

In Confidence

Office of the Minister for Māori Crown Relations: Te Arawhiti

Social Outcomes Committee

He Korowai Whakamana: Whole of system (core Crown) report

Proposal

- 1 This paper seeks agreement to release the inaugural *Whole of System (core Crown) Treaty Settlement Delivery Report (the report)* to the public (at **Appendix One**). The report provides, for the first time in 30 years of Treaty settlements, visibility of how core Crown agencies have assessed they are meeting their Treaty settlement commitments. Note that key themes have been set out at paragraphs 9-19 of this paper.

Relation to government priorities

- 2 This paper relates to the Government priority of honouring commitments made in Treaty settlements. This paper provides an update on He Korowai Whakamana programme delivery.

Background

He Korowai Whakamana expectations

- 3 On 22 December 2022, Cabinet mandated Te Arawhiti to lead system-wide oversight of the delivery of core Crown Treaty settlement commitments [CAB-22-MIN-0597]¹. This enabled Te Arawhiti to create levers for the delivery of commitments across the core Crown. Cabinet agreed the He Korowai Whakamana framework would:
 - 3.1 provide guidance and tools to support settlement delivery, including a set of expectations for Crown settlement commitments holders;
 - 3.2 require agencies to track the status of their commitments using a shared data system, Te Haeata – the Settlement Portal (**Te Haeata**)²;
 - 3.3 require agencies to report annually on the status of their commitments;
 - 3.4 require Te Arawhiti to collate a system-wide report on settlement delivery; and
 - 3.5 establish an issue resolution process for post-settlement governance entities (PSGEs) and Crown agencies.

¹ The term 'core Crown' refers to public service departments and departmental agencies, New Zealand Defence Force and New Zealand Police.

² Statuses on Te Haeata are: Complete (all actions are complete), On track (agencies have started the actions, or have systems in place to deliver commitment), Yet to be triggered (agencies have yet to start delivery of the commitment due to other conditions not yet met), and Delivery issues (agencies have made attempts to complete commitments, but agency has not or is unable to deliver commitment as required at this time).

- 4 The key lever for enhancing accountability was for core Crown agencies to enter the status of their commitments in Te Haeata and to report on the status of commitments in their annual reports.
- 5 The key lever for enhancing oversight was for Te Arawhiti to collate a whole of system status report on the core Crown's delivery of Treaty settlement commitments.
- 6 This Cabinet paper attaches the report, which uses data from agency annual reports, and data collated from Te Haeata, entered by core Crown agencies.

Programme delivery update

- 7 In 2023 and 2024, Te Arawhiti focussed on implementing Cabinet's reporting directives of He Korowai Whakamana, this involved:
 - 7.1 enhancing Te Haeata to enable more efficient data collection and reporting, and enabling PSGE access; and
 - 7.2 supporting agencies to enter statuses for their commitments and report in their annual reports.
- 8 Te Arawhiti continues to support agencies to resolve issues through the He Korowai Whakamana resolution pathway.

Whole of System (core Crown) report

- 9 The 2022 Cabinet approval for an enhanced oversight of Treaty settlement commitments required core Crown agencies to enter a status against their commitments. There are now over 14,000 statuses assigned to commitments – these represent all relevant core Crown commitments.
- 10 There are 100 signed deeds of settlement with 80 of those legislated. 74 of the legislated settlements are included in the reporting period of 1 July 2023 – 30 June 2024 (**the reporting period**).³ The legislated settlements included in the reporting period are settlements published on Te Haeata before 1 July 2023.
- 11 The 2023/24 financial year marks the first time 26 agencies⁴ were required to report on the status of their commitments in annual reports, and the first time this data has been collated.
- 12 A key goal of the oversight function was to demonstrate how the Crown is meeting its obligations in Treaty settlements. This report is intended to provide data that Treaty settlement commitments are being, and will continue to be, met.

³ Six settlements are not included in the reporting period due to not being published on Te Haeata before December 2022.

⁴ The 26 relevant agencies in the reporting period are: Archives New Zealand, Department of Conservation, Department of Corrections, Department of Internal Affairs, Department of the Prime Minister and Cabinet, Toitū Te Whenua Land Information New Zealand, Ministry for Culture and Heritage, Ministry for Primary Industries, Ministry for the Environment, Ministry of Business, Innovation, and Employment, Ministry of Education, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Justice, Ministry of Social Development, Ministry of Transport, National Emergency Management Agency, National Library, New Zealand Defence Force, New Zealand Geographic Board, New Zealand Police, Oranga Tamariki, Statistics New Zealand, Te Arawhiti, Te Puni Kōkiri, and the Treasury.

- 13 The report, collating core Crown agency data, provides a baseline and snapshot of the delivery of 74 Treaty settlements from the Crown's perspective.
- 14 The data shows that 77% of commitments are assessed as either complete or on track, with only 5% of core Crown commitments having delivery issues. The remaining 18% of commitments are assessed as yet to be triggered.

Success factors for delivering commitments

- 15 Settlement commitments have been accumulating for over 30 years. During this time, Te Arawhiti (and formerly the Office of Treaty Settlements and the Treaty of Waitangi Policy Unit) has been a constant in the Māori Crown relationship.
- 16 In the past, the Crown has been accused of not knowing or meeting its obligations under Treaty settlements. To maintain institutional knowledge, Te Arawhiti developed tools to record knowledge of commitments and to capture experience in negotiating and implementing the commitments. This led to the development of He Korowai Whakamana.
- 17 This is the first time agencies are required to include information on settlement delivery in their annual reports. Agency experience in the reporting period aligns with the experience of Te Arawhiti, and its predecessors, over 30 years of settlement implementation. Factors that enable agency success in delivering commitments are:
 - 17.1 understanding their commitments;
 - 17.2 consistent staff working on Treaty settlement delivery;
 - 17.3 resourcing dedicated to Treaty settlement delivery;
 - 17.4 institutional knowledge and effective record keeping; and
 - 17.5 investing in staff capability to work with PSGEs.
- 18 In addition, Treaty settlement delivery could be strengthened by agencies' investment in:
 - 18.1 electronic record/document management systems; and
 - 18.2 quality assurance systems, including periodic audits of agencies' Te Haeata statuses.
- 19 Operationally, it is good practice when meeting as part of relationship redress arrangements, such as Accord hui, to record actions and circulate these to all relevant parties, including agencies, Ministers and PSGEs.

System level insights: delivery issues

- 20 Only 5% of commitments (total of 704 commitments) are reported as having delivery issues. The 'delivery issues' status may be used by agencies for a variety of situations where a commitment may not be implemented in accordance with the terms of settlement or within specified timeframes. It may also be used for situations where an

agency has been unable to locate evidence of a commitment being delivered. The type of delivery issues may also vary substantively in nature.

- 21 Understanding the reasons for delivery issues, whether it is locating evidence, or a breached commitment, is essential to implementing practices and policies that ensure commitments are met and preventing similar issues from arising in the future.
- 22 The top three most common commitment types with delivery issues are:
 - 22.1 relationship redress (192);
 - 22.2 deferred selection property redress (161); and
 - 22.3 participation arrangements over natural resources (127).
- 23 The above commitments with reported delivery issues largely align with Te Arawhiti's experience in responding to agencies and PSGEs about post-settlement issues. Treaty settlement implementation involves a range of variables including the number of commitment-holding agencies with responsibilities, the timeframes in which commitments are due, and interdependencies of some actions between parties.

Agency annual reports

- 24 This report provides a baseline and snapshot of Treaty settlement delivery from the Crown's perspective and identifies high-level themes arising from agency annual reports. It does not provide an in-depth analysis of the data or draw conclusions from individual agency annual reports.
- 25 Core Crown agencies' annual reports have met He Korowai Whakamana reporting requirements, as they have reported on the status of their respective Treaty settlement commitments.
- 26 Several agencies have provided additional commentary regarding their Treaty settlement delivery, for example explaining:
 - 26.1 that some relationship redress commitments are of an ongoing nature and therefore assigned the status of 'on track' rather than 'complete';
 - 26.2 why some commitments have 'delivery issues' and/or why commitments have 'yet to be triggered'. For example, agencies with large landholdings may have a sizeable number of 'yet to be triggered' commitments as a significant number of their properties may be included as deferred selection and/or right of first refusal properties; and
 - 26.3 that they are actively seeking to resolve delivery issues with relevant stakeholders including PSGEs.

Future focus

- 27 I propose to report on an annual basis to enable progress and trends to be identified over time. To be effective, this requires core Crown agencies to continue to update and quality assure the statuses of their commitments in Te Haeata. My officials will continue to refine systems for data collection.

- 28 As Ministers with portfolios responsible for settlement commitments, we all have a role to ensure contractual and statutory obligations made through Treaty settlements are delivered. Appendix Two sets out a breakdown of statuses assigned by agencies in Te Haeata to commitments as at 19 July 2024.
- 29 I expect the next report, and those after, to show an increase over time in the percentage of commitments that are 'complete'.

Context on the data

- 30 The method to capture data with one of four statuses, makes it simple for agencies to use their judgement to determine a status for each commitment. I anticipate that some PSGEs will not agree with all statuses assigned. I expect agencies to be able to explain any status to PSGEs if an issue is raised.
- 31 Early experience with the data indicates possible inconsistencies in the way core Crown agencies have used the status categories. My officials will continue to engage with agencies to support consistency in entering statuses.
- 32 There is potential to analyse how the core Crown assesses its delivery across different settlements. Such analysis would benefit from engagement with relevant PSGEs. However, a small data selection of the five oldest and five most recent settlements have shown no significant difference in settlement delivery.

Office of the Auditor-General (OAG) Audit Report

- 33 In October 2023, the OAG informed Te Arawhiti of its intent to undertake a performance audit of Treaty settlements. The purpose is to assess how well:
- 33.1 the Crown and public organisations understand their Treaty settlement commitments;
 - 33.2 public sector organisations' internal accountability and reporting arrangements, resourcing, policies, systems, and processes enable the delivery of Treaty settlement commitments; and
 - 33.3 public sector arrangements provide assurance, transparency, and accountability for the delivery of Treaty settlement commitments.
- 34 The draft OAG Audit Report is expected to be released publicly in the first quarter of 2025. The findings will likely highlight current weaknesses and opportunities for improving public sector organisations' systems for implementing and upholding their settlement commitments. I consider this audit will complement the wider picture of Crown delivery of settlement commitments.

Next steps

- 35 I suggest future reports look at what further analysis might be undertaken to understand trends and implications in the Crown's delivery of settlement commitments and include PSGE's perspective to give a balanced view of performance. This would require more resource and a collaborative Māori Crown effort.

- 36 I propose to release this report to the public and make an announcement at an appropriate time.

Cost-of-living Implications

- 37 This paper does not have cost of living implications.

Financial Implications

- 38 This paper does not have financial implications.

Legislative Implications

- 39 This paper does not have legislative implications.

Impact Analysis

Regulatory Impact Statement

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

Climate Implications of Policy Assessment

- 41 This paper does not have climate implications.

Population Implications

- 42 This paper does not have population implications.

Human Rights

- 43 This paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 44 In preparing this paper, Te Arawhiti consulted with the 26 relevant core Crown agencies. We received overall supportive comments and updated the paper with minor feedback from agencies.

Communications

- 45 Following Cabinet approval, I will work with my officials to publish the report.
- 46 If Cabinet agrees to publish the report, I propose to announce the relevant information about Treaty settlement delivery at an appropriate time.

Proactive Release

- 47 I intend to release this Cabinet paper proactively in whole, making any necessary redactions, to coincide with the publication of the report, within 30 business days.

Recommendations

I recommend that the Committee:

- 1 **note** the report, *Whole of System (core Crown) Report on Treaty Settlement Delivery (the report)* at **Appendix One**, provides an overview on Treaty settlement delivery, aligned with the Government priority to honour Treaty settlements;
- 2 **note** the key information set out from paragraph 9-19 of this paper; and
- 3 **approve** the public release of the report.

Authorised for lodgement

Hon Tama Potaka

Minister for Māori Crown Relations: Te Arawhiti

Appendix One – Whole of System (core Crown) Report on Treaty Settlement Delivery

Proactively released by Minister for Māori Crown Relations

IN C O N F I D E N C E

Appendix Two – status of commitments by agency as at 19 July 2024

Core Crown Agency	Total No. of commitments	Complete (%)	On Track (%)	Yet to be Triggered (%)	Delivery Issues (%)
Department of Conservation	3,380	1,082 (32%)	1,938 (57%)	338 (10%)	21 (1%)
Toitū Te Whenua Land Information New Zealand	2,865	512 (18%)	1,234 (43%)	984 (34%)	135 (5%)
Te Arawhiti	2,121	1,793 (85%)	64 (3%)	232 (11%)	32 (2%)
Ministry of Education	1,305	836 (64%)	363 (28%)	54 (4%)	52 (4%)
Ministry of Primary Industries	773	289 (37%)	276 (36%)	27 (3%)	181 (23%)
New Zealand Police	731	217 (30%)	312 (43%)	178 (24%)	24 (3%)
Ministry of Justice	687	571 (83%)	5 (1%)	111 (16%)	0 (0%)
New Zealand Defence Force	485	208 (43%)	246 (51%)	31 (6%)	0 (0%)
Department of Corrections	415	189 (46%)	29 (7%)	197 (47%)	0 (0%)
The Treasury	384	12 (3%)	0 (0%)	331 (86%)	34 (9%)
Ministry of Business, Innovation and Employment	245	135 (55%)	94 (38%)	5 (2%)	11 (4%)
New Zealand Geographic Board	226	174 (77%)	11 (5%)	41 (18%)	0 (0%)
Ministry for the Environment	220	59 (27%)	45 (20%)	31 (14%)	85 (39%)
Ministry of Culture and Heritage	216	91 (42%)	42 (19%)	3 (1%)	80 (37%)
Te Puni Kōkiri	149	72 (48%)	54 (36%)	22 (15%)	1 (1%)
Oranga Tamariki	127	12 (9%)	2 (2%)	38 (30%)	42 (33%)
Ministry of Social Development	82	29 (35%)	49 (60%)	4 (5%)	0 (0%)
Department of Internal Affairs	66	32 (48%)	5 (8%)	12 (18%)	17 (26%)
Archives	36	36 (100%)	0 (0%)	0 (0%)	0 (0%)
National Library	36	36 (100%)	0 (0%)	0 (0%)	0 (0%)
Department of the Prime Minister and Cabinet	26	4 (15%)	21 (81%)	1 (4%)	0 (0%)
Ministry of Housing and Urban Development	24	20 (83%)	3 (13%)	1 (4%)	0 (0%)
Ministry of Health	19	1 (5%)	12 (63%)	6 (32%)	0 (0%)
Stats NZ	12	0 (0%)	12 (100%)	0 (0%)	0 (0%)
Ministry of Transport	3	1 (33%)	1 (33%)	1 (33%)	0 (0%)
National Emergency Management Agency	2	0 (0%)	1 (50%)	1 (50%)	0 (0%)
TOTALS	14,637⁵	6,411 (44%)	4,819 (33%)	2,649 (18%)	715 (5%)

⁵ 14, 637 is the number of total commitments as at 19 July. 42 commitments transferred subsequent to 30 June 2024 are not expected to be included in reporting for financial year 2023/24. 14,549 is therefore the total number of commitments with a status assigned.



Minute of Decision

Report of the Cabinet Social Outcomes Committee: Period Ended 13 December 2024

Redacted under s9(2)(f)(v): confidentiality of advice by Ministers and officials

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