

Protecting Treaty settlements

Policy Development Guide



Why consider Treaty settlements when developing policy?

Treaty settlements are intended to address the historical grievances of iwi and hapū groups that resulted from the Crown's breaches of the Treaty of Waitangi, restore the honour of the Crown and mark the beginning of a new relationship between the Crown and the settling group. Since the early 1990s successive governments have invested substantial resources into the Treaty settlement process.

Enacted settlements establish legal rights and obligations that the Crown must be aware of when developing new policy to ensure it does not inadvertently breach these rights. In addition to legal requirements, policies that do not consider Treaty settlements have the potential to undermine the newly restored relationship between settled groups and the Crown.

Overlooking how a policy change interacts with settlements can result in the proposed change facing legal challenge or requiring last minute amendments.

The Cabinet Manual requires departments to assess the implications of bills on Treaty settlements and consult the Office for Māori Crown Relations - Te Arawhiti (Te Arawhiti) if there will be a potential impact on settlements. Ministers are expected to consult with the Minister responsible for Treaty of Waitangi settlement obligations (currently this is the Minister for Māori Crown Relations: Te Arawhiti), on any proposal with potential impacts on Treaty settlements.¹

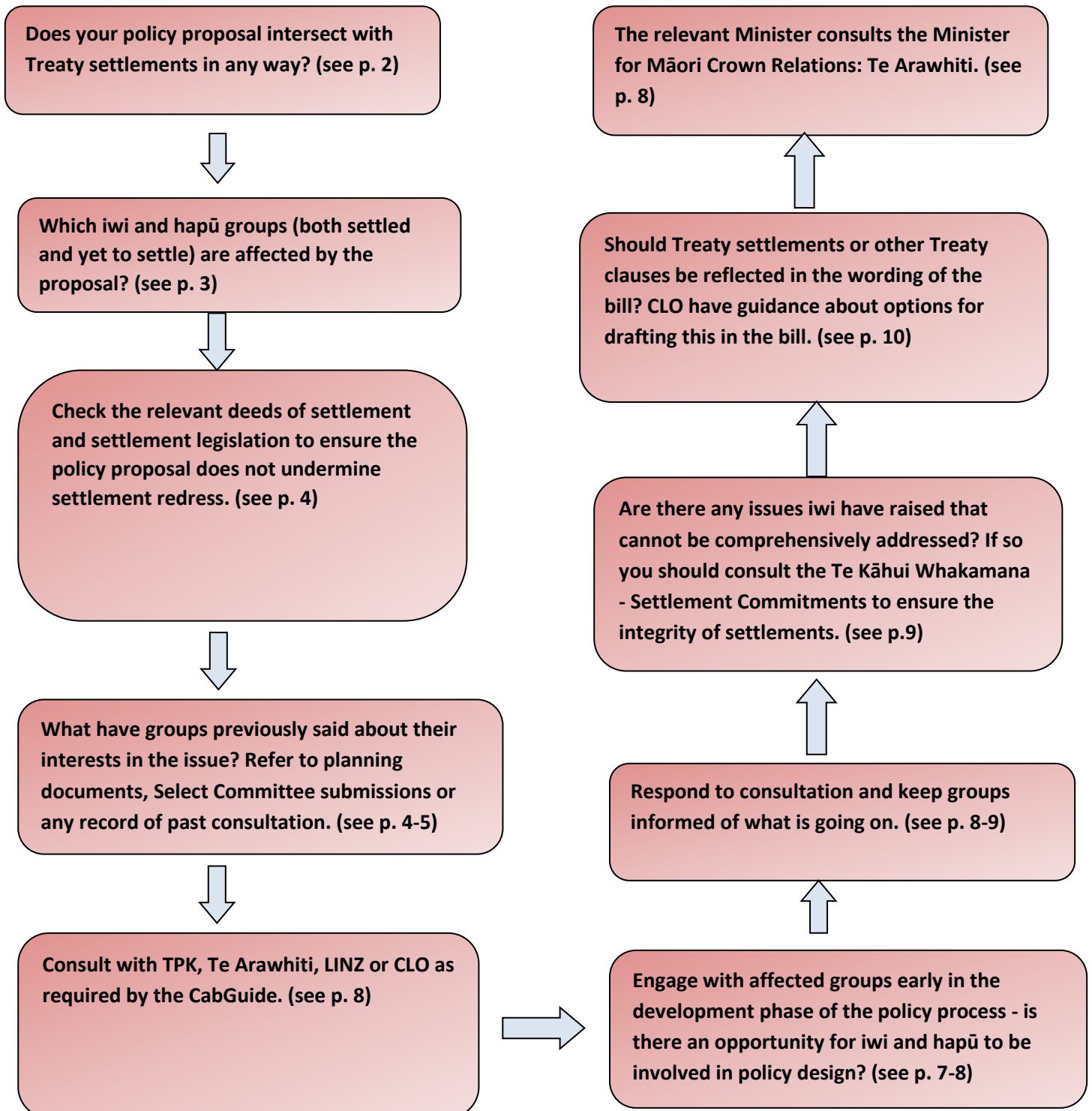
See **Appendix One** for more background on the Treaty settlement process and settlement redress.

¹ See Cabinet Manual 2017, paragraph 7.34, p. 105, <https://www.dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>, Cabinet Manual 2017, paragraph 5.14, p. 75 <https://www.dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>. These updates took effect from July 2017.



Key points to consider

This is a high-level guide. Please note these points are not definitive and agencies should carefully consider all implications of their policy proposals.



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Does your policy proposal intersect with settlements?

It is important to assess whether your policy issue potentially has implications for Treaty settlements. **It is highly likely there will be an impact on settlements if a policy involves:**

- Crown-owned land being transferred or disposed of, as Crown-owned land often has redress associated with it;
- the compulsory acquisition of land (because this could result in land returned in settlements being compulsorily acquired);
- changes to the involvement of settled groups or Māori in decision-making processes (for example, changes to the structure of local government that impact co-governance arrangements agreed in settlements);
- changes that impact rights or interests specifically provided for in a Treaty settlement (including the Fisheries Settlement);
- natural resources or changes to legislation governing natural resources;
- important cultural sites and practices; or
- anything that would require consequential amendments to settlement legislation.

The scope of Treaty settlements is broad, so there may be aspects of policy or legislative changes that impact on settlements even if it is not immediately obvious. For example, changes to trust law may impact on post-settlement governance entities (PSGEs).² International free trade treaties may impact the rights and interests of Māori agreed in Treaty settlements, requiring consideration of how those interests can be reconciled.

Considering the questions on pages 5 will help you to assess whether a policy or legislative proposal is likely to interact with settlements in some way.

If you consider these questions and remain unsure of whether your proposal will have an effect on settlements, you can contact Te Kāhui Whakamana - Settlement Commitments (Te Kāhui Whakamana) at postsettlement@tearawhiti.govt.nz. Te Kāhui Whakamana works alongside the rest of the Crown, local government, and settled groups to safeguard the durability of Treaty settlements and ensure the gains made to Crown-Māori relationships through Treaty settlements are maintained.

This document is not a guide for all policy proposals that affect Māori or Māori interests; it is limited to proposals that intersect with Treaty settlements in some way. **Agencies are still required to consider the Treaty of Waitangi and Treaty principles when developing policy or legislative proposals.**

² PSGEs are the ratified entities that represent iwi/hapū members after a Treaty settlement and manage settlement assets. Fisheries assets are administered by Mandated Iwi Organisations (MIOs) and Te Ohu Kaimoana (TOKM), which is a statutory body rather than a PSGE. You should consider TOKM and MIOs along with PSGEs where appropriate.



What's the impact of your policy proposal on settlements?

When assessing the potential impact of a policy or legislative proposals on settlements, there are a number of questions policy advisors should consider:

Who is affected, and what are their interests?

Who are the groups with affected interests?

Te Puni Kōiri maintains a database of iwi and hapū representative groups, including groups mandated for Treaty negotiations and PSGEs. This is a Crown information source on who the interested iwi and hapū representative entities are in any defined geographical area. The database, Te Kāhui Māngai, can be accessed at www.tkm.govt.nz/. Te Kāhui Māngai is important where policy or legislative proposals are location specific.

What is the settlement status of the iwi and hapū with interests in the area and what commitments have been entered into?

Understanding the settlement status of the groups with interests in the area is important for ensuring the Crown's settlement commitments are properly met. Te Kāhui Whakatau (formerly the Office of Treaty Settlements) of Te Arawhiti maintains information on the status of settlements across the country. It's most recent yearly report, including a map, can be found at <https://www.govt.nz/organisations/te-kahui-whakatau-treaty-settlements/quarterly-reports/> This map is included at **Appendix Three**, please note that the settlement status of iwi and hapū may have changed since this map was produced.

Information on specific commitments already entered into can be found online. Te Kāhui Whakamana has developed a searchable online database of commitments, called Te Haeata – Settlement Portal. Te Haeata is used to help agencies and settled groups to search for and manage settlement commitments. If you are a representative of an organisation with Treaty settlement commitments, you can register for an account at <https://tehaeata.govt.nz/nau-mai-haere-mai-ki-te-haeata?destination=/kia-ora> Individual deeds can also be searched via the Te Kāhui Whakatau website www.govt.nz/organisations/treaty-settlements-roopu and settlement legislation can be found at www.legislation.govt.nz

Policy advisors should also consider whether the policy or legislative proposal they are developing may impact on a settlement that is under negotiation. It is critical that Crown agencies are consistent in their messaging and that one agency does not say things that are inconsistent with commitments made by another agency.

Information about which groups are currently in negotiations can be found in the Te Kāhui Whakatau yearly report or by contacting Te Kāhui Whakatau on reception.OTS@justice.govt.nz.



What do groups think about this issue?

Seek as much information as possible about what relevant groups have previously said about the issue or about similar issues. Sources for this type of information include iwi planning documents, detail recorded in settlement relationship instruments, select committee submissions, records of prior consultative exercises. Te Puni Kōkiri also has networks and knowledge of local level iwi interests. Contact information for Te Puni Kōkiri can be found at www.tpk.govt.nz/en/whakapa-mai/.

It is important to know what groups have said about an issue before you engage with them. This allows you to develop policy with these views in mind and means iwi and hapū do not have to constantly repeat the same messages.

How does the proposal impact on existing or future settlements?

As well as addressing the risks your policy has for settlements, it is also important to consider opportunities for iwi and hapū.

Does for your policy provide the chance for iwi to partner with the Crown on projects like housing developments or business opportunities? How can these kinds of opportunities be promoted through your policy?

How does the proposal impact on Treaty settlements or the Crown's relationships with settled groups?

There will be a wide range of potential intersections between policy proposals and Treaty settlements. Several common examples are included on page 2. Sometimes these impacts are obvious but other times they are not as immediately evident. For example, amendments to the Overseas Investment Act that change the ability of overseas persons to invest in forestry have implications for settlements, because forestry land is frequently used as redress in settlements. Some questions to help to assess whether your policy proposal is likely to impact on settlements include:

- how does the proposal interact with commitments that are recorded in Treaty settlements? Will the settlement redress continue to work as intended under the new proposal?
- could the policy be perceived as potentially reducing or removing rights agreed through settlements?
- how does the proposal impact on the environment in which a PSGE operates? Does it change the ability of the PSGE benefit from their settlement redress?



- does the proposal change how groups participate in decision making processes at either a local or national level?
- do any protocols or agreements exist between settled iwi and government agencies that need to be considered?
- what opportunities does the proposal present for partnership between the Crown and iwi? This could be something tangible like partnership on a housing development, or it could be related to co-design of a new strategy or policy.
- does the policy proposal reduce the capacity of the Crown to provide redress as part of a future Treaty settlement?

PSGEs are the entities ratified by iwi/hapū members after a Treaty settlement to manage settlement assets. Note: PSGEs do not represent iwi/hapū for all purposes.

A policy might not have any direct impacts on settlement redress, but if the policy is of high interest to Māori, you will still need to engage with settled iwi and hapū as the Crown's Treaty partners (along with other Māori groups). Examples of this would be policies that relate to rights to fresh water or opening a public conservation area for mining.

If you are unsure whether your proposal interacts with settlement redress, or is of high interest to Māori, see what PSGEs have said in the past about this issue. If you remain unsure contact Te Kāhui Whakamana and we can help discuss the issue.



Next steps when a policy proposal does impact settlements

After you have considered the above questions you will be aware of whether your policy proposal is likely to impact on settlements and which groups are likely to be affected.

Consulting with groups - who and how?

Te Kāhui Hīkina - Māori Crown Relations (Te Kāhui Hīkina) of Te Arawhiti has developed guidelines and a framework underpinned by a set of principles and values to guide agencies and promote good practice in their engagement with Māori. These were considered and approved by Cabinet on 17 September 2018. The framework and guidelines were materially informed by the current public-sector landscape as well as feedback received during the development of the scope of the Māori Crown Relations Portfolio.

The full guidelines are available on the Te Arawhiti website <http://tearawhiti.govt.nz/maori-crown-relations-unit/> as an attachment to the final scope Cabinet paper. These guidelines cover engagement with Māori generally, not just PSGEs.

In addition to the engagement framework and guidelines, Te Kāhui Hīkina is supporting government engagement by:

- Holding engagement workshops to support the use and application of the guidelines and framework throughout the public service;
- Providing guidance and advice to agencies during the development of their engagement strategies;
- Reviewing agencies engagement processes to assess if Government engagements are meaningful and effective.

These initiatives provide a wrap-around process intended to create a significant shift in the effectiveness of engagement and the overall health of Māori Crown Partnerships. These initiatives will be developed and launched before the end of the calendar year. Further targeted tools and support will be developed as capability progresses.

Key points on engagement:

- Engage with affected groups early in the development stage of your policy proposal.
- Depending on your policy, you may need to talk to PSGEs as well other Māori groups (for example, the Federation of Māori Authorities, Te Matapihi, Ahu Whenua Trusts etc – refer to the engagement framework and guidelines for more information).
- If there is more than one iwi or hapū group that will be impacted, you will need to engage with all groups. The Crown does not make judgements about manawhenua or



which groups have predominant interests in an area. If you need to talk to several groups regional “road shows” may be an efficient way to meet people.

- Think about the practical things – if you are going onto a marae, do you have cultural support? If you are meeting a PSGE at their office will you have access to wifi or other technology that you may need?
- Be sure to allow sufficient time for engagement in your planning.
- Have your key messages clear and show how you have considered Māori interests and Treaty settlements.

The outcome of consultation

The outcome of consultation will vary depending on the proposal and the kind of feedback you receive.

Te Kāhui Hīkina guidelines state that at a minimum you need to inform participants how their feedback has been translated into action and outcomes and seek their feedback on the process. This is crucial to ensure a long-term relationship.

Agencies must ensure they do not undermine settlement redress and risk breaching the Crown’s legal obligations. But there may be instances where PSGEs and agencies do not agree whether a proposal undermines settlement redress or not. In these instances, agencies need to ensure Ministers are satisfied a proposal does not undermine settlement redress before proceeding.

Beyond ensuring that redress is not undermined, the extent to which you give effect to the views of PSGEs and iwi who have not yet settled will depend on your policy proposal, the responses you received, the scope you have for amending the proposal and how your agency currently consults. You should seek to keep groups informed of developments, maintain your relationships, and look for opportunities to work together where possible.

If the groups you consult have differing views, try to balance these as best as possible, as you would in any other instance where stakeholders have differing views on an issue.

If, for competing policy reasons, groups raise issues you are not able to comprehensively address, please contact Te Kāhui Hīkina or Te Kāhui Whakamana to ensure that settlement and relationship issues can be properly considered and managed.



Consulting with agencies and reporting to the Minister for Māori Crown Relations: Te Arawhiti

Consult with the relevant departments about your proposal early. The CabGuide includes the following guidance on which departments you should consult with when developing a Cabinet Paper:

- Policy proposals that have implications for Māori as individuals, communities or tribal grouping- Te Puni Kōkiri
- Proposals that may have implications for existing or future settlements- Te Kāhui Whakatau and Te Kāhui Whakamana (both part of Te Arawhiti).
- Proposals involving the use, long-term lease or disposal of Crown-owned land- Land Information New Zealand and the Crown Law Office

The Cabinet Manual now requires Ministers to consult the Minister for Māori Crown Relations: Te Arawhiti about any proposal with potential impacts on existing Treaty settlements.



Legal considerations

When a policy proposal is being developed, consult with your own in-house lawyers to help assess whether the proposal poses any risk to settlement redress and explore ways this could be mitigated.

Through the Government Legal Network lawyers can consult with colleagues across the public sector and access the views of different government agencies.

If a proposal has reached a draft bill stage consider whether reference to Treaty settlements (or the Treaty of Waitangi itself) should be included in the bill, and if so how. There is a spectrum of drafting options, the language of which has different weighting when applied in law. This spectrum ranges from ‘give effect to the principles of the Treaty’ to ‘take into account the principles of the Treaty’ or ‘recognise and provide for’ as more common terms. The Crown Law Office should be consulted on drafting options for the bill.

The Crown Law Office has circulated its own guidance for advisors developing policy or legislation when Treaty interests are at play (Crown Law Office ‘Government decision-making and Treaty of Waitangi principles’ 14 August 2017, SOL115/2675).

This advice was sent to all government Chief Legal Advisors.

Ensuring the durability of Treaty settlements, protecting the integrity of settlements under negotiation, and building on the gains made during the settlement process are all important objectives for supporting the Crown-Māori relationship. This guidance has been developed to assist agencies in these endeavours. Further support or advice can be sought from Te Kāhui Whakamana.



Appendix One - Background to Treaty settlements

In 1989 the Crown established a unit to address Māori claims under the Treaty of Waitangi. Since the early 1990s the Office of Treaty Settlements has signed deeds of settlement for the historical claims of over 60 groups. The Office of Treaty Settlements is now known as Te Kāhui Whakatau of Te Arawhiti.

Settlement packages consist of three main types of redress:

- Apology redress, which consists of a historical account, Crown Treaty breach acknowledgements and a Crown apology.
- Cultural redress, for example returning or acknowledging sites of important cultural significance, co-governance arrangements and place name changes.
- Commercial and financial redress, for example monetary redress, the transfer of commercial sites and instruments for future transfers (such as Rights of First Refusal).

Settlements are intended to provide the foundation of a new relationship between the settled group and the Crown that is akin to a partnership. Settled groups usually have heightened expectations for greater and earlier involvement in policy processes in relation to issues that affect them.

Cultural redress

Cultural redress typically involves instruments to vest, provide recognition of, protect or enable shared management arrangements over natural resources, including sites of special significance to Māori.

Detailed guidelines issued in October 2010 on the instruments used to provide for participation in the management or governance of natural resources can be found at www.govt.nz/dmsdocument/6442.pdf.

Policy proposals that intersect with natural resources should always be assessed for potential impacts on existing or future Treaty settlements. Regardless of the extent to which these interests have been provided for, or are expected to be provided for, in a Treaty settlement, policy proposals that affect access, use, allocation, management, governance, ownership or regulation of natural resources will attract interest among Māori. Natural resources policy can be either: geographically bound, such as policy relating to a particular waterway; resource specific with identifiable areas of interest, such as geothermal policy; or policy that is applicable across the country such as freshwater quality.

Cultural redress can also (less frequently) involve items of particular cultural significance, but which are not strictly natural resources (examples are the gifting of Korotangi to Tainui during



their settlement signing by then Prime Minister Rt Hon Jim Bolger, support for cultural revitalisation of a settlement group, or the rights of attribution relating to Ka Mate haka for Ngāti Toa Rangatira).

Commercial and financial redress

Commercial and financial redress is primarily economic in nature, and is attached a monetary value called the redress quantum. Negotiators may choose to receive the settlement quantum in cash, or use it to purchase Crown property in their area of interest, or a mix of both. There are also instruments that provide rights to consider purchasing Crown properties at a later date, including deferred selection and Rights of First Refusal

There are on-going implications for agencies in terms of disposal of surplus Crown lands. Guidelines for these processes include the Crown property disposal process which can be found at www.linz.govt.nz/crown-property/acquisition-and-disposal-land/crown-property-disposal-process and the Treaty settlements landbank and the protection mechanism processes which can be found at www.linz.govt.nz/crown-property/types-crown-property/treaty-settlements-landbank-and-protection-mechanism

Relationship arrangements and broader Crown-Māori relationship

In addition to providing groups with redress, settlements create the opportunity for the Crown to develop an understanding of a settled group's aspirations, and for the settlement parties to reposition their relationship for the future.

Formal relationship arrangements are often used to give effect to this. Importantly, they focus the future relationship beyond settlement implementation and the discharge of settlement obligations, to the broader spirit and intent of the settlement.

The types of arrangements to give effect to this range from formal relationship accords or protocols that are provided for in the deed of settlement, through to letters that record relationship and working arrangements between different agencies and the PSGE. While these arrangements can sometimes be transactional they form a basis for the on-going relationship between the settled group and the Crown. It is important that agencies party to such relationship arrangements approach them in a manner that gives effect to the broader spirit and intent of the settlement, including the Crown's aim of restoring the relationship with the settled group, and the settled group's aims of improving the circumstances of their constituents and tribal areas.

Further information about settlement redress can be found in the Te Kāhui Whakatau red book: www.govt.nz/assets/Documents/Red-Book-Healing-the-past-building-a-future.pdf



Appendix Two- some real-life examples

Examples of settlements reflected in policy and legislation

Canterbury Earthquake Recovery Act 2011

Following the February 2011 earthquakes in Canterbury, Government moved quickly to establish the Canterbury Earthquake Recovery Agency (CERA) to lead and co-ordinate the recovery effort. Legislation was enacted in April 2011. As part of this process, special recognition was provided for Te Rūnanga o Ngāi Tahu, as the PSGE operating in the affected area, and in keeping with the nature of the Treaty partnership that had evolved with Ngāi Tahu over the years since its settlement. Within the Act, the Rūnanga was recognised as a statutory partner for the planning of the recovery effort. The specific clauses included:

S 11 Chief executive to develop Recovery Strategy for Minister's consideration

(4) The Recovery Strategy must be developed in consultation with Christchurch City Council, Environment Canterbury, Selwyn District Council, Waimakariri District Council, Te Rūnanga o Ngāi Tahu, and any other persons or organisations that the Minister considers appropriate.

S 17 Recovery Plan for CBD

(2) CERA, Environment Canterbury, and Te Rūnanga o Ngāi Tahu must have the opportunity to provide an input into the development of the Recovery Plan for the CBD.

S 20 Public notification of draft Recovery Plans

The chief executive of the Christchurch City Council must ensure that any draft Recovery Plan for the CBD is publicly notified and must also ensure that a copy of the draft is provided to the Minister, the chief executive of CERA, Environment Canterbury, and Te Rūnanga o Ngāi Tahu.

The Act conferred extraordinary powers on CERA. However, in doing so it made specific provision to ensure the durability of the Ngāi Tahu Claims Settlement Act:

S 59 Application of Ngāi Tahu Claims Settlement Act 1998

(1) Nothing in this Act affects the operation of the Ngāi Tahu Claims Settlement Act 1998.

(2) To avoid doubt, if the chief executive wishes to exercise his or her power under this Act to dispose of land to which that Act applies, he or she must do so in accordance with the Ngāi Tahu Claims Settlement Act 1998.



Together, these sections of the Act both protect the durability of the Ngāi Tahu settlement, and recognise and add to the significance of the Treaty partnership between Ngāi Tahu and the Crown.

Urban Development Authority policy development - 2018

The Urban Development Authority (UDA) policy is intended to address the problem of unaffordable housing and homelessness, by allowing housing and infrastructure to be delivered strategically and at pace. The existing legislative systems for building houses and infrastructure have not delivered the scale of development needed fast enough, particularly in Auckland. The UDA is intended to provide a way to co-ordinate interests in urban development across a range of national policy objectives.

New legislation will give the UDA a range of enabling powers relating to land assembly (including the compulsory acquisition of land), planning and consenting, infrastructure, and funding.

This is a policy proposal that interacts with Treaty settlement redress (and Māori interests more broadly) in a number of ways, with potential risks for Treaty settlements as well as potential opportunities for PSGEs to partner with the Crown on housing developments. We have noted some of the key risks and how the policy proposal addressed these risks, as well as some of the ways the policy seeks to maximise opportunities for partnership between the Crown and PSGEs.

Issue: the compulsory acquisition of land

The UDA will potentially be using the power of compulsory acquisition under the Public Works Act to acquire land more often than the status quo, as assembling land for housing and associated infrastructure is a central part of the UDA's role.

The compulsory acquisition of land is the cause of a number of historic Treaty grievances for Māori, and today very little Māori freehold land remains. Any increased risk of this land being compulsorily acquired would be highly concerning to Māori. The potential for land returned through Treaty settlements (given as redress for the Crown's historic Treaty breaches) to be compulsorily acquired would also be the cause for grievance.

How was this risk addressed?

In recognition of the special significance of Māori land and land returned in Treaty settlements, the UDA policy included provisions that this type of land could only be acquired for a development with the agreement of the owners. This removes the risk that land returned in a Treaty settlement could be compulsorily acquired for a development.



Issue: Rights of First Refusal (RFRs)

The terms of RFRs vary from settlement to settlement, but in broad terms RFRs provide PSGEs the opportunity to purchase surplus Crown land before it is sold on the open market.

In general, the Crown can change the purpose for which it holds RFR land without triggering the RFR, provided the land continues to be held for a public purpose. For example, the Crown could take land held for education purposes and instead develop this land for housing without offering it to the relevant PSGE. However, doing this on a large scale would likely to be a source of conflict between the Crown and Māori, because it would deprive PSGEs of a commercial opportunity arising from their settlement.

In the UDA policy proposal, it was critical that the UDA did not cut across the rights of RFR holders. At the same time using Crown-owned land (much of which is subject to RFRs) would be integral to the success of some projects.

How was this risk addressed?

To address issues around RFRs, the UDA policy requires the UDA to work collaboratively with PSGEs to achieve a mutually beneficial outcome. The UDA is unable to develop land subject to an RFR without first giving the relevant PSGE the opportunity to be the developer. This can be on terms set out by the UDA, to ensure the development objectives of the project will be met. Alternatively, the UDA and PSGE could agree to another arrangement, like a land swap, in exchange for which the PSGE would waive its RFR.

If a mutually agreeable solution can't be reached, the UDA remains bound by the RFR. The UDA could proceed to develop the land ahead of the RFR offer, and when the RFR is offered it would be without any conditions attached (i.e. the UDA would have to sell any houses it builds on RFR land to the PSGE without any conditions attached). Due to the implications for settlement durability the decision to develop land in this way has to be agreed first by the UDA Minister and the Minister for Māori Crown Relations: Te Arawhiti.

This solution removes the risk of the UDA cutting across the rights of RFR holders, and also creates new opportunities for PSGEs to be involved in housing developments.

Issue: Reserves included in Treaty settlements

Subject to the agreement of the Minister of Conservation, the UDA will be able to develop certain types of reserves, such as local or government purpose reserves, historic reserves and recreation reserves, for urban development. Sometimes, as part of a Treaty settlement or through other legislation, land is vested in a post settlement governance entity as one of these types of reserve. Repurposing one of these reserves for urban development would have a similar effect to the UDA acquiring the land from the PSGE and would be a potential source of grievance.



How was this risk addressed?

The UDA policy requires the prior written agreement of the PSGE before a reserve vested in the PSGE as part of a Treaty settlement can have its reserve status removed or be developed. The policy also requires the prior written consent of a PSGE before any Treaty settlement land the PSGE has vested back into public ownership for use as a reserve can have its reserve status removed or be developed. In addition, if a Treaty settlement provides for a PSGE to be involved in the management of a reserve, as distinct from owning it, the policy requires the UDA to have regard to the views of the PSGE before proposing removal of the reserve status or exercising any development power on the reserve.

Issue: Iwi participation arrangements created through Treaty settlements

In some instances, the UDA will be carrying out functions normally carried out by local authorities under the Resource Management Act 1991 and other Acts. Where this happens, the new decision-making frameworks, while not amending any Treaty settlement arrangements, will nevertheless mean that those arrangements will have no effect in development areas where the UDA, rather than a local authority, is exercising planning and consenting functions pursuant to its own legislative frameworks.

Many Treaty settlements include redress like joint management agreements, statutory acknowledgements and bespoke entities (like the Waikato River Authority) that would be impacted by this decision. Similar arrangements also exist through other legislation (like the Hawkes Bay Regional Planning Committee Act 2015). It was critical that the UDA policy considered how these types of arrangements could be protected.

How was this risk addressed?

The UDA policy cannot re-open or amend Treaty settlements, which are full and final, so, instead, the policy sets out specifically how the UDA must replicate different types of participation arrangements in Treaty settlements that would otherwise have effect in a development area. This includes replicating the components of commonly occurring redress like deeds of recognition and advisory boards established through settlements.

As an example, the UDA would have to record any statutory acknowledgements in the UDA project development plan, and any provisions in a settlement Act that apply to a consent authority in relation to a statutory acknowledgement also apply to the UDA in the same way it would apply to a local authority.

Due to the possibility that some types of redress are not covered in the specified list of requirements (or that new obligations could be created in future settlements) the policy also requires the UDA to give effect to the spirit and intent of Treaty settlements and iwi



participation agreements. Regulation making powers (via an Order-in-Council) are also included to ensure these measures are implemented effectively.

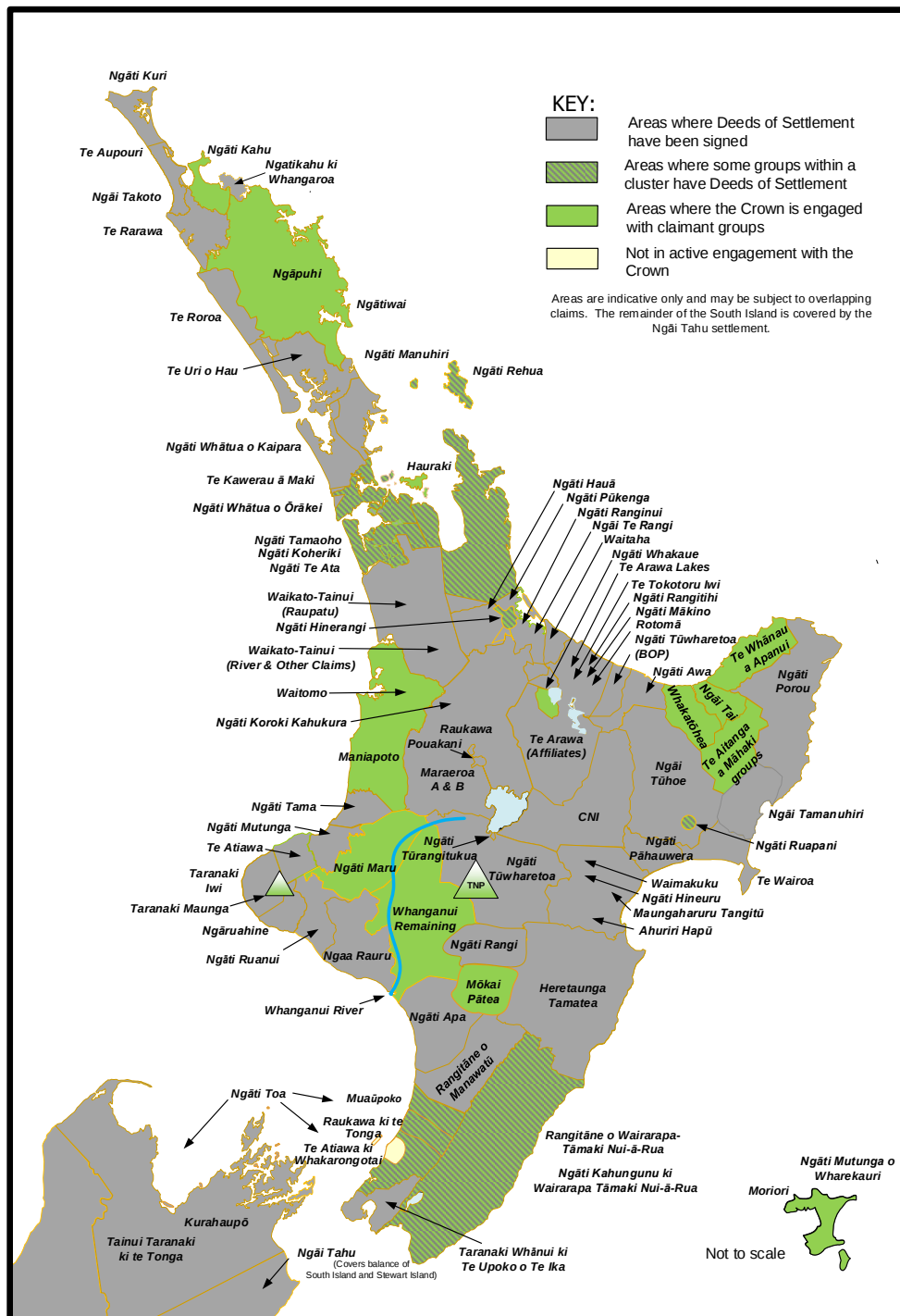
These measures provide certainty that participation arrangements created through settlements will not be eroded in UDA project areas.

Note: the UDA policy is yet to be enacted through legislation.



Appendix Three- settlement map as at 4 April 2018

Please note that this map is not definitive and the settlement status of iwi and hapū may have changed since this map was produced.



Note: This document is not a guide for all policy proposals that affect Māori or Māori interests; it is limited to proposals that intersect with Treaty settlements in some way. **Agencies are still required to consider the Treaty of Waitangi and Treaty principles when developing policy or legislative proposals.**

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