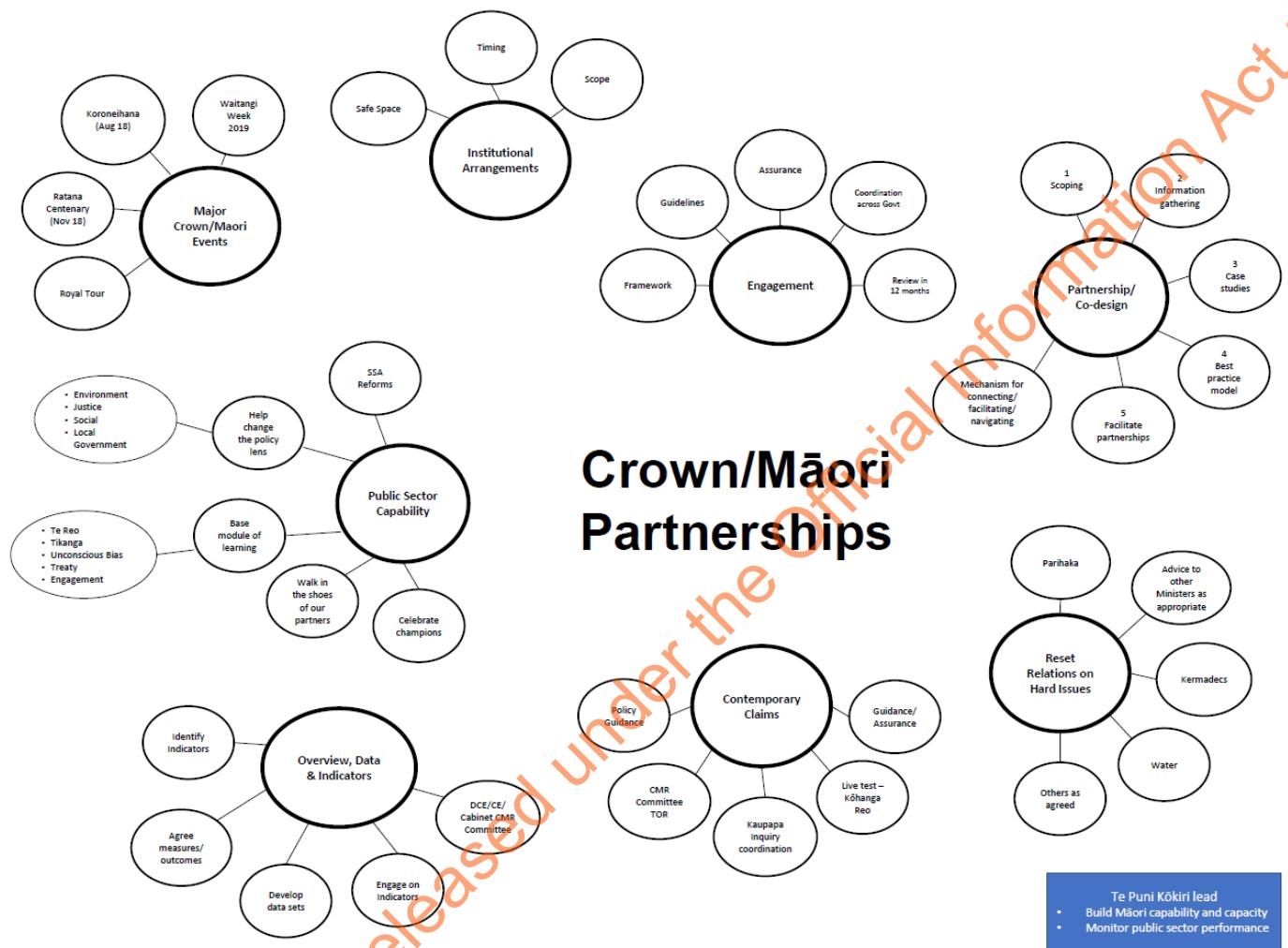
Captures comments about constitutional change. It also includes comments about educating all New Zealanders on the value of the Crown/Māori relationship, and the benefits Māori generate for all New Zealanders.

References

Appendix Two: High-level themes communicated to Ministers PROTOTYPE – TO BE UPDATED

Theme	What people told the Minister
Name of portfolio and placement in the public service	<ul style="list-style-type: none"> There is a lot of support for the establishment of the portfolio, however, many hui attendees were said that the portfolio: <ul style="list-style-type: none"> should have the right level of influence across government; be properly resourced; and requires a standalone Ministry. Many people said the name of the portfolio needs to reference the Treaty partnership more clearly.
Local government	<ul style="list-style-type: none"> There is inadequate Māori representation. Limited capability within councils to work with Māori in a meaningful way. Māori want: <ul style="list-style-type: none"> to be at the decision-making table; and to co-design processes (not to be consulted on documents that have been nearly fully developed).
State Sector capability	<ul style="list-style-type: none"> Public sector seen as barriers and lacking ability to deal with Māori. Māori want: <ul style="list-style-type: none"> to be dealt with fairly and with understanding; for public sector to know about the Treaty, and what the Crown/Māori relationship means for their organisation and their behaviour; and for public sector to join up when dealing with their community.
Engagement with Māori	<ul style="list-style-type: none"> Constantly being asked to rubber stamp things late in the process and not told the full story Want Government to speak to other people, whānau, hapū as well as Iwi Chairs. Māori want: <ul style="list-style-type: none"> A consistent approach to engagement; to co-design policy and processes (not to be consulted on documents that have been nearly fully developed), and <ul style="list-style-type: none"> services to be developed that are responsive to Māori needs/aspirations; and For public sector to be joined up rather than having different hui every week.
NZ history / reo education	<ul style="list-style-type: none"> Tamariki and all New Zealanders should be taught New Zealand history. Every child should have access to te reo education.
Regional Economic Development	<ul style="list-style-type: none"> Māori are seeking to be recognised as partners in economic development in the regions Want help building their own capability to engage better with Government.
Constitutional Reform	<ul style="list-style-type: none"> The Crown needs to fully acknowledge, and give effect to the Treaty/ Te Tiriti and He Whakaputanga. The Treaty needs to be given prominence in the New Zealand constitution The Crown/Māori Relations portfolio should be based on Treaty.
Treaty settlements	<ul style="list-style-type: none"> Some groups are concerned about how their Treaty settlements are being implemented with Crown not honouring promises. Some people are concerned about the process and/or progress of the negotiations of their iwi.

Appendix Three: Crown/Māori Partnership Diagram



Te Puni Kōkiri lead

- Build Māori capability and capacity
- Monitor public sector performance

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Appendix Five: Engagement framework guidelines

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Endnotes

ⁱ From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 2

ⁱⁱ Submissions - NOL45, OLS84-document; Hui notes – Kaitaia (para 346)

ⁱⁱⁱ Submissions - OLS84-document

^{iv} Hui notes – Māori Womens Welfare League (para 8), Whangarei (para 400);
^v [Source quote]

^{vi} Hui notes - Gisborne (para 582)

^{vii} Hui notes - Hokianga (para 443)

^{viii} Hui notes - Hokianga (para 442); Submissions: OLS94 (para 2122)

^{ix} [Source quote]

^x [Source quote]

^{xi} Hui notes - Gisborne (paras 580 + 588), Hastings (paras 595 + 620) and Rotorua hui (para 721); Māori business, professional and social enterprise focus group hui (para 220)

^{xii} Hui notes - Kaikohe (para 472), Thames (para 653); Submissions: NOL18 (paras 7 & 10)

^{xiii} Hui notes - Hokianga (para 428), Palmerston North (para 813)

^{xiv} Hui notes - Kaitaia (para 361), Hastings (para 622)

^{xv} Hui notes - Nelson (para 507), Huntly (para 597), Auckland (para 779), Whakatāne (para 938)

^{xvi} Hui notes - Gisborne (para 585),

^{xvii} Hui notes - Taupō (para 875)

^{xviii} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 25, Submissions - OLS90 (para 2030); Hui notes – Human Rights Commission (para 35), Palmerston North (para 905)

^{xix} [Source quote]

^{xx} [Source quote]

^{xxi} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 14

^{xxii} Submissions - OLS87 (para 1985)

^{xxiii} Waitangi Tribunal letter, *Ko Aotearoa Tenei*, chapter 9.3

^{xxiv} Hui notes – Federation of Māori Authorities (para 321)

^{xxv} Hui notes – Gisborne (para 545)

^{xxvi} Hui notes – Nelson (para 506)

^{xxvii} Hui notes – Invercargill (para 828), Kaitaia (para 359); Submissions: NOL85

^{xxviii} Submissions - OLS28

^{xxix} Notes of hui – Gisborne (para 571)

^{xxx} Hui notes – Auckland (para 770)

^{xxxi} Submissions - OLS84-document

^{xxii} Submissions - OLS64 (para 1689)

^{xxiii} Hui notes – Waitara (para 753); Submissions: NOL22 (paras 26-27)

^{xxiv} Hui notes – Waitara (para 753); Submissions: NOL36 (para 1)

^{xxv} Submissions: NOL22 (para 30)

^{xxvi} Hui notes – Hokianga (para 443), Auckland (para 770); Submissions: OL52, OL94

^{xxvii} Submissions – OLS13 (para 1168)

^{xxviii} Submissions – NOL20 (page 8)

^{xxix} Submissions – OLS82 (para 1923)

^{xl} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 17

^{xi} Hui notes – Māori Womens Welfare League (para 1), Huntly (para 668); Submissions: OLS52-document

^{xii} Submissions – NOL18 (paras 7 & 10)

^{xiii} Submission - NOL19 (paras 4.10-4.13 & 4.18),
^{xiv} [Submissions: OLS24 (para 1334)]

^{xv} Submissions – OLS59 (para 1634)

^{xvi} [Source quote]

^{xvii} [Source quote]

^{xviii} [Sourced from NOL submission]

^{xix} Submissions – OL12 (para 1143)

ⁱ [Source quote]

ⁱⁱ [Source quote]

ⁱⁱⁱ Te Puni Kōkiri Te Hanga Whanaungatanga mō te Hononga Hāngai ki te Māori: *Building Relationships for Effective Engagement with Māori*; Waitangi Tribunal Wai 262: *Ko Aotearoa Tēnei*; New Zealand Government *Online Engagement*; International Association for Public Participation IAP2's *Public Participation Spectrum*; Department of the Prime Minister and Cabinet *Public Participation*.

ⁱⁱⁱ Hui notes – Hokianga (para 429), Nelson (para 508), Christchurch (para 540), Gisborne (para 578), Thames (para 638 + 654), Huntly (para 682), Rotorua (para 717), Whanganui (para 741)

^{iv} Hui notes – Kaitaia (para 341), Whangarei (para 403), Nelson (para 488 + 508), Christchurch (para 522), Gisborne (para 546 + 580), Hastings (para 594-595 + 615 + 617), Huntly (para 683), Whanganui (para 733), Auckland (para 781), Wellington (para 809), Invercargill (para 822), Taupō (para 878), Palmerston North (para 889), Whakatāne (para 918)

^{lv} Hui notes – Kaitaia (para 361), Taupō (para 878), Whakatāne (para 938),

^{lvi} Hui notes - Thames (para 638 + 654),

^{lvii} Submissions – OLS94 (para 1490)

^{lviii} Hui notes – Kaitāia (para 337)

^{lix} [Source quote]

^{lx} Hui notes – Māori Womens Welfare League

^{li} Hui notes – Kaitaia (para 350), Whangarei (para 394), Hokianga (para 441), Rotorua (para 709), Waitara (para 739 & 7480), Wellington (para 806)

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Document 10

From: Marian Horan <Marian.Horan@mpi.govt.nz>
Sent: Thursday, July 26, 2018 3:42 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: comments from MPI on cab paper

Kia ora Patrick,

Our comments on the paper.

Thanks for sending it through.

Ngā mihi,
M.

MPI comments

Thank you for sharing the Cabinet paper and the engagement framework documents. As I said at the hui on Wednesday, our staff here at MPI are actively seeking support to engage with Māori.

We are very keen to be involved in developing resources to support public sector capability and on that note have a few comments on the Cabinet paper and its appendices.

Cabinet paper

We thought it would be useful to include some more information on potential options to address the public feedback about having the Crown/Māori partnership based within MoJ. This could be more convincing and consider all options such as a departmental agency within DPMC and record all the trade offs with the many options – though perhaps that is another paper!

The paper also could better articulate the difference between the role of TPK and the new agency – otherwise there is no clear need for the new agency.

Engagement framework

At MPI (and other agencies) we engage with Māori in several ways. We have statutory engagement, economic development opportunities, and policy development.

The engagement framework as drafted probably doesn't support the many statutory engagements we are required to have. For example, customary fisheries and our relationship with TOKM. Will additional material be targeted to support that mahi? Will the current framework be expanded and recognise legal obligations?

We thought the framework does a good job articulating at a high level a way of working and sets some principles. We thought, and maybe this is the job of the next iteration and the other resources, that it would be good to have further practical information. For example, where do we go to get information on tikanga Māori? What does an engagement strategy look like? Perhaps resources can be targeted at staff with different skills in a staged way?

On the appendix with the numbers, 1 to 5, we had a number of thoughts and questions.

Number 3 – how to engage.

This will pose challenges ensuring staff have the capability to understand what is significant and what is minor.

Number 2 – who to engage with

While we see the merits of the national, local, regional categories, in practice there will be large overlaps in spheres of interest. On a case by case basis you may need to consult over multiple categories.

We at MPI work with Māori who fall into different groups. Yes we work with individuals, whānau, hapū and iwi. But we also work with Māori land and interest owners, Māori business owners, and Māori interest groups. Perhaps these could be reflected in the lists under local, regional, and national?

There is a suggestion that TKM can provide a resource to establish contact lists. This provides info on iwi, hapū and marae contacts. Agencies probably need to develop their own lists for business and interest groups ie FOMA and maybe this should be clear to prevent people from just talking to iwi type entities about things that relate to Māori businesses, Māori lands, etc?

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Document 11

From: Eleonora De Crescenzo <Eleonora.DeCrescenzo002@msd.govt.nz>
Sent: Thursday, July 26, 2018 4:51 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Manaia King <Manaia.King038@msd.govt.nz>; Justine Cornwall <Justine.Cornwall009@msd.govt.nz>
Subject: MSD feedback - Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora Patrick

I'm pulling together feedback from MSD. Still waiting on some units to get back to me, so I'll give you an update tomorrow by 12pm, apology for the delay.

Our general comment is that we are supportive of the kaupapa, however clarity will be needed on how the new portfolio aligns with the role of Te Puni Kōkiri. We are also interested to hear how the new agency would work with other Ministries in their areas of expertise.

In regard to the two appendixes, Engagement framework and Engagement framework guidelines, the guidelines could perhaps be more focused and better structured. There is a balance to be found for a tool that is both versatile and comprehensive. However I do acknowledge that it is a good starting point.

Ngā mihi
Eleonora



Eleonora De Crescenzo

Policy Analyst

✉ Eleonora.decrescenzo002@msd.govt.nz

☞ The Aurora Centre | Level 8 | 56 The Terrace | Wellington | New Zealand

☎ 04 978 4355 | ☎ D2D 42255



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANĀU WHAKAHIAKO ORA

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 7:11 p.m.
To: Lola Toppin-Casserly; Rhonda Blood; Laura Crespo; Eleonora De Crescenzo; Charlie Howe; Simon MacPherson; Justine Cornwall; Marama Edwards
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

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Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
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Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 12

From: MATAIO, Jason <Jason.Mataio3@police.govt.nz>
Sent: Thursday, July 26, 2018 11:45 AM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: WILSON TUALA-FATA, Mere <Mere.WILSONTUALA-FATA@police.govt.nz>
Subject: Police comment: Draft Cab paper for agency consult - Final scope of CMR & engagement framework

Tēnā koe Patrick

Thank you for the opportunity to comment on the *Proposed final scope of the Crown/Māori Relations Portfolio and Crown/Māori Engagement Framework and Guidelines* cabinet paper. NZ Police would like to acknowledge your efforts to date to support an authentic and genuine conversation with Māori. NZ Police are committed to the same values, as such we appreciate the work that has been put into having nation-wide discussions with iwi, community and other groups about the portfolio. On the whole we have no objections to the paper, and see value in the proposed resources.

It would be useful to clarify whether or not the review processes by the Crown-Māori Relations unit are compulsory. While Police understand the intent of having a consistent approach across agencies, perhaps it would be useful to develop a mechanism that balances the proposed against the agency's existing capability and processes. This would help minimise transactional costs where sufficient capability and processes are already in place.

Police, over time, have developed a joint understanding with Māori about how and for what purposes to engage marae, hapū, iwi, other groups and at the national level about our work, particularly co-design of operational initiatives. The questions proposed in the guidelines certainly align with our current practise. While there is always room to improve, the robust relationships we have developed over time with our Māori partners means there is free and frank exchange about how Police can do better where shared interests are concerned.

Once again, thank you for the opportunity to comment. We look forward to seeing a final version of the paper.

Thank you

Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 7:07 p.m.
To: MCLEAN, Michael <Michael.McLean@police.govt.nz>; WOOD, Jeremy <Jeremy.Wood@police.govt.nz>; WILSON TUALA-FATA, Mere <Mere.WILSONTUALA-FATA@police.govt.nz>; ELIGIUS, Christiana <Christiana.Eligius@police.govt.nz>; MATAIO, Jason <Jason.Mataio3@police.govt.nz>; HAUMAHA, Wallace <Wallace.Haumaha@police.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [NZ Police]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

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Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 13

From: VAN LEUVEN, Carolyn (WELLHO) <Carolyn.VanLeuven@CORRECTIONS.GOV.T.NZ>
Sent: Friday, July 27, 2018 12:29 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; KENNEDY, Suzanne (WELLHO) <Suzanne.KENNEDY@corrections.govt.nz>; HAMER, Paul (WELLHO) <Paul.Hamer@CORRECTIONS.GOV.T.NZ>; CAMPBELL, Neil (WELLHO) <neil.campbell@corrections.govt.nz>; TIHEMA, Barney (WELLHO) <barney.tihema@corrections.govt.nz>; BUCHANAN, Hannah (WELLHO) <Hannah.Buchanan@CORRECTIONS.GOV.T.NZ>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Corrections]

Kia ora ano Patrick

As noted earlier in the week, we think it's a really clear paper. Well done! And our overarching comment from an Ara Poutama Aotearoa perspective is that we're very supportive of taking a bold approach and will look forward to working with any new agency. Here are our high-level thoughts, which I think are consistent with the korero at Wednesday's DCEs hui. They're not all specifically and obviously Corrections-related, but they are relevant to how agencies work together – which is vital to our work with Maori in keeping communities safe and changing lives.

- The paper proposes the creation of a new, stand-alone central agency. This raises a number of complicated issues that need to be given careful thought and that Ministers will need visibility of before making decisions. As discussed on Wednesday, we think the decision to adopt that particular proposal over other options (e.g. sitting within DPMC) needs to be set out in the paper.
- Have you considered whether bipartisan parliamentary support should be sought for any of the measures proposed in the paper? Otherwise there is a risk that a future change in government will see them unwound, which will ultimately not be helpful to the Crown-Maori relationship.
- The intended independence for the Minister as the voice of the Crown-Maori partnership will need to be very carefully thought through (in what respects would the Minister be independent? in what situations would they be bound by collective Cabinet responsibility? etc) and will require widespread support.
- Is it clear that Maori themselves will support the notion of a Minister of the Crown being the advocate for the Crown-Maori partnership within Government, rather than, say, someone of their own selection?
- As you know, frequent feedback from iwi is that they have too many government agencies to deal with, and that they want a more coordinated approach. It is crucial that we all keep working on improving the way we work together and our coordination and we don't fall into the trap of another agency being another Crown car up the driveway. In that respect it's good to see that an object of the new agency would be to ensure better Crown coordination in regard to relationships with Maori and treaty issues.
- There appears to be a particular prospect of confusion with the role of Te Puni Kokiri. The paper refers to Te Puni Kokiri as being unsuitable for the role because it has a function of 'advocating for Maori'. Our understanding is that Te Puni Kokiri is the key advisor on the Crown-Maori relationship, and a monitor of other agencies' performance, but it is not an advocate for Maori per se. We think the paper needs to clearly set out why both agencies are needed and shouldn't be combined; and if there are two agencies, it will need to be very clear what functions each have and how they work together.

- A role of the proposed new agency is to lift public sector performance with regard to relationships with Maori, but this seems to be a core role of Te Puni Kokiri, particularly in terms of the monitoring functions set out under its establishment act. If this envisaged role for Te Puni Kokiri is not being fulfilled, should we be asking whether it would be as effective (or better) to ensure that it is, rather than create a new agency?
- Regardless of what happens in regard to a new agency, or any agency or unit's specific focus on Crown-Maori partnerships, ALL departments/agencies need to take responsibility for having capability to work with Maori.
- The new agency is proposed to be a quasi-independent advocate for the Crown-Maori relationship. However, it is intended that it include the Office of Treaty Settlements, the Crown's negotiator of treaty settlements. We wonder whether this aspect would be supported by Maori, especially those fresh from what can be difficult negotiations.
- The paper notes the possible consideration of the future role for the Waitangi Tribunal. The sense is that the paper is suggesting that the Crown, through setting up this new agency, making the Minister more independent, and creating better coordination across agencies with regard to treaty issues, will ensure treaty compliance. Does this imply that the Crown is planning to assume the role of monitoring and adjudicating on treaty compliance for itself? We're not convinced that Maori will accept a relegation of a role for the Tribunal as a truly independent arbiter of the Crown-Maori relationship.

We hope that's helpful. All the best with pulling together the next version – we look forward to seeing it!

Nga mihi, na Carolyn

From: VAN LEUVEN, Carolyn (WELLHO)
Sent: 27 July 2018 10:14 a.m.
To: 'Southee, Patrick'; KENNEDY, Suzanne (WELLHO); HAMER, Paul (WELLHO); CAMPBELL, Neil (WELLHO); TIHEMA, Barney (WELLHO)
Cc: Anderson, Lillian
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Corrections]

Morena Patrick

I think all of my/our feedback was incorporated in the discussion at the DCEs hui earlier in the week. We can pull together some high-level bullet points to reiterate if that's helpful, and get this back to you in the next few hours. Given the changes I'd anticipate following that korero, I don't know that more detailed feedback will be that useful at this stage.

Nga mihi, na Carolyn

Carolyn van Leuven | Deputy Chief Executive, Office of the Chief Executive |
Te Atiawa o te Waka-a-Māui

National Office | Department of Corrections Ara Poutama Aotearoa |
Mayfair House, 44-52 The Terrace, Wellington | Private Box 1206, Wellington 6140 |
Phone 04 819 1742 | Ext 68742 | Mobile 027 564 3691 | carolyn.vanleuven@corrections.govt.nz |



From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: 27 July 2018 9:47 a.m.
To: HENRY, Annette (WELLHO); MOALA-MAFI, Kaleti (WELLHO); KENNEDY, Suzanne (WELLHO);

HAMER, Paul (WELLHO); VAN LEUVEN, Carolyn (WELLHO); CAMPBELL, Neil (WELLHO); COLLETT, Clare (WELLHO)

Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia

Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Corrections]

Kia ora koutou,

Will it be possible to receive written comments on the draft Cabinet paper by 12pm today in order for us to be able to include them in the next version (that we intend to provide to the Minister for consultation with his Ministerial colleagues)?

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Southee, Patrick

Sent: Thursday, 19 July 2018 7:19 p.m.

To: 'Annette.Henry@CORRECTIONS.GOV.T.NZ' <Annette.Henry@CORRECTIONS.GOV.T.NZ>;

'Kaleti.Moala-Mafi@CORRECTIONS.GOV.T.NZ' <Kaleti.Moala-Mafi@CORRECTIONS.GOV.T.NZ>;

'suzanne.kennedy@corrections.govt.nz' <suzanne.kennedy@corrections.govt.nz>;

'paul.hamer@corrections.govt.nz' <paul.hamer@corrections.govt.nz>;

'carolyn.vanleuven@corrections.govt.nz' <carolyn.vanleuven@corrections.govt.nz>;

'Neil.Campbell@corrections.govt.nz' <Neil.Campbell@corrections.govt.nz>

Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana

<Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali,

Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick,

Tia <Tia.Warbrick@justice.govt.nz>

Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework

[Corrections]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

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The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

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Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 14

From: Helene Peyroux <Helene.Peyroux@mch.govt.nz>
Sent: Friday, July 27, 2018 1:00 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Lois Searle <Lois.Searle@mch.govt.nz>; Monique Esplin <Monique.Esplin@mch.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

Kia ora Patrick

Thank you for the opportunity to comment. Just confirming that MCH's previous comments still stand for this paper.

Ngā mihi, nā

Hélène Peyroux | Kaitātari Matua Whai Wāhitanga Tiriti | Senior Advisor Treaty Partnerships
Office of the Chief Executive
Manatū Taonga | Ministry for Culture & Heritage
He ngākau titikaha, he hononga tangata
Promoting a confident and connected culture
Public Trust Building 131 -135 Lambton Quay,
P O Box 5364, Wellington, 6145 New Zealand.
Ph [+64 4 4994229](tel:+6444994229) Ext 585 Fax [+64 4 499 4490](tel:+6444994490)

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Friday, 27 July 2018 9:44 a.m.
To: Lois Searle <Lois.Searle@mch.govt.nz>; Helene Peyroux <Helene.Peyroux@mch.govt.nz>; Nerissa Barber <Nerissa.Barber@mch.govt.nz>; Monique Esplin <Monique.Esplin@mch.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

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Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Southee, Patrick
Sent: Thursday, 19 July 2018 7:06 p.m.
To: 'lois.searle@mch.govt.nz' <lois.searle@mch.govt.nz>; 'helene.peyroux@mch.govt.nz' <helene.peyroux@mch.govt.nz>; 'Nerissa.Barber@mch.govt.nz' <Nerissa.Barber@mch.govt.nz>; 'Monique.Esplin@mch.govt.nz' <Monique.Esplin@mch.govt.nz>

Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

Kia ora koutou,

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Document 15

From: RILEY, John (TND) <John.Riley@mfat.govt.nz>
Sent: Friday, July 27, 2018 12:23 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; KEELAN, Ngawini (MPU) <ngawini.keelan@mfat.govt.nz>; WIKAIRA, Martin (MPU) <Martin.Wikaira@mfat.govt.nz>; LEE, Julie-Anne (CEO Office) <Julie-Anne.Lee@mfat.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MFAT]

[UNCLASSIFIED]

Patrick

The following is from Ngawini Keelan [s 9(2)(a)] who is working from home today:

- Para 8: We don't have a problem with the requirement to share engagement plans with interested agencies including CMR. Note: *As part of our Māori Engagement Strategy MFAT will be developing an engagement protocol. The protocol will sit above of and inform our engagement planning (with Māori audiences) in areas of interest to them e.g. environment, trade, human rights, cultural diplomacy etc. We look forward to consulting with interested agencies on this development but expect that once we have agreement, particularly on engagement principles and practice, there would not be a need for the same level of consultation, including with CMR, on individual engagement plans across all of the Ministry's work. Where CMR has confidence in an agency's engagement practices we think checking periodically to review progress is appropriate – we are often working to tight deadlines which Māori also have an interest in seeing met.*
- Other
 - 16.1.2 Strongly Agree
 - 22. No mention of whether and how to take forward WAI 262 findings (has often been raised in MFAT's engagement with Maori) yet it remains of ongoing concern to Māori. Some Maori have requested a national hui and a consolidated response from the Crown on what its doing on progress to date. Update?
 - 39.2.1.1 see also our response to para 7 in (b). Note that Māori interests are increasingly moving offshore and ask if the scan will extend to include that interest.
 - 39.2.1.2 Interested also for advice on the implementation of these principles for partnership development
 - 39.5.1.4. Strongly Agree - ref our work to lift MFAT's matauranga Māori capability and capacity over the next 5 years. This will include recognition of reo, tikanga and engagement competencies.
 - 70-71. We have a good working relationship with Iwi Chairs so will be watching this space closely

From me: I don't have specific drafting suggestions on the cab paper but on my area of trade negotiations, I would note that both MFAT and TPK are both performing roles where we see ourselves as protecting and advancing the interests of Māori (often in consultation with MPI, MBIE, MoH, NZTE, Customs, Education NZ). I think TPK are adding value and have significantly upskilled themselves in trade policy. I see CMR's role being more around checking our engagement practices periodically and suggesting improvements as opposed to being across the policy detail that TPK are now across. In any case there should be clear delineation of roles to avoid duplication and to be mindful of government resource.

John Riley

Unit Manager
Trade Policy Engagement Unit, Trade Negotiations Division
New Zealand Ministry of Foreign Affairs & Trade | Manatū Aorere

T +64 4 439 7956 M +64 21 86 0648 E john.riley@mfat.govt.nz  @honeriley



From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Friday, 27 July 2018 9:46 a.m.
To: KEELAN, Ngawini (MPU); WIKAIRA, Martin (MPU); RILEY, John (TND); LEE, Julie-Anne (CEO Office)
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MFAT]

Kia ora koutou,

Will it be possible to receive written comments on the draft Cabinet paper by 12pm today in order for us to be able to include them in the next version (that we intend to provide to the Minister for consultation with his Ministerial colleagues)?

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Southee, Patrick
Sent: Thursday, 19 July 2018 7:17 p.m.
To: 'ngawini.keelan@mfat.govt.nz' <ngawini.keelan@mfat.govt.nz>; 'martin.wikaira@mfat.govt.nz' <martin.wikaira@mfat.govt.nz>; 'john.riley@mfat.govt.nz' <john.riley@mfat.govt.nz>; 'Julie-Anne.Lee@mfat.govt.nz' <Julie-Anne.Lee@mfat.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MFAT]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4

September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

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Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

[UNCLASSIFIED]

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Document 16

From: Johnston, Anna <Anna.Johnston@justice.govt.nz>
Sent: Friday, July 27, 2018 2:18 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Hubscher, Chris <Chris.Hubscher@justice.govt.nz>; Meehan-Pearson, Robyn <Robyn.Meehan-Pearson@justice.govt.nz>; Crooke, David <David.Crooke@justice.govt.nz>; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Justice]

Kia ora Patrick,

Thank you for the opportunity to comment on this draft Cabinet paper and for meeting with us today to discuss. In the interests of time, I am sending our comments as they were – I know that you are already thinking about these things and are making significant changes to the draft paper.

The paper demonstrates a really strong process of engagement with Māori and, through the views expressed by Māori, creates a strong case for a change in the way the public service engages in the Crown-Māori relationship. We support the drive for bold ideas and breaking away from old ways of doing things.

It also raises some important constitutional and human rights issues. We would be happy to work with you further on some of the issues we discuss in our comments below if that would assist. We also think it would be worthwhile for you to talk to the Family Violence Multi-Agency Team. That team has been doing a lot of thinking on machinery of government and the role of a central agent in that context.

Proposal to establish of a new central agency

The paper says that locating responsibility for the Crown-Māori relationship within the Ministry of Justice has negative connotations for Māori (because of the connection to criminal justice). Although this is a clear statement of a problem, we are not sure that it is sufficient alone to justify a new agency. It is not clear from the paper how a new agency would advance the Crown/Māori relationship, and whether the additional costs (eg, overheads) of a new agency are justified.

The paper should also consider alternative options for addressing the problem. There is at least one option not discussed in the paper - a departmental agency (either within the Ministry of Justice or another agency), which would provide a separate identity and high degree of autonomy. A departmental agency, which relies on another agency for its corporate functions, could be a stepping stone to a stand-alone agency. It is a safe way to approach the issue because it is easier to adjust if we don't get it quite right. A stand-alone agency with a narrow purpose would be more difficult to change or combine with other functions if it proved to be the wrong approach.

The paper should also articulate the risks of the preferred approach. For example, paragraph 43 states that the alternative option of transferring functions to Te Puni Kōkiri (TPK) would require time to restructure that we do not have to waste. This ignores the fact that establishing a new department is likely to be more disruptive than transferring functions to an existing agency with all the corporate infrastructure already in place.

We think it is important to take a long term view of what such an agency's role would be and to articulate how that role would fit in with the role of other agencies. Paragraph 43 of the paper says

that TPK leads Māori Public Policy, advises on policy affecting Māori wellbeing, monitors policy and legislation, advocates for Māori and supports Māori capability. It is not clear how this role differs from the role of acting in the interests of the relationship. Several of the functions described in para 39 seem closely aligned with the functions of TPK, including helping government to better engage with Māori on matters of importance, finding opportunities for active partnerships between the Crown and Māori, lifting public sector performance to better respond to Māori issues, and improving the Crown's responses to contemporary Treaty issues. Similar questions arise with regard to MoJ's responsibility for constitutional policy (discussed further below).

We realise that this proposal is a key part of the paper and that you are working to tight timeframes. We wonder whether it may be possible for the paper not to seek agreement to a new agency at this stage. There is a risk that this issue could distract from, or impede progress on, the other matters addressed in the paper, such as the proposed engagement framework. Could the paper instead report back on what those consulted said about the institutional arrangements, note some of the issues this raises, and outline the further work / next steps required? Alternatively could the paper be delayed to allow for the big ideas to be better developed? Another form of document could be produced to provide a basis for early discussions between Ministers.

Proposed exception to collective responsibility (paras 31-33)

We do not support the proposal that the Minister for the Crown-Māori Partnership not be bound by collective responsibility. We don't think the comparison with Attorney-General's role is apt as the two situations are not analogous. The Attorney-General is exempt from collective responsibility only when exercising law officer functions. In all other matters, the Attorney-General is bound by collective responsibility.

Furthermore, the independence of the Attorney-General relates to the expression of opinions but they still hold a warrant from the Governor-General and still represent the Crown, as do Ministers. This does not mean Ministers must always advocate for the interests of the Crown above all others. They must act in the public interest but they do not need an exemption from collective responsibility to do so. If this proposal is to be progressed, the paper should explain how a requirement to 'act in the interests of the Crown-Māori relationship' would operate in practice and what it means for collective responsibility should be articulated.

Constitutional issues

We support the renewed focus on constitutional issues, which are integral to a healthy Crown-Māori relationship. As the draft paper says at paragraph 16, considering how we shape the New Zealand constitution is a core issue that underpins a better relationship between the Crown and Māori.

However, the paper appears to propose that constitutional responsibility for Te Tiriti o Waitangi be separated from all other constitutional issues, which would remain with the Minister of Justice. But Te Tiriti is a foundational part of our constitutional arrangements. Splitting responsibility for Te Tiriti from other constitutional arrangements would detract from its centrality, and may not be workable.

We think it is important not to conflate the constitutional discussion with 'institutional arrangements'. s 9(2)(g)(i)

Similarly, questioning the future of the Waitangi Tribunal without any discussion (at paragraph 50) risks diminishing the importance the Tribunal has placed in our history and its place in our constitutional fabric. The Tribunal's purpose is not to look solely at historical grievances, but also

contemporary Treaty breaches. The Tribunal is an important independent body for iwi and Māori to have their grievances heard, listened to and understood. We suggest that the paper not make specific suggestions at this stage because it is not necessary to support the recommendations made in the paper.

In paragraph 49, the paper says that these institutional changes would be less controversial (presumably compared to high constitutional issues). s 9(2)(g)(i)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Matters not covered in the paper

We note that the paper does not contain a Treaty of Waitangi analysis and suggest one be included. We also think the paper should mention the Declaration on the Rights of Indigenous Peoples, the principal international human rights document addressing indigenous rights. The paper deals with Māori rights to engagement and autonomy, which directly relate to the place of the Declaration and issues such as free, prior and informed consent. The domestic implementation of the Declaration is currently monitored by TPK.

Happy to discuss any of the above further if it would assist

Ngā mihi



Anna Johnston

Principal Advisor | Electoral and Constitutional | Policy Group
DDI: +64 4 494 9764 | Ext 50764 |
www.justice.govt.nz

Please note that I finish work at 2pm on Wednesday and Friday.

From: Southee, Patrick
Sent: Thursday, 19 July 2018 7:22 p.m.
To: Johnston, Anna <Anna.Johnston@justice.govt.nz>; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>; Crooke, David <David.Crooke@justice.govt.nz>; Hubscher, Chris <Chris.Hubscher@justice.govt.nz>; Holden, Sarah <Sarah.Holden@justice.govt.nz>; Smith, Benesia <Benesia.Smith@justice.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Justice]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

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Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

Document 17

From: Eleonora De Crescenzo <Eleonora.DeCrescenzo002@msd.govt.nz>
Sent: Friday, July 27, 2018 12:55 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Justine Cornwall <Justine.Cornwall009@msd.govt.nz>; Manaia King <Manaia.King038@msd.govt.nz>; Megan Beecroft <Megan.Beecroft005@msd.govt.nz>; Hamish Orbell <Hamish.Orbell001@msd.govt.nz>
Subject: FW: MSD feedback - Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora Patrick

In addition to my email below:

While having more support and guidance on Māori engagement offers clear benefits we would like to express our concern that a new agency may create more fragmentation and confusion for both agencies and stakeholders if roles and responsibilities are not well clarified and communicated. As stated in the previous email we are interested to hear how a new agency would align with existing teams in other agencies to create positive synergies and overall improvements.

An additional concern is the need for agencies working with Iwi and Māori groups to be resourced to build their capacity and capability and how agencies will be supported given the level of work required to engage well and ensure an enduring relationship/partnership can emerge as a result.

Ngā mihi
Eleonora



Eleonora De Crescenzo
Policy Analyst ✉ Eleonora.decrescenzo002@msd.govt.nz
☞ The Aurora Centre | Level 8 | 56 The Terrace | Wellington | New Zealand
☎ 04 978 4355 | ☎ D2D 42355

From: Eleonora De Crescenzo
Sent: Thursday, 26 July 2018 4:51 p.m.
To: 'Southee, Patrick'
Cc: Manaia King, Justine Cornwall
Subject: MSD feedback - Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora Patrick

I'm pulling together feedback from MSD. Still waiting on some units to get back to me, so I'll give you an update tomorrow by 12pm, apology for the delay.

Our general comment is that we are supportive of the kaupapa, however clarity will be needed on how the new portfolio aligns with the role of Te Puni Kōkiri. We are also interested to hear how the new agency would work with other Ministries in their areas of expertise.

In regard to the two appendixes, Engagement framework and Engagement framework guidelines, the guidelines could perhaps be more focused and better structured. There is a balance to be found

for a tool that is both versatile and comprehensive. However I do acknowledge that it is a good starting point.

Ngā mihi
Eleonora

<image001.png> **Eleonora De Crescenzo**
Policy Analyst
✉ Eleonora.decrescenzo002@msd.govt.nz
☞ The Aurora Centre | Level 8 | 56 The Terrace | Wellington | New Zealand
☎ 04 978 4355 | ☎ D2D 42355
<image002.png>

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 7:11 p.m.
To: Lola Toppin-Casserly; Rhonda Blood; Laura Crespo; Eleonora De Crescenzo; Charlie Howe; Simon MacPherson; Justine Cornwall; Marama Edwards
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora koutou,

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Ngā mihi,
Patrick Southee
+64 22 466 9290

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- (1) reply promptly to that effect, and remove this email and the reply from your system;
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Document 18

From: Tessa Bercic <Tessa.Bercic@ot.govt.nz>
Sent: Friday, July 27, 2018 10:04 AM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Darrin Haimona <Darrin.Haimona@ot.govt.nz>; Ralph Johnson <Ralph.Johnson@ot.govt.nz>; Stewart Bartlett <Stewart.Bartlett@ot.govt.nz>; Jane Fletcher <Jane.Fletcher@ot.govt.nz>; Uarnie-Jane More <Uarnie-Jane.More@ot.govt.nz>; Hoani Lambert <Hoani.Lambert@ot.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [OT]

Kia ora Patrick,

Arohamai for the delay.

Please find attached our tracked changes to the Cabinet paper, and our collated feedback included below.

Oranga Tamariki feedback on the Crown/Māori Relations Cabinet Paper

- Overall we are appreciative of the work that has gone into this. In particular we find that the paper is well-written and provides a good overview of the feedback from the engagement on this work thus far.
- We note a few concerns with some of the proposals/discussions outlined in this paper:

Proposal to establish a new central agency

- We note the proposal to establish a new entity with a strong focus on Crown/Māori Relations. We are concerned the rationale for having a stand-alone central agency is not compelling. Although we recognise the strong feedback from stakeholders, it would be good to include a more detailed analysis of all the options considered.
- It would be useful to clearly note the implications of the work of this new entity other agencies. Greater role clarity between the work of the new agency and Te Puni Kokiri would be particularly helpful.
- We think that this proposal is likely to have significant implications for both the Finance and Māori Development portfolios. With this in mind, we suggest that the respective Ministers of these portfolios are involved in discussions involving the setting up of any new entity.
- We also note the proposal of the Minister of Crown/Māori Relations to be a role similar to that of Attorney-General. What legislative provisions will be used to guide the role?
- With these concerns noted we recommend that the proposal be amended to reflect the need for further work in this area (ie identifying options on what the entity should look like, criteria to analyse these options and then a final recommendation to Cabinet which outlines the rationale for a new entity and likely costs/impacts).
- We also suggest that a panel, or cross-agency working group be established to inform and lead this work.

Crossover with Te Puni Kōkiri and the Māori Development portfolio

- The paper lacks clarity about the implications for the role of Te Puni Kōkiri and the Māori Development portfolio. There needs to be a well-defined set of parameters between these portfolios and how they interact with each other. If not, there is likely to be ongoing confusion and duplication across the public service particularly in areas of engagement and development of policy.
- This could be a great opportunity for the government to have a good look at all of its machinery with direct Crown/Maori Relations responsibilities. There is a chance that government could run risk of confusing itself and its partner by creating a new agency without looking carefully at how all the moving parts work together.

Developing an approach around partnerships

- We think that the paper needs to be realistic around its intentions to establish true partnerships with iwi and Māori, given our constitutional and legislative arrangements. A clear Crown/Māori Relations definition of what a "partnership" is could help.
- While the guidance provides a good high-level overview about engaging with Māori, it does not articulate how an agency might usefully distinguish iwi interests from other kaupapa-Māori organisation interests.
- There is an absence of information in the engagement material about any processes for establishing formal partnership agreements with iwi and or Māori groups. We understand that there has previously been work conducted by MOJ/TPK in this area. This then begs the question of the role of the CMR entity in terms of monitoring the health or state of those relationships.
- It would be good to see what thinking there has been around building capability within Māori communities and aligning existing strategies and work programmes at a local level, which is an issue that our iwi partners have highlighted as a priority for them.

If you would like to discuss any of the issues raised in this feedback please let us know.

Ngā mihi

Tessa Bercic

Policy Analyst

Level 14, The Aurora Centre, 56 – 66 The Terrace, Wellington | PO Box 546, Wellington 6140

 **T:** 64 4 918 9218 ext: 43218 |  **E:** Tessa.bercic@ot.govt.nz |  **W:** www.orangatamariki.govt.nz



From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]

Sent: Friday, 27 July 2018 9:45 a.m.

To: Darrin Haimona; Tessa Bercic; Ralph Johnson; Stewart Bartlett; Jane Fletcher; Uarnie-Jane More; Hoani Lambert

Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia

Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [OT]

Kia ora koutou,

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Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Southee, Patrick
Sent: Thursday, 19 July 2018 7:09 p.m.
To: 'rebecca.martin@ot.govt.nz' <rebecca.martin@ot.govt.nz>; 'darrin.haimona@ot.govt.nz' <darrin.haimona@ot.govt.nz>; 'Tessa.Bercic@ot.govt.nz' <Tessa.Bercic@ot.govt.nz>; 'Ralph.Johnson@ot.govt.nz' <Ralph.Johnson@ot.govt.nz>; 'Stewart.Bartlett@ot.govt.nz' <Stewart.Bartlett@ot.govt.nz>; 'Jane.Fletcher@ot.govt.nz' <Jane.Fletcher@ot.govt.nz>; 'Uarnie-jane.more@ot.govt.nz' <Uarnie-jane.more@ot.govt.nz>; 'Hoani.lambert@ot.govt.nz' <Hoani.lambert@ot.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
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Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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~~In Confidence~~

Office of the Minister for Crown/Māori Relations
Chair, Cabinet Crown/Māori Relations Committee

Proposed final scope of the Crown/Māori Relations portfolio and a Crown/Māori Engagement Framework and Guidelines

Proposal

1. This paper outlines public feedback on the scope of the Crown/Māori Relations portfolio (the portfolio) and seeks Cabinet approval for:
 - 1.1 me to seek agreement from the Prime Minister of the proposed final scope of the portfolio; and
 - 1.2 the overall Crown/Māori engagement framework (including the Crown's intent for, and values to underpin, the relationship and guidelines to help government engagement with Māori).

Executive Summary

2. [To come]

Background

Establishment and initial scope of Crown/Māori Relations portfolio

3. The establishment of the portfolio indicates a desire from this government to focus on the opportunities that settling claims makes possible. This requires us to look at ways to demonstrate a true and practical partnership is possible beyond the Treaty settlement negotiating table. It signals a need for the Crown and Māori to move forward together.ⁱ
4. In March 2018 I advised Cabinet of the responsibilities and priority areas in the *initial* scope of the portfolio.
5. The responsibilities were to:
 - 5.1 look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - 5.2 build the Crown's understanding and honouring of its Treaty obligations;
 - 5.3 increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - 5.4 ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - 5.5 provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship.
6. The initial scope included another responsibility – “identify and drive projects which enhance partnership between the Crown and Māori which are outside the scope of other Ministers’

portfolios". Upon further consideration, and following the engagement process I consider that the priority area set out in paragraph [5.1] above sufficiently covers the intent of that responsibility so I propose to remove it from the final scope.

7. The priority areas were:

- 7.1 'Take the lead on resetting Crown/Māori relationships on hard issues';
- 7.2 'Find opportunities for active partnerships between the Crown and Māori';
- 7.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability';
- 7.4 'Help government to better engage with Māori on matters of importance';
- 7.5 'Lift public sector performance to better respond to Māori issues'; and
- 7.6 'Improve the Crown's responses to contemporary Treaty issues'.

Interim guidance for Ministers and the public sector on engagement with Māori

8. In March Cabinet agreed guidance for use by government in engaging with Māori prior to the completion of a Crown/Māori Engagement Framework (the **interim guidance**). Key parts of the interim guidance were:

- 8.1 strong active partnership with Māori in the design and implementation of the process and outcomes is required where the impact of the issue or proposal will be significant for Māori;
- 8.2 engagement should be broad and include discussions with relevant national Māori organisations where there are issues of national significance; and
- 8.3 engagement should be undertaken through existing iwi regional fora or with affected iwi/hapū and/or regional/local based Māori organisations where there are issues of regional or local significance.

9. In March I also informed cabinet that I would engage with Māori to discuss the initial scope and priorities before I reported back to Cabinet.

Comment

10. The comment section is structured in the following way;

- 10.1 sub-section one outlines the engagement process and some of the feedback I received on the portfolio (and other portfolios);
- 10.2 sub-section two sets out my vision for the Crown/Māori relationship;
- 10.3 sub-section three seeks confirmation of the priority areas and final scope of my portfolio;
- 10.4 sub-section four sets out decisions I seek from Cabinet on new elements of the portfolio and scope that were not in the initial scope; and
- 10.5 sub-section five contains the overall Crown/Māori engagement framework that I seek approval for.

Sub-section One: The engagement process

11. When I became the Minister for Crown/Māori Relations, I didn't want to repeat the mistakes of the past. Those mistakes included instances where governments decided they knew what was best for Māori, sat in Wellington and wrote up a strategy, then went out to whānau, hapū and iwi and told them what the government had decided will be in their best interests. That approach doesn't work. Instead I took the time to go around the country and ask what we needed to do to strengthen the relationship and what my priorities as Minister should be.
12. I sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May. I held 32 hui attended by over 1600 people and received around 230 submissions. I completed the engagement process with a whole day wānanga held at Parliament with a selection of twelve people who had attended the hui or made a submission.
13. Submissions were made by individuals, groups and organisations, by Māori and non-Māori, by people who supported the portfolio and by people who did notⁱⁱ.
14. When I started the engagement process I expected to hear people say they didn't see the value in a closer Crown/Māori relationship, or that we need a separate Māori Parliament. Instead, the overwhelming feedback has been that New Zealanders do value the Crown/Māori relationship but that it needs to be a real partnership and for us to achieve that requires the government to up its game in a number of areas.

What people told me

15. People used the engagement process to tell me about a range of things of interest to them but also to provide views on the questions I asked specifically about whether my initial priority areas were right.
16. I received a range of suggestions about what my priorities should be in this portfolio. I have categorised feedback from the engagement process as follows:
 - 16.1 suggestions about the name of the portfolio and its placement within the public service, including:
 - 16.1.1 proper resourcing, namingⁱⁱⁱ and placement of, the portfolio within the public service^{iv};
 - 16.1.2 being clear about the difference between the portfolio and the Māori Development portfolio^v;
 - 16.1.3 that specific legislation^{vi} or a separate government agency^{vii} be set up to support Crown/Māori Relations;
 - 16.2 the priorities in the initial scope of the portfolio, including:
 - 16.2.1 the portfolio should take a long-term (15-20 year) view of the relationship^{viii};
 - 16.2.2 that I should co-develop a modern day forward looking Treaty based framework that will guide the Crown/Māori relationship^{ix};

*Tautoko the recognition that
Crown/Māori Relations need
strengthening
(Whangarei hui, 8 April)*

16.2.3 that I must find ways for Māori ethics on good relations to determine all Crown relations with Māori^x

16.3 other priorities that were not in the initial scope of the portfolio, including:

- 16.3.1 that the portfolio needs a mandated monitoring role if it is to be effective^{xi};
- 16.3.2 considering how we shape the New Zealand constitution going forward as it is a core issue that underpins better relationships between the Crown and Māori^{xii}; and

16.4 issues relating to other Ministers portfolios, including:

- 16.4.1 Local Government – concerns were expressed about the lack of Māori representation and ability for Māori to be decision-makers in local government issues and access to local government being difficult and having nowhere left to go if local government don't cooperate^{xiii};
- 16.4.2 Education – people thought work should be done to address unconscious bias from teachers^{xiv} and ensure that New Zealand history and te reo Māori are core components of the curriculum^{xv};
- 16.4.3 Health – people thought money should be invested in prevention services rather than the district health boards and district health boards should have more Māori representation^{xvi}; and
- 16.4.4 Environment - People supported environmental issues remaining a priority for government and that Māori are at the forefront of seeking sustainable management practices and environmental protection but are under-resourced and under-credited when engaging with officials^{xvii}.

17. A summary of the issues raised most often and what people told me through the engagement process, using quotes from submitters, is attached as **Appendix One**.

18. I have written to relevant Ministers about issues that were raised in relation to their portfolios. A table outlining broadly what I advised Ministers of is attached as **Appendix Two**.

19. I was encouraged that our instincts about what the portfolio should do and focus on (as set out in my March paper) were largely in line with what I heard in the engagement process. That process, by and large, endorsed the priority areas in the initial scope of the portfolio.

"[The priority areas under the initial scope] are some good fundamentals of how to connect with Māori"

(online submission 6, para 1075)

20. Suggestions about other areas the portfolio could focus on warranted serious consideration; in deciding what to recommend as priority workstreams in the final scope of the portfolio I have not accepted all the feedback but arrived at what I consider to be ambitious, but achievable goals to strengthen the Crown/Māori relationship.

Sub-section Two: My vision

21. Through the engagement process Māori set a challenge for this portfolio – to be bold and to be brave^{xviii}. People reminded me that I need to ensure that we are not just focussed on transactional issues, that we need to be aspirational too^{xix}. I agree with hui attendees who

told me we need to change the kōrero from 'what Māori cost the country' to 'what value add can be achieved by appropriately partnering with Māori'^{xx}. I want more from this portfolio than words and promises^{xxi} and people told me they did too^{xxii}.

22. In the concluding chapters of the report on the Wai 262 claim, Justice Joe Williams articulated the challenge facing the nation:

"[We] should shift our view of the Treaty from that of a breached contract, which can be repaired in the moment, to that of an exchange of solemn promises made about our ongoing relationships. It is the historical settlement process itself that allows us to shift our attention in this way from the past to the future... After decades of profound social and political change, and a generation long focus on the resolution of past grievances, we are now ready to enter a new stage in the relationship.

While the Treaty makes it a constitutional responsibility to adjust the Crown–Māori relationship, even without the Treaty the country would have a social and political responsibility to do so.

Some New Zealanders are uneasy about these ideas because they require us to jettison some long-held assumptions about who and what we are... History and the future both demand that we make the leap to acceptance of Māori culture and identity as a founding pillar of our national project. This is not just a matter of justice (though it is that, of course). Demographics, economics, and geo-politics suggest it is now a matter of necessity."^{xxiii}

23. I told hui participants that I am looking at 2040 and trying to work out where we want to be as a nation. While keen to conclude historical Treaty settlements, this government is looking beyond Treaty settlement negotiations. We need to shift the relationship from one focussed on historical grievance to one focussed on true partnership^{xxiv}. Achieving this change requires decisive and active leadership – we cannot assume the renewed relationship established by Treaty settlements will continue to flourish if nobody drives that to happen^{xxv}.

24. My vision is to realise the true promise of the Treaty, and Treaty settlements, for all New Zealanders ahead of the 200-year anniversary of its signing in 2040. The vision draws from the promises of the protection of rights, interests, resources and equality for all New Zealanders.

Sub-section Three: Confirm priority areas under initial scope in final scope

25. In light of the feedback I have received at hui and through submissions I seek Cabinet agreement that the following priority workstreams, with minor changes to those approved under the initial scope of the portfolio in March, be confirmed in the final scope I will propose to the Prime Minister:

- 25.1 take the lead on resetting Crown/Māori relationships on hard issues;
- 25.2 find opportunities for active partnerships between the Crown and Māori. To do this I will examine existing partnership models that are working to understand why they are successful so that their success might be replicated;
- 25.3 measure the health of the Crown/Māori relationship over time to drive accountability;
- 25.4 help government to better engage with Māori on matters of importance;
- 25.5 support Māori capability and capacity to deal with government;

- 25.6 lift public sector performance to better respond to Māori issues; and
- 25.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues.

26. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

27. I acknowledge the review of the State Sector Act 1988 the Minister for State Services is leading. This will go some way to addressing a theme that emerged from the Crown/Māori Relations engagement hui that greater accountability is required to ensure Ministers and public sector chief executives and their departments deliver results^{xxvi}.

Sub-section Four: Decisions sought on new things from Cabinet

Name of portfolio

- 28. I propose changing the name of the portfolio to 'Crown/Māori Partnership'.
- 29. This proposal is consistent with feedback I received about the relationship envisaged by the Treaty being a partnership^{xxvii} and the priority outcome assigned to the Cabinet Crown/Māori Relations Committee to 'build closer partnerships with Māori'. The Committee has been asked to have initial oversight for all of the programmes, initiatives and projects within that priority outcome.
- 30. I received a number of suggestions for an alternative name for the portfolio – 'Crown/Tangata Whenua Relations^{xxviii}', 'Iwi, Māori/Crown Relations^{xxix}', 'Minister of Te Tiriti Crown Māori Partnership^{xxx}' or Minister for Crown Reconciliation^{xxxi}.
- 31. I propose that as Minister I should act in the interests of the Crown/Māori relationship or partnership. I do not consider my role should be one of advocacy on behalf of either partner in the relationship – this will require a level of independence most other Ministers are not required to have.
- 32. I propose my role have a similar level of independence as the Attorney-General. In describing the role of Attorney-General Hon Sir Michael Cullen said that it "uniquely combines the obligation to act on some matters independently, free of political considerations, with the political partisanship that is associated with other Ministerial office. My fundamental responsibility, when acting as Attorney, is to act in the public interest".
- 33. I seek Cabinet agreement that, when acting as Minister for Crown/Māori Partnership, my responsibility is to act in the interests of the Crown/Māori relationship.

"The very name Crown/Māori Relations is not reflective of that partnership and does not acknowledge our constitutional framework underpinned by Te Tiriti"

(Submission #Q65)

A new standalone agency

WHAT PEOPLE TOLD ME ABOUT THE NEED FOR A NEW AGENCY

- 34. People across the country discussed the placement of the portfolio within the public service and the support it receives^{xxxi}. Some people thought the unit supporting the portfolio should

not sit within the Ministry of Justice^{xxxiii} and said confining discussions within a Ministry of Justice lens is limiting^{xxxiv}. One suggestion was that the portfolio should sit within the Department of Prime Minister and Cabinet, with secondary support from Te Puni Kōkiri^{xxxv}. I received strong feedback that the portfolio needs its own agency^{xxxvi}; many people were convinced that giving the Crown/Māori partnership proper standing requires it to have mana. People expressed concerns about whether the intent of the portfolio can transform the way central and local government operate. It cannot achieve that if it is hidden within a large government department.

35. Other submitters assumed a separate Ministry had already been established^{xxxvii} and had suggestions for how it could lead government agencies in better understanding of and providing for the relationships of Māori with whenua and resources^{xxxviii}. People were concerned that the portfolio should be properly resourced^{xxxix}.

WHAT WOULD A NEW AGENCY DO?

36. I consider there is a gap in the public sector framework for the type of agency and service this portfolio should provide. I further consider that such an agency should be a central agency.

37. A new central agency is essential, in my view, to achieve the authority to effect the change we need to see in the relationship if we are going to realise the benefits of it. Achieving the change we seek is not a three-year job. Making the change to the system required under each of the priority areas requires the status and capability of a central agency.

38. I propose that the new agency house the Crown/Māori Relations Unit, the Post-Settlement Commitments Unit (**PSCU**) and the Office of Treaty Settlements (**OTS**) – all currently placed within the Ministry of Justice. PSCU is responsible for safeguarding the durability of historical Treaty settlements – I consider this a key responsibility of my portfolio. There would be no change to the functions of OTS and PSCU but as Treaty settlements wind up it would allow the expertise gained in Treaty settlements over the years to be carried through to the agency supporting the renewed relationship.

39. In addition, a new central agency would undertake the following work on the priority areas of the portfolio:

39.1 'Take the lead on resetting Crown/Māori relationships on hard issues':

39.1.1 Continuing the work we have been doing to reset the relationship on issues this government inherited where the Crown/Māori relationship had reached an impasse;

39.1.2 the key 'hard issues' I have been working with Ministers on to date are: discussions to resolve issues raised in the Kōhangā Reo National Trust Treaty claim; addressing concerns around the proposal to establish an ocean sanctuary around the Kermadecs/Rangitāhua Islands; establishing a path ahead for water discussions; and protecting Māori interests in the establishment of the Urban Development Authority;

39.2 'Find opportunities for active partnerships between the Crown and Māori'.

39.2.1 In order to seek new opportunities for active partnerships I will develop a project scope and plan to:

- 39.2.1.1 undertake a scan across government to identify and develop Crown/Māori partnership examples across the economic, cultural, social and environment sectors; and
- 39.2.1.2 identify and document broad principles for partnership development that can be shared across the public sector.

39.3 'Measure how healthy the Crown/Māori relationship is over time to drive accountability':

- 39.3.1 The Committee is familiar with the work produced to date under this workstream. We are creating a set of relationship indicators which measure the maturity and performance of the Crown/Māori partnership. The indicators could focus on how the overall relationship is working and the generic mechanisms for achieving results, rather than the results themselves.

39.4 'Help government to better engage with Māori on matters of importance'.

- 39.4.1 The engagement framework discussed further in paragraphs [55-69] is an important element of the work under this priority workstream. The new agency will have an ongoing role in providing assurance over proposed engagement plans of other agencies and evaluating whether engagement is effective.

39.5 'Lift public sector performance to better respond to Māori issues'.

- 39.5.1 This workstream intends to improve public sector capability in responding to Māori issues, including improving the:
 - 39.5.1.1 understanding of the value of a strong Crown/Māori relationship and the potential contribution of Māori in the delivering better results for Māori and New Zealand;
 - 39.5.1.2 understanding of Māori perspectives and Treaty issues and their incorporation in policy and frontline service delivery;
 - 39.5.1.3 awareness of different aspirations and world views among whānau, hapū, iwi and Māori when considering policy development and implementation;
 - 39.5.1.4 staff cultural competency, including capability in reo and tikanga to engage with Māori appropriately, and the recognition and acknowledgement of these competencies in agencies' workforces; and
 - 39.5.1.5 awareness of Treaty settlement commitments;

39.6 'Improve the Crown's responses to contemporary Treaty issues'.

- 39.6.1 As we work towards completing historical settlements, we need to look at the way we deal with contemporary issues and Waitangi Tribunal kaupapa inquiries. I believe we need to show more leadership in this area and part of our initial work will look at establishing guidelines to ensure we take an

open and modern approach to ensuring policy and practices are consistent with the Treaty and effective for Māori^{xl}.

WHY AN EXISTING AGENCY CANNOT DO THIS?

40. I have arrived at my decision to seek your support for a new standalone agency having considered whether the functions I propose should be carried out by an existing agency; I conclude that they should not.
41. Agencies people have suggested could carry out this function – the Department of Prime Minister and Cabinet, Te Puni Kōkiri or the Ministry of Justice (where the Crown/Māori Relations Unit currently resides) – conduct their work admirably. Giving the vision and functions of the portfolio the mana they deserve will be difficult to achieve if the support I receive from the public service is buried as an adjunct in a large agency.
42. Having this work carried out by the Ministry of Justice is not ideal for several reasons. The continued association of Māori and “Māori issues” with the justice system blurs the understanding and status of the new portfolio. Many Māori who made submissions on the portfolio expressed concerns or objections to this association^{xlii}. Retaining the proposed functions within the Ministry of Justice would challenge my ability to achieve the “cut through” we need to elevate the relationship. It would be more difficult to influence the transformative change I seek if the agency supporting me is a peer agency to all others and not a central agency.
43. Te Puni Kōkiri leads Māori Public Policy, advises on policy affecting Māori wellbeing and monitors policy and legislation. These are important functions focussed on advocating for Māori and supporting Māori capability but they are crucially different to the role I propose of acting in the interests of the relationship. In addition, transferring the functions I propose to Te Puni Kōkiri would unnecessarily overcomplicate their job and require time to restructure that we do not have to waste.
44. I therefore seek Cabinet agreement to the establishment of a new standalone agency for Crown/Māori Partnership with the final make up to be agreed between myself and the Minister for State Services, the Minister of Justice and the Minister for Treaty of Waitangi Negotiations.

“There is concern at this portfolio sitting within the ministry of justice given the negative implications associated with the relationship of the ministry to the Courts and ultimately the prison system”

(Hui with Māori Womens Welfare League
(para 8))

Other institutional arrangements

45. I propose an additional workstream called ‘Develop the scope of a conversation about institutional arrangements’.
46. If my proposal that we establish a new central agency is agreed by Cabinet then an element of this workstream will have been achieved. A revived conversation about other institutional arrangements supporting the

“The most important priority to ensure a peaceful and productive future for all new Zealanders is to progress the discussion – and move towards – Treaty-based constitutional arrangements”
(Submission #R26)

Crown/Māori partnership can and should take place on a longer timeframe.

47. On the issue of the constitution people said the current constitutional status of Te Tiriti is unsatisfactory^{xlii} and that “constitutional reform would strengthen the Crown/Māori relationship and provide the foundation for the consistent application of policy to support the Crown in meeting its obligations”^{xliii}.
48. People told me it is important to include Pākehā in the Crown/Māori partnership^{xliv} and that focussing on weaving stronger connections between Pākehā and Māori would create greater tolerance and understanding^{xlv}.
49. This is an issue governments have skirted around for generations and about which a lot of thinking has been done. I do not think it would serve the citizens of New Zealand well to try to jump to a solution on this quickly nor is that solution to immediately ‘embed’ the Treaty as our constitution. Whatever the level of knowledge about it, the constitution fundamentally affects the lives of every New Zealander. I am keen to look at some of the less controversial steps towards change.
50. Issues that should be covered by further work on this kaupapa include Treaty clauses in legislation, potentially establishing a Treaty commissioner and examining the future role of the Waitangi Tribunal as historical Treaty settlements draw to a close over the next few years.

Coordinating significant Crown/Māori Events

51. I have received overwhelmingly positive feedback on how ‘Waitangi Week’ was conducted this year. I was told that it is very positive for Ministers to spend quality time engaging with Māori across a much wider spectrum and that it needs to continue^{xvi}.
52. Cabinet approval of this workstream will mandate this portfolio to oversee the organisation of significant Crown/Māori events, of which we have several upcoming, including:
 - 52.1 Ratana 100th Anniversary (November 2018); and
 - 52.2 Waitangi 2019 (February 2019).

Conclusion

53. I seek Cabinet agreement that the following priority workstreams be added to the final scope I propose to the Prime Minister:
 - 53.1 develop the scope of, and timing for, a conversation about the institutional arrangements supporting the Crown/Māori partnership; and
 - 53.2 coordinating significant Crown/Māori events.
54. The diagram at **Appendix Three** illustrates the sub-workstreams associated with the above workstreams.

Sub-section Five: “Getting the relationship right requires the Crown to be consistent”^{xlvii} (Engagement Framework)

55. In March I told Cabinet that we needed to establish a framework, underpinned by a statement of the Crown’s intent for the Crown/Māori relationship and a set of values, to guide Ministers and public sector agencies engagement with Māori.

56. People told me existing frameworks “challenge our ability to assert our Rangatiratanga and the Crown’s ability, to work with us, to fulfil [its] responsibilities under Te Tiriti legislation, and our Deed of Settlement”^{xlviii}. They also told me that “part of getting the relationship right is ensuring consistency by the Crown, in all its faces, with Māori”^{xlix}. Māori very strongly feel that they are “not just another ethnic minority”; the unique status of Māori as tangata whenua^{li} and as signatories to the Treaty must be reflected in how the Government engages with Māori.

57. It is vital that the engagement framework is of practical use to agencies. Government has thought about how it engages with Māori before. There has been no shortage of guidance documents produced over the years that have had the good intention of guiding best practice in engaging with Māori. None of them, however, have produced the desired effect across the public sector.

58. **Appendix Four** is the proposed engagement framework.

59. The framework builds on the interim engagement approach approved by Cabinet in March, and has been developed following a review of a range of literature and previously developed work.^{lii} What is notably different about this framework is that it has been materially informed by reviewing the current landscape as well as what I heard from the people throughout my national Crown/Māori Relations engagement. The roadshow and submission feedback provided me with insight into a number of areas where intentional improvements could strengthen Crown/Māori engagement and partnerships.

60. I have been told about the lack of capability in the public sector in Māori engagement^{liii}, institutional racism^{liv} and unconscious bias^{lv}. People told me there is a need for a sea change in the way the public service engages with Māori^{lvii}.

61. I want public servants to have tools that will help them do a better job of engaging with Māori. Government processes, and outcomes for all New Zealanders, will be improved with a more capable public sector. The engagement framework has been designed with its intended users in mind.

62. An aspect of public sector engagement with Māori that clearly came through what people were telling me was that the engagement needs to be flexible^{lvii} and “fit for purpose”. Deciding what engagement is appropriate on a particular issue must be guided by the key questions about what is the issue, what is the impact on Māori and who among Māoridom should be engaged. People told me there need to be opportunities for hapū engagement on matters relevant to hapū^{lviii}.

63. Engagement cannot be an afterthought or a “tick-the-box” exercise. People told me that embedding policies that prescribe engagement at the beginning of any initiative will ensure full involvement rather than retrospective involvement^{lix}.

64. Since Cabinet approved the interim engagement approach in March, my officials have been reviewing agencies’ engagement approaches to ensure the principles of effective engagement have been applied and the processes are broad and inclusive. It is my intention that my officials will continue to provide an assurance role and develop an evaluation process to understand if the framework is assisting to produce effective

engagement with Māori. My officials will also provide further targeted advice, tools and support to assist agencies. Te Puni Kōkiri are also playing a complimentary role in reviewing some engagement strategies with a particular focus on implementation within the regions.

Guidelines for agency use in engaging with Māori

65. The guidelines to accompany the engagement framework are attached as **Appendix Five**.
66. Engagement with Māori needs to be based on developing effective working and ongoing relationships. These relationships are based on positive experiences, trust and confidence. An effective, efficient and inclusive engagement process should reflect how Māori perspectives and cultural values have been included. Throughout the development of their engagement processes agencies should be guided by the following principles: engage early, be inclusive, think broadly^{ix}.
67. The guidelines attempt to provide departments with immediate, practicable and implementable advice on how to engage with Māori. We recognise in some instances further detail or context will be developed to assist departments in applying the guidelines - for example greater clarification on the "who" and the "how" of engagement or what is meant by open-ended terms like "audience" and "impact".
68. Officials from the Crown/Māori Relations Unit will continue to provide an assurance role and develop an evaluation process to continue efforts to support effective engagement with Māori. This will include developing tools and other supporting material to enhance both the framework and guidelines, exemplar material (what good looks like), usable process maps for key tasks and engagement tools (e.g. application of the impact tool specific to different context and environmental conditions).
69. The engagement framework and guidelines are available for immediate use. They are intended to be living documents which may be revised over time to align with developing best practice.

How does the Iwi Chairs Forum fit within the framework?

70. I expect people to ask how the Iwi Chairs Forum fits within the new engagement framework. You can see from the engagement framework that depending on what the issue is and its impact on Māori it may be entirely appropriate to consult the Iwi Leaders Forum on matters.
71. As many Māori reminded me across the country, however, the Crown's responsibilities are to all Māori, not just iwi leaders^{xi}. The engagement framework has been crafted to assist agencies to decide if and when the expertise represented by the Iwi Leaders Forum is appropriate to include in an engagement process.

"The Crown's responsibilities are to all Māori, not just iwi leaders."

(Waitara hui, 5 May)

Consultation

72. [The following departments were consulted on this paper: State Services Commission, The Treasury, Te Puni Kōkiri, the Crown Law Office, Ministry for the Environment, Oranga Tamariki, Ministry for Business, Innovation and Employment, Ministry for Culture and Heritage, Ministry of Health, Ministry for Primary Industries, Department of Conservation, New Zealand Police, Ministry for Social Development, Ministry of Education, Land

Information New Zealand, Statistics New Zealand and the Social Investment Agency. The Department of the Prime Minister and Cabinet was informed.]

Financial Implications

Crown/Māori Relations Appropriation

73. [Discuss impact of standalone agency and options for either a new Vote or a new appropriation.]

Human Rights

74. No human rights implications arise as a result of this paper.

Legislative Implications

75. This paper has no legislative implications.

Regulatory Impact Analysis

76. []

Publicity

77. If Cabinet agrees to the recommendations in this paper, and the Prime Minister approves the final scope of the portfolio, I intend to publish this paper on the Ministry of Justice website. I want the people who made submissions and attended the hui to be able to see for themselves that I have listened to their feedback.

78. I propose that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference.

Next steps

79. Following Cabinet consideration of this paper I will write to the Prime Minister seeking approval for final scope of my portfolio.

80. Table One below sets out the next steps for each of the priority workstreams that were in the initial scope of the portfolio and that I propose be confirmed in the final scope.

Table One: Next steps for priority workstreams

Priority workstream	Intended next steps
Reset relations on hard issues	<ul style="list-style-type: none"> Continue scanning the Crown/Māori environment for 'hard issues'
Overview, Data and Indicators	<ul style="list-style-type: none"> Report back to Cabinet Crown/Māori Relations Committee on Indicators in November 2018
Public sector capability	<ul style="list-style-type: none"> Develop and test prototype cultural capability module with agencies over August and September 2018 Report back to Cabinet on approach to public sector capability (with the Minister for State Services and the Minister for Māori Development) in November 2018
Partnership/co-design	<ul style="list-style-type: none"> Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and

Priority workstream	Intended next steps
	<p>November 2018.</p> <ul style="list-style-type: none"> Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. Report back to Committee on prototype guidance in November 2018 Paper on Kōhanga Reo discussions in September/November 2018
Support Māori capability and capacity to deal with government	<ul style="list-style-type: none"> [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> Report back to Committee proposing a work programme for a conversation about Crown and Maori institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> Action as required ahead of major events

Recommendations

81. The Minister for Crown/Māori Relations recommends that the Committee:

- note that Cabinet approved the responsibilities and priority areas of the initial scope of the Crown/Māori Relations portfolio in March 2018 [CAB-18-MIN-0078 Minute];
- note that the Minister for Crown/Māori sought public submissions and undertook an engagement process on the initial scope of the portfolio between March and May 2018;

Final scope of the Crown/Māori Relations portfolio

- agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the responsibilities of the Minister for Crown/Māori Relations under the final scope of the Crown/Māori Relations portfolio be to:
 - look for and facilitate partnership opportunities with Māori (including beyond those established by Treaty settlements);
 - build the Crown's understanding and honouring of its Treaty obligations;
 - increase opportunities for and quality of Crown/Māori engagement on important issues and promote good practice;
 - ensure Treaty settlement commitments are met to maintain trust and confidence; and
 - provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in the Crown/Māori relationship;

4. agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister that the priority workstreams of the Minister for Crown/Māori Relations portfolio in 2017/18 under the final scope of the Crown/Māori Relations portfolio be to:

- 4.1 take the lead on resetting Crown/Māori relationships on hard issues;
- 4.2 find opportunities for active partnerships between the Crown and Māori;
- 4.3 measure the health of the Crown/Māori relationship over time to drive accountability;
- 4.4 help government to better engage with Māori on matters of importance;
- 4.5 support Māori capability and capacity to deal with government;
- 4.6 lift public sector performance to better respond to Māori issues;
- 4.7 improve the quality, consistency, and public understanding of the Crown's responses to contemporary Treaty issues;
- 4.8 develop the scope of, and timing for, a conversation about the institutional arrangements underpinning the Crown/Māori relationship; and
- 4.9 coordinate significant Crown/Māori events.

Portfolio name and standalone agency

5. agree that the Minister for Crown/Māori Relations seek agreement from the Prime Minister to change the name of the portfolio from 'Crown/Māori Relations' to 'Crown/Māori Partnership';
6. agree that the Minister for Crown/Māori Partnership's responsibility is to act in the interests of the Crown/Māori relationship;
7. agree to the establishment of a new standalone agency for Crown/Māori Relations with the final make up to be agreed between the Minister for Crown/Māori Relations, the Minister for State Services, the Minister of Justice, and the Minister for Treaty of Waitangi Negotiations; the Minister of Maori Development and the Minister of Finance (given rec 13 below)

Next steps for each priority workstream

8. note that, subject to Cabinet approval of the final scope of the portfolio, I will undertake the further work outlined in the table below for each of the priority workstreams;

Priority workstream	Next steps
Reset relations on hard issues	<ul style="list-style-type: none"> • Continue scanning the Crown/Māori environment for 'hard issues' <u>and prioritising those issues for action</u>
Overview, Data and Indicators	<ul style="list-style-type: none"> • Report back to Cabinet Crown/Māori Relations Committee on Indicators <u>for the performance of the public sector in relation to improving Maori outcomes and/or the health of the Crown Maori relationship</u> in November 2018
Public sector	<ul style="list-style-type: none"> • Develop and test prototype cultural capability module with agencies

capability	over August and September 2018 <ul style="list-style-type: none"> Report back to Cabinet on approach to public sector capability to formulate effective of public policy solutions to address Maori rights, interests and outcomes (with the Minister for State Services the Minister for Māori Development) in November 2018
Partnership/co-design	<ul style="list-style-type: none"> Develop case studies of partnerships with a focus on best practice principles and undertake regional engagement between August and November 2018. Report back to Committee on prototype guidance in November 2018
Engagement	<ul style="list-style-type: none"> Report to Committee on prototype guidance and an evaluation process in November 2018
Contemporary Treaty Issues	<ul style="list-style-type: none"> Report to Committee on better co-ordination of contemporary Treaty of Waitangi issues in late September 2018. Report back to Committee on prototype guidance in November 2018 Paper on Kōhanga Reo discussions in September/November 2018
Support iwi and Māori capability and capacity to deal with government	<ul style="list-style-type: none"> [TPK]
Other institutional arrangements	<ul style="list-style-type: none"> Report back to Committee proposing a work programme for a conversation about Crown and Maori [?] institutional arrangements by the end of 2018
Coordinating significant Crown/Māori events	<ul style="list-style-type: none"> Action as required ahead of major events, including Waitangi, Ratana, Koroneihana, and ICF hui.

← Formatted: Indent: Left: 0 cm, Hanging: 0.6 cm

Crown/Māori Engagement Framework

9. note that the engagement framework and guidelines build on the interim engagement approach approved by Cabinet in March and are intended to provide practical advice on how to engage with Māori;
10. agree that the engagement framework and guidelines are available for immediate use;
11. agree that officials from the Crown/Māori Relations Unit will continue to provide an assurance role, develop an evaluation process and provide further targeted advice, tools and support to assist Government to better engage with Māori on matters of importance;
12. agree that the Prime Minister announce, or launch, the engagement framework at a post-Cabinet press conference

Appropriation

13. [potentially decision on new appropriation or a separate Vote]

Authorised for lodgement

DRAFT FOR AGENCY CONSULTATION ONLY

Hon Kelvin Davis
Minister for Crown/Māori Relations

DRAFT FOR AGENCY CONSULTATION
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Appendix One: High-level summary of all feedback (from submissions and hui) PROTOTYPE – TO BE UPDATED

Crown/Māori Relations Portfolio submission comments

June 2018

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“Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed diam nonummy nibh euismod tincidunt ut laoreet dolore magna aliquam erat volutpat. Ut enim ad minim veniam, quis nostrud exercitation ullamcorper suscipit lobortis.

Comments received from: Individuals Organisations OTHER

“Despite it being a statutory obligation for Crown and local government entities to engage, support and consult with Māori, the process itself is just a box-ticking exercise. THE CRUCIAL ELEMENT OF THE TREATY RELATIONSHIP CONCERNs GOVERNANCE AND CO-GOVERNANCE BETWEEN THE CROWN AND IWI, HAPU AND WHĀNAU - BETWEEN KAWANATANGA AND RANGATIRATANGA. The relationships first and foremost should be place-based and values-based. Inequitable and demand-driven engagement practices - engaging with non-mandated individuals. SOMETHING I FIND HUGELY UPSETTING IS THE EXTENT TO WHICH THE PUBLIC SERVICE RELIES ON MĀORI TO FILL CULTURAL CAPABILITY GAPS (E.G. DIAL A MIHI ETC). CEOs of public service departments need ongoing targeted training (to be prioritised over public servants and including history). Ideally they would attend noho marae. There should be detailed guidance for departments on what they should offer in terms of cultural capability training. The Treaty relationship is between hapu and the Crown, and that therefore must be the primary relationship on the national level. Crown [needs] to co-invest with us, in building our capability and capacity to proactively and constructively engage.

“Marae visits are a wonderful way to break down these barriers too and reduce the ‘us and them’ feeling. IF EVERY CHILD GETS TAUGHT MĀORI FROM A YOUNG AGE THEY WILL GROW UP BEING OPEN TO, AND UNDERSTANDING, TE AO MĀORI A LOT MORE. The first step here is to increase the numbers of qualified teachers, in order to be able to offer these courses throughout our education system. Iwi have shown that given the opportunity to thrive economically, the social issues will improve as well. REGIONAL AND LOCAL LEVEL INVOLVEMENT SHOULD BE A FOCUS. CULTURAL IMPACT REPORTS FROM LOCAL COMMUNITIES TAKE INTO ACCOUNT PEOPLE, PLACE AND SPECIES AND SHOULD NOT BE OVERLOOKED.

“I agree that local government is a vital issue that must be addressed. LOCAL GOVERNMENT IS STILL CARRYING OUT THE CROWN'S WORK, AND THEY NEED TO BE INCLUDED IN THE PARTNERSHIP WITH MĀORI. Local government is an essential piece of the healthy relationship puzzle, and any legalities around it not technically being part of the Crown, should be set aside as far as possible, for practical reasons. FEW COUNCILS HAVE INTERNAL POLICY ADVICE ON WHAT THEIR OBLIGATIONS TO MĀORI ARE. Local government is where you need to start. Legislate for formal representation.

“The role you have with Māori in the future, must not be in conflict with the Minister for Māori Affairs portfolio responsibilities or Minister for Treaty Settlement. UNNECESSARY GIVEN EVERY MINISTER OF THE CROWN ALREADY HAS AN OBLIGATION TO ENSURE THE HEALTH OF THE CROWN'S RELATIONSHIP WITH MĀORI. Rename the portfolio Minister for Crown Reconciliation, CMR to monitor, audit compliance of Crown entities, agencies and Local Government against Te Tiriti, and report to hapu.

“If the Crown starts to return land loss not just pay Iwi out. START LISTENING TO MĀORI, SO THAT WE AS MĀORI CAN DEVELOP. The Crown should try to envisage what this society might have looked like if Europeans simply migrated. There is a need to have our peoples' mana re-written into every Law book by our learned leaders and assisted by our elders. We expect that there will be specific issues relating to our legislation, our respective obligations under Te Tiriti o Waitangi and our Deed of Settlement that require direct, and in some cases exclusive engagement between ourselves and the Crown.

Working with Māori

Captures comments about how agencies engage with Māori, how they should engage with Māori, and who they should engage with. It also includes comments on agencies' internal capability, how agencies work together, and what should happen to improve how the public sector operates.

Māori-centred development

Captures comments about Māori economic development, cultural development, and development opportunities centred on Māori specifically.

Local government issues

Captures comments about the relationship between the Crown and local government, local government capacity, capability and engagement on issues involving Māori, resource management and funding issues.

Crown/Māori Relations Roopū (portfolio)

Captures comments about the establishment of the Crown/Māori Relations portfolio, potential functions of the portfolio (such as auditing other agencies), where the Crown/Māori Relations Roopū should be located, and the impact of the portfolio on all New Zealanders.

Rangatiratanga (Māori rights)

Captures comments relating to tino rangatiratanga, legal processes (e.g. Waitangi Tribunal) and connections to international frameworks (e.g. UNDRIP).

Constitutional changes

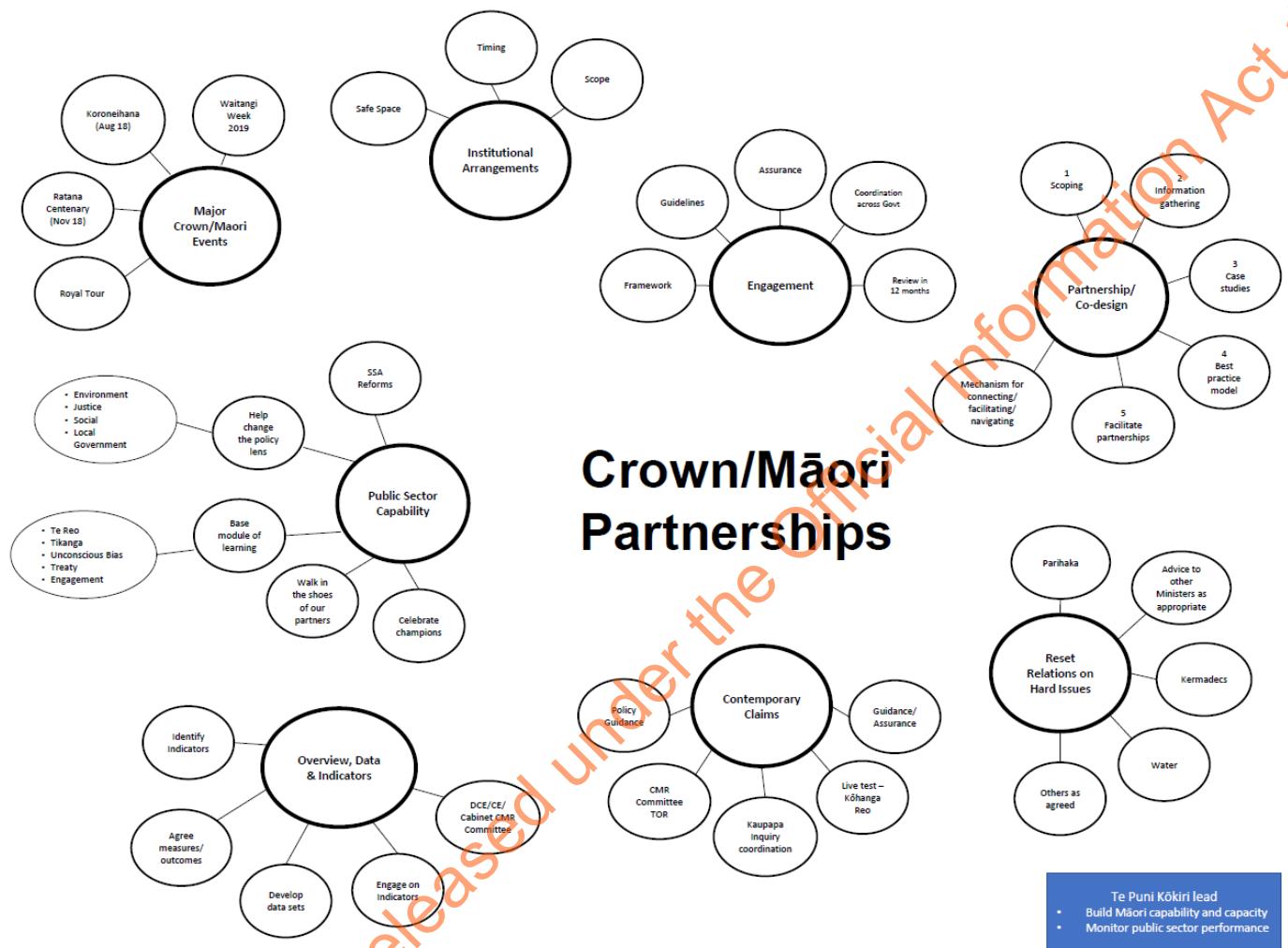
Captures comments about constitutional change. It also includes comments about educating all New Zealanders on the value of the Crown/Māori relationship, and the benefits Māori generate for all New Zealanders.

References

Appendix Two: High-level themes communicated to Ministers PROTOTYPE – TO BE UPDATED

Theme	What people told the Minister
Name of portfolio and placement in the public service	<ul style="list-style-type: none"> There is a lot of support for the establishment of the portfolio, however, many hui attendees were said that the portfolio: <ul style="list-style-type: none"> should have the right level of influence across government; be properly resourced; and requires a standalone Ministry. Many people said the name of the portfolio needs to reference the Treaty partnership more clearly.
Local government	<ul style="list-style-type: none"> There is inadequate Māori representation. Limited capability within councils to work with Māori in a meaningful way. Māori want: <ul style="list-style-type: none"> to be at the decision-making table; and to co-design processes (not to be consulted on documents that have been nearly fully developed).
State Sector capability	<ul style="list-style-type: none"> Public sector seen as barriers and lacking ability to deal with Māori. Māori want: <ul style="list-style-type: none"> to be dealt with fairly and with understanding; for public sector to know about the Treaty, and what the Crown/Māori relationship means for their organisation and their behaviour; and for public sector to join up when dealing with their community.
Engagement with Māori	<ul style="list-style-type: none"> Constantly being asked to rubber stamp things late in the process and not told the full story Want Government to speak to other people, whānau, hapū as well as Iwi Chairs. Māori want: <ul style="list-style-type: none"> A consistent approach to engagement; to co-design policy and processes (not to be consulted on documents that have been nearly fully developed), and <ul style="list-style-type: none"> services to be developed that are responsive to Māori needs/aspirations; and For public sector to be joined up rather than having different hui every week.
NZ history / reo education	<ul style="list-style-type: none"> Tamariki and all New Zealanders should be taught New Zealand history. Every child should have access to te reo education.
Regional Economic Development	<ul style="list-style-type: none"> Māori are seeking to be recognised as partners in economic development in the regions Want help building their own capability to engage better with Government.
Constitutional Reform	<ul style="list-style-type: none"> The Crown needs to fully acknowledge, and give effect to the Treaty/ Te Tiriti and He Whakaputanga. The Treaty needs to be given prominence in the New Zealand constitution The Crown/Māori Relations portfolio should be based on Treaty.
Treaty settlements	<ul style="list-style-type: none"> Some groups are concerned about how their Treaty settlements are being implemented with Crown not honouring promises. Some people are concerned about the process and/or progress of the negotiations of their iwi.

Appendix Three: Crown/Māori Partnership Diagram



Te Puni Kōkiri lead

- Build Māori capability and capacity
- Monitor public sector performance

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Appendix Five: Engagement framework guidelines

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Endnotes

ⁱ From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 2

ⁱⁱ Submissions - NOL45, OLS84-document; Hui notes – Kaitaia (para 346)

ⁱⁱⁱ Submissions - OLS84-document

^{iv} Hui notes – Māori Womens Welfare League (para 8), Whangarei (para 400);
^v [Source quote]

^{vi} Hui notes - Gisborne (para 582)

^{vii} Hui notes - Hokianga (para 443)

^{viii} Hui notes - Hokianga (para 442); Submissions: OLS94 (para 2122)

^{ix} [Source quote]

^x [Source quote]

^{xi} Hui notes - Gisborne (paras 580 + 588), Hastings (paras 595 + 620) and Rotorua hui (para 721); Māori business, professional and social enterprise focus group hui (para 220)

^{xii} Hui notes - Kaikohe (para 472), Thames (para 653); Submissions: NOL18 (paras 7 & 10)

^{xiii} Hui notes - Hokianga (para 428), Palmerston North (para 813)

^{xiv} Hui notes - Kaitaia (para 361), Hastings (para 622)

^{xv} Hui notes - Nelson (para 507), Huntly (para 597), Auckland (para 779), Whakatāne (para 938)

^{xvi} Hui notes - Gisborne (para 585),

^{xvii} Hui notes - Taupō (para 875)

^{xviii} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 25, Submissions - OLS90 (para 2030); Hui notes – Human Rights Commission (para 35), Palmerston North (para 905)

^{xix} [Source quote]

^{xx} [Source quote]

^{xxi} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 14

^{xxii} Submissions - OLS87 (para 1985)

^{xxiii} Waitangi Tribunal letter, *Ko Aotearoa Tenei*, chapter 9.3

^{xxiv} Hui notes – Federation of Māori Authorities (para 321)

^{xxv} Hui notes – Gisborne (para 545)

^{xxvi} Hui notes – Nelson (para 506)

^{xxvii} Hui notes – Invercargill (para 828), Kaitaia (para 359); Submissions: NOL85

^{xxviii} Submissions - OLS28

^{xxix} Notes of hui – Gisborne (para 571)

^{xxx} Hui notes – Auckland (para 770)

^{xxxi} Submissions - OLS84-document

^{xxii} Submissions - OLS64 (para 1689)

^{xxiii} Hui notes – Waitara (para 753); Submissions: NOL22 (paras 26-27)

^{xxiv} Hui notes – Waitara (para 753); Submissions: NOL36 (para 1)

^{xxv} Submissions: NOL22 (para 30)

^{xxvi} Hui notes – Hokianga (para 443), Auckland (para 770); Submissions: OL52, OL94

^{xxvii} Submissions – OLS13 (para 1168)

^{xxviii} Submissions – NOL20 (page 8)

^{xxix} Submissions – OLS82 (para 1923)

^{xl} From Minister's draft opening remarks to Māori Affairs select committee, 12 June 2018, paragraph 17

^{xi} Hui notes – Māori Womens Welfare League (para 1), Huntly (para 668); Submissions: OLS52-document

^{xii} Submissions – NOL18 (paras 7 & 10)

^{xiii} Submission - NOL19 (paras 4.10-4.13 & 4.18),
^{xiv} [Submissions: OLS24 (para 1334)]

^{xv} Submissions – OLS59 (para 1634)

^{xvi} [Source quote]

^{xvii} [Source quote]

^{xviii} [Sourced from NOL submission]

^{xix} Submissions – OL12 (para 1143)

ⁱ [Source quote]

ⁱⁱ [Source quote]

ⁱⁱⁱ Te Puni Kōkiri Te Hanga Whanaungatanga mō te Hononga Hāngai ki te Māori: *Building Relationships for Effective Engagement with Māori*; Waitangi Tribunal Wai 262: *Ko Aotearoa Tēnei*; New Zealand Government *Online Engagement*; International Association for Public Participation IAP2's *Public Participation Spectrum*; Department of the Prime Minister and Cabinet *Public Participation*.

ⁱⁱⁱ Hui notes – Hokianga (para 429), Nelson (para 508), Christchurch (para 540), Gisborne (para 578), Thames (para 638 + 654), Huntly (para 682), Rotorua (para 717), Whanganui (para 741)

^{iv} Hui notes – Kaitaia (para 341), Whangarei (para 403), Nelson (para 488 + 508), Christchurch (para 522), Gisborne (para 546 + 580), Hastings (para 594-595 + 615 + 617), Huntly (para 683), Whanganui (para 733), Auckland (para 781), Wellington (para 809), Invercargill (para 822), Taupō (para 878), Palmerston North (para 889), Whakatāne (para 918)

^{lv} Hui notes – Kaitaia (para 361), Taupō (para 878), Whakatāne (para 938),

^{lvi} Hui notes - Thames (para 638 + 654),

^{lvii} Submissions – OLS94 (para 1490)

^{lviii} Hui notes – Kaitāia (para 337)

^{lix} [Source quote]

^{lx} Hui notes – Māori Womens Welfare League

^{li} Hui notes – Kaitaia (para 350), Whangarei (para 394), Hokianga (para 441), Rotorua (para 709), Waitara (para 739 & 7480), Wellington (para 806)

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Document 19

From: Katherine Gordon (gmail) **s 9(2)(a)**
Sent: Friday, July 27, 2018 9:16 AM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Atawhai.Tibble@sia.govt.nz; danny.mollan@sia.govt.nz; Katherine.Gordon@sia.govt.nz; Neil Annenberg <Neil.Annenberg@sia.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [SIA]

Dear Patrick,

My apologies for the slight delay in responding (can I argue that it is still before COP on Thursday 26 July where I am?!) I trust the commentary set out below on behalf of the SIA is not too late.

- The SIA has no specific comment on the content of the paper, which is clear in its intent and scope.
- The SIA has reviewed the proposed framework and guidelines. They appear to be consistent with the approach currently under way regarding engagement on investing for social wellbeing and the data use and protection policy. The SIA project team undertaking the engagement nonetheless intends to review the approach in the near future to confirm it is addressing all relevant considerations highlighted in the framework and guidelines.
- The SIA considers it likely that on an ongoing basis, its work will be of relevance to the Crown/Māori partnership. It will therefore ensure that it continues to maintain its flexible and proactive approach to engagement with Māori and with iwi collective groups as issues and initiatives of significance to Māori arise.
- The SIA will also continue to maintain active communication with the Crown/Māori Partnership unit or agency.

Ngā mihi

Katherine

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 6:45 PM
To: Atawhai.Tibble@sia.govt.nz; danny.mollan@sia.govt.nz; Katherine.Gordon@sia.govt.nz; **s 9(2)(a)**
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [SIA]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he

heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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This email may contain information that is **confidential** or **legally privileged**. If you have received it by mistake, please:

- (1) reply promptly to that effect, and remove this email and the reply from your system;
- (2) do not act on this email in any other way.

Thank you.

Document 20

From: Jetta Hikuroa <hikui@tpk.govt.nz> **On Behalf Of** Rahera Ohia
Sent: Friday, July 27, 2018 12:50 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Sheridan Smith <smits@tpk.govt.nz>;
Stephanie Jones <jones@tpk.govt.nz>; Jaclyn Williams <willj@tpk.govt.nz>; Nancy Tuaine
<tuain@tpk.govt.nz>; Sarah Howard <howas@tpk.govt.nz>; Lisa Davies <davil@tpk.govt.nz>; Rahera
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Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana
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Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick,
Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [TPK]

Kia ora Patrick

Lil, Lisa and I will be meeting next week to discuss the approach and Te Puni Kōkiri will not be providing comments on the paper.

Rahera

From: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Sent: Rāmere, 27 Hōngongoi, 2018 12:02 p.m.
To: Sheridan Smith <smits@tpk.govt.nz>; Stephanie Jones <jones@tpk.govt.nz>; Jaclyn Williams
<willj@tpk.govt.nz>; Nancy Tuaine <tuain@tpk.govt.nz>; Sarah Howard <howas@tpk.govt.nz>; Lisa
Davies <davil@tpk.govt.nz>; Rahera Ohia <ohiar@tpk.govt.nz>
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<Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali,
Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick,
Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [TPK]

Kia ora koutou,

Will it be possible to receive written comments on the draft Cabinet paper by 2pm today in order for us to be able to include them in the next version (that we intend to provide to the Minister for consultation with his Ministerial colleagues)?

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Southee, Patrick
Sent: Thursday, 19 July 2018 6:52 p.m.
To: 'smits@tpk.govt.nz' <smits@tpk.govt.nz>; 'jones@tpk.govt.nz' <jones@tpk.govt.nz>;
'willj@tpk.govt.nz' <willj@tpk.govt.nz>; 'mcdem@tpk.govt.nz' <mcdem@tpk.govt.nz>;
'tuain@tpk.govt.nz' <tuain@tpk.govt.nz>; 'howas@tpk.govt.nz' <howas@tpk.govt.nz>;
'davil@tpk.govt.nz' <davil@tpk.govt.nz>; 'ohiar@tpk.govt.nz' <ohiar@tpk.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana
<Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali,

Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>

Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [TPK]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

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Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 21

From: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>

Sent: Friday, July 27, 2018 5:08 AM

To: Southee, Patrick <Patrick.Southee@justice.govt.nz>

Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

Thank you for the opportunity to comment on the paper. Our substantive feedback is as follows:

- Treasury supports the feedback provided at the CMR DCE's meeting this week that the paper seek agreement that further work be undertaken on a number of the issues/options raised in the paper rather than seeking agreement to specific options for the following reasons:
 - Ministers require line of sight over the issues raised and time to consider potential implications such as constitutional change.
 - The paper requires much greater depth of analysis in general and consideration should be given to setting up a process to undertake this work including:
 - Greater analysis on what the Crown's perspective on some of the issues raised in the hui is. Treasury supports the SSC view raised at the meeting of the use of the DCE's group to co-ordinate further work in this space
 - Situating the paper and the proposals within the current CMR context including further articulation of the link between the proposals and the State Sector Act reforms, reference to the Government Priorities and work being undertaken by the CMR Committee to develop indicators and measures to track progress. Treasury supports your Minister writing to his colleagues about the implications of the issues raised at the hui for their portfolios but would suggest that these need to be worked through and co-ordinated via the DCE's group. Ministers should have a strong sense of what work is currently being undertaken or is planned to be undertaken to address some of the issues raised before new options are considered.
 - The paper also requires much greater depth of analysis and explicit consideration of other structural options before a recommendation of a new Central agency is tenable. Questions to be answered include:
 - Further analysis on why the functions articulated in the paper cannot be undertaken by an existing agency such as TPK and better articulation of the space these functions will occupy relative to existing agencies
 - Further analysis on why an Attorney-General type function is proposed. Treasury is supportive of Crown-Law's offer to engage further with CMR roopu on this issue
 - Further analysis on what the financial and fiscal implications of the proposals are and when funding will be sought

We appreciate your Minister's desire to keep the paper succinct and to imbue it with the voices of those he engaged with. Balanced against this though is Minister's need for line of sight over these issues through further articulation in the paper so that they have enough information to make informed decisions.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 6:41 PM
To: Emily O'Connell [TSY] <Emily.O'Connell@treasury.govt.nz>; Briar Mulholland [TSY] <Briar.Mulholland@treasury.govt.nz>; Rachel Lilly [TSY] <Rachel.Lilly@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

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Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and

review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
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+64 22 466 9290

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- b. any use, dissemination or copying of this email is strictly prohibited and may be unlawful.

Document 22

From: Justine Smith <Justine.Smith@dia.govt.nz>
Sent: Thursday, August 9, 2018 8:21 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DIA]

Patrick, I really enjoyed reading this paper, it looks fantastic. You've done such a good job of reshaping it to incorporate feedback while still retaining your Minister's voice and the voices of submitters throughout.

I've got no comments or concerns. Can you confirm whether our Minister was sent a copy?

Cheers
Justine

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 9 August 2018 3:23 PM
To: Justine Smith
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Warbrick, Tia
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DIA]

Kia ora Justine,

Thank you for your comments on the initial draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines.

Please find **attached** a revised draft of the paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The **attached** has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

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Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also **attach** a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Justine Smith [<mailto:Justine.Smith@dia.govt.nz>]
Sent: Thursday, 26 July 2018 1:17 p.m.

To: Southee, Patrick <Patrick.Southee@justice.govt.nz>

Subject: FW: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DIA]

Hi Patrick,

Below is our feedback on the draft Cabinet paper:

1. First up, congratulations on the paper. We're really excited to see this work unfold. Our particular focus as you know is how this relates to local government.
2. The paper notes that local government was an issue raised then doesn't mention it again (para 16.4.1). Our Minister is very conscious of the issues experienced by local government and iwi as they endeavour to forge collaborative, strategic relationships (or not, as the case may be) and continues to seek advice on how central government can better support local government and iwi in this space. I think of this work as fitting within the broad umbrella and being linked to the Crown-Maori Relations kaupapa so will continue to seek alignment and work alongside your team. I suggest being clear about the extent to which local government is included in the scope of the portfolio, or if not, why not. I also suggest including a sentence along the lines of: *"The Minister and Associate Minister of Local Government are aware of the issues being experienced by local government and iwi/Maori and officials are developing advice on how central government can better support local government and iwi to forge better relationships."* Which reminds me, is your Minister intending to send a letter to our Minister on the issues raised about local government during the CMR engagement process?
3. Like others, I like the way in which the voices of the people who had taken the time to engage on this with us were reflected in the paper. It upholds the integrity of the korero. In my mind folding this into the Cabinet paper/system this is a soft expression of partnership.
4. We'd like to stay close to the work you do on considering how we shape the New Zealand constitution going forward. Underpinning a number of the issues between iwi/Maori and local government is the fact that the parties fundamentally disagree on the nature and status of their relationship. My team is starting to shape up some thinking on the implications of the Three Waters Review for local government – it's early days and I'll keep you in the loop on it – but one question we're looking to fold into that thinking is whether there is an opportunity to recalibrate the local government/Maori relationship and I see a potential convergence with the constitutional workstream you've foreshadowed in this paper.
5. I agree with the intention to be bold and aspirational, it's the only way to effect change at pace. I also strongly agree with the statement around not being focused on transactional issues – it's our objective in the local government space as well. Significant time and energy is taken up by the 'churn' of frustrating transactional issues and it creates a barrier to a more strategic relationship taking shape.
6. Para 23/24 foreshadows a vision for 2040. It would be good to be able to articulate what this vision is in the future in a really practical, tangible way and I think local government / the on-the-ground issues, is a part of the picture.
7. Agree that there needs to be stronger analysis around the proposal to form a new agency. You could possibly do this via a table in the appendices, showing the options and evaluating them. Or flag it as a key issue raised and report back with options. I suspect there's a bit of lifting to do on this proposal and it might be worth your while to take the time to work through this. The value of this paper is in reflecting back the feedback and I'd be disappointed to see any of the richness of this narrative taken out or scaled back so potentially all you need to do is confirm the scope of the portfolio and identify issues to report back on. Being deliberate and explicit about this approach also potentially addresses the point that Heather raised about it missing 'the Crown response'.

8. I'm interested in the relationship indicators work and will follow up on this with your team (Esther?) as they could potentially be useful for local government.
9. I'm on the same page about guidance documents – useful and necessary tools but on their own, do not effect the change required. This is consistent with my advice to our Ministers on options for better supporting local government and iwi.
10. As mentioned yesterday, I suggest drawing out the reason why engagement matters, and painting a picture of what can be achieved for New Zealanders when we do get this right. What's the value proposition not just for central government and iwi, but for the regions and our communities? What's the opportunity? It needs to be a persuasive piece.
11. Please add DIA to the list of departments that have been consulted, ta.

Just finally, I'm facilitating a hui today with TPK, CMR (Rewi), MfE and the PSU to share information about all of the work being done in our silos in the local government/Maori space. As I understand it, Rewi has been tasked with identifying models of engagement/best practice. Our Ministers have expressed interest in identifying these, diagnosing why the work or not, what they achieve and finding more opportunities/platforms for these to be shared. I suspect MfE is also interested in this, so there's an opportunity to work together on this.

Warm regards,
Justine

Justine Smith | Partnerships Director
Central Local Government Partnerships Group
Department of Internal Affairs Te Tari Taiwhenua
Ph | 027 282 9976

Auckland Policy Office, Tower Centre, Level 6, 45 Queen Street, Auckland 1143 | PO Box 106-483, Auckland 1143, New Zealand | www.dia.govt.nz



Te Tari Taiwhenua Internal Affairs

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 7:02 PM
To: Justine Smith; Jane Fletcher; Helen Wyn
Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DIA]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

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Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southée
+64 22 466 9290

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Thank you.

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Document 23

From: Neil Deans <[n_{deans@doc.govt.nz}](mailto:ndeans@doc.govt.nz)>
Sent: Thursday, August 16, 2018 7:51 AM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Chris Nees <cnees@doc.govt.nz>; Peter Brunt <pbrunt@doc.govt.nz>; Bronwyn Barnard <Bbarnard@doc.govt.nz>; Tim Bamford <tbamford@doc.govt.nz>; Mervyn English <menglish@doc.govt.nz>; Bruce Parkes <bparkes@doc.govt.nz>; Tata Lawton <tlawton@doc.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DOC]

Kia ora tatou

DOC has reviewed your revised Cabinet paper. You asked for further comment only if there are significant concerns, of which there are none.

Thanks for the opportunity to see a later draft. We look forward to further discussions on implementation and any implications for DOC after the paper has been to Cabinet.

Regards

Neil Deans
Principal Advisor
Department of Conservation—*Te Papa Atawhai*
Level 2, Desk 2.37, Conservation House, Wellington 6143
027 4394 381
www.doc.govt.nz

Conservation leadership for our nature
Tākina te hī, tiakina te hā, o te ao tūroa

From: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Sent: Thursday, 9 August 2018 3:53 p.m.
To: Neil Deans <[deans@doc.govt.nz](mailto:n<sub>deans@doc.govt.nz)>; Chris Nees <cnees@doc.govt.nz>; Peter Brunt <pbrunt@doc.govt.nz>; John Arathimos <jarathimos@doc.govt.nz>; Bronwyn Barnard <Bbarnard@doc.govt.nz>; Tim Bamford <tbamford@doc.govt.nz>; Mervyn English <menglish@doc.govt.nz>; Bruce Parkes <bparkes@doc.govt.nz>; Tata Lawton <tlawton@doc.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DOC]

Kia ora koutou,

Thank you for your comments on the initial draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines.

Please find **attached** a revised draft of the paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The **attached** has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

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Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also attach a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Neil Deans [<mailto:ndeans@doc.govt.nz>]
Sent: Thursday, 26 July 2018 2:59 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Chris Nees <cnees@doc.govt.nz>; Peter Brunt <pbrunt@doc.govt.nz>; John Arathimos <jarathimos@doc.govt.nz>; Bronwyn Barnard <BBarnard@doc.govt.nz>; Tim Bamford <tbamford@doc.govt.nz>; Mervyn English <menglish@doc.govt.nz>; Bruce Parkes <bparkes@doc.govt.nz>; Tata Lawton <tlawton@doc.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [DOC]

Thank you Patrick

The Department of Conservation supports the paper, particularly the forward-looking focus, long term view and integration of the Crown-Māori partnership in a separate agency. A copy of the paper is attached, with a few corrections and comments in track changes.

Some suggestions include that:

- There could be a direction to Crown agencies to look at how they can form better relationships with Māori and report to the new agency on what they're doing;

- Agencies could be asked to interrogate their legislation and suggest legislative proposals that to assist the Crown-Māori relationship (eg over decision-making delegations in the Conservation Act; see comment below).
- Effectiveness of Treaty settlement redress could be reviewed.

The paper does raise a number of operational questions, however, including the following:

- What is the role of the proposed new agency in relation to other existing Crown agencies?
- What is the process to integrate Crown responses and engagement across agencies, particularly in determining which are national or 'hard' issues, or matters of importance (para 25.4) and how can these be made more consistent?
- What is proposed to be the usual Crown approach towards national engagement on issues; will these need to be run past the new agency before they occur and potentially joined up (para 39.4.1)?
- Could the reference to the relative independence of the Minister being akin to the role of that of the Attorney-General be clarified as to how that relates to other Ministerial or agency functions?
- To what extent would the partnership benefit from increasing Māori capacity/capability?

On the Crown Engagement with Māori Appendix 4 there is a typo on the right hand side section 3 How to Engage under 'Involve' of the word 'decision'. On this section, we ask whether in the 'collaborate/co-design' area there should be reference to the nature of the Māori role in decision-making, given for the 'empower' category it is acknowledged as Māori deciding. The issue of who decides is a significant issue for DOC in that there is sometimes tension between Māori aspirations in decision-making and the extent of statutory delegations to make decisions. Such issues are key considerations to be worked through in the partnership, with questions of accountability and what are administrative or political decisions being crucial. In some cases the ability to enable collaboration or co-design may be restricted due to legislative constraints. Such issues are shortly being traversed in the Supreme Court in the Ngāi Tai concessions case.

While the paper emphasises the importance of implementation of commitments the engagement guidelines in the attachments make little reference to the settlement commitments side. For example the first attachment "Crown engagement with Maori" does not even mention treaty settlements and commitments and the second attachment ("Engagement Guidelines") only mentions it as below the text of which focuses on identifying the relevant iwi authority (as opposed to Post Settlement Governance Entity?) for redress issues rather than the fact there may be legally binding commitments which might be the more important message:

- any additional or specific requirements under Treaty of Waitangi settlements. This should include a plan to identify who the relevant iwi authorities are and, once identified, should consider their capacity to be able to consult and the different timeframes for agreement/approval by the relevant iwi authorities

DOC may be able to provide some examples of current engagement to inform the proposed partnership case studies, given its acknowledged s 4 Conservation Act role to give effect to the Treaty principles. A particular area of interest may be DOC's Te Pukenga Atawhai training programme to better equip staff culturally with a marae-based approach.

Please contact me if you have further questions or need clarification.

Regards

Neil Deans
Principal Advisor
Department of Conservation—*Te Papa Atawhai*
Level 2, Desk 2.37, Conservation House, Wellington 6143
027 4394 381
www.doc.govt.nz

Conservation leadership for our nature

Tākina te hī, tiakina te hā, o te ao tūroa

From: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Sent: Thursday, 19 July 2018 7:01 p.m.
To: Chris Nees <cnees@doc.govt.nz>; Peter Brunt <pbrunt@doc.govt.nz>; John Arathimos <jarathimos@doc.govt.nz>; Neil Deans <ndeans@doc.govt.nz>; Bronwyn Barnard <BBarnard@doc.govt.nz>; Tim Bamford <tbamford@doc.govt.nz>; Mervyn English <menglish@doc.govt.nz>; Bruce Parkes <bparkes@doc.govt.nz>; Tata Lawton <tlawton@doc.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
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Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 24

From: Monique Esplin <Monique.Esplin@mch.govt.nz>
Sent: Thursday, August 16, 2018 8:48 AM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Lois Searle <Lois.Searle@mch.govt.nz>; Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>; Helene Peyroux <Helene.Peyroux@mch.govt.nz>; Mike Nathan <Mike.Nathan@mch.govt.nz>; Sophie Bradley <Sophie.Bradley@mch.govt.nz>; Brendan Booth <Brendan.Booth@mch.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

Kia ora Patrick

I have liaised with my colleagues at the Ministry for Culture and Heritage and we do not have any feedback on the draft Cabinet paper. Thank you for circulating it to us. For future reference I am the contact at the Ministry you should send information to.

Ngā mihi

Monique Esplin | Senior Solicitor
Manatū Taonga - Ministry for Culture and Heritage
Promoting a confident and connected culture
Public Trust Office Building (former), 131-135 Lambton Quay
P O Box 5364, Wellington, New Zealand
P +64 4 499 4229 (ext 532) | E monique.esplin@mch.govt.nz

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From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 9 August 2018 4:23 p.m.
To: Helene Peyroux <Helene.Peyroux@mch.govt.nz>
Cc: Lois Searle <Lois.Searle@mch.govt.nz>; Monique Esplin <Monique.Esplin@mch.govt.nz>; Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

Kia ora Helene,

Please find **attached** a revised draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The **attached** has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

Task	Date
Draft sent to Ministers for consultation	Thursday 9 August
Feedback due from Ministers	Thursday 16 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also attach a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Helene Peyroux [mailto:Helene.Peyroux@mch.govt.nz]
Sent: Friday, 27 July 2018 1:00 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Lois Searle <Lois.Searle@mch.govt.nz>; Monique Esplin <Monique.Esplin@mch.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

Kia ora Patrick

Thank you for the opportunity to comment. Just confirming that MCH's previous comments still stand for this paper.

Ngā mihi, nā

Hélène Peyroux | Kaitātari Matua Whai Wāhitanga Tiriti | Senior Advisor Treaty Partnerships
 Office of the Chief Executive
 Manatū Taonga | Ministry for Culture & Heritage
He ngākau titikaha, he hononga tangata
Promoting a confident and connected culture
 Public Trust Building 131 -135 Lambton Quay,
 P O Box 5364, Wellington, 6145 New Zealand.
 Ph [+64 4 4994229](tel:+6444994229) Ext 585 Fax [+64 4 499 4490](tel:+6444994490)

From: Southee, Patrick [mailto:Patrick.Southee@justice.govt.nz]
Sent: Friday, 27 July 2018 9:44 a.m.
To: Lois Searle <Lois.Searle@mch.govt.nz>; Helene Peyroux <Helene.Peyroux@mch.govt.nz>; Nerissa Barber <Nerissa.Barber@mch.govt.nz>; Monique Esplin <Monique.Esplin@mch.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick,

Tia <Tia.Warbrick@justice.govt.nz>

Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

Kia ora koutou,

Will it be possible to receive written comments on the draft Cabinet paper by 12pm today in order for us to be able to include them in the next version (that we intend to provide to the Minister for consultation with his Ministerial colleagues)?

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Southee, Patrick

Sent: Thursday, 19 July 2018 7:06 p.m.

To: 'lois.searle@mch.govt.nz' <lois.searle@mch.govt.nz>; 'helene.peyroux@mch.govt.nz' <helene.peyroux@mch.govt.nz>; 'Nerissa.Barber@mch.govt.nz' <Nerissa.Barber@mch.govt.nz>; 'Monique.Esplin@mch.govt.nz' <Monique.Esplin@mch.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>

Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MCH]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July

Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Thank you.

Document 25

From: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>
Sent: Wednesday, August 22, 2018 4:13 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Thank you for this Patrick. One point of clarification: could you please advise on the alignment between paragraph 85 that refers to an agreement in principle and recommendation 6 that seeks a straight agreement to establish the office. We have assumed that the recommendation takes precedent but can you please confirm?

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Wednesday, 22 August 2018 2:57 PM
To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally.Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Bansal, Raman <Raman.Bansal@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Thank you for your comments on the revised draft paper circulated on 9 August. Please find **attached** the final paper we expect to provide the Minister for his consideration this Friday 24 August (and for lodging Thursday 30 August).

We will forward appendix four (covering the complementary functions of Te Puni Kōkiri and the proposed office) as soon as able. It will not be too dissimilar to Diagram 1 in the last version.

We trust this version addresses your comments on the necessary detail on the financial implications.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Thursday, 16 August 2018 7:35 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Sally-Ann Spencer [TSY] <Sally.Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN CONFIDENCE]

Kia ora Patrick

The Treasury has focussed its feedback on the second draft of the paper on critical feedback but the previous feedback we provided is still applicable.

Establishment of a New Office of Crown Māori Partnership

This version of the paper usefully includes some preliminary analysis around structural options (Appendix 5) and how the proposed new office will situate its role relative to TPK (Paragraph 71 and Diagram 1). However, more in depth analysis is required before Ministers can be in a position to make an informed decision in principle to establish a new office. Treasury is supportive of the State Services Commissioner establishing a Transition Management Group but proposes that the terms of reference for this group be expanded to undertake work on all the structural options rather than just the new office option. We also propose that there be a subsequent report back to Cabinet Committee in November 2018 (as part of the suite of proposed November report backs) both to give Ministers line of sight over the preferred option and also to, potentially, feed into the Budget 19 process. Whatever structural option is proposed, funding for CMR work will need to be sought through Budget 19 as existing funding ends in 18/19.

Financial Implications

The paper does not include sufficient information on the financial implications of the proposal. It is our strong preference that policy and funding decisions should be taken together which is why Treasury is proposing that decisions on both aspects be deferred until after the Transition Management Group has undertaken further work and be subject to the Budget process. We also want to seek confirmation for what is mentioned in the paper that there will be no implications for 2018/19 given the activity required under each of the work streams for 2018/19 and the desire to establish the proposed office in early 2019. This information should be included in the paper and the recommendations. The financial implications should also be included in the recommendations (including, e.g. a noting rec that no new funding will be required for 2018/19 if this is the case). Given that we have not seen any estimated costs or any information on how expenses will be sought or appropriated, if an agreement in principle is sought, it may be necessary to add a Treasury comment to this effect. We look forward to receiving the next version of the paper.

Ngā mihi
Jason

From: Southee, Patrick [mailto:Patrick.Southee@justice.govt.nz]
Sent: Thursday, 9 August 2018 4:07 PM
To: Briar Mulholland [TSY] <Briar.Mulholland@treasury.govt.nz>; Rachel Lilly [TSY] <Rachel.Lilly@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Thank you for your comments on the initial draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines.

Please find **attached** a revised draft of the paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The **attached** has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

Task	Date
Draft sent to Ministers for consultation	Thursday 9 August
Feedback due from Ministers	Thursday 16 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also attach a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Friday, 27 July 2018 5:08 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

Thank you for the opportunity to comment on the paper. Our substantive feedback is as follows:

- Treasury supports the feedback provided at the CMR DCE's meeting this week that the paper seek agreement that further work be undertaken on a number of the issues/options raised in the paper rather than seeking agreement to specific options for the following reasons:
 - Ministers require line of sight over the issues raised and time to consider potential implications such as constitutional change.
 - The paper requires much greater depth of analysis in general and consideration should be given to setting up a process to undertake this work including:
 - Greater analysis on what the Crown's perspective on some of the issues raised in the hui is. Treasury supports the SSC view raised at the meeting of the use of the DCE's group to co-ordinate further work in this space

- Situating the paper and the proposals within the current CMR context including further articulation of the link between the proposals and the State Sector Act reforms, reference to the Government Priorities and work being undertaken by the CMR Committee to develop indicators and measures to track progress. Treasury supports your Minister writing to his colleagues about the implications of the issues raised at the hui for their portfolios but would suggest that these need to be worked through and co-ordinated via the DCE's group. Ministers should have a strong sense of what work is currently being undertaken or is planned to be undertaken to address some of the issues raised before new options are considered.
- The paper also requires much greater depth of analysis and explicit consideration of other structural options before a recommendation of a new Central agency is tenable. Questions to be answered include:
 - Further analysis on why the functions articulated in the paper cannot be undertaken by an existing agency such as TPK and better articulation of the space these functions will occupy relative to existing agencies
 - Further analysis on why an Attorney-General type function is proposed. Treasury is supportive of Crown-Law's offer to engage further with CMR roopu on this issue
 - Further analysis on what the financial and fiscal implications of the proposals are and when funding will be sought

We appreciate your Minister's desire to keep the paper succinct and to imbue it with the voices of those he engaged with. Balanced against this though is Minister's need for line of sight over these issues through further articulation in the paper so that they have enough information to make informed decisions.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 6:41 PM
To: Emily O'Connell [TSY] <Emily.O'Connell@treasury.govt.nz>; Briar Mulholland [TSY] <Briar.Mulholland@treasury.govt.nz>; Rachel Lilly [TSY] <Rachel.Lilly@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Thank you.

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Document 26

From: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>
Sent: Friday, August 24, 2018 9:35 AM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Colin Hall [TSY] <Colin.Hall@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

Thank you for sending the paper through and apologies for the delay in coming back to you. Our key concern with the paper as it stands is that some of the decisions sought could pre-empt decisions in Budget 2019. We also have a number of other minor questions and queries that I have included below.

Can you please include the following Treasury comment into the paper:

"Treasury is supportive of the need to ensure that the public sector is well placed to enhance the Crown Māori relationship. The paper articulates the issues raised by Māori well and proposes a number of ways how these may be addressed. The proposed scope of the portfolio also provides a useful frame for what the range of responsibilities would involve. However, Treasury considers further detail on resourcing implications should be provided before agreement is sought to the scope and the timing of implementation of the proposed Office of Crown Māori Partnership. Commencing the set-up of the Office in advance of Budget 2019 decisions may impact on Ministers' discretion to prioritise spending during the Budget process - once staff are employed, or other contracts entered into, it will be difficult to influence the ongoing costs of the Office. We consider that a business case should be approved by Ministers before decisions on the role and implementation of the Office are confirmed. This could be ready for the proposed November report-back and provide the basis for the Budget 2019 initiative."

Other Feedback

- Paragraph 65: Our understanding is that Cabinet was apprised of the Treaty settlements work programme in a noting paper: amend 'already agreed' to 'already noted'.
- Paragraph 65: Some of the detail of this paragraph wasn't immediately clear to us. Can you specify which portfolio Cabinet will shortly consider? Also clarify the four distinct units – Marine and Coastal is not considered to be a unit, as far as we understand.
- Rec 4: Should this read 'agree that the Minister for Crown/Maori Relations seek' (Minister for Crown Maori Partnership won't have been re-named at that point)?
- Rec 7.4: Do you have a time frame for adding other functions indicated in these square brackets?
- Rec 9.2: It would be helpful to clarify what is meant here: Vote Treaty Negotiations would be outside the scope of this recommendation, for example. Can you specify what is intended by 'new vote or a new appropriation/s for the responsible Minister for independent control'? It would be important for the existing units to work within the current policy and financial reporting lines, as noted in #69.
- Rec 10.1: Would the consultation process also involve MoF?

- Rec 11 (and #114): Is there an alternative option to publishing the paper, which contains proposals that are under active consideration?
- Rec 17 (and #109): It would be helpful to clarify which baseline here. Specify 'within current year baseline' refers to the CMR funding in Vote Justice appropriated for scoping work?

Happy to discuss

Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 23 August 2018 12:08 PM
To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Jason,

I attach the revised paper with corrected recommendation and other, minor editorial edits. We're on standby to receive final Treasury comment (which might require the insertion of a 'Treasury comment' in the paper).

As previously advised, we expect to provide the paper to the Minister tomorrow (for him to lodge next Thursday (30 August)).

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Thursday, 23 August 2018 11:00 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <maria.tali@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

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Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
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- (1) reply promptly to that effect, and remove this email and the reply from your system;
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Thank you.

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Released under the Official Information Act 1982

Document 27

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Feedback due from Ministers	Monday 20 August
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Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 28

From: Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>
Sent: Thursday, August 30, 2018 2:03 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Jason Clarke [TSY]
<Jason.Clarke@treasury.govt.nz>; Colin Hall [TSY] <Colin.Hall@treasury.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Patrick

Thank you for this. We notice the paper still includes a Treasury comment. Given the amendments to the recommendations in the final version, this is no longer necessary, so we would like it to be removed.

Thanks again

Sally-Ann

From: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Sent: Thursday, 30 August 2018 1:07 PM
To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Colin Hall [TSY]
<Colin.Hall@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali
<maria.tali@justice.govt.nz>; ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Please find **attached** the Minister for Crown/Māori Relations' final 'proposed final scope and engagement framework' Cabinet paper and appendices, which will be lodged today.

The paper incorporates feedback, including amendments discussed between our Ministers' offices.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Friday, 24 August 2018 9:35 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria
<maria.tali@justice.govt.nz>; Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana
<Moana.Kaipara@justice.govt.nz>; Colin Hall [TSY] <Colin.Hall@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

Thank you for sending the paper through and apologies for the delay in coming back to you. Our key concern with the paper as it stands is that some of the decisions sought could pre-empt decisions in Budget 2019. We also have a number of other minor questions and queries that I have included below.

Can you please include the following Treasury comment into the paper:

“Treasury is supportive of the need to ensure that the public sector is well placed to enhance the Crown Māori relationship. The paper articulates the issues raised by Māori well and proposes a number of ways how these may be addressed. The proposed scope of the portfolio also provides a useful frame for what the range of responsibilities would involve. However, Treasury considers further detail on resourcing implications should be provided before agreement is sought to the scope and the timing of implementation of the proposed Office of Crown Māori Partnership. Commencing the set-up of the Office in advance of Budget 2019 decisions may impact on Ministers’ discretion to prioritise spending during the Budget process - once staff are employed, or other contracts entered into, it will be difficult to influence the ongoing costs of the Office. We consider that a business case should be approved by Ministers before decisions on the role and implementation of the Office are confirmed. This could be ready for the proposed November report-back and provide the basis for the Budget 2019 initiative.”

Other Feedback

- Paragraph 65: Our understanding is that Cabinet was apprised of the Treaty settlements work programme in a noting paper: amend ‘already agreed’ to ‘already noted’.
- Paragraph 65: Some of the detail of this paragraph wasn’t immediately clear to us. Can you specify which portfolio Cabinet will shortly consider? Also clarify the four distinct units – Marine and Coastal is not considered to be a unit, as far as we understand.
- Rec 4: Should this read ‘agree that the Minister for Crown/Maori Relations seek’ (Minister for Crown Maori Partnership won’t have been re-named at that point)?
- Rec 7.4: Do you have a time frame for adding other functions indicated in these square brackets?
- Rec 9.2: It would be helpful to clarify what is meant here: Vote Treaty Negotiations would be outside the scope of this recommendation, for example. Can you specify what is intended by ‘new vote or a new appropriation/s for the responsible Minister for independent control’? It would be important for the existing units to work within the current policy and financial reporting lines, as noted in #69.
- Rec 10.1: Would the consultation process also involve MoF?
- Rec 11 (and #114): Is there an alternative option to publishing the paper, which contains proposals that are under active consideration?
- Rec 17 (and #109): It would be helpful to clarify which baseline here. Specify ‘within current year baseline’ refers to the CMR funding in Vote Justice appropriated for scoping work?

Happy to discuss

Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]

Sent: Thursday, 23 August 2018 12:08 PM

To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>

Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali

<maria.tali@justice.govt.nz>; ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>

Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Jason,

I attach the revised paper with corrected recommendation and other, minor editorial edits. We're on standby to receive final Treasury comment (which might require the insertion of a 'Treasury comment' in the paper).

As previously advised, we expect to provide the paper to the Minister tomorrow (for him to lodge next Thursday (30 August)).

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Thursday, 23 August 2018 11:00 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Patrick

Would it be possible to get a copy of the paper with the updated recommendation? Also, just as a heads up, we are currently considering whether we wish to insert a Treasury comment along the lines we outlined in our previous feedback specific to the lack of costings for the new office. Our intention is to come back formally today with our final comments and whether we will be asking for a specific comment.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Wednesday, 22 August 2018 4:18 PM
To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Jason,

The recommendation should seek 'agreement in principle" to establish the office at this stage. Sorry for the confusion.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]

Sent: Wednesday, 22 August 2018 4:13 p.m.

To: Southee, Patrick <Patrick.Southee@justice.govt.nz>

Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Thank you for this Patrick. One point of clarification: could you please advise on the alignment between paragraph 85 that refers to an agreement in principle and recommendation 6 that seeks a straight agreement to establish the office. We have assumed that the recommendation takes precedent but can you please confirm?

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]

Sent: Wednesday, 22 August 2018 2:57 PM

To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>

Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Bansal, Raman <Raman.Bansal@justice.govt.nz>

Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Thank you for your comments on the revised draft paper circulated on 9 August. Please find **attached** the final paper we expect to provide the Minister for his consideration this Friday 24 August (and for lodging Thursday 30 August).

We will forward appendix four (covering the complementary functions of Te Puni Kōkiri and the proposed office) as soon as able. It will not be too dissimilar to Diagram 1 in the last version.

We trust this version addresses your comments on the necessary detail on the financial implications.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]

Sent: Thursday, 16 August 2018 7:35 p.m.

To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Trevor

Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

The Treasury has focussed its feedback on the second draft of the paper on critical feedback but the previous feedback we provided is still applicable.

Establishment of a New Office of Crown Māori Partnership

This version of the paper usefully includes some preliminary analysis around structural options (Appendix 5) and how the proposed new office will situate its role relative to TPK (Paragraph 71 and Diagram 1). However, more in depth analysis is required before Ministers can be in a position to make an informed decision in principle to establish a new office. Treasury is supportive of the State Services Commissioner establishing a Transition Management Group but proposes that the terms of reference for this group be expanded to undertake work on all the structural options rather than just the new office option. We also propose that there be a subsequent report back to Cabinet Committee in November 2018 (as part of the suite of proposed November report backs) both to give Ministers line of sight over the preferred option and also to, potentially, feed into the Budget 19 process. Whatever structural option is proposed, funding for CMR work will need to be sought through Budget 19 as existing funding ends in 18/19.

Financial Implications

The paper does not include sufficient information on the financial implications of the proposal. It is our strong preference that policy and funding decisions should be taken together which is why Treasury is proposing that decisions on both aspects be deferred until after the Transition Management Group has undertaken further work and be subject to the Budget process. We also want to seek confirmation for what is mentioned in the paper that there will be no implications for 2018/19 given the activity required under each of the work streams for 2018/19 and the desire to establish the proposed office in early 2019. This information should be included in the paper and the recommendations. The financial implications should also be included in the recommendations (including, e.g. a noting rec that no new funding will be required for 2018/19 if this is the case). Given that we have not seen any estimated costs or any information on how expenses will be sought or appropriated, if an agreement in principle is sought, it may be necessary to add a Treasury comment to this effect. We look forward to receiving the next version of the paper.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 9 August 2018 4:07 PM
To: Briar Mulholland [TSY] <Briar.Mulholland@treasury.govt.nz>; Rachel Lilly [TSY] <Rachel.Lilly@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>

Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Thank you for your comments on the initial draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines.

Please find **attached** a revised draft of the paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The **attached** has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

Task	Date
Draft sent to Ministers for consultation	Thursday 9 August
Feedback due from Ministers	Thursday 16 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also attach a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Friday, 27 July 2018 5:08 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

Thank you for the opportunity to comment on the paper. Our substantive feedback is as follows:

- Treasury supports the feedback provided at the CMR DCE's meeting this week that the paper seek agreement that further work be undertaken on a number of the issues/options raised in the paper rather than seeking agreement to specific options for the following reasons:

- Ministers require line of sight over the issues raised and time to consider potential implications such as constitutional change.
- The paper requires much greater depth of analysis in general and consideration should be given to setting up a process to undertake this work including:
 - Greater analysis on what the Crown's perspective on some of the issues raised in the hui is. Treasury supports the SSC view raised at the meeting of the use of the DCE's group to co-ordinate further work in this space
 - Situating the paper and the proposals within the current CMR context including further articulation of the link between the proposals and the State Sector Act reforms, reference to the Government Priorities and work being undertaken by the CMR Committee to develop indicators and measures to track progress. Treasury supports your Minister writing to his colleagues about the implications of the issues raised at the hui for their portfolios but would suggest that these need to be worked through and co-ordinated via the DCE's group. Ministers should have a strong sense of what work is currently being undertaken or is planned to be undertaken to address some of the issues raised before new options are considered.
- The paper also requires much greater depth of analysis and explicit consideration of other structural options before a recommendation of a new Central agency is tenable. Questions to be answered include:
 - Further analysis on why the functions articulated in the paper cannot be undertaken by an existing agency such as TPK and better articulation of the space these functions will occupy relative to existing agencies
 - Further analysis on why an Attorney-General type function is proposed. Treasury is supportive of Crown-Law's offer to engage further with CMR roopu on this issue
 - Further analysis on what the financial and fiscal implications of the proposals are and when funding will be sought

We appreciate your Minister's desire to keep the paper succinct and to imbue it with the voices of those he engaged with. Balanced against this though is Minister's need for line of sight over these issues through further articulation in the paper so that they have enough information to make informed decisions.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 6:41 PM
To: Emily O'Connell [TSY] <Emily.O'Connell@treasury.govt.nz>; Briar Mulholland [TSY] <Briar.Mulholland@treasury.govt.nz>; Rachel Lilly [TSY] <Rachel.Lilly@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Released under the Official Information Act 1982

Document 29

From: Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>
Sent: Thursday, August 30, 2018 2:18 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

That's great - thank you, Patrick!

Sally-Ann

From: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Sent: Thursday, 30 August 2018 2:14 PM
To: Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Colin Hall [TSY] <Colin.Hall@treasury.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora mō tēnā Sally-Ann.

We have removed The Treasury comment (paragraph 13) in the version the Minister's office will lodge in CabNet.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Sally-Ann Spencer [TSY] [<mailto:Sally-Ann.Spencer@treasury.govt.nz>]
Sent: Thursday, 30 August 2018 2:03 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Colin Hall [TSY] <Colin.Hall@treasury.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Patrick

Thank you for this. We notice the paper still includes a Treasury comment. Given the amendments to the recommendations in the final version, this is no longer necessary, so we would like it to be removed.

Thanks again

Sally-Ann

From: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Sent: Thursday, 30 August 2018 1:07 PM
To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Colin Hall [TSY]

<Colin.Hall@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Please find **attached** the Minister for Crown/Māori Relations' final 'proposed final scope and engagement framework' Cabinet paper and appendices, which will be lodged today.

The paper incorporates feedback, including amendments discussed between our Ministers' offices.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Friday, 24 August 2018 9:35 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <maria.tali@justice.govt.nz>; Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Colin Hall [TSY] <Colin.Hall@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN CONFIDENCE]

Kia ora Patrick

Thank you for sending the paper through and apologies for the delay in coming back to you. Our key concern with the paper as it stands is that some of the decisions sought could pre-empt decisions in Budget 2019. We also have a number of other minor questions and queries that I have included below.

Can you please include the following Treasury comment into the paper:

"Treasury is supportive of the need to ensure that the public sector is well placed to enhance the Crown Māori relationship. The paper articulates the issues raised by Māori well and proposes a number of ways how these may be addressed. The proposed scope of the portfolio also provides a useful frame for what the range of responsibilities would involve. However, Treasury considers further detail on resourcing implications should be provided before agreement is sought to the scope and the timing of implementation of the proposed Office of Crown Māori Partnership. Commencing the set-up of the Office in advance of Budget 2019 decisions may impact on Ministers' discretion to prioritise spending during the Budget process - once staff are employed, or other contracts entered into, it will be difficult to influence the ongoing costs of the Office. We consider that a business case should be approved by Ministers before decisions on the role and

implementation of the Office are confirmed. This could be ready for the proposed November report-back and provide the basis for the Budget 2019 initiative.”

Other Feedback

- Paragraph 65: Our understanding is that Cabinet was apprised of the Treaty settlements work programme in a noting paper: amend ‘already agreed’ to ‘already noted’.
- Paragraph 65: Some of the detail of this paragraph wasn’t immediately clear to us. Can you specify which portfolio Cabinet will shortly consider? Also clarify the four distinct units – Marine and Coastal is not considered to be a unit, as far as we understand.
- Rec 4: Should this read ‘agree that the Minister for Crown/Maori Relations seek’ (Minister for Crown Maori Partnership won’t have been re-named at that point)?
- Rec 7.4: Do you have a time frame for adding other functions indicated in these square brackets?
- Rec 9.2: It would be helpful to clarify what is meant here: Vote Treaty Negotiations would be outside the scope of this recommendation, for example. Can you specify what is intended by ‘new vote or a new appropriation/s for the responsible Minister for independent control’? It would be important for the existing units to work within the current policy and financial reporting lines, as noted in #69.
- Rec 10.1: Would the consultation process also involve MoF?
- Rec 11 (and #114): Is there an alternative option to publishing the paper, which contains proposals that are under active consideration?
- Rec 17 (and #109): It would be helpful to clarify which baseline here. Specify ‘within current year baseline’ refers to the CMR funding in Vote Justice appropriated for scoping work?

Happy to discuss

Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 23 August 2018 12:08 PM
To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Jason,

I attach the revised paper with corrected recommendation and other, minor editorial edits. We’re on standby to receive final Treasury comment (which might require the insertion of a ‘Treasury comment’ in the paper).

As previously advised, we expect to provide the paper to the Minister tomorrow (for him to lodge next Thursday (30 August)).

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Thursday, 23 August 2018 11:00 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Patrick

Would it be possible to get a copy of the paper with the updated recommendation? Also, just as a heads up, we are currently considering whether we wish to insert a Treasury comment along the lines we outlined in our previous feedback specific to the lack of costings for the new office. Our intention is to come back formally today with our final comments and whether we will be asking for a specific comment.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Wednesday, 22 August 2018 4:18 PM
To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora Jason,

The recommendation should seek 'agreement in principle' to establish the office at this stage. Sorry for the confusion.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Wednesday, 22 August 2018 4:13 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Thank you for this Patrick. One point of clarification: could you please advise on the alignment between paragraph 85 that refers to an agreement in principle and recommendation 6 that seeks a straight agreement to establish the office. We have assumed that the recommendation takes precedent but can you please confirm?

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Wednesday, 22 August 2018 2:57 PM

To: Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally.Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Bansal, Raman <Raman.Bansal@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Thank you for your comments on the revised draft paper circulated on 9 August. Please find **attached** the final paper we expect to provide the Minister for his consideration this Friday 24 August (and for lodging Thursday 30 August).

We will forward appendix four (covering the complementary functions of Te Puni Kōkiri and the proposed office) as soon as able. It will not be too dissimilar to Diagram 1 in the last version.

We trust this version addresses your comments on the necessary detail on the financial implications.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Thursday, 16 August 2018 7:35 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>; Sally-Ann Spencer [TSY] <Sally.Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

The Treasury has focussed its feedback on the second draft of the paper on critical feedback but the previous feedback we provided is still applicable.

Establishment of a New Office of Crown Māori Partnership

This version of the paper usefully includes some preliminary analysis around structural options (Appendix 5) and how the proposed new office will situate its role relative to TPK (Paragraph 71 and Diagram 1). However, more in depth analysis is required before Ministers can be in a position to make an informed decision in principle to establish a new office. Treasury is supportive of the State

Services Commissioner establishing a Transition Management Group but proposes that the terms of reference for this group be expanded to undertake work on all the structural options rather than just the new office option. We also propose that there be a subsequent report back to Cabinet Committee in November 2018 (as part of the suite of proposed November report backs) both to give Ministers line of sight over the preferred option and also to, potentially, feed into the Budget 19 process. Whatever structural option is proposed, funding for CMR work will need to be sought through Budget 19 as existing funding ends in 18/19.

Financial Implications

The paper does not include sufficient information on the financial implications of the proposal. It is our strong preference that policy and funding decisions should be taken together which is why Treasury is proposing that decisions on both aspects be deferred until after the Transition Management Group has undertaken further work and be subject to the Budget process. We also want to seek confirmation for what is mentioned in the paper that there will be no implications for 2018/19 given the activity required under each of the work streams for 2018/19 and the desire to establish the proposed office in early 2019. This information should be included in the paper and the recommendations. The financial implications should also be included in the recommendations (including, e.g. a noting rec that no new funding will be required for 2018/19 if this is the case). Given that we have not seen any estimated costs or any information on how expenses will be sought or appropriated, if an agreement in principle is sought, it may be necessary to add a Treasury comment to this effect. We look forward to receiving the next version of the paper.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 9 August 2018 4:07 PM
To: Briar Mulholland [TSY] <Briar.Mulholland@treasury.govt.nz>; Rachel Lilly [TSY] <Rachel.Lilly@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Thank you for your comments on the initial draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines.

Please find **attached** a revised draft of the paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The **attached** has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

Task	Date
Draft sent to Ministers for consultation	Thursday 9 August

Feedback due from Ministers	Thursday 16 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also attach a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
 Patrick Southee
 +64 22 466 9290

From: Jason Clarke [TSY] [<mailto:Jason.Clarke@treasury.govt.nz>]
Sent: Friday, 27 July 2018 5:08 a.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

[IN-CONFIDENCE]

Kia ora Patrick

Thank you for the opportunity to comment on the paper. Our substantive feedback is as follows:

- Treasury supports the feedback provided at the CMR DCE's meeting this week that the paper seek agreement that further work be undertaken on a number of the issues/options raised in the paper rather than seeking agreement to specific options for the following reasons:
 - Ministers require line of sight over the issues raised and time to consider potential implications such as constitutional change.
 - The paper requires much greater depth of analysis in general and consideration should be given to setting up a process to undertake this work including:
 - Greater analysis on what the Crown's perspective on some of the issues raised in the hui is. Treasury supports the SSC view raised at the meeting of the use of the DCE's group to co-ordinate further work in this space
 - Situating the paper and the proposals within the current CMR context including further articulation of the link between the proposals and the State Sector Act reforms, reference to the Government Priorities and work being undertaken by the CMR Committee to develop indicators and measures to track progress. Treasury supports your Minister writing to his colleagues about the implications of the issues raised at the hui for their portfolios but would suggest that these need to be worked through and co-ordinated via the DCE's group. Ministers should have a strong sense of what work is currently being undertaken or is planned to be undertaken to address some of the issues raised before new options are considered.
 - The paper also requires much greater depth of analysis and explicit consideration of other structural options before a recommendation of a new Central agency is tenable. Questions to be answered include:

- Further analysis on why the functions articulated in the paper cannot be undertaken by an existing agency such as TPK and better articulation of the space these functions will occupy relative to existing agencies
- Further analysis on why an Attorney-General type function is proposed. Treasury is supportive of Crown-Law's offer to engage further with CMR roopu on this issue
- Further analysis on what the financial and fiscal implications of the proposals are and when funding will be sought

We appreciate your Minister's desire to keep the paper succinct and to imbue it with the voices of those he engaged with. Balanced against this though is Minister's need for line of sight over these issues through further articulation in the paper so that they have enough information to make informed decisions.

Ngā mihi
Jason

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 19 July 2018 6:41 PM
To: Emily O'Connell [TSY] <Emily.O'Connell@treasury.govt.nz>; Briar Mulholland [TSY] <Briar.Mulholland@treasury.govt.nz>; Rachel Lilly [TSY] <Rachel.Lilly@treasury.govt.nz>; Sally-Ann Spencer [TSY] <Sally-Ann.Spencer@treasury.govt.nz>; Katherine Leask [TSY] <Katherine.Leask@treasury.govt.nz>; Jason Clarke [TSY] <Jason.Clarke@treasury.govt.nz>; Trevor Moeke [TSY] <Trevor.Moeke@treasury.govt.nz>
Cc: ^Justice: Lillian Anderson <Lillian.Anderson@justice.govt.nz>; ^Justice: Moana Kaipara <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; ^Justice: Maria Tali <maria.tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Treasury]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Thank you.

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Thank you.

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(1) reply promptly to that effect, and remove this email and the reply from your system;

(2) do not act on this email in any other way.

Thank you.

Released under the Official Information Act 1982

Document 30

From: Johnston, Anna <Anna.Johnston@justice.govt.nz>
Sent: Wednesday, August 15, 2018 4:59 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Meehan-Pearson, Robyn <Robyn.Meehan-Pearson@justice.govt.nz>; Crooke, David <David.Crooke@justice.govt.nz>; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>; Hubscher, Chris <Chris.Hubscher@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Justice]

Kia ora Patrick,

Thank you for the chance to comment on the revised paper and for considering our comments in your revision.

Examining Constitutional and Institutional Arrangements over the Longer-Term

We still have questions about this aspect of the paper. We are not clear on the following:

- We don't think it's possible to consider the place of Te Tiriti in our constitution in isolation from broader constitutional issues (eg, any discussion of how public power should be exercised would give rise to discussion of Te Tiriti). If the Ministry of Justice (and Minister of Justice) is to retain responsibility for constitutional issues (which we think it should), that must also include responsibility for the part of Te Tiriti in our constitutional arrangements.
- We are not sure what you have in mind for the constitutional and institutional arrangements that the office would examine over the longer term – are you thinking of specific proposals? Or are you thinking of a constitutional conversation?
- Similar to your diagram one, it may be helpful to set out what the office would be responsible for as opposed to what the MoJ would be responsible for.
- We think it would also be helpful to discuss work on constitutional arrangements within the context of the work that has already been done, most significantly the work of the Constitutional Advisory Panel (CAP).

Please give me a call to discuss if that would be helpful, or I would be happy to arrange a meeting. A concrete suggestion we have is that the office could have a very useful role in furthering the work that CAP identified was needed – namely, stimulating conversation about the place of Te Tiriti (and possibly He Whakaputanga) in our constitution and educating and upskilling on the role and status of Te Tiriti. This may be a good place for the office to start.

Office vs standalone agency

We note that the paper has moved from proposing a standalone agency to discussing an office. An office that is a departmental agency could make sense in that it gives a sense of independence and separate identity while retaining many of the benefits of being housed in a larger department. But it is unclear what is proposed – do you still envisage a standalone agency, or a departmental agency? We think that should be clear in the paper.

We note submitters' feedback that the association with the justice system has blurred understanding of the new portfolio. We also note that if, in the longer term, a key focus of the office will be on constitutional issues, then remaining in Justice could have significant advantages, such as the ability to work very closely alongside us on these constitutional matters. This could be identified in the paper as a risk or disadvantage of moving elsewhere. The paper could also address how the new office will mitigate the risk of it operating in isolation from the rest of the public service.

Other comments

Some more minor points about other aspects of the paper:

- Para 52 – we appreciate the change to clarify that you are not proposing an exception to collective responsibility. We still don't follow how the Minister for the Crown Māori Partnership acting in the interests of the Partnership is different to the way other Ministers would act in the interests of their portfolio (eg, the Minister for Children would generally act in the interests of children)
- Para 66 – you note the office must be seen to have "teeth". Is anything formal proposed to give it teeth, or do you just mean that it will have sway in the public service?

Ngā mihi



Anna Johnston

Principal Advisor | Electoral and Constitutional | Policy Group
DDI: +64 4 494 9764 | Ext 50764 |
www.justice.govt.nz

Please note that I finish work at 2pm on Wednesday and Friday.

From: Southee, Patrick

Sent: Thursday, 9 August 2018 4:35 p.m.

To: Johnston, Anna <Anna.Johnston@justice.govt.nz>; Hubscher, Chris <Chris.Hubscher@justice.govt.nz>; Meehan-Pearson, Robyn <Robyn.Meehan-Pearson@justice.govt.nz>; Crooke, David <David.Crooke@justice.govt.nz>; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>; Saunders, Tim <Tim.Saunders@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Justice]

Kia ora koutou,

Thank you for meeting with us and providing comments on the initial draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines.

Please find attached a revised draft of the paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The attached has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

Task	Date
Draft sent to Ministers for consultation	Thursday 9 August
Feedback due from Ministers	Thursday 16 August
Final paper to be lodged	Thursday 30 August

Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also attach a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Johnston, Anna
Sent: Friday, 27 July 2018 2:18 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Hubscher, Chris <Chris.Hubscher@justice.govt.nz>; Meehan-Pearson, Robyn <Robyn.Meehan-Pearson@justice.govt.nz>; Crooke, David <David.Crooke@justice.govt.nz>; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>
Subject: RE: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Justice]

Kia ora Patrick,

Thank you for the opportunity to comment on this draft Cabinet paper and for meeting with us today to discuss. In the interests of time, I am sending our comments as they were – I know that you are already thinking about these things and are making significant changes to the draft paper.

The paper demonstrates a really strong process of engagement with Māori and, through the views expressed by Māori, creates a strong case for a change in the way the public service engages in the Crown-Māori relationship. We support the drive for bold ideas and breaking away from old ways of doing things.

It also raises some important constitutional and human rights issues. We would be happy to work with you further on some of the issues we discuss in our comments below if that would assist. We also think it would be worthwhile for you to talk to the Family Violence Multi-Agency Team. That team has been doing a lot of thinking on machinery of government and the role of a central agent in that context.

Proposal to establish of a new central agency

The paper says that locating responsibility for the Crown-Māori relationship within the Ministry of Justice has negative connotations for Māori (because of the connection to criminal justice). Although this is a clear statement of a problem, we are not sure that it is sufficient alone to justify a new agency. It is not clear from the paper how a new agency would advance the Crown/Māori relationship, and whether the additional costs (eg, overheads) of a new agency are justified.

The paper should also consider alternative options for addressing the problem. There is at least one option not discussed in the paper - a departmental agency (either within the Ministry of Justice or another agency), which would provide a separate identity and high degree of autonomy. A departmental agency, which relies on another agency for its corporate functions, could be a stepping stone to a stand-alone agency. It is a safe way to approach the issue because it is easier to adjust if we don't get it quite right. A stand-alone agency with a narrow purpose would be more difficult to change or combine with other functions if it proved to be the wrong approach.

The paper should also articulate the risks of the preferred approach. For example, paragraph 43 states that the alternative option of transferring functions to Te Puni Kōkiri (TPK) would require time to restructure that we do not have to waste. This ignores the fact that establishing a new department is likely to be more disruptive than transferring functions to an existing agency with all the corporate infrastructure already in place.

We think it is important to take a long term view of what such an agency's role would be and to articulate how that role would fit in with the role of other agencies. Paragraph 43 of the paper says that TPK leads Māori Public Policy, advises on policy affecting Māori wellbeing, monitors policy and legislation, advocates for Māori and supports Māori capability. It is not clear how this role differs from the role of acting in the interests of the relationship. Several of the functions described in para 39 seem closely aligned with the functions of TPK, including helping government to better engage with Māori on matters of importance, finding opportunities for active partnerships between the Crown and Māori, lifting public sector performance to better respond to Māori issues, and improving the Crown's responses to contemporary Treaty issues. Similar questions arise with regard to MoJ's responsibility for constitutional policy (discussed further below).

We realise that this proposal is a key part of the paper and that you are working to tight timeframes. We wonder whether it may be possible for the paper not to seek agreement to a new agency at this stage. There is a risk that this issue could distract from, or impede progress on, the other matters addressed in the paper, such as the proposed engagement framework. Could the paper instead report back on what those consulted said about the institutional arrangements, note some of the issues this raises, and outline the further work / next steps required? Alternatively could the paper be delayed to allow for the big ideas to be better developed? Another form of document could be produced to provide a basis for early discussions between Ministers.

Proposed exception to collective responsibility (paras 31-33)

We do not support the proposal that the Minister for the Crown-Māori Partnership not be bound by collective responsibility. We don't think the comparison with Attorney-General's role is apt as the two situations are not analogous. The Attorney-General is exempt from collective responsibility only when exercising law officer functions. In all other matters, the Attorney-General is bound by collective responsibility.

Furthermore, the independence of the Attorney-General relates to the expression of opinions but they still hold a warrant from the Governor-General and still represent the Crown, as do Ministers. This does not mean Ministers must always advocate for the interests of the Crown above all others. They must act in the public interest but they do not need an exemption from collective responsibility to do so. If this proposal is to be progressed, the paper should explain how a requirement to 'act in the interests of the Crown-Māori relationship' would operate in practice and what it means for collective responsibility should be articulated.

Constitutional issues

We support the renewed focus on constitutional issues, which are integral to a healthy Crown-Māori relationship. As the draft paper says at paragraph 16, considering how we shape the New Zealand constitution is a core issue that underpins a better relationship between the Crown and Māori.

However, the paper appears to propose that constitutional responsibility for Te Tiriti o Waitangi be separated from all other constitutional issues, which would remain with the Minister of Justice. But Te Tiriti is a foundational part of our constitutional arrangements. Splitting responsibility for Te Tiriti from other constitutional arrangements would detract from its centrality, and may not be workable.

We think it is important not to conflate the constitutional discussion with ‘institutional arrangements’. In other words, form follows function.^{s 9(2)(g)(i)}

■ Similarly, questioning the future of the Waitangi Tribunal without any discussion (at paragraph 50) risks diminishing the importance the Tribunal has placed in our history and its place in our constitutional fabric. The Tribunal's purpose is not to look solely at historical grievances, but also contemporary Treaty breaches. The Tribunal is an important independent body for iwi and Māori to have their grievances heard, listened to and understood. We suggest that the paper not make specific suggestions at this stage because it is not necessary to support the recommendations made in the paper.

In paragraph 49, the paper says that these institutional changes would be less controversial (presumably compared to high constitutional issues). **s 9(2)(c)(i)**

Matters not covered in the paper

We note that the paper does not contain a Treaty of Waitangi analysis and suggest one be included. We also think the paper should mention the Declaration on the Rights of Indigenous Peoples, the principal international human rights document addressing indigenous rights. The paper deals with Māori rights to engagement and autonomy, which directly relate to the place of the Declaration and issues such as free, prior and informed consent. The domestic implementation of the Declaration is currently monitored by TPK.

Happy to discuss any of the above further if it would assist.

Ngā mihi



Anna Johnston

Principal Advisor | Electoral and Constitutional | Policy Group
DDI: +64 4 494 9764 | Ext 50764 |
www.justice.govt.nz

Please note that I finish work at 2pm on Wednesday and Friday.

From: Southee, Patrick
Sent: Thursday, 19 July 2018 7:22 p.m.
To: Johnston, Anna <Anna.Johnston@justice.govt.nz>; Greaney, Caroline <Caroline.Greaney@justice.govt.nz>; Crooke, David <David.Crooke@justice.govt.nz>; Hubscher, Chris <Chris.Hubscher@justice.govt.nz>; Holden, Sarah <Sarah.Holden@justice.govt.nz>; Smith, Benesia <Benesia.Smith@justice.govt.nz>
Cc: Anderson, Lillian <Lillian.Anderson@justice.govt.nz>; Kaipara, Moana <Moana.Kaipara@justice.govt.nz>; Houlbrooke, Rachel <Rachel.Houlbrooke@justice.govt.nz>; Tali, Maria <Maria.Tali@justice.govt.nz>; Kupenga, Te Rau <TeRau.Kupenga@justice.govt.nz>; Warbrick, Tia <Tia.Warbrick@justice.govt.nz>
Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [Justice]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

Cabinet paper

The draft paper attached seeks Cabinet agreement to the final scope of the portfolio and priorities and the engagement framework.

Minister Davis strongly prefers Cabinet papers to be succinct and written in plain language. He is particularly keen that the 'final scope paper' reflects the voices and actual words of the people he heard from in the engagement process undertaken over the last few months. For that reason the attached draft looks a little different to your standard Cabinet paper and has footnotes (that may or may not be retained in the final version that gets to Cabinet).

We are available to meet in the week of 23 July if you consider that would be useful. Our DCEs are meeting next Wednesday morning to discuss Crown/Māori Relations so that is another forum for feedback.

Task	Date
Draft provided to agencies for comment	Thursday 19 July
Agency comment due	5pm, Thursday 26 July
Draft sent to Ministers for consultation	Monday 6 August
Feedback due from Ministers	Monday 20 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Draft letter from Minister for Crown/Māori Relations

Minister Davis updated Cabinet on the themes emerging from the engagement process on 7 May. He outlined his intention to write to relevant Ministers at the end of that process.

If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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Document 31

From: Eleonora De Crescenzo <Eleonora.DeCrescenzo002@msd.govt.nz>
Sent: Wednesday, August 15, 2018 4:28 PM
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Manaia King <Manaia.King038@msd.govt.nz>
Subject: RE: MSD feedback - Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora Patrick

I'd like to acknowledge that the reviewed version of the paper does address our earlier concerns, specifically the distinction of roles between the proposed office and TPK. We have recommend Minister for Social Development supports the paper.

We do note that there needs to be more balance in regards to the efforts that agencies such as MSD have undertaken with regards to partnering with iwi. We generally agree that this needs to improve and recognise that this new agency will be critical in achieving this, however there are many examples of genuine engagement and partnership with iwi outside the Treaty settlement space, for instance E tū Whānau.

Looking forward to working with you again as this work progresses.

Ngā mihi
Eleonora

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]
Sent: Thursday, 9 August 2018 4:16 p.m.
To: Eleonora De Crescenzo
Cc: Justine Cornwall; Manaia King; Megan Beecroft; Hamish Orbell; Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Warbrick, Tia; Saunders, Tim
Subject: RE: MSD feedback - Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora Eleonora,

Thank you for your comments on the initial draft of the Crown/Māori Relations Unit 'final scope and engagement framework' Cabinet paper, engagement framework and guidelines.

Please find **attached** a revised draft of the paper, engagement framework and guidelines - we have tried to address as many comments on the initial drafts as possible in these versions - for your further consideration. The **attached** has been provided to a number of Ministers for comment by Thursday 16 August so we expect the timeframes in the table below to apply. If you have significant concerns with the attached draft we would be grateful if you could let us know by 16 August as well.

Task	Date
Draft sent to Ministers for consultation	Thursday 9 August
Feedback due from Ministers	Thursday 16 August
Final paper to be lodged	Thursday 30 August
Crown/Māori Relations Cabinet Committee	4 September

Lil is also arranging another meeting of DCEs for next Thursday to further discuss the paper and proposals.

I also attach a draft version of the summary of submissions received through the Crown/Māori Relations engagement process - 'Te ara whakamua ā tātou – summary of submissions' - for your information.

Ngā mihi,
Patrick Southee
+64 22 466 9290

From: Eleonora De Crescenzo [mailto:Eleonora.DeCrescenzo002@msd.govt.nz]
Sent: Friday, 27 July 2018 12:55 p.m.
To: Southee, Patrick <Patrick.Southee@justice.govt.nz>
Cc: Justine Cornwall <Justine.Cornwall009@msd.govt.nz>; Manaia King <Manaia.King038@msd.govt.nz>; Megan Beecroft <Megan.Beecroft005@msd.govt.nz>; Hamish Orbell <Hamish.Orbell001@msd.govt.nz>
Subject: FW: MSD feedback - Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora Patrick

In addition to my email below:

While having more support and guidance on Māori engagement offers clear benefits we would like to express our concern that a new agency may create more fragmentation and confusion for both agencies and stakeholders if roles and responsibilities are not well clarified and communicated. As stated in the previous email we are interested to hear how a new agency would align with existing teams in other agencies to create positive synergies and overall improvements.

An additional concern is the need for agencies working with Iwi and Māori groups to be resourced to build their capacity and capability and how agencies will be supported given the level of work required to engage well and ensure an enduring relationship /partnership can emerge as a result.

Ngā mihi
Eleonora



From: Eleonora De Crescenzo
Sent: Thursday, 26 July 2018 4:51 p.m.
To: 'Southee, Patrick'
Cc: Manaia King; Justine Cornwall
Subject: MSD feedback - Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora Patrick

I'm pulling together feedback from MSD. Still waiting on some units to get back to me, so I'll give you an update tomorrow by 12pm, apology for the delay.

Our general comment is that we are supportive of the kaupapa, however clarity will be needed on how the new portfolio aligns with the role of Te Puni Kōkiri. We are also interested to hear how the new agency would work with other Ministries in their areas of expertise.

In regard to the two appendixes, Engagement framework and Engagement framework guidelines, the guidelines could perhaps be more focused and better structured. There is a balance to be found for a tool that is both versatile and comprehensive. However I do acknowledge that it is a good starting point.

Ngā mihi
Eleonora

<image001.png> **Eleonora De Crescenzo**

Policy Analyst

 Eleonora.decrescenzo002@msd.govt.nz

 The Aurora Centre | Level 8 | 56 The Terrace | Wellington | New Zealand

 04 978 4355 |  D2D 42355

<image002.png>

From: Southee, Patrick [<mailto:Patrick.Southee@justice.govt.nz>]

Sent: Thursday, 19 July 2018 7:11 p.m.

To: Lola Toppin-Casserly; Rhonda Blood; Laura Crespo; Eleonora De Crescenzo; Charlie Howe; Simon MacPherson; Justine Cornwall; Marama Edwards

Cc: Anderson, Lillian; Kaipara, Moana; Houlbrooke, Rachel; Tali, Maria; Kupenga, Te Rau; Warbrick, Tia

Subject: Draft Cab paper for agency consult: Final scope of CMR & engagement framework [MSD]

Kia ora koutou,

Further to my email of 27 June in which I advised that Minister Davis decided to have the 'final scope' Cabinet paper considered at a special meeting of the Cabinet CMR Committee on 4 September, I am writing now to attach a draft of that paper for agency consultation and advise of the intended process for comment (agency and Ministerial).

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If Minister Davis intends to write to your Minister we consider it important that you have an opportunity to consider the feedback that has come through the CMR engagement process and review the draft letter before it is sent. If the feedback touched on your kaupapa we will be in touch next week with a draft letter for your review.

Ngā mihi,
Patrick Southee
+64 22 466 9290

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