

In Confidence

Chair
Cabinet

A New Māori Language Strategy: Paper 2
Revised Ownership Arrangements for Māori Language Entities

Proposal

1. I seek agreement to establish an independent statutory entity, to be known as Te Mātāwai. Te Mātāwai will be the agent of iwi and Māori, to provide leadership and give practical effect to the kaitiakitanga of iwi and Māori with regard to the health and wellbeing of the Māori language. As part of this role, Te Mātāwai will provide direction and oversight for Te Taura Whiri i te Reo Māori ("Te Taura Whiri") and Te Māngai Pāho. Te Taura Whiri and Te Māngai Pāho would cease to be Crown entities.
2. I also seek agreement to disestablish Te Pūtahi Paoho, and to transfer its functions as they relate to the Māori Television Service ("MTS") to Te Mātāwai. I am proposing a range of measures to provide for enduring public accountability within these arrangements.

Executive summary

3. The Māori language is a taonga of iwi and Māori people. Iwi and Māori are kaitiaki of the Māori language, and must be responsible for leading its revitalisation. For its part, the Crown has enduring responsibilities to support iwi and Māori to lead the revitalisation of the Māori language.
4. To support the Māori Language Strategy (MLS) articulated in *A New Māori Language Strategy: Paper 1*, I am seeking to strengthen the leadership roles of iwi and Māori with regard to the Māori language. In this submission, I propose to:
 - a. establish an independent statutory entity, to be known as Te Mātāwai, to act as the agent of iwi and Māori and give practical effect to the kaitiakitanga of iwi and Māori over the Māori language;
 - b. transfer two Crown entities, Te Taura Whiri i te Reo Māori ("Te Taura Whiri") and Te Reo Whakapuaki Irirangi (known as "Te Māngai Pāho"), to Te Mātāwai; and
 - c. disestablish Te Pūtahi Paoho and to transfer its functions to Te Mātāwai.
5. I propose to give effect to these arrangements through a Māori Language Amendment Bill, which I am seeking to introduce into the House in mid-2014. This will also require consequential amendments to the Broadcasting Act 1989, the Māori Television Service Act 2003 and the Crown Entities Act 2004.

6. Te Mātāwai will be responsible for providing direction and oversight of Te Taura Whiri and Te Māngai Pāho. It will undertake certain functions with regard to MTS jointly with the Minister of Māori Affairs and the Minister of Finance. I envisage that Te Taura Whiri, Te Māngai Pāho and MTS will continue to undertake their current functions within existing funding baselines.
7. I propose that Te Mātāwai consist of twelve members, with seven members appointed by regional clusters of iwi, three members appointed by a Māori language stakeholder group and two members appointed by the Minister of Māori Affairs, on behalf of the Crown. When established, I anticipate that Te Mātāwai will require an operating budget of \$2.0 million per annum, which I intend to source within Vote Māori Affairs at an appropriate time.
8. To provide for enduring public accountability for the performance of the functions of Te Mātāwai, a range of measures will be included in the enabling legislation. These include:
 - a. The Crown will appoint two of the twelve members of Te Mātāwai;
 - b. Te Mātāwai will be required to prepare and publish its strategic direction and operating intentions on an annual basis, following consultation with the Minister of Māori Affairs;
 - c. Te Mātāwai will be required to provide an annual report to the Minister of Māori Affairs who will table that report in Parliament;
 - d. Te Mātāwai will be subject to the Ombudsmen Act 1975 and the Official Information Act 1982;
 - e. On behalf of the Crown, Te Puni Kōkiri will purchase services from Te Taura Whiri and Te Māngai Pāho through contracting arrangements within Vote Māori Affairs, and will monitor and report on service delivery against these contracts;
 - f. The Minister of Māori Affairs will be able to, in the event of significant governance or management failure, appoint Crown advisors to the boards of Te Taura Whiri and Te Māngai Pāho, or put in place a statutory manager;
 - g. There will be provision for a 'first principles' review of these arrangements after three years.

Context

9. The Māori language is a taonga of iwi and Māori people. Iwi and Māori are kaitiaki of the Māori language, and must be responsible for leading its revitalisation. For its part, the Crown has enduring responsibilities to support iwi and Māori to lead the revitalisation of the Māori language.

Previous consideration by Cabinet

10. In December 2013, Cabinet agreed that consultation be undertaken about a suite of proposals for a new MLS (CAB Min (13) 43/20 refers). The consultation process was completed in February 2014. Having considered the consultation results, I now seek to confirm a new MLS. The Cabinet submission *A New Māori Language Strategy: Paper 1* seeks agreement for various aspects of a new MLS including, among other things: results and targets; principles; a strengthened focus on whānau, hapū and iwi language development; support for Crown/iwi and Māori relationships; confirmation of the roles of government; and planning, implementation and reporting expectations of government agencies.
11. On 22 April 2014, Cabinet [Cab Min (14) 14/12-13 refers] deferred consideration of the paper and invited the Minister of Māori Affairs to convene the Leader of the House, Minister of Education, Minister for Treaty of Waitangi Negotiations and Minister of State Services, in consultation with other relevant portfolio Ministers, to:
 - a. give further consideration to the overall proposals and the next steps;
 - b. further develop the proposal to create an establishment board for Te Mātāwai, including the terms of reference, timeframe and membership; and
 - c. report back to Cabinet on the next steps in respect of the proposals.

Current institutional arrangements to support the Māori language

12. Te Taura Whiri (the Māori Language Commission) is an autonomous Crown entity with a broad mandate to (a) take steps to give effect to the status of Māori as an official language and (b) promote the Māori language as a living language.
13. Te Māngai Pāho is an autonomous Crown entity with a mandate to promote the Māori language and culture through providing funding for broadcasting and programme-making for radio, television and digital media.
14. The Māori Television Service (MTS) is a statutory entity that contributes to 'the protection and promotion of te reo Māori me ōna tikanga through the provision in Māori and English of a television service'.
15. Te Pūtahi Paoho is a board with responsibility under the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 for MTS, including responsibility for managing the spectrum management right provided to support the broadcasting requirements of MTS. It is also responsible, acting jointly with the Minister of Māori Affairs and the Minister of Finance, for: (a) appointing the chair and deputy chair of MTS; (b) approving the MTS statement of intent; and (c) receiving the MTS annual report.
16. Further details on each of these entities are in Appendix 1.

Recent reviews of current arrangements

17. There have been two reviews of the MLS in recent years: *Te Reo Mauriora* (April 2011), produced by an independent panel that I commissioned, and *Ko Aotearoa Tēnei* (July 2011), the Waitangi Tribunal report into the WAI 262 claim which included a chapter about the Māori language.
18. These reviews highlighted various concerns about the design and implementation of the MLS, including the institutional arrangements for the Māori language entities within Vote Māori Affairs. They emphasized two key principles:
 - the need to give practical effect to the **leadership roles of iwi and Māori** in the revitalisation of the Māori language, as envisaged by the Treaty of Waitangi; and
 - the need to provide for an enduring **Crown commitment** to the Māori language that supported iwi and Māori leadership but did not overpower it.
19. The reviews considered that current institutional arrangements for the Māori language entities within Vote Māori Affairs were unsatisfactory because they did not give effect to the two key principles. These themes have been reinforced during recent consultation about the proposed MLS. The two reviews made some specific recommendations about transferring the ownership of the Māori language entities to iwi and Māori¹. A summary of *Te Reo Mauriora* is in Appendix 2.
20. To respond to the two reviews and give effect to the two principles outlined in paragraph 18 above, I propose a new set of institutional arrangements.

Key criteria for new institutional arrangements

21. When considering options for the new arrangements, I have taken the following criteria into account. The new arrangements should:
 - a. provide optimal support for the health of the Māori language;
 - b. strengthen iwi and Māori leadership and ownership of Māori language revitalisation;
 - c. strengthen Crown-iwi and Māori relationships in the Māori language sector, and enable the Crown to meet its ongoing obligations to support the Māori language;

¹ *Te Reo Mauriora* recommended that all Māori language programmes and services across the public sector be transferred to Te Mātāwai. *Ko Aotearoa Tēnei* recommended that that Te Taura Whiri be re-engineered as a Crown-Māori entity. I consider that it is appropriate for Te Mātāwai to assume ownership of the Māori language entities in Vote: Māori Affairs in the first instance. When it has developed its operating model, it may be appropriate to investigate opportunities for it to assume ownership and leadership of other Māori language programmes and services. I also consider that it is more effective and efficient for Te Taura Whiri to be fully transferred to **iwi** and Māori.

- d. manage for enduring public accountability; and
 - e. provide appropriate stewardship of public interests.
22. It will also be important to enable business continuity and minimise service disruption for Te Taura Whiri, Te Māngai Pāho and MTS during the transition period.

Options for the form of the new institutional arrangements

23. I considered several options for an entity or entities to undertake these functions. The options are:
- retaining the current arrangements;
 - establish a new independent statutory entity (preferred); and
 - establishing a new private entity.

Establishing Te Mātāwai as a new statutory entity (preferred option)

24. I seek agreement to establish an independent statutory entity, to be known as Te Mātāwai. Te Mātāwai will be an agent of iwi and Māori. It will provide leadership for the kaitiakitanga of iwi and Māori with regard to the health and wellbeing of the Māori language. It will give practical effect to this leadership through its direction and oversight of Te Taura Whiri and Te Māngai Pāho. It will provide direction and oversight for MTS in conjunction with the Minister of Māori Affairs and the Minister of Finance. It will maintain a close working relationship with the Minister of Māori Affairs to give effect to the Crown-iwi and Māori relationship envisaged within the Treaty of Waitangi.
25. Te Mātāwai will have a different legal and constitutional relationship with the Government. The relationship with the Minister, on behalf of the Crown, will be set out in enabling legislation, which will establish Te Mātāwai as an independent statutory body. The enabling legislation will also set out the nature of the accountability arrangements for Te Mātāwai. The new arrangements are intended to give practical effect to the leadership roles of iwi and Māori in the revitalisation of the Māori language by transferring ownership and oversight of Te Taura Whiri i te Reo Māori and Te Māngai Pāho. Te Mātāwai will also provide leadership and oversight for the Māori Television Service in conjunction with the Minister of Māori Affairs and the Minister of Finance.
26. Te Mātāwai will provide leadership for iwi and Māori contributions to the revitalisation of the Māori language. Te Mātāwai will set its strategic direction in consultation with the Minister of Māori Affairs (and other stakeholders if it wishes). It will be required to meet statutory reporting requirements. Te Mātāwai will be able to make independent comment on Māori language policy, in keeping with its independent statutory role. Te Mātāwai will also be able to enter into contracts for the provision of specific services.
27. This option will strengthen iwi and Māori relationships with the Crown because: (a) the Crown will be represented on Te Mātāwai and (b) this approach will require the Crown and iwi and Māori to work together on a systematic and

ongoing basis that will be specified in legislation. Working closely with the Minister of Maori Affairs will enable Te Mātāwai to provide advice about the development and implementation of future Māori Language Strategies. It will also be able to provide advice about any and all Māori language issues as part of its working relationship with the Minister of Māori Affairs.

28. I consider that this approach will provide optimal support for the health of the Maori language because it will ensure that the programmes and services of Te Taura Whiri, Te Māngai Pāho and MTS are able to better reflect the aspirations of iwi and Māori for the growth and development of the Māori language. This approach will give practical and substantial effect to the leadership role of iwi and Māori, through the vehicle of Te Mātāwai.
29. The Māori language entities will be more directly accountable to iwi and Māori for their programmes and services. I also propose a range of mechanisms to provide for enduring public accountability and the stewardship of public interests. These are detailed in paragraphs 60-75 below.

Functions

30. I propose that Te Mātāwai's functions will be:
 - a. setting directions for Te Taura Whiri and Te Māngai Pāho;
 - b. appointing, re-appointing and removing all the members of the board of Te Taura Whiri;
 - c. appointing, re-appointing and removing all the members of the board of Te Māngai Pāho;
 - d. appointing, re-appointing and removing four of the seven members of the board of MTS;
 - e. confirming the services to be delivered by Te Taura Whiri and Te Māngai Pāho (not including specific funding decisions);
 - f. negotiating and confirming contract instruments with the Crown (via Te Puni Kōkiri) for the purchase and delivery of Māori language programmes and services that align with the overall Māori Language Strategy, from Te Taura Whiri and Te Māngai Pāho;
 - g. confirming the MTS statement of intent, jointly with the Minister of Māori Affairs and the Minister of Finance;
 - h. managing the spectrum management right in line with the provisions of the MTS Act 2003;
 - i. any and all other functions undertaken by Te Pūtahi Paoho, as set out in the MTS Act 2003;

- j. providing expert advice to the Minister of Māori Affairs about Māori language issues, including advice on updating and developing the MLS on a three-year cycle; and
- k. other functions that may be required .

Alternative options

- 31. My assessment of the alternative options is summarised below. I do not consider that these alternatives sufficiently achieve the criteria outlined in paragraph 21 above.
 - a. *Maintaining Status Quo*: Te Taura Whiri and Te Māngai Pāho remain Crown entities, and current arrangements for MTS are retained. The status quo provides for an enduring Crown commitment to the Maori language. However it does not sufficiently support iwi and Māori leadership and ownership of Māori language revitalisation. On this basis, it is also unlikely to strengthen Crown relationships with iwi and Māori.
 - b. *Establishing Te Mātāwai as a Private Entity and transferring ownership of Te Taura Whiri, Te Māngai Pāho and MTS to it*. This option provides a strong leadership role for iwi and Māori but does not sufficiently provide for an enduring Crown commitment to the Māori language. It also does not enable sufficient public accountability or the stewardship of public interests.
- 32. Further information about these alternative options, including a detailed assessment against the key criteria, is provided in the Regulatory Impact Statement that is attached to this submission as Appendix 5.

Implications for Te Taura Whiri, Te Māngai Pāho, MTS and Te Pūtahi Paoho

Functions of Te Taura Whiri and Te Māngai Pāho

- 33. I propose that the current functions of Te Taura Whiri and Te Māngai Pāho be broadly retained, as follows:

Te Taura Whiri: will take steps to give effect to the status of Māori as an official language of New Zealand and promote the Māori language, and, in particular, its use as a living language and as an ordinary means of communication [section 7 of the Māori Language Act 1987 refers].

Te Māngai Pāho: will promote the Māori language and culture by making funds available, on such terms and conditions as it thinks fit, for broadcasting and the production of programmes to be broadcast [section 53B of the Broadcasting Act 1989 refers].

- 34. Te Taura Whiri and Te Māngai Pāho will retain such powers as are necessary to give effect to their respective functions.

35. Te Taura Whiri and Te Māngai Pāho will be required to provide an annual statement of intent to Te Mātāwai about the operating models for the delivery of their programmes and services, and Te Mātāwai must approve and publish these statements of intent no later than 20 July in each year. Te Taura Whiri and Te Māngai Pāho must also provide quarterly and annual reporting to Te Mātāwai about the delivery of their programmes and services.
36. The Broadcasting Act 1989 provides that Ministers and officials may not give direction to Te Māngai Pāho in respect of: (a) a specific programme or (b) the gathering or presentation of news and current affairs (section 53s refers). I propose to retain this requirement, and to implement equivalent clauses preventing Te Mātāwai from giving direction on these matters.
37. In addition, I propose that Te Taura Whiri, Te Māngai Pāho be funded to their existing levels (although this funding will be delivered through a different pathway within Vote Māori Affairs). This will provide for business continuity during the transition from Crown ownership to iwi and Māori ownership.

Form of Te Taura Whiri and Te Māngai Pāho

38. In the proposed arrangements, Te Taura Whiri and Te Māngai Pāho would cease to be Crown Entities. I propose that Te Taura Whiri and Te Māngai Pāho are established as statutory entities through amendments to the Māori Language Act 1987. These amendments would specify that Te Taura Whiri and Te Māngai Pāho are subsidiaries of Te Mātāwai.
39. This would be given effect by removing them from Part 2 of Schedule 1 of the Crown Entities Act 2004. I also propose to amend the Broadcasting Act 1989 to remove the provisions that relate to Te Māngai Pāho.

MTS and Te Pūtahi Paoho

40. There would be no changes to the functions, powers or reporting arrangements currently in place for MTS. Its level of funding will be unchanged. However, Te Pūtahi Paoho will be disestablished by amendments to the MTS Act 2003, and all its functions, roles and responsibilities will be assumed by Te Mātāwai.

Governance of Te Mātāwai and its subsidiaries

Appointments to Te Mātāwai

41. I propose that Te Mātāwai comprises 12 members, with seven members appointed by regional clusters of iwi², three members appointed by a Māori

² For the purposes of the proposed legislation, and as per the Local Government (Auckland Council) Act 2009, an 'iwi' is an entity with one or more of the following characteristics: (a) a mandated iwi organisation under the Māori Fisheries Act 2004, and/or (b) a body that has been established through the settlement of Treaty of Waitangi claims as a post-settlement governance entity, and/or (c) a body that has been confirmed by the Crown as holding a mandate for the purposes of negotiating Treaty of Waitangi claims.

language stakeholders group and two members appointed by the Minister of Māori Affairs on behalf of the Crown.

42. Within this model, there will be seven regional clusters of iwi: Taitokerau, Tainui, Mataatua, Te Ārawa, Te Tairāwhiti, Te Taihauāuru, and Te Waipounamu. The iwi proposed to be included within each regional cluster are listed at Appendix 3. Each regional cluster will be responsible for appointing one member to Te Mātāwai. This is consistent with the approach taken in the Māori Fisheries Act 2004.
43. The Māori language stakeholders group will comprise: the Te Kōhanga Reo National Trust; Te Rūnanganui o Ngā Kura Kaupapa Māori; Te Ringa Raupā o Ngā Kura-a-Iwi; Te Tauihu o ngā Wānanga; Te Ātaarangi; Te Whakaruruhau o ngā Reo Irirangi Māori o Aotearoa; Ngā Aho Whakaari; Ngā Kaiwhakapūmau i te Reo Māori; Māori Women's Welfare League and Te Huarahi Tika Trust. This group will be known as *Te Reo Tukutuku*.
44. I propose to use the arrangements for appointments to the Auckland Council Independent Māori Statutory Board as the model for iwi and Māori appointments to Te Mātāwai (Schedule 2 of the Local Government (Auckland Council) Act 2009 refers). In summary, each iwi within a regional cluster will be required to nominate one person to participate in a selection body. In addition, each member organisation of *Te Reo Tukutuku* will be responsible for nominating one person to participate in a selection body. The selection bodies will each determine their own processes for appointing members to Te Mātāwai. The selection bodies' sole function will be to appoint members to Te Mātāwai, and they will cease to exist when they have completed that function. Each iwi and member organisation will be responsible for meeting its own costs, and the costs of its participant in the selection bodies.
45. Specifically, in appointing members to Te Mātāwai, the selection bodies:
 - a. would be guided in their selection decisions by consideration of the purpose and functions of Te Mātāwai;
 - b. would not be subject to directions from external bodies;
 - c. could seek advice from any source that they considered appropriate;
 - d. would cease to exist when they have completed their role (although they may reconvene from time to time as required for the purpose of making further appointments to Te Mātāwai).
46. In the event that the regional clusters or *Te Reo Tukutuku* are unable to make an appointment to Te Mātāwai for any reason, the Minister of Māori Affairs may make the appointments.
47. I also propose that the Minister of Māori Affairs appoints two members to Te Mātāwai, on behalf of the Crown. The Minister of Māori Affairs will discuss the persons to be appointed to the board with the chair and deputy chair of Te

Mātāwai with a view to ensuring that the board contains members with appropriate mix of knowledge, skills, and experience to assist Te Mātāwai to achieve its objectives and perform its functions, This is similar to the approach to appointments to boards of inquiry under section 30 of the Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010.

48. The Minister of Māori Affairs will also be able to remove these Crown members at any time, and for any reason that the Minister considers justifies the removal. These provisions will be based on section 37 of the Crown Entities Act 2004.
49. Finally, I propose that one member of Te Mātāwai be appointed as the chair and another as the deputy chair. Te Mātāwai will be responsible for determining its process to appoint its chair and deputy from among its membership.

Appointments to Te Taura Whiri, Te Māngai Pāho and MTS

50. I propose that Te Mātāwai would be, for the most part, responsible for its own processes to appoint, re-appoint and remove members to Te Taura Whiri, Te Māngai Pāho and MTS. Te Mātāwai will also be able to appoint a chairperson and deputy chair for Te Taura Whiri and Te Māngai Pāho, from among the board membership of these entities. However, it will be required to annually advise the Minister of Māori Affairs in writing about (a) the processes it has adopted for appointments, re-appointments and removals and (b) current membership.
51. I propose the number of appointments to be made to Te Māngai Pāho decrease from seven to five. This is to align it with the same number of appointments to be made to Te Taura Whiri I Te Reo.
52. I also propose that Te Mātāwai not be able to: (a) appoint persons who would otherwise be disqualified by section 30 of the Crown Entities Act 2004; and (b) appoint its own members onto the boards of Te Taura Whiri, Te Māngai Pāho and MTS.

Terms of office, duties and fees for board members

53. In line with the provisions of the Crown Entities Act 2004, I propose that members of (a) Te Mātāwai and (b) Te Tāura Whiri and Te Māngai Pāho:
 - a. should hold office for terms of three years;
 - b. may be re-appointed from time to time (but may not serve more than three consecutive terms);
 - c. may continue in office until they are re-appointed or formally advised that they are not re-appointed;
 - d. may resign at any time by giving written notice to Te Mātāwai;
 - e. will be considered to have vacated office if they die, or are adjudged bankrupt under the Insolvency Act 2006;

54. I propose to include specific descriptions of the individual and collective duties of board members of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho. The individual duties of board members will reflect similar provisions in the Crown Entities Act 2004 (sub-sections 53-57 refer) including, among other things:
- a. duty to comply with legislation relating to the entity;
 - b. duty to act with honesty, integrity, reasonable care, diligence, skill and in good faith; and
 - c. duty not to disclose information inappropriately.
55. The collective duties of board members will reflect similar provisions in the Crown Entities Act 2004 (sub-sections 49-52 refer) including, among other things:
- a. duty to act consistently with the objectives and functions of the entity;
 - b. duty to operate in financially responsible manner; and
 - c. duty to perform their functions efficiently and effectively.
56. Board members of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho will not be personally liable for any act done or omitted by these entities, or any loss ensuing, if that person was acting in good faith.
57. I propose that the underlying intentions of sections 62-72 of the Crown Entities Act 2004 covering arrangements for the declaration and management of conflicts of interest be applied to Te Mātāwai, Te Taura Whiri and Te Māngai Pāho.
58. Board members of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho will be entitled to receive, fees at a rate and of a kind determined jointly by the responsible Minister and the chairperson of Te Mātāwai in accordance with the appropriate fees framework determined by the Government. Members will also be entitled to reimbursement of actual and reasonable expenses incurred in the performance of his or her duties. This approach is consistent with the current arrangements for MTS. For the avoidance of doubt, the boards of Te Taura Whiri and Te Māngai Pāho will continue to be paid from the balance sheet for each entity. I propose the same arrangements for Te Mātāwai's board.
59. In all these matters, current arrangements for MTS will continue.

Maintaining Public Accountability

60. In establishing Te Mātāwai as an independent statutory entity with ownership roles for Te Taura Whiri, Te Māngai Pāho and MTS, it will be important to provide clear and transparent directions about the nature of its relationship with Government. This will enable us to provide for enduring public accountability and the stewardship of public interests on an ongoing basis. I have proposed a range of measures to this effect. These are illustrated in Appendix 4.

Crown appointments to Te Mātāwai

61. I have proposed that the Minister of Māori Affairs will appoint two of the twelve members of Te Mātāwai on behalf of the Crown.
62. In addition, Te Mātāwai will be required to annually advise the Minister of Māori Affairs in writing about (a) the processes it has adopted for appointments, re-appointments and removals and (b) current membership of Te Taura Whiri, Te Māngai Pāho and MTS.
63. Te Mātāwai will not be able to: (a) appoint persons who would otherwise be disqualified by section 30 of the Crown Entities Act 2004; and (b) appoint its own members onto the boards of Te Taura Whiri, Te Māngai Pāho and MTS.

Strategic Direction and Annual Reporting

64. Te Mātāwai will be required to prepare and publish its strategic direction and operating intentions on an annual basis, following consultation with the Minister of Māori Affairs. While the report will be published on an annual basis, I expect Te Mātāwai to articulate a longer term (e.g. 3-5 year) strategic direction in the report.
65. It will also be required to provide an annual report to Parliament about its operations and financial position, and related information about Te Taura Whiri and Te Māngai Pāho.
66. MTS will continue to prepare an annual report for tabling in Parliament.

Purchase of Services and Monitoring Arrangements

67. On behalf of the Crown, Te Puni Kōkiri will negotiate an annual contract for the provision of Māori language programmes and services that align with the overall MLS, through tripartite negotiations between Te Puni Kōkiri, Te Mātāwai and Te Taura Whiri and Te Māngai Pāho. Te Puni Kōkiri will also be responsible for monitoring the contracts, and providing an annual report about implementation and value for money.

Access to Official Information

68. Te Taura Whiri, Te Māngai Pāho and MTS will continue to be subject to the Ombudsmen Act 1975 and the Official Information Act 1982. Te Mātāwai will also be subject to the Ombudsmen Act 1975 and the Official Information Act 1982.

Appointment of Crown Advisors to Te Taura Whiri and Te Māngai Pāho

69. The Minister of Māori Affairs will be able, in certain circumstances, to appoint up to two Crown Advisors to Te Taura Whiri and Te Māngai Pāho. These advisors will have the necessary powers to investigate and report on matters including:

- a. situations where Te Taura Whiri or Te Māngai Pāho has not, or is not likely to be able to, fulfil commitments as stipulated in the purchase agreement with Te Puni Kōkiri;
 - b. situations in which, in the Minister's sole opinion, the public confidence in Te Taura Whiri or Te Māngai Pāho has been brought in disrepute through the acts of the entity including its board or staff; and
 - c. other situations in which the Chair of Te Taura Whiri or Te Māngai Pāho requests a Crown advisor be appointed.
70. Legislation will ensure the Crown Advisors will have full access to all necessary materials, financial and otherwise, to advise the Minister of Māori Affairs and the respective Board Chair, as to matters arising.

Appointment of Statutory Manager

71. I further propose that provision for a Statutory Manager to be appointed to Te Taura Whiri or Te Māngai Pāho also be included within the establishment legislation. The Statutory Manager would be appointed by the Minister of Māori Affairs, and would be an intervention of last resort to protect public interests and investments in Te Taura Whiri and Te Māngai Pāho. This approach is similar to that used in the school sector.
72. The powers of a Statutory Manager would be to make all decisions instead of the board. A Statutory Manager would also have the power to retain or remove board members. It is envisaged that a Statutory Manager would only be appointed in the most serious situations, including:
- a. situations where an entity has, in the opinion of the Minister, significantly failed to deliver on the purchase agreement with Te Puni Kōkiri, or is likely to do so;
 - b. situations where there is sufficient grounds, in the opinion of the Minister, to investigate whether a criminal action has occurred, and/or evidence of a criminal action occurring; or
 - c. situations when the board itself, or the Te Mātāwai board, requests that the Minister appoint a Statutory Manager.

'First Principles' Review

73. Finally, I propose a 'first principles' review of these arrangements after three years. The review will provide an opportunity for a future Parliament to review and update the arrangements for Te Mātāwai, Te Taura Whiri, Te Māngai Pāho and MTS.
74. The review will be undertaken by Te Mātāwai, with support from Te Puni Kōkiri. Te Mātāwai will report to the Minister of Māori Affairs on the outcomes from the

review and recommend any changes to improve the operation of these arrangements.

75. The review will consider the impact of these arrangements on the health of the Māori language, the operations of the Māori language entities, and Crown/iwi and Māori relationships. It will also consider opportunities to streamline the operational model, and to expand it to include other Māori language programmes and services if the Crown and iwi and Māori agree to do so. The Minister of Māori Affairs will seek agreement from Cabinet for any proposed policy or legislative changes.

Operating Arrangements

Te Mātāwai

76. Te Mātāwai will need various powers to undertake its proposed functions. It must be able to, among other things: employ staff; hold and manage property; purchase and provide goods and services; enter into contracts; and conduct other business related matters. I propose that Te Mātāwai be established as a body corporate with appropriate provision made in legislation for its administration and operation, including financial powers, from the date of its establishment. Te Mātāwai will be a public authority for the purpose of the Inland Revenue Acts (as that term is defined in the Tax Administration Act 1994) unless either those Acts or the entity's Act provides otherwise.
77. My proposal outlines the roles of each entity at a high level. For example, Te Mātāwai will set the direction for Te Taura Whiri, Te Māngai Pāho. To help build relationships at an early stage and clarify the roles, responsibilities and day-to-day working relationships of the entities, I will recommend to Te Mātāwai that it develop memoranda of understanding with Te Puni Kōkiri, Te Taura Whiri, Te Māngai Pāho and MTS. These will cover how the entities will work together, including dispute resolution and the timing of contract negotiations.
78. Te Mātāwai will be empowered to appoint a chief executive, and to delegate the power to the chief executive to appoint any other employees that he or she thinks fit for the effective and efficient operations of Te Mātāwai. The chief executive should not be a member of Te Mātāwai, and Te Mātāwai will be able to determine the terms and conditions of the employment of the chief executive. Te Mātāwai shall be obliged to operate a personnel policy that complies with the principle of being a good employer. I propose that Te Mātāwai consult the State Services Commission (SSC) on the terms and conditions of employment for its chief executive. This will help ensure consistency of approach and practice for the employment of chief executives. In addition, SSC maintains expertise by engaging with the process many times rather than the each board needing to build or develop the expertise each time.
79. Te Mātāwai, Te Taura Whiri and Te Māngai Pāho will be required to operate a personnel policy that complies with the principle of being a good employer, including: provisions providing for good and safe work conditions; an equal employment opportunities programme; recognition of the aims and aspirations of

Māori, and the cultural differences of ethnic and minority groups; recognition of the employment requirements of women; and recognition of the employment requirements of people with disabilities. As Crown entities, Te Taura Whiri and Te Māngai Pāho currently have this requirement.

80. I propose to allocate \$2.0 million per annum to resource the operations of Te Mātāwai from reprioritisation within Vote Māori Affairs. Te Mātāwai will have the authority and flexibility to spend this funding as it sees fit. The \$2.0 million per annum was calculated based on indicative figures as follows: board fees for members of Te Mātāwai (approximately \$400,000); personnel and overhead costs for a secretariat (approximately \$400,000); and the establishment of support networks within each of the regional clusters and *Te Reo Tukutuku* (approximately \$1.2 million per annum, being \$150,000 per regional cluster and \$150,000 for *Te Reo Tukutuku*).
81. As noted above, Te Mātāwai will be required to provide an annual report to Parliament which will, among other things, account for the public funding that it has received. Any additional Crown funding sought by Te Mātāwai will be considered by Ministers through Te Puni Kōkiri's four-year planning process.
82. The proposed support networks would support Te Mātāwai to provide leadership for iwi and Māori contributions to the revitalisation of the Māori language. They will, among other things: (a) enable members of Te Mātāwai to seek the views of iwi within regional clusters and member organisations of *Te Reo Tukutuku*; (b) support relationships between iwi and Māori language stakeholders; and (c) support the development and implementation of iwi language plans. I do not consider that legislation is required for the establishment of these support networks. Their operations will be developed, managed and reported by Te Mātāwai.

Te Taura Whiri and Te Māngai Pāho

83. I do not envisage major changes to the programmes and services delivered by Te Taura Whiri and Te Māngai Pāho in the short-term, or to the funding for these programmes and services. I intend that the Government will continue to purchase \$12 million of Māori language programmes and services from Te Taura Whiri to support whānau Māori, hapū and iwi language development; promotion of the Māori language through social marketing; and support for the development of the Māori language *per se*. I intend that the Government will continue to purchase \$53 million of Māori language broadcasting and programme-making from Te Māngai Pāho. As part of its annual reporting to Parliament, Te Mātāwai will be required to account for the funding received and services provided by Te Taura Whiri and Te Māngai Pāho.
84. The purchase of these programmes and services will be managed by Te Puni Kōkiri on behalf of the Crown. It will negotiate an annual contract for the provision of Māori language programmes and services that align with the overall MLS, through tripartite negotiations between Te Puni Kōkiri, Te Mātāwai and Te Taura Whiri and Te Māngai Pāho. Te Puni Kōkiri will also be responsible for monitoring

the contracts, and providing an annual report about implementation and value for money.

85. Over time, it is possible that Te Mātāwai will seek to vary the programmes and services delivered by Te Taura Whiri and Te Māngai Pāho, and to seek increased funding for these programmes and services. Te Puni Kōkiri will be required to seek agreement for any changes in the types of programmes and services it purchases, or the cost of these programmes and services, through its four-year planning process.
86. Te Mātāwai may also wish to purchase other Māori language programmes and services from Te Taura Whiri and Te Māngai Pāho with funding provided by iwi and Māori, or third parties.

Māori Television Service

87. Current operational arrangements for MTS, as set out in the MTS Act 2003, will continue. The functions of MTS will remain as set out in the Māori Television Service Act 2003 and MTS will continue to deliver programmes and services in alignment with its functions. The current board members of MTS will continue to hold office until the expiry of their current appointments. The current Chief Executive and staff will be retained on their current employment terms and conditions. MTS will continue to own its own public assets and equity.

Impacts on other Māori language television providers

88. At present, Te Māngai Pāho provides some guaranteed funding to MTS and iwi radio and it also provides contestable funding for Māori language content programmes. The proposed arrangements mean that Te Mātāwai will have two roles: a) ownership of Te Māngai Pāho (the funder of Māori television programming); and b) joint ownership of MTS (one provider of Māori television programming).
89. These arrangements could potentially result in reduced competition in the Māori television broadcasting sector (that is, Te Mātāwai could direct Te Māngai Pāho to fund only MTS, rather than providing contestable funding for a range of Māori television programming providers). This situation would severely restrict opportunities for other Māori language television programme makers and broadcasters and could impact on the delivery of the MLS.
90. Existing provisions within the Broadcasting Act 1989 provide some safeguards against this potential risk. In particular, section 53C requires Te Māngai Pāho shall consult with interested parties about its funding policies, section 53E provides that it must take into account various matters when it considers funding proposals, and section 53H provides that it must seek competitive proposals for the use of its funds. These provisions will be transferred from the Broadcasting Act 1989 to the Māori Language Amendment Bill.
91. Further, I propose that: (a) Te Mātāwai is explicitly prevented from giving direction to Te Māngai Pāho about particular funding decisions; (b) an appeal

system is established for applicants who feel that they have been unfairly excluded from access to funding; and (c) Te Puni Kōkiri undertakes an annual audit of the provision of funding by Te Māngai Pāho, to ensure that transparent, contestable, objective and fair procedures have been used at all times in the allocation of funding for programme-making (including a review of the appeals system).

92. I consider that this suite of existing and proposed measures is sufficient to mitigate the potential risk of reduced competition in the Māori television broadcasting sector.

Transition arrangements

93. The transition to the new arrangements will take place following the enactment of the Māori Language Amendment Bill. It is expected to last for around twelve months, until members of Te Mātāwai are appointed and hold some initial meetings. It will be important to ensure business continuity and minimise service disruption for Te Taura Whiri and Te Māngai Pāho during this time. Current arrangements for MTS will largely continue unchanged so MTS should experience minimal disruption.

Board membership

94. I intend that the current board members of Te Taura Whiri, Te Māngai Pāho and MTS continue to hold office until the expiry of their current appointments, which are staggered over the next 24-36 months.

Terms and conditions of employment of Chief Executive and staff

95. I propose that the current Chief Executives and staff of Te Taura Whiri and Te Māngai Pāho be retained on their current employment terms and conditions. For the avoidance of doubt, staff employed by Te Taura Whiri and Te Māngai Pāho will continue to be staff of those entities and their employment relationships will not change as a result of the new ownership arrangements.
96. I have asked Te Puni Kōkiri to work with Te Taura Whiri and Te Māngai Pāho, with assistance from the State Services Commission to manage the change in status of the current chief executives and staff from State servants to employees of independent statutory entities. This will include consideration of staff membership of superannuation schemes.
97. Te Mātāwai will have the authority to appoint and set the terms and conditions for its Chief Executive once it is established. As per paragraph 78 above, I propose that Te Mātāwai consult the State Services Commission on the terms and conditions of employment for its chief executive.

Consultation

98. The following agencies have been consulted on this paper: Ministry of Education, State Services Commission and the Treasury.

99. Te Taura Whiri, Te Māngai Pāho and the Department of the Prime Minister and Cabinet were informed of this paper.

Public Consultation

100. Following agreement from Cabinet in December 2013, Te Puni Kōkiri undertook consultation with iwi and Māori language stakeholders in February 2014 about a suite of proposals for a new MLS (Cab Min (13) 43/20 refers).
101. The proposals to establish Te Mātāwai, transfer ownership of Te Taura Whiri and Te Māngai Pāho to it, and disestablish Te Pūtahi Paoho received considerable support from iwi during consultation. However, other Māori language stakeholders considered that Te Taura Whiri and Te Māngai Pāho should be retained as Crown Entities, and strengthened. Some stakeholders expressed concerns about the proposals to disestablish Te Pūtahi Paoho, including the New Zealand Māori Council which has signalled that it will pursue a claim to the Waitangi Tribunal if this proposal is progressed. On balance, I consider that the proposed institutional arrangements will best achieve the criteria.
102. During consultation, iwi submitters were interested in the working arrangements for Te Mātāwai, including: the proposed appointment process for iwi representatives; the allocation of iwi into regional clusters; and the day-to-day relationship between Te Mātāwai and the Crown. I have given some thought to these issues, and my proposed approach is set out in this submission.
103. In addition, I consider that it would be appropriate to test some issues through a series of expert workshops with technical advisors nominated by iwi and Māori language stakeholders. Te Puni Kōkiri would manage this engagement, and would ensure the confidentiality of the process. Te Puni Kōkiri would prepare terms of reference to confirm the focus of this exercise on enhancing the effectiveness and efficiency of the operating model for the proposed arrangements. Consideration of any other issues would be out-of-scope.
104. I propose that this engagement would be undertaken in three stages: (a) following confirmation of the policy decisions by Cabinet; (b) at a time when the Parliamentary Counsel Office has prepared an advanced draft of the Māori Language Amendment Bill; and (c) following confirmation of the proposed legislation by the Cabinet Legislation Committee. This would enable the technical advisors and experts to see the evolution of the operating model from policy decisions through to legislation.

Financial implications

105. I have proposed the establishment of an independent statutory entity, Te Mātāwai. I intend that Te Mātāwai's operations will be fiscally neutral through ongoing reprioritisation from within Vote: Māori Affairs of an estimated \$2.0 million per annum.

106. In addition, I intend that the current public equity held by Te Taura Whiri (approximately \$1.2 million) and Te Māngai Pāho (approximately \$2.1 million) be transferred to Te Mātāwai by way of a gift. The deed of gift will specify that the public equity accrued by each entity is to be applied to the operations of that entity. This approach will have an impact on the operating balance, which will need to be recorded on Crown accounts at the settlement date. The settlement date will be the date at which Te Mātāwai assumes ownership of Te Taura Whiri and Te Māngai Pāho.
107. I intend to report back to Cabinet outlining the impact to the operating balance and Vote Māori Affairs at the appropriate time.

Human rights, gender and disability implications

108. The Ministry of Justice has advised that the proposals in this paper appear to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A final determination as to the consistency of the proposals with the New Zealand Bill of Rights Act 1990 will be undertaken once the legislation is drafted.
109. This paper does not have any gender implications or implications for people with disabilities.

Treaty of Waitangi implications

110. The proposals in this paper will strengthen Crown-iwi and Māori relationships, give better effect to the status of the Māori language as at taonga of iwi and Māori people, and reflect the Crown's enduring obligation to take all reasonable steps to support the revitalisation of the Māori language in conjunction with iwi and Māori.

Legislative implications

111. This paper seeks significant legislative changes to the Māori Language Act 1987. It also seeks consequential changes to the Broadcasting Act 1989, the Māori Television Service Act 2003 and the Crown Entities Act 2004. These changes would be given effect through the proposed Māori Language Amendment Bill, which is a Priority 3 in our Legislation Programme for 2014 (to be passed in the current year, if possible).
112. I am seeking agreement to issue drafting instructions to the Parliamentary Counsel Office related to the proposals in this paper at the earliest possible convenience.
113. There may also be a number of further secondary decisions to be made around the transition from the existing model to Te Mātāwai, prior to the introduction of legislation, to put Cabinet's decisions into effect. Consequently, I propose that Cabinet authorise a small group of Ministers to make decisions on any issues that arise during the drafting process, subject to those decisions being consistent with the policy intent set out in this paper. The group includes the Minister of

Education, Minister of State Services, Minister of Treaty of Waitangi Negotiations and myself as Minister of Māori Affairs.

114. To enable the Bill to have its First Reading before the House rises for the general Election, I propose that it should be introduced by 3 July 2014. This timeframe would require the Bill to be considered by Cabinet Legislation Committee on 25 June 2014.

Regulatory Impact Analysis

115. The Regulatory Impact Analysis requirements apply to the proposals in this paper. A Regulatory Impact Statement ("RIS") has been prepared by Te Puni Kōkiri and is attached as Appendix 5.
116. The Regulatory Impact Analysis Team at Treasury has reviewed the RIS prepared by Te Puni Kōkiri and associated supporting material, and considers that the information and analysis summarised in the RIS does not meet the quality assurance criteria. This is primarily because the RIS does not provide enough convincing evidence to support decisions on the proposed changes to the legal form and ownership arrangements for the various Māori language entities.

Recommendations

117. The Minister of Māori Affairs recommends that Cabinet:

Background

1. **note** that the Minister of Māori Affairs is seeking agreement to a new Māori Language Strategy through a companion paper "A New Māori Language Strategy: Paper 1";
2. **note** that on 22 April 2014 [Cab Min (14) 14/12-13 refers], Cabinet invited the Minister of Māori Affairs to convene the Leader of the House, Minister of Education, Minister for Treaty of Waitangi Negotiations and Minister of State Services, in consultation with other relevant portfolio Ministers, to:
 - a. give further consideration to the overall proposals and the next steps;
 - b. further develop the proposal to create an establishment board for Te Mātāwai, including the terms of reference, timeframe and membership;
 - c. report back to Cabinet on the next steps in respect of the proposals;

Establishing Te Mātāwai

3. **agree** to establish an independent statutory entity, to be known as Te Mātāwai, by way of amendment to the Māori Language Act 1987;

4. **agree** that the purpose of Te Mātāwai will be:

Te Mātāwai will be an agent of iwi and Māori. It will provide leadership for the kaitiakitanga of iwi and Māori with regard to the health and wellbeing of the Māori language. It will give practical effect to this leadership through its direction and oversight of Te Taura Whiri and Te Māngai Pāho. It will provide direction and oversight for MTS in conjunction with the Minister of Māori Affairs and the Minister of Finance. It will maintain a close working relationship with the Minister of Māori Affairs to give effect to the Crown-iwi and Māori relationship envisaged within the Treaty of Waitangi.

5. **agree** that Te Mātāwai will undertake the following functions:

- a. preparation and publication of directions to Te Taura Whiri i te Reo Māori and Te Māngai Pāho about the overall direction of these entities;
- b. appointment, re-appointment and removal of all members of the board of Te Taura Whiri i te Reo Māori;
- c. appointment, re-appointment and removal of all members of the board of Te Māngai Pāho;
- d. appointment, re-appointment and removal of four of the seven members of the board of the Māori Television Service;
- e. confirmation of the services to be delivered by Te Taura Whiri i te Reo Māori and Te Māngai Pāho (not including specific funding decisions);
- f. negotiation and confirmation of contract instruments with the Crown (via Te Puni Kōkiri) for the purchase and delivery of Māori language programmes and services from Te Taura Whiri i te Reo Māori and Te Māngai Pāho;
- g. confirmation of the statement of intent of the Māori Television Service, jointly with the Minister of Māori Affairs and the Minister of Finance;
- h. management of the spectrum management rights in line with the provisions of the Māori Television Service Act 2003;
- i. any and all other functions currently undertaken by Te Pūtahi Paoho, as set out in the Māori Television Service Act 2003;
- j. provision of advice to the Minister of Māori Affairs about Māori language issues; including advice on updating and developing the Māori Language Strategy on a three-year cycle;
- k. other functions that may be required to give effect to its purpose statement;

Implications for Te Taura Whiri and Te Māngai Pāho

6. **agree** that Te Taura Whiri i te Reo Māori cease to be a Crown entity, by way of amendment to Part 2 of Schedule 1 of the Crown Entities Act 2004;
7. **agree** that Te Māngai Pāho cease to be a Crown entity, by way of amendment to Part 2 of Schedule 1 of the Crown Entities Act 2004;
8. **agree** that Te Taura Whiri i te Reo Māori is re-established as a statutory entity overseen by Te Mātāwai;
9. **agree** that Te Māngai Pāho is re-established as a statutory entity that is a overseen by Te Mātāwai;
10. **agree** that the functions of Te Taura Whiri i te Reo Māori will be: “to take steps to give effect to the status of Māori as an official language and promote the Māori language, and, in particular, its use as a living language and as an ordinary means of communication”;
11. **agree** that the function of Te Māngai Pāho will be: “to promote Māori language and Māori culture by making fund available, on such terms and conditions as it thinks fit, for broadcasting and the production of programmes to be broadcast”;
12. **agree** that Te Taura Whiri i te Reo Māori and Te Māngai Pāho will retain such powers as are necessary to give effect to their respective functions;
13. **agree** to transfer the relevant provisions from the Broadcasting Act 1989, as they relate to the powers of Te Māngai Pāho, to the Māori Language Amendment Bill;
14. **agree** that Te Mātāwai be prevented from giving direction to Te Māngai Pāho, the Māori Television Service, or any other broadcaster or programme-maker about a specific programme, or the gathering or presentation of news or the preparation or presentation of current affairs programmes;

Implications for the Māori Television Service and Te Pūtahi Paoho

15. **agree** to disestablish Te Pūtahi Paoho by way of amendments to the Māori Television Service Act 2003;
16. **agree** to transfer all the roles, responsibilities, functions, and assets and liabilities currently held by Te Pūtahi Paoho to Te Mātāwai by way of amendments to the Māori Television Service Act 2003;

Appointments to Te Mātāwai

17. **agree** that Te Mātāwai comprise 12 members;

18. **agree** that seven members of Te Mātāwai are to be appointed by seven regional clusters of iwi (that is, each regional cluster shall appoint one member to Te Mātāwai);
19. **agree** that, for the purposes of Te Mātāwai, an 'iwi' shall be an entity with one or more of the following characteristics: a mandated iwi organisation under the Māori Fisheries Act 2004; a body that has been established through the settlement of Treaty of Waitangi claims as a post-settlement governance entity; a body that has been confirmed by the Crown as holding a mandate for purposes of negotiating Treaty of Waitangi claims;
20. **agree** that the seven regional clusters of iwi shall be grouped as follows:
- i. Taitokerau;
 - ii. Tainui;
 - iii. Mataatua;
 - iv. Te Arawa;
 - v. Te Tairāwhiti;
 - vi. Te Taihauāuru; and
 - vii. Te Waipounamu;
21. **note** that the various iwi proposed to be included within each regional cluster are listed at Appendix 3 attached to this submission;
22. **agree** that three members of Te Mātāwai are to be appointed by a Māori language stakeholders group, to be known as *Te Reo Tukutuku*;
23. **agree** that *Te Reo Tukutuku* shall consist of:
- i. Te Kōhanga Reo National Trust;
 - ii. Te Rūnanganui o ngā Kura Kaupapa Māori;
 - iii. Te Ringa Raupā o Ngā Kura-a-Iwi;
 - iv. Te Tauihu o ngā Wānanga;
 - v. Te Ātaarangi;
 - vi. Te Whakaruruhau o ngā Reo Irirangi Māori o Aotearoa;
 - vii. Ngā Aho Whakaari;
 - viii. Ngā Kaiwhakapūmau i te Reo Māori;

- ix. Māori Women's Welfare League; and
 - x. Te Huarahi Tika Trust;
24. **agree** that each regional cluster and the Māori language stakeholders group shall be responsible for determining their own processes for appointing members to Te Mātāwai, and for meeting their own costs;
25. **agree** that the regional clusters and the Māori language stakeholder group shall cease to exist when they have completed their sole function of appointing members to Te Mātāwai, but may reconvene from time to time for the purpose of appointing and reappointing members;
26. **agree** that, if any of the regional clusters or the Māori language stakeholders group is unable to make an appointment for any reason, the Minister of Māori Affairs may make these appointments;
27. **agree** that the Minister of Māori Affairs will appoint two members to Te Mātāwai on behalf of the Crown;
28. **invite** the Minister of Māori Affairs will discuss the persons to be appointed to the board with the chair and deputy chair of Te Mātāwai with a view to ensuring that the board contains members with appropriate mix of knowledge, skills, and experience to assist Te Mātāwai to achieve its objectives and perform its functions;
29. **agree** that the Minister of Māori Affairs may remove the Crown members of Te Mātāwai at any time, and for any reason that the Minister considers justifies the removal (in line with the provisions of section 37 of the Crown Entities Act 2004);
30. **agree** that Te Mātāwai will be responsible for determining its process to appoint its chair and a deputy chair from among its members;

Appointments to Te Taura Whiri, Te Māngai Pāho and the Māori Television Service

31. **agree** that Te Mātāwai be responsible for its own processes to appoint, re-appoint and remove members to Te Taura Whiri i te Reo Māori, Te Māngai Pāho and the Māori Television Service;
32. **agree** that Te Mātāwai must advise the Minister of Māori Affairs on an annual basis about the processes that it has adopted for appointments, re-appointments and removals, and current membership of Te Taura Whiri i te Reo Māori, Te Māngai Pāho and the Māori Television Service;
33. **agree** to decrease the number of appointments to Te Māngai Pāho from seven to five.

34. **agree** that Te Mātāwai may not appoint persons to Te Taura Whiri i te Reo Māori, Te Māngai Pāho or the Māori Television Service who would otherwise be disqualified by section 30 of the Crown Entities Act 2004;
35. **agree** that Te Mātāwai may not appoint its own members to to Te Taura Whiri i te Reo Māori, Te Māngai Pāho or the Māori Television Service;

Terms of office, duties and remuneration

36. **agree** that members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho may be appointed for terms of three years;
37. **agree** that members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho may be re-appointed from time to time, but that members cannot serve more than three consecutive terms;
38. **agree** that members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho will continue to hold office until they are re-appointed, or formally notified that their membership has concluded;
39. **agree** that of members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho may resign at any time by giving written notice to Te Mātāwai;
40. **agree** that members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho will be considered to have vacated their office if they die, or are adjudged bankrupt under the Insolvency Act 2006;
41. **agree** to reflect in legislation similar provisions to those contained in the Crown Entities Act 2004 governing:
- i. the individual duties of members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho;
 - ii. the collective duties of members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho;
 - iii. arrangements for the management of conflicts of interest among members of Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho;
42. **agree** that members of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho will be entitled to receive fees at a rate and of a kind determined jointly by the responsible Minister and the chairperson of Te Mātāwai in accordance with the appropriate fees framework determined by the Government;
43. **agree** that members of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho will be entitled to receive reimbursement of actual and reasonable expenses incurred in the performance of his or her duties;

Appointment of Crown advisors

44. **agree** that the Minister of Māori Affairs will be able, in certain circumstances, to appoint up to two Crown advisors to Te Taura Whiri and Te Māngai Pāho;
45. **agree** that these Crown advisors will have the necessary powers to investigate and report on matters including:
- i. situations where Te Taura Whiri or Te Māngai Pāho has not, or is not likely to be able to, fulfil commitments as stipulated in the purchase agreement with Te Puni Kōkiri;
 - ii. situations in which, in the Minister's sole opinion, the public confidence in Te Taura Whiri or Te Māngai Pāho has been brought in disrepute through the acts of the entity including its board or staff; and
 - iii. other situations in which the Chair of Te Taura Whiri or Te Māngai Pāho requests that Crown advisors be appointed.

Appointment of Statutory Managers

46. **agree** that the Minister of Māori Affairs will be able, in certain circumstances and as an instrument of last resort, appoint a Statutory Manager to Te Taura Whiri i te Reo Māori or Te Māngai Pāho;
47. **agree** that the Statutory Manager would have powers to make all decisions instead of the board of Te Taura Whiri and Te Māngai Pāho, and to retain or remove any or all board members.
48. **agree** that the circumstances where a Statutory Manager would be appointed include, but are not limited to:
- i. situations where an entity has, in the opinion of the Minister, significantly failed to deliver on the purchase agreement with Te Puni Kōkiri, or is likely to do so;
 - ii. situations where there is sufficient grounds, in the opinion of the Minister, to investigate whether a criminal action has occurred, and/or evidence of a criminal action occurring; or
 - iii. situations when the board itself, or the Te Mātāwai board, requests that the Minister appoint a Statutory Manager.

Other measures to maintain public accountability

49. **agree** that Te Mātāwai will be required to prepare and publish a statement of strategic direction and operating intentions on an annual basis, following consultation with the Minister of Māori Affairs;

50. **agree** that Te Mātāwai will be required to submit an annual report to the Minister of Māori Affairs, who will table that report Parliament, about its activities, including its oversight of Te Taura Whiri i te Reo Māori, Te Māngai Pāho and the Māori Television Service;
51. **agree** that Te Puni Kōkiri, on behalf of the Crown, will negotiate an annual contract for the purchase of Māori language programmes and services that align with the overall Māori Language Strategy from Te Taura Whiri and Te Māngai Pāho following tripartite negotiations with Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho;
52. **agree** that Te Puni Kōkiri will provide separate reporting about services purchased from Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho;
53. **agree** that Te Mātāwai, Te Taura Whiri, Te Māngai Pāho and MTS will be subject to the Ombudsmen Act 1975 and the Official Information Act 1982;
54. **agree** to provide in legislation the requirement to undertake a 'first principles' review of these arrangements three years after enactment;

Operating arrangements for Te Mātāwai

55. **agree** that Te Mātāwai be established as a body corporate, with appropriate provision made in its legislation for its administration and operation, including financial powers, from the date of establishment;
56. **agree** that Te Mātāwai will be a public authority for the purpose of the Inland Revenue Acts (as that term is defined in the Tax Administration Act 1994) unless either those Acts or the entity's Act provides otherwise.
57. **invite** the Minister of Maori Affairs to recommend to Te Mātāwai that it develop memoranda of understanding with Te Puni Kōkiri, Te Taura Whiri, Te Māngai Pāho and the Māori Television Service;
58. **agree** that Te Mātāwai:
 - i. may appoint a chief executive, who shall not be a member of Te Mātāwai;
 - ii. may delegate the power to the chief executive to appoint any other employees he or she thinks necessary for the efficient performance of its functions;
 - iii. may determine the terms and conditions of employment of the chief executive, in consultation with the State Services Commission;
 - iv. must operate a personnel policy that complies with the principle of being a good employer;

Operating arrangements for Te Taura Whiri i te Reo Māori and Te Māngai Pāho

59. **agree** that Te Taura Whiri i te Reo Māori and Te Māngai Pāho must each provide a statement of intent to Te Mātāwai on an annual basis, and that Te Mātāwai must approve these statements of intent by 20 July in each year;
60. **agree** that Te Taura Whiri i te Reo Māori and Te Māngai Pāho must provide quarterly and annual reporting to Te Mātāwai about the delivery of their programmes and services;
61. **agree** that, to avoid a potential reduction in competition in the Māori television broadcasting sector with regard to the allocation of funding for Māori television programming between Te Māngai Pāho and the Māori Television Service:
- i. Te Mātāwai be prevented from giving direction to Te Māngai Pāho about particular funding decisions; and
 - ii. Te Puni Kōkiri will undertake an annual audit of the provision of funding by Te Māngai Pāho to ensure that transparent, contestable, objective and fair procedures have been used at all times;
62. **note** that Te Mātāwai may wish to purchase other Maori language programmes and services from Te Taura Whiri i te Reo Māori and Te Māngai Pāho with funding provided by iwi and Māori, or third parties.

Transitional arrangements

63. **agree** that existing board members of Te Taura Whiri i te Reo Māori and Te Māngai Pāho remain in office for the duration of their current terms;
64. **agree** that the chief executives and other staff of Te Taura Whiri i te Reo Māori and Te Māngai Pāho are retained on their current employment terms and conditions for the time being;
65. **note** that Te Puni Kōkiri will work with Te Taura Whiri and Te Māngai Pāho, with assistance from the State Services Commission, to manage the change in status of the current chief executives and staff from State servants to employees of independent statutory entities;

Financial implications

66. **note** that recommendations above will have an impact on the operating balance corresponding to the public equity held by both Te Taura Whiri i te Reo Māori and Te Māngai Pāho, and as at 30 June 2013 this was \$3.303 million;
67. **note** that there will be no impact on the operating balance of the Māori Television Service and its public equity will not transfer to Te Mātāwai;


68. **note** that the impact on the operating balance will be recorded on the Crown Accounts at the settlement date which will be when Te Mātāwai assumes ownership of Te Taura Whiri i te Reo Māori and Te Māngai Pāho;
69. **note** that any funding required for Te Mātāwai's establishment will be fiscally neutral and sourced through reprioritisation from within Vote Māori Affairs;
70. **note** that Te Mātāwai's ongoing operational funding will be fiscally neutral through ongoing reprioritisation from within Vote Māori Affairs of an estimated \$2.000 million per annum;
71. **note** that any future funding requests for Te Mātāwai, Te Taura Whiri i te Reo Māori and Te Māngai Pāho will occur through the annual Budget process and be identified in Te Puni Kōkiri's Four Year Plan;
72. **invite** the Minister of Māori Affairs to report back to Cabinet on the impact to the operating balance and to Vote Māori Affairs, including seeking agreement to a settlement date;

Legislative implications

73. **note** that the proposed legislative changes would be given effect through the Māori Language Amendment Bill, which is a Priority 3 (to be passed in current year, if possible) in the 2014 Legislation Programme;
74. **invite** the Minister of Māori Affairs to issue drafting instructions to the Parliamentary Counsel Office to draft the legislation required to give effect to the above decisions; and
75. **note** that the Māori Language Amendment Bill should be introduced no later than 3 July 2014;
76. **authorise** the Minister of Education, Minister of State Services, Minister for Treaty of Waitangi Negotiations and the Minister of Māori Affairs to make decisions, consistent with the policy intent of this paper, on any issues that arise during the drafting process; and

Consultation

77. **agree** that the Minister of Māori Affairs discuss the overall approach for Te Mātāwai and an exposure draft of the Bill with a small group of iwi technical advisors and Māori language experts as legislation is drafted.



Hon Dr Pita R Sharples
Minister of Māori Affairs

151 5114

Appendix 1: Current institutional arrangements to support the Māori language

1. Te Taura Whiri was established in 1987 by the Māori Language Act 1987. It is an autonomous Crown entity within Vote Māori Affairs, with a broad mandate to (a) take steps to give effect to the status of Māori as an official language and (b) promote the Māori language as a living language. In practice, it undertakes a range of functions including: administering programmes to support whānau, hapū and iwi language development, promoting the Māori language through social marketing and supporting the development of the Māori language *per se*. It is governed by a board of five members appointed by the Minister of Māori Affairs, and has an annual operating budget of \$12 million.
2. Te Māngai Pāho was established as an autonomous Crown entity in 1993 by the Broadcasting Act 1989. It is governed by a board of up to seven members appointed by the Minister of Māori Affairs, and it has a mandate to promote the Māori language and culture through providing funding for broadcasting and programme-making for radio, television and digital media. It has an annual operating budget of \$53 million.
3. MTS is a statutory entity established by the MTS Act 2003. Its principal function is to 'contribute to the protection and promotion of te reo Māori me ōna tikanga through the provision in Māori and English of a television service'. MTS receives funding of \$16 million per annum through Vote: Māori Affairs and it accesses a further \$16 million per annum from Te Māngai Pāho for programme-making. It is governed by a board of seven members, of whom three are appointed by the Minister of Māori Affairs and the Minister of Finance, and four are appointed by Te Pūtahi Paoho (the Māori Television Service Electoral College).
4. Te Pūtahi Paoho is a board with responsibility under the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 for MTS, including responsibility for managing the spectrum management right provided to support the broadcasting requirements of MTS. It is also responsible, acting jointly with the Minister of Māori Affairs and the Minister of Finance, for: (a) appointing the chair and deputy chair of MTS; (b) approving the MTS statement of intent; and (c) receiving the MTS annual report.

Appendix 2: Summary of the Review of the Māori Language Sector and Strategy undertaken by Te Paepae Motuhake in 2010/11

Overview

1. In July 2010, the Minister of Māori Affairs commissioned an independent review of the Māori Language Sector and Strategy. This was undertaken by a review panel known as Te Paepae Motuhake. Te Paepae Motuhake issued its report in April 2011 (*Te Reo Mauriora*).
2. Te Paepae Motuhake made five principal recommendations. It also made several recommendations about the various components of its terms of reference. These recommendations are summarised below.

Te Paepae Motuhake Membership

3. Te Paepae Motuhake was chaired by Professor Sir Tāmami Reedy. The members were: Pem Bird; Cathy Dewes; Te Kāhautu Maxwell; Hana O'Regan; Pānia Papa; Raheera Shortland; and Toni Waho.

Principal Recommendations of Te Paepae Motuhake

4. Te Paepae Motuhake made five principal recommendations:
 - a. That a Minister for the Māori language be established with powers to determine all matters pertaining to the Māori language.
 - b. That a board known as "Te Mātāwai" for te reo Māori be established. The board shall comprise language experts representing the seven dialectal regions, exemplified by Te Paepae Motuhake, plus the two large urban centres – Auckland and Wellington. This board shall lead with the Minister on all matters pertaining to te reo Māori.
 - c. That a "Rūnanga-ā-Reo" be established in nine regions to plan programmes, expenditure and evaluation.
 - d. That the principal recommendation for revitalisation is re-establishing te reo in homes. The role of the public sector is to support Māori to achieve this objective.
 - e. That the future implementation of the revitalisation strategy will be led by iwi.

Te Paepae Motuhake Terms of Reference and Recommendations

5. The terms of reference for Te Paepae Motuhake required it to consider seven broad aspects of the Māori language sector and strategy: principles; outcomes; roles of Māori and Government; organisation and infrastructure; key initiatives; expenditure and value. Te Paepae Motuhake prepared specific recommendations about each of these areas.

Principles

6. Te Paepae Motuhake identified seven major guiding principles for consideration:
- a. **Rights:** The recognition of the Treaty of Waitangi and supportive legislation such as the Declaration of Human Rights and the United Nations Declaration of Rights of Indigenous Peoples.
 - b. **Identity:** The language is the foundation of Māori identity.
 - c. **Sustainability:** The principle of inter-generational transmission will ensure the future sustainability of the Māori language.
 - d. **Treasure:** The Māori language is a treasure, guaranteed Crown protection under the Treaty of Waitangi and imposes obligation on the Crown to ensure its preservation.
 - e. **Sovereignty:** The sovereignty of the Māori language belongs to Māori. Te Paepae has heard a resounding call from Māori, for Māori to take charge of revitalisation initiatives.
 - f. **Covenant:** Added to the Government's obligation to sustain te reo, is the responsibility to support the health and development of te reo in homes, and assist in raising its status publicly.
 - g. **Status.** Raising the status of Māori Language proposes a deep and abiding challenge that must be met.

Outcomes

7. Te Paepae Motuhake identified the following major outcomes arising from its review:
- a. Sustain an authentic language, through speaking it in all places, at all times.
 - b. Sustain the dialects of the iwi. Dialects provide the foundation to individual identity and maintain the depth and richness of tribal knowledge.
 - c. Those who know the language, speak the language. Those who want to learn must have access to places of learning. Facilitate the transmission to younger generations.
 - d. The language will be valued as a treasure to the nation.
 - e. The remedy is in the hands of iwi. Each iwi must be supported to lead their own language initiatives.
 - f. Embrace technology as modern tools in the revitalisation of the Māori language.
 - g. It is vital to train teachers of the Māori language to achieve high levels of proficiency.
 - h. Strengthen the skills of proficient speakers to lead the revitalisation process.
 - i. Raise critical awareness amongst Māori, other New Zealanders, and the global community to believe in the value of the Māori language.

- j. Evaluation and research at all levels will be built in to the new strategic Plan and outcomes.
- k. 2050 – 80% of Māori homes are Māori language homes.

Coordination and Infrastructure

8. Te Paepae Motuhake made the following recommendations about coordination and infrastructure as a result of its review:
- a. The Panel recommends that the changes required for co-ordination and building of a new infrastructure should be carried out in phases: Phase 1 – the first three years 2012-2014; Phase 2 – the following five years 2015-2020; Phase 3 – the next 30 years 2020-2050.
 - b. The first phase will provide for the establishment of a Māori speaking Minister with responsibilities for Māori language. The Minister will have over-riding authority for Māori language revitalisation and will control the Government's budget for Māori language. The will be reflected in amendments to the Māori Language Act 1987.
 - c. The Minister will appoint an interim five Board of Trustees. The terms of this interim Board shall not exceed one year.
 - d. The Minister will work with iwi to establish a body that reflects the Treaty partnership between Māori and the Crown. Te Mātāwai will be made up of nine Māori language revitalisation experts representing the seven dialectal regions – Te Taitokerau, Tainui, Te Tairāwhiti, Te Puku o te Ika, Mataatua, Te Hau-ā-uru, Te Waipounamu, plus two large urban centres- Auckland and Wellington.
 - e. Te Mātāwai will work with all Government agencies and stakeholders currently involved in the revitalisation of Māori language. This is for co-ordination at a national level.
 - f. Te Mātāwai will work collaboratively with Rūnanga ā-Reo to implement the strategy to increase Māori language speaking homes.
 - g. Te Rūnanga ā-Reo will co-ordinate language planning at an iwi level, and will include implementation, management of budget, research and evaluation.
 - h. Te Rūnanga ā-Reo will inform Te Mātāwai through research, monitoring and reporting.

Key Initiatives

9. Te Paepae Motuhake made the following recommendations about key initiatives arising from its review:
- a. All initiatives will be geared to support the principal goal which is to create significant numbers of Māori language speaking homes, with the goal that by 2050, 80% of Māori will be speaking te reo.

- b. All current initiatives will work together to achieve the principal goal at all national level and through Rūnanga-ā-Reo.
- c. Māori Language Homes – priority funding will be given to programmes that work with families and communities that have made a commitment to te reo Māori, such as :Te Kōhanga Reo, Puna Reo, te Kura Kaupapa Māori, Wharekura, Kura ā-iwi, Te Ataarangi, Wānanga Māori, marae, health services and businesses.
- d. Establish Iwi Wānanga – to strengthen dialects, teaching, broadcasting, publishing skills and to enable the conveyance of tribal history and identity in te reo Māori.
- e. Continue and expand all other initiatives, e.g. Te Mātāwai in conjunction with the Rūnanga ā-Reo will engage with crown agencies that will retain responsibilities for supporting the revitalisation of the re reo Māori and the private sector to embrace te reo Māori, such as the National Library.

Expenditure and Value

10. Te Paepae Motuhake made the following recommendations about expenditure and value arising from its review:

- a. That all current Government funding allocated for te reo Māori be re-directed to Vote: Reo Māori under the authority of the Minister for Te Reo Māori.
- b. That further clarification of the Government spend is needed. It ranges between \$225 million and \$600 million. The Panel recommends \$600 million as base funding for te reo Māori for the financial year 2011-2012.
- c. Some 40% of Māori school leavers from Māori-medium schools qualified for direct entry to university compared to 20% of Māori at English medium schools. This highlights value in Māori-medium primary and secondary pathways. These kinds of results need to be further analysed and this analysis should, in turn, guide funding prioritisation.
- d. Given that there has been an increase in the proficiency level of Māori from early 1970s to 23% in 2006, it is reasonable to assume that government spending, especially from the Ministry of Education, has contributed to that growth. However, the Ministry acknowledges its own results as patchy, indicating the need for better and sharper evaluation methods.
- e. The spend on Māori language initiatives from now on needs to be tracked, monitored and evaluated for value for money and for achieving strategic outcomes.

Roles of Māori and Government

11. Te Paepae Motuhake did not make any recommendations about the roles of Māori and the roles of Government.

Appendix 3: Proposed regional clusters of iwi

Te Tai Tokerau (also includes Tāmaki iwi)

Te Aupōuri
Ngāti Kahu
Ngāti Kurī
Ngāpuhi
Ngāti Kahu ki Whangaroa
Ngāpuhi ki Whaingaroa-Ngāti Kahu ki Whaingaroa
Te Rarawa
Ngāi Takoto
Ngāti Wai
Ngāti Whātua
Te Kawerau (o Maki)
Te Uri-o-Hau
Ngāti Rehua (Great Barrier Island)
Ngāti Manuhiri
Ngāti Whātua o Kaipara
Ngāti Whātua o Ōrākei
Te Roroa

Tainui (also includes Hauraki iwi)

Te Ākitai Waiohua
Ngāti Tamaoho
Ngāti Hako
Ngāti Hei
Ngāti Maru (Hauraki)
Ngāti Paoa
Patukirikiri
Ngāti Porou ki Harataunga ki Mataora
Ngāti Pūkenga ki Waiau
Ngāti Rāhiri Tumutumu
Ngāi Tai (Hauraki)
Ngāti Tamaterā
Ngāti Tara Tokanui
Ngāti Hineuru
Ngāti Te Ata
Ngāti Whanaunga
Ngāti Haua (Waikato)
Ngāti Maniapoto
Ngāti Raukawa (Waikato)
Pouākani
Rereahu
Ngāti Koroki Kahukura
Waikato

Mataatua

Ngāti Pūkenga
Ngaiterangi

Ngāti Ranginui
Ngāti Awa
Ngāti Manawa
Ngāi Tai (Tauranga Moana/Mātaatua)
Tūhoe
Whakatōhea
Te Whānau-a-Apanui
Ruapani ki Waikaremoana
Ngāti Whare

Te Arawa

Ngāti Pīkiao (Te Arawa)
Ngāti Rangiteaorere (Te Arawa)
Ngāti Rangitīhi (Te Arawa)
Ngāti Rangiwewehi (Te Arawa)
Tapuika (Te Arawa)
Tarāwhai (Te Arawa)
Tūhourangi (Te Arawa)
Uenuku-Kōpako (Te Arawa)
Waitaha (Te Arawa)
Ngāti Whakaue (Te Arawa)
Ngāti Tūwharetoa
Ngāti Mākino
Ngāti Tūwharetoa (Bay of Plenty)
Ngāti Turangitukua
Ngāti Kearoa/Ngāti Tuara
Ngāti Rongomai
Ngāti Tahu-Ngāti Whaoa (Te Arawa)

Te Tai Rāwhiti

Ngāti Porou
Te Aitanga-a-Māhaki
Rongowhakaata
Ngāi Tāmanuhiri
Rongomaiwahine (Te Māhia)
Ngāti Kahungunu
Rangitāne (Te Matau-a-Māui/Hawke's Bay/Wairarapa)
Ngāti Pāhauwera
Mana Ahuriri
Maungaharuru Tangitu
Heretaunga Tamatea
Ngāti Rākaipaaka

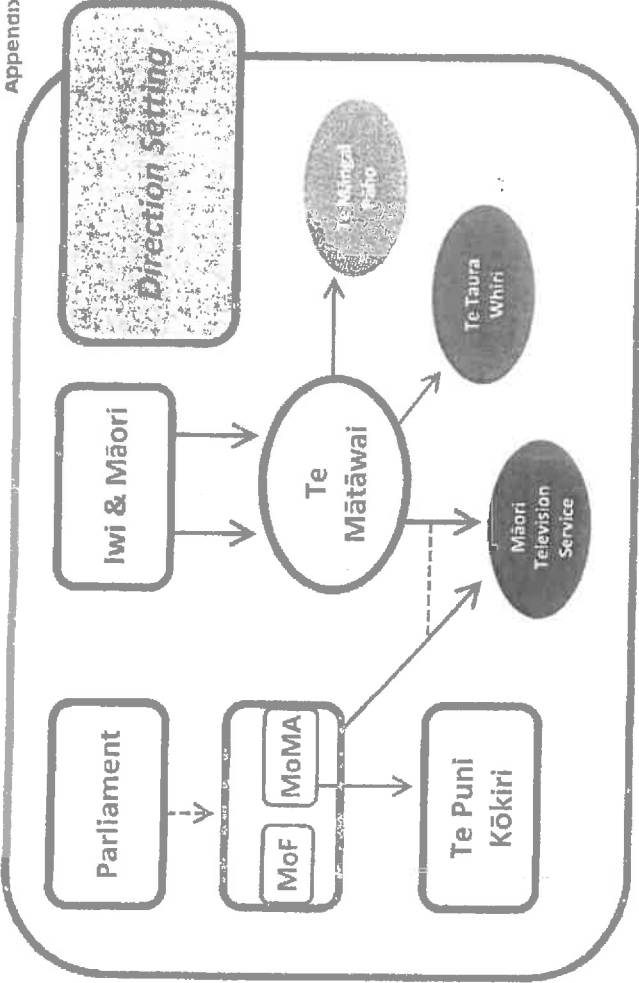
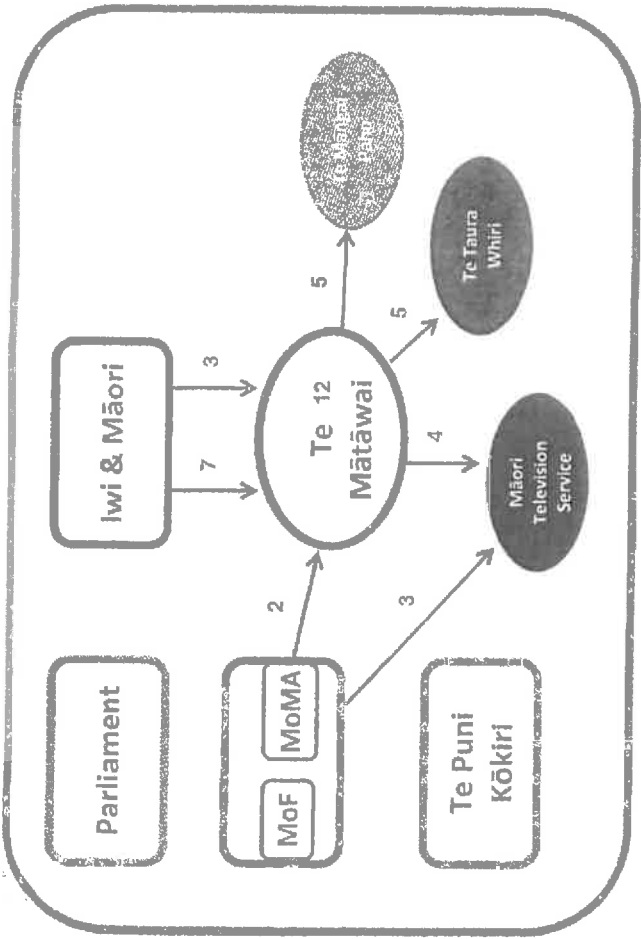
Te Tai Hau-ā-uru/Te Puku o Te Ika

Te Atiawa (Taranaki)
Ngāti Maru (Taranaki)
Ngāti Mutunga (Taranaki)
Ngā Rauru
Ngā Ruahine

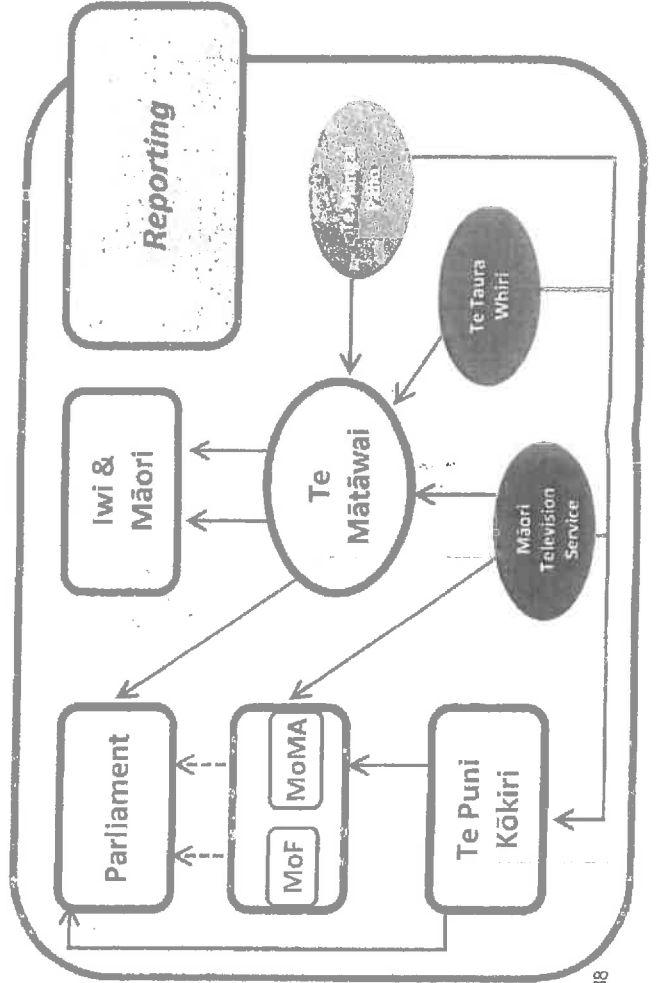
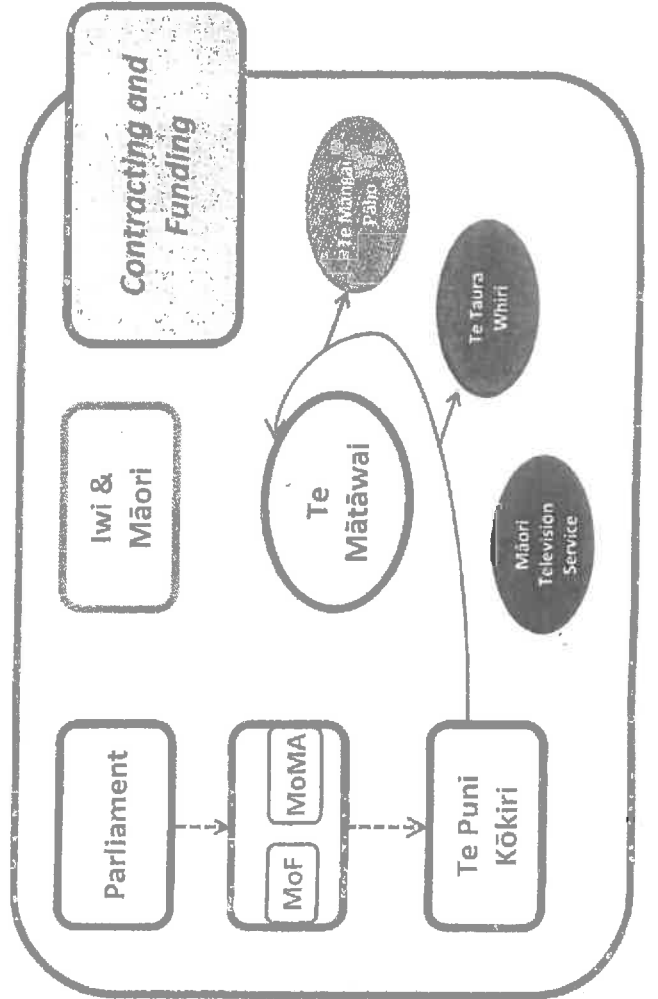
Ngāti Ruanui
Ngāti Tama (Taranaki)
Taranaki
Tangāhoe
Pakakohi
Ngāti Apa (Rangitīkei)
Te Ati Haunui-a-Pāpārangī
Ngāti Haua (Taumarunui)
Ngāti Tama
Ngāti Rangī
Ngāti Hauti
Te Atiawa (Te Whanganui-a-Tara/Wellington)
Muaūpoko
Rangitāne (Manawatū)
Ngāti Raukawa (Horowhenua/Manawatū)
Ngāti Toarangatira (Te Whanganui-a-Tara/Wellington)
Te Atiawa ki Whakarongotai
Ngāti Tama ki Te Upoko o Te Ika (Te Whanganui-a-Tara/Wellington)
Ngāti Kauwhata

Te Waipounamu

Te Atiawa (Te Waipounamu/South Island)
Ngāti Koata
Ngāti Kuia
Kāti Māmoe
Moriōri
Ngāti Mutunga (Wharekauri/Chatham Islands)
Rangitāne (Te Waipounamu/South Island)
Ngāti Rārua
Ngāi Tahu / Kāi Tahu
Ngāti Tama (Te Waipounamu/South Island)
Ngāti Toarangatira (Te Waipounamu/South Island)
Waitaha (Te Waipounamu/South Island)
Ngāti Apa ki Te Rā Tō



TE MĀTĀWAI ACCOUNTABILITY ARRANGEMENTS



Appendix 5: Regulatory Impact Statement (see separate attachment)

Regulatory Impact Statement:

Developing a New Māori Language Strategy: Revised Arrangements for Māori Language Entities

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by Te Puni Kōkiri. It accompanies the Cabinet papers entitled *A New Māori Language Strategy: Paper 1* and *A New Māori Language Strategy Paper 2: Revised Arrangements for Māori Language Entities*.

It provides an analysis of options about three distinct but related issues: (a) proposed changes to the entity status of Te Taura Whiri and Te Māngai Pāho; (b) proposed changes to arrangements for the oversight of the Māori Television Service and (c) the optimal legal form of an entity to undertake various functions with regard to these Māori language entities on behalf of iwi and Māori.

This RIS and associated Cabinet papers fulfil a 2013 Cabinet directive for the Minister of Māori Affairs to report-back on consultation about a new Government Māori Language Strategy (CAB Min (13) 43/20 refers). This consultation was completed in February 2014. The Minister of Māori Affairs is seeking to introduce the necessary legislation to give effect to his preferred approach in July 2014.

This RIS documents the process undertaken by Te Puni Kōkiri to consider the various issues, including: a description of the status quo and the policy problem that is presenting; a description of the objectives used to assess the various options; descriptions of the options themselves; assessments of the options against the objectives, the rationale for selecting each preferred option; and the implications of each preferred option.

It has not been possible in the available time to prepare a detailed implementation plan for the preferred options. Te Puni Kōkiri considers that further work is required to develop the implementation plan.



Tipene Chrisp
Policy Director, Te Puni Kōkiri

14, 05, 2014

Executive Summary

1. The Minister of Māori Affairs is seeking to support the growth and development of the Māori language by, among other things (a) strengthening Crown-iwi and Māori relationships in the Māori language sector, and (b) strengthening iwi and Māori leadership of Māori language issues. This should be undertaken within a framework that retains appropriate levels of public accountability and the stewardship of public interests.
2. In December 2013, Cabinet agreed that consultation be undertaken about various proposals for the development of a new Māori Language Strategy ("MLS") (CAB Min (13) 43/20 refers). These proposals included the development of new arrangements for Māori language entities within Vote: Māori Affairs, that is, Te Taura Whiri i te Reo Māori ("Te Taura Whiri"), Te Māngai Pāho and the Māori Television Service). This consultation was completed in February 2014.
3. Currently, Te Taura Whiri and Te Māngai Pāho are autonomous Crown Entities. MTS is a statutory entity. It was established by the MTS Act 2003, and the Crown (through the Minister of Māori Affairs and the Minister of Finance) and Māori (through Te Pūtahi Paoho) undertake various shared functions.
4. This Regulatory Impact Statement (RIS) provides an assessment of the entity status arrangements that were proposed in the consultation material. It compares these proposed arrangements against the status quo and other options for the status of the Māori language entities in Vote: Māori Affairs.
5. There are three related but distinct components to this RIS: (a) options for proposed changes to the entity status of Te Taura Whiri and Te Māngai Pāho; (b) options for proposed changes to arrangements for the oversight of the Māori Television Service and (c) the optimal legal form of an entity (to be known as "Te Mātāwai") to undertake various functions with regard to Māori language entities on behalf of iwi and Māori. The options are summarised in Table 1 below, and the preferred option is highlighted (based on the assessment of the options against the objectives that have been identified).

Table 1. Māori Language Entities: Ownership Issues and Options

Issues	Options
Entity status arrangements for Te Taura Whiri and Te Māngai Pāho	Maintain Te Taura Whiri and Te Māngai Pāho as Crown Entities (status quo)
	Maintain Te Taura Whiri and Te Māngai Pāho as Crown Entities, with specific provision for shared roles to be undertaken by Minister of Māori Affairs and Te Mātāwai
	Transfer Te Taura Whiri and Te Māngai Pāho from Crown to Te Mātāwai (which will be established as an independent statutory entity). (Preferred option).

	Transfer Te Taura Whiri and Te Māngai Pāho to a private entity.
Optimal arrangements for oversight of Māori Television Service	Retain Te Pūtahi Paoho, and existing relationship with responsible Ministers (status quo) Disestablish Te Pūtahi Paoho and transfer its roles and responsibilities to Te Mātāwai (Preferred option).
Optimal legal form for entity (Te Mātāwai) to undertake various functions on behalf of iwi and Māori	Establish Te Mātāwai as a Crown Entity Establish Te Mātāwai as an independent statutory entity (Preferred option) Establish Te Mātāwai as a private entity

Status Quo

Background

6. The Māori language is a taonga of Māori people and an official language of New Zealand (the Māori Language Act 1987 refers). Successive Governments have accepted that the Crown has an enduring obligation derived from the Treaty of Waitangi to take all reasonable steps to support its growth and development, in conjunction with iwi and Māori (CAB (97) M34/5b refers). Government efforts to support the Māori language are coordinated through the Māori Language Strategy ("MLS"), and should be located within a wider framework of ongoing work to strengthen Crown-iwi and Māori relationships generally.
7. The Government gives effect to the Māori Language Strategy through, among other things, its oversight and direction of Te Taura Whiri, Te Māngai Pāho and MTS (the latter in conjunction with Te Pūtahi Paoho) and the provision of funding to these agencies to deliver various Māori language programmes and services.

Te Taura Whiri and Te Māngai Pāho

8. Te Taura Whiri is an autonomous Crown Entity within Vote: Māori Affairs. It was established by the Māori Language Act 1987, with a broad mandate to (a) take steps to give effect to the status of Māori as an official language and (b) promote the Māori language as a living language. In practice, it undertakes a range of functions including: administering programmes that support whānau Māori, hapū and iwi language development; promoting the Māori language through social marketing (in particular, through Māori Language Week); and supporting the development of the Māori language *per se*, through administering orthographic conventions, creating neologisms and licencing interpreters and translators. It is governed by a board of five members appointed by the Minister of Māori Affairs. It receives appropriations of \$12m per annum to undertake these activities, and had public equity of approximately \$1.2m at 30 June 2013.
9. Te Māngai Pāho is an autonomous Crown Entity, governed by a board of seven members appointed by the Minister of Māori Affairs. It was established by the Broadcasting Amendment Act 1993 (now incorporated into the Broadcasting Act 1989), with a mandate to provide funding for Māori language broadcasting and programme-making. In practice, it provides operational funding for iwi radio and programming funding for the Māori Television Service, and administers contestable funding for other television and radio programming. It receives appropriations of \$53m per annum to undertake these activities, and had public equity of approximately \$2.1m at 30 June 2013.
10. Te Taura Whiri and Te Māngai Pāho are subject to the Crown Entities Act 2004. Te Puni Kōkiri is the monitoring department for these entities. The scope of the relevant appropriations within Vote: Māori Affairs and the

Crown Entities Act 2004 provide the framework for the purchase of services from Te Taura Whiri and Te Māngai Pāho.

Māori Television Service and Te Pūtahi Paoho

11. MTS is a statutory entity established by the Māori Television Service Act 2003. Its principal function is “to contribute to the protection and promotion of te reo Māori me ōna tikanga through the provision, in te reo Māori and English, of a high-quality, cost-effective television service that informs, educates and entertains viewers, and enriches New Zealand’s society, culture and heritage”. It receives direct appropriations of \$16m per annum, and additional funding of approximately \$16m from Te Māngai Pāho on an annual basis for programme-making (via contractual arrangements). It had public equity of approximately \$19m at 30 June 2013. MTS is required to report annually to Parliament about its performance and expenditure. Te Puni Kōkiri is the monitoring department for MTS.
12. Currently, various oversight and direction functions for MTS are undertaken by the Crown (through the Minister of Māori Affairs and the Minister of Finance) and Te Pūtahi Paoho, on behalf of Māori. Te Pūtahi Paoho was established by the MTS Act 2003 to undertake the following functions:
 - a. to appoint four of seven members of the board of MTS (the remaining three members are appointed by the Minister of Māori Affairs and the Minister of Finance);
 - b. to appoint the chair and deputy chair of the board of MTS, acting jointly with the Minister of Māori Affairs and the Minister of Finance;
 - c. to receive various accountability documents to be provided by the MTS;
 - d. to manage the spectrum management right provided to Te Pūtahi Paoho to support the broadcasting needs of MTS; and
 - e. to approve the annual statement of intent of MTS, jointly with the Minister of Māori Affairs and the Minister of Finance.
13. Schedule 1 of the MTS Act 2003 sets out various provisions relating to the operations of Te Pūtahi Paoho. It consists of eleven members appointed by Māori language stakeholder organisations (which are prescribed in the MTS Act 2003). It receives an appropriation of \$131,000 per annum from Vote: Māori Affairs to undertake its business.

Problem Definition

The Health of the Māori Language

14. The health of the Māori language declined rapidly over the course of the 20th century. Since the 1970s, iwi and Māori have led a range of initiatives to revitalise the Māori language in education, broadcasting and whānau and iwi development. For its part, the Crown acknowledged that the Māori language is a taonga of Māori people in the Māori Language Act 1987, and accepted that it has an enduring obligation derived from the Treaty of Waitangi to take all reasonable steps to support its growth and development in conjunction with iwi and Māori. Despite these efforts by iwi and Māori, and by the Crown, the health of the Māori language remains fragile. The most recent Census results show that only 21% of Māori can speak Māori, down from 24% in 2006. This indicates that further efforts are required by the Crown and iwi and Māori to support the revitalisation of the Māori language, and measures must be focused on providing optimal support for the Māori language.

Recent Reviews of the Health of the Māori Language

15. Government efforts to support the Māori language have been coordinated through the MLS since the 1990s. It draws together various Māori language programmes and services, and confirms the roles and responsibilities of Te Taura Whiri, Te Māngai Pāho and MTS. There have been two reviews of the MLS in recent years: *Te Reo Mauriora*, produced by an independent panel that commissioned by the Minister of Māori Affairs, and *Ko Aotearoa Tēnei*, the Waitangi Tribunal report into the WAI 262 claim which included a chapter about the Māori language. These reviews highlighted various concerns about the design and implementation of the MLS, including the institutional arrangements for the Māori language entities within Vote: Māori Affairs. They emphasized two key principles: (a) the need to give practical effect to the leadership roles of iwi and Māori in the revitalisation of the Māori language, as envisaged by the Treaty of Waitangi; and (b) the need to provide for an enduring Crown commitment to the Māori language that supported iwi and Māori leadership but did not overpower it. The Waitangi Tribunal summarised its views as follows:

The language is clearly a taonga of quite transcendent importance to Māori, and few other taonga could rival its status ... Given the importance of this taonga to Māori, the Crown's protection of it clearly needs to accord with Māori preferences – and, indeed, be determined in large measure by Māori ideas. (WAI 262 Report, Volume 2: 442).

16. The reviews considered that current institutional arrangements for the Māori language entities within Vote: Māori Affairs were unsatisfactory because they did not give effect to these two key principles. These themes have been reinforced during recent consultation about the proposed MLS.

The two reviews made some specific recommendations about transferring the ownership of the Māori language entities to iwi and Māori¹.

17. Aspirations to strengthen iwi and Māori leadership within current institutional arrangements for the Māori language entities within Vote: Māori Affairs need to be balanced against the need to provide for enduring public accountability and to provide for the stewardship of public interests within these arrangements. Therefore, the key policy problem presenting is:

How can the Government give practical effect to the leadership role of iwi and Māori in the revitalisation of the Māori language, with specific regard to the Māori language entities, while maintaining appropriate provisions for enduring public accountability and the stewardship of public interests?

18. Te Puni Kōkiri has identified four broad options in response to this policy problem:

- a. maintaining the status quo;
- b. establishing Te Taura Whiri and Te Māngai Pāho as Crown-Māori Entities, based on the model of the Māori Television Service;
- c. transferring Te Taura Whiri and Te Māngai Pāho from the Crown to iwi and Māori, represented by an independent statutory entity, to be known as Te Mātāwai, with some standard machinery of government accountability mechanisms built into these arrangements; and
- d. transferring Te Taura Whiri and Te Māngai Pāho from the Crown to iwi and Māori, represented by a private entity.

19. In December 2013, Cabinet agreed that the Minister of Māori Affairs should undertake public consultation about option (c) above (CAB Min (13) 43/20 refers). This option is assessed in **Section A** below, and compared with the other options. For ease of reference, the proposed independent statutory entity is referred to as Te Mātāwai. It is described in more detail in *A New Māori Language Strategy Paper 2: Revised Arrangements for Māori Language Entities*, and in **Section C** below. It is necessary to

¹ *Te Reo Mauriora* recommended that all Māori language programmes and services across the public sector be transferred to Te Mātāwai. *Ko Aotearoa Tēnei* recommended that Te Taura Whiri be re-engineered as a Crown-Māori entity. I consider that it is appropriate for Te Mātāwai to assume ownership of the Māori language entities in Vote: Māori Affairs in the first instance. When it has developed its operating model, it may be appropriate to investigate opportunities for it to assume ownership and leadership of other Māori language programmes and services. I also consider that it is more effective and efficient for Te Taura Whiri to be fully transferred to iwi and Māori.

consider the issues discussed in Section A and Section B in light of the proposed arrangements for Te Mātāwai (and visa versa).

20. In addition, Cabinet also agreed that the Minister of Māori Affairs should consult on proposals to disestablish Te Pūtahi Paoho and replace it with Te Mātāwai. This gives rise to two options for consideration: maintaining the status quo in these arrangements, or disestablishing Te Pūtahi Paoho and replacing it with the proposed independent statutory entity. This is considered in **Section B** below.
21. Finally, it is necessary to give some thought to the optimal form of the entity to represent iwi and Māori interests. The Minister of Māori Affairs has proposed that this should be an independent statutory entity. We have also considered the concept of a Crown Entity or a private entity. This is considered in **Section C** below.

Objectives

22. In addressing each of three issues identified in paragraphs 19-21 above, Te Puni Kōkiri has drawn upon five objectives to guide its assessments. It has assessed each of the options against these objectives, using the following ranking: high; medium; low; nil. We have provided commentary to explain how a ranking was derived. The objectives are described in Table 2 below.

Table 2. Objectives for Assessing Options

Objectives	Commentary	Rankings
Support for the Māori language	<p>Does the proposed option support the growth and development of the Māori language? Does it support alignment with the MLS?</p> <p>This criterion is derived from the Crown's enduring obligation derived from the Treaty of Waitangi to take all reasonable steps to support its growth and development, in conjunction with iwi and Māori (CAB (97) M34/5b refers).</p>	<p>High = There is an effective service delivery arrangement for Māori language programmes. Programmes are connected to other components of the MLS and reflect the aspirations of iwi and Māori for the Māori language.</p> <p>Medium = There is an effective service delivery arrangement for Māori language programmes. Programmes are weakly connected to other components of the MLS, and do not directly reflect the aspirations of iwi and Māori for the Māori language.</p> <p>Low = There are weak service delivery arrangements for Māori language programmes. They are unconnected to other components of the MLS, and do not reflect iwi and Māori aspirations.</p> <p>Nil = There are no service delivery arrangements for Māori language programmes. They are unconnected to other components of the MLS and oppose iwi and Māori aspirations.</p>
Strengthen Crown-iwi and Māori relationships (Priority Objective)	<p>Does the proposed option strengthen Crown-iwi and Māori relationships?</p> <p>This criterion reflects a key theme in recent reviews of the MLS, and wider trends in Government engagement with iwi and Māori.</p>	<p>High = Iwi and Māori engage with the Crown on a regular and systematic basis. Iwi and Māori and the Crown make decisions jointly.</p> <p>Medium = Iwi and Māori are engaging with the Crown on a regular and systematic basis, and can inform decisions</p>

		<p>although final decision-making remains with the Crown.</p> <p>Low = Iwi and Māori engage with the Crown sporadically. Iwi and Māori have limited influence on decision-making.</p> <p>Nil = There is no engagement between iwi and Māori and the Crown. Iwi and Māori have no input into decision-making</p>
<p>Strengthen iwi and Māori leadership of Māori language issues</p> <p>(Priority Objective)</p>	<p>Does the proposed option strengthen iwi and Māori leadership of Māori language issues.</p> <p>This criterion reflects a key theme in recent reviews of the MLS, recognition that the Māori language is a taonga of iwi and Māori (as per the Māori Language Act 1987), that iwi and Māori are kaitiaki of their taonga, and iwi aspirations for the Māori language as expressed during the recent consultation round.</p>	<p>High = iwi and Māori set the direction for Māori language issues and programmes.</p> <p>Medium = iwi and Māori set the direction for Māori language issues and programmes, in conjunction with the Crown.</p> <p>Low = iwi and Māori inform the direction of Māori language issues and programmes, but this direction is set by the Crown.</p> <p>Nil = iwi and Māori have no input into the direction of Māori language issues and programmes.</p>
<p>Public Accountability</p>	<p>Does the proposed option provide sufficient public accountability for any funding provided by Government to the Māori language entities? Will the Government be able to purchase the Māori language programmes and services that it seeks at a fair price, with reasonable purchase conditions?</p>	<p>High = the provision of funding is based on clear and precise planning, implementation and reporting tools that are well-established in legislation. There are checks and balances at appropriate points. There are high levels of public scrutiny, culminating with accountability to Parliament.</p> <p>Medium = the provision of funding is based on well-established planning, implementation and reporting tools. There are fewer checks and balances, and less public scrutiny.</p> <p>Low = the provision of funding is based on ad hoc planning, implementation and reporting tools. There are no checks</p>

		<p>and balances, and limited public scrutiny.</p> <p>Nil = funding is provided through ad hoc instruments. There are no checks and balances and no opportunities for public scrutiny.</p>
Stewardship of Public Interests	Does the proposed option provide for the stewardship of public interests? Are there opportunities for the Government to intervene if there are clear and apparent governance and management failures, or in other extenuating circumstances?	<p>High = there are effective mechanisms for the Crown to intervene in the affairs of an entity if it considers intervention to be necessary. These mechanisms are supported by the force of legislation.</p> <p>Medium = there are mechanisms for the Crown to intervene in the affairs of an entity if it considers intervention to be necessary.</p> <p>Low = the Crown can intervene in the affairs of an entity through 'blunt instruments' (for example, withholding payment in contracts)..</p> <p>Nil = there are no opportunities for the Crown to intervene in the affairs of an entity.</p>

23. We have identified two priority criteria which should receive greater weighting (highlighted in Table 2 above). These priority criteria reflect: (a) the Māori language is a taonga of iwi and Māori; (b) recent reviews have highlighted the importance of strengthening the leadership roles of iwi and Māori over Māori language issues generally and the Māori language entities specifically and (c) the importance of locating Māori language issues within a wider framework of ongoing work to strengthen Crown-iwi and Māori relationships generally.

24. In addition, other costs and benefits are considered at various junctures, where relevant.

Section A: Optimal Entity Status Arrangements for Te Taura Whiri and Te Māngai Pāho.

Objectives

25. The aim of this RIS analysis is to determine the optimal entity status arrangements for Te Taura Whiri and Te Māngai Pāho. Four options have been identified:
- a. maintaining Te Taura Whiri and Te Māngai Pāho as Crown Entities (status quo);
 - b. maintaining Te Taura Whiri and Te Māngai Pāho as Crown Entities, but creating shared roles for the Minister of Māori Affairs and iwi and Māori (as represented by Te Mātāwai); or
 - c. transferring Te Taura Whiri and Te Māngai Pāho from the Crown to Te Mātāwai (which will be established as an independent statutory entity).
 - d. transferring Te Taura Whiri and Te Māngai Pāho to a private entity.
26. The analysis of these options is summarised in an 'A3' attached to this RIS.

Option A1: Maintaining Te Taura Whiri and Te Māngai Pāho as Crown Entities (Status Quo)

27. In this option, Te Taura Whiri and Te Māngai Pāho will remain as autonomous Crown Entities. Both entities will retain their current functions, and they will operate as per current arrangements. They will be appropriated funding directly through Vote: Māori Affairs, and be subject to planning and reporting requirements set out in the Crown Entities Act 2004. The Minister of Māori Affairs will continue to make governance appointments and oversee planning and accountability arrangements.
28. Iwi and Māori would have no direct role in governing or managing either entity. However it may be possible for iwi and Māori to have an advisory role to the Minister of Māori Affairs, and to tender advice for Ministerial consideration in relation to matters such as: (a) board appointments to Te Taura Whiri and Te Māngai Pāho; and (b) priorities for the purchase of programmes and services from Te Taura Whiri and Te Māngai Pāho.

29. This option should be considered in conjunction with **Option C1** below.

Option A1: Regulatory Impact Analysis

30. The current arrangements for Te Taura Whiri and Te Māngai Pāho provide mixed results in terms of the objectives that the Government is seeking

through this work. In terms of support for the Māori language, there are effective service delivery arrangements in place within existing planning and reporting frameworks that are well-established across the public sector. The direction of the programmes and services will remain well-connected to the Māori Language Strategy through ongoing Ministerial direction and monitoring by Te Puni Kōkiri. However, Māori language programmes and services will not directly reflect the aspirations of iwi and Māori for the Māori language, because iwi and Māori do not have opportunities to directly participate in setting the direction or operating model for the programmes and services. This is likely to provide medium-high levels of support for the Māori language. The current arrangements also provide high levels of public accountability and support for the stewardship of public interests, because they reflect existing models set out in the Crown Entities Act 2004. On the other hand, iwi and Māori have limited opportunities to provide oversight and direction for Te Taura Whiri and Te Māngai Pāho because these agencies are Crown Entities and all ownership functions are undertaken by the Minister of Māori Affairs. These arrangements also do not support Crown-iwi and Māori relationships because of the leading roles of the Crown, and the resulting limited opportunities for input from iwi and Māori.

31. In addition, this option would provide benefits associated with business continuity (that is, there would be no disruption to current arrangements).
32. Under this option whilst parliamentary and standard public sector financial accountability measures will be maintained, these will also be supplemented by greater accountability directly to iwi and Māori representatives (i.e. iwi and Māori appointees on Te Matawai). The proposed annual forum of MLS matters creates the opportunity for this accountability to be actualised in a meaningful way. Te Puni Kokiri considers this dual accountability will drive service improvements based more closely of the Māori language aspirations of Maori communities.

Criteria	Assessment
Support for the Māori Language	Medium-High
Strengthen Crown-iwi and Māori relationships	Low
Strengthen iwi and Māori leadership of Māori language issues	Low
Public Accountability	High
Stewardship of Public Interests	High

Option A2: shared Roles for the Minister of Māori Affairs and Te Mātāwai

33. In this option, Te Taura Whiri and Te Māngai Pāho would remain autonomous Crown Entities, and would continue to undertake their current functions. They will receive funding directly through appropriations within Vote: Māori Affairs, and be subject to planning and reporting requirements set out in the Crown Entities Act 2004. However, legislative amendments would provide for iwi and Māori (to be represented by a representative entity) to undertake various functions in conjunction with the Minister of Māori Affairs. For example, iwi and Māori would appoint the majority of

board members to Te Taura Whiri and Te Māngai Pāho, with the Minister of Māori Affairs appointing the remainder, and would have joint oversight of planning and accountability documents together with the Minister. This option will require changes to the Crown Entities Act 2004, the Māori Language Act 1987 and the Broadcasting Act 1989 to enable iwi and Māori to undertake various functions for Te Taura Whiri and Te Māngai Pāho in conjunction with the Minister of Māori Affairs.

Option A2: Regulatory Impact Analysis

34. This option provides satisfactory results in terms of the objectives that the Government is seeking through this work. The proposed arrangements provide for effective service delivery arrangements for Māori language programmes and services, because they will be undertaken within existing frameworks that are well-established across the public sector. These programmes and services will however be less connected to other components of the Māori Language Strategy, because the shared ownership arrangements may inhibit engagement between Te Taura Whiri and Te Māngai Pāho and other agencies. Iwi and Māori would have some opportunity to reflect their aspirations for the Māori language. This provides a *medium-high* assessment. The proposed arrangements provide for high levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis. Iwi and Māori and the Crown will have to make decisions jointly. However, there will be a medium-level of opportunities for iwi and Māori leadership because iwi and Māori will set the direction for Māori language issues and programmes in conjunction with the Crown. There will be high levels of public accountability, and high levels of stewardship of public interests because existing frameworks within the Crown Entities Act 2004 will continue to hold force.

35. This option would have the benefit of being based on an existing framework (that is, the model used for the Māori Television Service). There would be limited disruption to current arrangements, and Te Taura Whiri and Te Māngai Pāho would continue 'business as usual'. However a drawback is that this option does not readily accommodate iwi Māori social structures or broad linguistic regions. That is, while the option allows for provision of Māori representation on Te Mātāwai, the quantum of representative would not be reflective of major iwi dialectal areas, and could not readily match with iwi representative models of governance.

Criteria	Assessment
Support for the Māori Language	Medium-High
Strengthen Crown-iwi and Māori relationships	High
Strengthen iwi and Māori leadership of Māori language issues	Medium
Public Accountability	High
Stewardship of Public Interests	High

Option A3: Transfer of Te Taura Whiri and Te Māngai Pāho from the Crown to Te Mātāwai (an independent statutory entity)

36. In option A3, Te Taura Whiri and Te Māngai Pāho would cease to be Crown Entities subject to the Crown Entities Act 2004. They would become independent statutory entities that are subsidiaries to Te Mātāwai (which would also be established as an independent statutory entity). This would require the reconfirmation of the functions and powers of Te Taura Whiri and Te Māngai Pāho in stand-alone legislation (that is, a revised Māori Language Act), together with some specific legislative requirements that would 'export' key elements of the Crown Entities Act 2004 and the Broadcasting Act 1989 into stand-alone legislation. It would include the transfer of all staff and their existing public sector entitlements, and the gifting of current public equity in Te Taura Whiri and Te Māngai Pāho to Te Mātāwai (approximately \$3.3m as at 30 June 2013). Te Mātāwai would be made responsible for overseeing the activities of Te Taura Whiri and Te Māngai Pāho. This would include, among other things, making all future Board and Chief Executive appointments to the entities.
37. The Crown would contract with Te Taura Whiri and Te Māngai Pāho for the purchase of Māori language programmes and services, to the value of \$65m (in line with current expenditure on the programmes and services of these entities). This will require a tripartite negotiation between the Crown, Te Mātāwai, and Te Taura Whiri or Te Māngai Pāho. In this negotiation, the Crown would seek to purchase services that align with the MLS. This will require negotiation of the outputs to be delivered, the purchase price for these outputs, and how these outputs will be delivered. This approach would be different from the status quo, whereby funding is appropriated directly by Parliament for Te Taura Whiri and Te Māngai Pāho via Vote: Māori Affairs, and planning and reporting is undertaken through the framework of the Crown Entities Act 2004.
38. Te Puni Kōkiri considers that it will be important to retain tools to manage public accountability and the stewardship of public interests, and that these will need to be incorporated into the legislation that establishes Te Mātāwai and changes the status of Te Taura Whiri and Te Māngai Pāho. The Minister of Māori Affairs has proposed that an extensive suite of mechanisms to provide for public accountability and the stewardship of public interests are incorporated into this model (for example, a requirement for Te Mātāwai to provide an annual report to Parliament on behalf of Te Taura Whiri and Te Māngai Pāho, and 'reserve powers' for the Minister of Māori Affairs to appoint a statutory manager if required). The proposed accountability measures are described in detail in *A New Māori Language Strategy Paper 2: Revised Arrangements for Māori Language Entities*.
39. This option should be considered in conjunction with **Option C2** below.

Option A3: Regulatory Impact Analysis

40. This option provides positive results in terms of the objectives that the Government is seeking through this work (in particular, it scores well in terms of the priority objectives). The proposed arrangements provide for the effective service delivery arrangements for Māori language programmes, because it is intended that the current programmes and services delivered by Te Taura Whiri and Te Māngai Pāho are largely retained and delivered in the same way over the short-medium term. There will be some disruptions in the transition from current funding arrangements (appropriations from Parliament and planning and reporting within the framework of the Crown Entities Act 2004) to the proposed contracting model. The Māori language programmes and services to be provided by Te Taura Whiri and Te Māngai Pāho will be connected to other elements of the MLS through: (a) the contract negotiations that will be undertaken by Te Puni Kōkiri; (b) the coordinating role of Te Puni Kōkiri across the entire MLS and (c) the envisaged relationship between Te Mātāwai and the Minister of Māori Affairs. In addition, iwi and Māori aspirations for the Māori language can be directly reflected in the provision of programmes and services as these are developed over time. This provides a *high* assessment. The proposed arrangements provide for high levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis through contract negotiations and management, joint reporting and other shared arrangements. There will also be high levels of opportunities for iwi and Māori leadership because iwi and Māori will set the overall direction for Te Taura Whiri and Te Māngai Pāho. Te Puni Kōkiri considers that there will be high levels of public accountability and stewardship of public interests because there will be an extensive suite of bespoke mechanisms incorporated into the establishment legislation (many of these mechanisms will mirror arrangements in the Crown Entities Act 2004).
41. Under this option whilst parliamentary and standard public sector financial accountability measures will be maintained, these will also be supplemented by greater accountability directly to iwi and Māori representatives (i.e. iwi and Māori appointees on Te Matawai). The proposed annual forum of MLS matters creates the opportunity for this accountability to be actualised in a meaningful way. Te Puni Kōkiri considers this dual accountability will drive service improvements based more closely of the Māori language aspirations of Maori communities.
42. A further benefit of this option is that it retains strong alignment with previous Waitangi Tribunal findings in regards to the Crown's role in supporting the Māori language. That is, the Waitangi Tribunal has found that there is opportunity within the Māori language sector for greater Crown-iwi/Māori partnerships to be developed (WAI 11 and WAI 2224 refer). Such findings accord with the principle of partnership embedded within the Treaty relationship between the parties. In addition, an independent review panel (Te PaePae Motuhake) also recommended greater iwi-Māori partnership within the sector. Even the proposed name,

Te Mātāwai, responses to this request. Accordingly Te Puni Kōkiri considers that a further benefit of this option is that it further progresses the Crown's broader objective of resolving Treaty of Waitangi matters by strengthening partnership arrangements in this sector.

43. There are likely to be some operational costs associated with this option. In particular, it will be necessary to invest in and manage for business continuity during the transition from the current arrangements to the proposed model. This is offset to some extent by the proposed continuity of functions and form for Te Taura Whiri and Te Māngai Pāho. This option will be unique, and it make attract high levels of scrutiny on an ongoing basis, as a result. However, this cost will be offset by the benefits associated with giving meaningful effect to the leadership of iwi and Māori with regard to the Māori language entities.

Criteria	Assessment
Support for the Māori Language	High
Strengthen Crown-iwi and Māori relationships	High
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	High
Stewardship of Public Interests	High

Option A4: Transfer of Te Taura Whiri and Te Māngai Pāho to a Private Entity

44. In option A4, Te Taura Whiri and Te Māngai Pāho would cease to be Crown Entities subject to the Crown Entities Act 2004. They would become private entities that are subsidiaries to a private entity which would be established on behalf of iwi and Māori. The functions and powers of Te Taura Whiri and Te Māngai Pāho would be determined by iwi and Māori through the private entity, and it would be responsible for all board appointments and staffing matters as it saw fit. The Crown would gift current public equity in Te Taura Whiri and Te Māngai Pāho to Te Mātāwai (approximately \$3.3m as at 30 June 2013).
45. The Crown would purchase programmes and services from Te Taura Whiri and Te Māngai Pāho, to the value of \$65m (in line with current expenditure on the programmes and services of these entities). This will require a tripartite negotiation between the Crown, the iwi and Māori private entity, and Te Taura Whiri or Te Māngai Pāho. In this negotiation, the Crown would seek to purchase services that align with the MLS. This will require negotiation of the outputs to be delivered, the purchase price for these outputs, and how these outputs will be delivered. This approach would be different from the status quo, whereby funding is appropriated directly by Parliament for Te Taura Whiri and Te Māngai Pāho via Vote: Māori Affairs, and planning and reporting is undertaken through the framework of the Crown Entities Act 2004.
46. This option should be considered in conjunction with Option C3 below.

Option A4: Regulatory Impact Analysis

47. This option provides poor results in terms of the objectives that the Government is seeking through this work. It is likely that there will be some clear inefficiencies in the provision of Māori language programmes and services, because service delivery arrangements will have to be developed 'from scratch'. There will be limited opportunities for the Crown to ensure that the new arrangements for the delivery of programmes and services are the most effective and efficient, because they will be determined by a private entity. These programmes and services will be unconnected to other components of the MLS, because Te Taura Whiri and Te Māngai Pāho will be completely outside of the machinery of government. This provides for a *low* assessment in terms of support for the Māori language. The proposed arrangements provide for medium-low levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis, although this engagement will largely focus on contract negotiations. However, iwi and Māori will have high levels of leadership opportunities, because they will set the direction for Māori language issues and programmes. There will be low levels of public accountability because Te Taura Whiri and Te Māngai Pāho will be private entities, and there will be much less external probity than is the case for Crown Entities or statutory entities. This means that public accountability will have to be managed through blunt instruments (for example, contract management). There will be few or no opportunities for the Crown to intervene if this is required, because it will have no mandate for intervention.

Criteria	Assessment
Support for the Māori Language	Low
Strengthen Crown-iwi and Māori relationships	Medium-low
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	Low
Stewardship of Public Interests	Nil

Conclusion and Recommendation

48. Te Puni Kōkiri considers that the Government can best achieve its objectives in regards to Te Taura Whiri and Te Māngai Pāho if these entities are transferred from the Crown to Te Mātāwai (that is, Option A3).

49. This option provides the best balance between the various objectives. In particular, it provides the highest assessment in terms of the priority objectives of (a) strengthening Crown-iwi and Māori relationships and (b) strengthening iwi and Māori leadership of Māori language issues. It also provides high levels of public accountability and the stewardship of public interest through the proposed development of purpose-built tools, which will be included in legislation to manage these issues.

50. The status quo is unsatisfactory, because it rates poorly against the priority objectives. The option of shared ownership roles for the Crown and Te

Mātāwai rates well, and would be an acceptable alternative to the preferred option. The option of transferring ownership of Te Taura Whiri and Te Māngai Pāho to a private entity is unsatisfactory, because of the very poor rating achieved for public accountability and the stewardship of public interests.

Criteria	Option A1 Status Quo	Option A2 Shared Crown- Māori Ownership	Option A3 Te Mātāwai (Statutory Entity)	Option A4 Te Mātāwai (Private Entity)
Support for the Māori Language	Medium-High	Medium-High	High	Low
<i>Strengthen Crown-iwi and Māori relationships</i>	<i>Low</i>	<i>High</i>	<i>High</i>	<i>Medium-Low</i>
<i>Strengthen iwi and Māori leadership of Māori language issues</i>	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>High</i>
Public Accountability	High	High	High	Low
Stewardship of Public Interests	High	High	High	Nil
			Preferred	

Results of Public Consultation

51. Public consultation about the development of a new Māori Language Strategy was undertaken in February 2014. Feedback was received during seven regional consultation hui, and from 56 written submissions. Te Puni Kōkiri also undertook an analysis of media and other commentary by Māori language stakeholders during this period. There were mixed views among submitters about this proposal. There was considerable support from iwi organisations for transferring Te Taura Whiri and Te Māngai Pāho to Te Mātāwai. Other Māori language stakeholders considered that the status quo for Te Taura Whiri and Te Māngai Pāho should be retained, and that these agencies should be strengthened within existing arrangements to enable them to 'do the jobs that they were set up to do'.

Section B: Optimal Arrangements for Oversight of Māori Television Service.

Objectives

52. In terms of the optimal arrangements for oversight of the Māori Television Service, two options have been identified:

- a. retaining Te Pūtahi Paoho with its current roles and responsibilities alongside Te Mātāwai; or
- b. disestablishing Te Pūtahi Paoho, with its current roles and responsibilities to be undertaken by Te Mātāwai.

53. In both these options, we have assumed that Te Mātāwai will be established as an independent statutory entity that will represent iwi and Māori interests.

Option B1: Retaining Te Pūtahi Paoho

54. In this option, Te Pūtahi Paoho will be retained and continue with its current roles and responsibilities, as specified in the MTS Act 2003. This includes: making four of seven appointments to the board of the MTS (with the Ministers of Māori Affairs and Finance making the remaining three appointments); approving MTS' annual statement of intent and receiving its annual report (jointly with the Minister of Māori Affairs and Minister of Finance), and managing spectrum management rights provided to support the broadcasting needs of the Service. Te Pūtahi Paoho consists of eleven members appointed by Māori language stakeholder organisations (which are prescribed in the MTS Act 2003).

55. These functions will be carried out alongside Te Mātāwai. Te Mātāwai would have no direct relationship with either the Māori Television Service or Te Pūtahi Paoho.

Option One: Regulatory Impact Assessment

56. The current arrangements for MTS provide positive results in terms of the objectives that the Government is seeking through this work. These arrangements provide for effective service delivery arrangements for Māori language programmes and services, because they will be undertaken within existing frameworks that are well-established. The direction of the programmes and services will remain well-connected to the Māori Language Strategy through ongoing Ministerial oversight and monitoring by Te Puni Kōkiri. However, there may be some duplication and role-confusion between Te Pūtahi Paoho and the proposed representative iwi and Māori entity (Te Mātāwai). In addition, Te Pūtahi Paoho is not able to reflect the aspirations of iwi for the Māori language, because iwi are not represented on Te Pūtahi Paoho. This is likely to provide *medium-high* levels of support for the Māori language. There is an established

framework for Crown and Māori relationships that requires the responsible Ministers and Te Pūtahi Paoho to undertake various functions in tandem. This is set out in the Māori Television Service Act 2003. This also provides some opportunities for Māori to provide leadership of MTS. There is, however, no iwi representation on Te Pūtahi Paoho which limits the ability of iwi to provide leadership or engage with the Crown. These factors provide for medium-high ratings in terms of Crown-iwi and Māori relationships and strengthening iwi and Māori leadership. The current arrangements also provide high levels of public accountability, because there are clearly established checks and balances in place in the Māori Television Service Act 2003. In addition, the arrangements for the stewardship of public interests are purpose-built mechanisms that require agreement from the responsible Ministers and Te Pūtahi Paoho jointly.

Criteria	Assessment
Support for the Māori Language	Medium-High
Strengthen Crown-iwi and Māori relationships	Medium-High
Strengthen iwi and Māori leadership of Māori language issues	Medium-High
Public Accountability	High
Stewardship of Public Interests	High

Option B2: Disestablishing Te Pūtahi Paoho and replacing its functions with Te Mātāwai.

57. Under this option, Te Pūtahi Paoho will be disestablished and Te Mātāwai would be empowered to undertake all of its functions. This includes: making four of seven appointments to the board of the MTS (with the Ministers of Māori Affairs and Finance making the remaining three appointments); approving MTS' annual statement of intent and receiving its annual report (jointly with the Minister of Māori Affairs and Minister of Finance), and managing spectrum management rights provided to support the broadcasting needs of the Service.

58. This option should be considered in conjunction with **Option C2** below.

Option B2: Regulatory Impact Assessment

59. This option will provide positive results in terms of the objectives that the Government is seeking through this work. The proposed arrangements provide for effective service delivery arrangements for Māori language programmes, because it is intended that the current programmes and services delivered by MTS are largely retained over the short-medium term. These programmes and services will be directly connected to other elements of the MLS through: (a) the contract negotiations that will be undertaken by Te Puni Kōkiri; (b) the coordinating role of Te Puni Kōkiri across the entire MLS and (c) the envisaged relationship between Te Mātāwai and the Minister of Māori Affairs. In addition, both iwi and Māori aspirations for the Māori language can be directly reflected, via Te Mātāwai. This provides a *high* assessment. This option will build on an established framework for Crown-iwi and Māori relationships, and the

responsible Ministers and Te Mātāwai will undertake various functions in tandem. The proposed composition of Te Mātāwai will ensure that iwi interests are represented, alongside Māori language stakeholders². This provides a *high* assessment. There will also be opportunities for iwi and Māori to provide leadership of MTS, although this will be undertaken in conjunction with the responsible Ministers in the context of MTS (providing a medium-high assessment).

60. This option provides high levels of public accountability, because there are clearly established checks and balances in place in the Māori Television Service Act 2003 that will be retained. In addition, current arrangements for the stewardship of public interests will be retained, and enhanced by other purpose-built mechanisms that specify the relationship between Te Mātāwai and the Minister of Māori Affairs.

61. In addition, this option creates potential risks for the reduction of competition in Māori television broadcasting. Te Mātāwai will have oversight of Te Māngai Pāho (which provides funding for Māori television broadcasting) and the Māori Television Service (the principal provider of Māori television broadcasting). This has the potential to restrict opportunities for other Māori language television programme makers and broadcasters to access funding from Te Māngai Pāho. To manage this, the Minister of Māori Affairs has proposed that: (a) existing provisions in the Broadcasting Act 1989 about how Te Māngai Pāho must undertake its business will continue to apply; (b) Te Mātāwai is prevented from giving direction to Te Māngai Pāho about particular funding decisions and (c) Te Puni Kōkiri undertakes an annual audit of the provision of funding by Te Māngai Pāho, to ensure that transparent, objective and fair procedures have been used at all times.

Criteria	Assessment
Support for the I Language	High
Strengthen Crown-iwi/I relationships	High
Strengthen iwi/I leadership of I language issues	Medium-High
Public Accountability	High
Stewardship of Public Interests	High

Conclusion and Recommendation

62. Te Puni Kōkiri considers that the Government can best achieve its objectives in regards to the oversight and direction of MTS if Te Pūtahi Paoho is disestablished, and its current ownership functions are transferred to Te Mātāwai (that is, Option B2).

² It is proposed that Te Mātāwai will include: seven members appointed by iwi; three members appointed by Māori language stakeholders and two members appointed by the Crown. This is described further in *A New Māori Language Strategy Paper 2: Revised Ownership Arrangements for Māori Language Entities*.

63. This option provides the best balance between the various objectives. In particular, it provides high assessment in terms of support for the Māori language and the priority objective of strengthening Crown-iwi and Māori relationships. It also provides a medium-high level of iwi and Māori leadership, and high levels of public accountability and stewardship of public interest through the proposed implementation of purpose-built tools to manage these.
64. The status quo would provide a satisfactory alternative to the preferred option, although it does provide only a medium assessment against the objective of support for the Māori language.

Criteria	Option B1 Retain Te Pūtahi Paoho	Option B2 Replace Te Pūtahi Paoho with Te Mātāwai
Support for the Māori Language	Medium	High
Strengthen Crown-iwi and Māori relationships	Medium-High	High
Strengthen iwi and Māori leadership of Māori language issues	Medium-High	Medium-High
Public Accountability	High	High
Stewardship of Public Interests	High	High
		Preferred

Results of Public Consultation

65. There was limited comment about the proposal to disestablish Te Pūtahi Paoho and replace it with Te Mātāwai during public consultation. However, some member organisations expressed strong disagreement about the proposals, and one (the New Zealand Māori Council) has threatened litigation in the Waitangi Tribunal.

Section C: The Optimal Legal Form of Te Mātāwai.

Objective

66. The aim of this RIS analysis is to determine an optimal legal form of an entity to undertake various functions with regard to Māori language entities on behalf of iwi and Māori (to be known as Te Mātāwai)³.

67. Three options have been considered:

- a. establishing Te Mātāwai as a Crown Entity;
- b. establishing Te Mātāwai as an independent statutory entity; and
- c. establishing Te Mātāwai as a private entity.

68. In each of these options, it will be necessary to provide some funding to Te Mātāwai (approximately \$2m) to undertake its various functions. The Minister of Māori Affairs has indicated that this funding will be absorbed within existing baselines within Vote: Māori Affairs.

Option C1: Establishing Te Mātāwai as a Crown Entity

69. In this option, Te Mātāwai would be established as a Crown Entity. Its form, functions, funding and accountability arrangements, and other operating parameters, would reflect provisions within the Crown Entities Act 2004. Te Taura Whiri and Te Māngai Pāho would be positioned as subsidiaries of Te Mātāwai, and they would continue to be Crown Entities. The Minister of Māori Affairs would make appointments to Te Mātāwai, based on recommendations from iwi and Māori.

70. This option should be considered in conjunction with **Option A1** above.

Option C1: Regulatory Impact Analysis

71. In terms of support for the Māori language, this approach will provide effective service delivery arrangements, that is, service delivery will be undertaken within the context of existing planning and reporting frameworks that are well-established across the public sector. The direction of the programmes and services will remain well-connected to the Māori Language Strategy through ongoing Ministerial direction and monitoring by Te Puni Kōkiri. However, Māori language programmes and services will not directly reflect the aspirations of iwi and Māori for the Māori language, because the Minister of Māori Affairs would be responsible for appointing members to Te Mātāwai (albeit based on advice from iwi and Māori). In addition, there will be confused relationships between Te Mātāwai and Te Taura Whiri and Te Māngai Pāho if all three are Crown

³ For further information about the proposed shape and operating arrangements of Te Mātāwai, refer *A New Māori Language Strategy Paper 2: Revised Ownership Arrangements for Māori Language Entities*.

Entities, resulting in risks of 'double-handling' of funding and lack of clarity about accountability. On this basis, this option provides a medium level of support for the Māori language. This option would provide low levels of support for (a) strengthening Crown-iwi and Māori relationships and (b) strengthening iwi and Māori leadership of Māori language issues. The forms and functions of Te Mātāwai would be determined by the Crown, appointments to Te Mātāwai would be made by the Crown (albeit, based on recommendations from iwi and Māori), and the Crown would be directly responsible for administering the funding and performance of Te Mātāwai. Iwi and Māori would be able to provide advice, but overall decision-making would ultimately reside with the Crown. On the other hand, there will be high levels of public accountability through well-established tools. There are also several mechanisms within the Crown Entities Act 2004 for the Crown to intervene in the event of governance and management failure, and this provides a high assessment in terms of the stewardship of public interests.

72. This option would create confusion about the roles and relationships of Te Mātāwai with regard to Te Taura Whiri and Te Māngai Pāho.

Criteria	Assessment
Support for the Māori Language	Medium
Strengthen Crown-iwi and Māori relationships	Low
Strengthen iwi and Māori leadership of Māori language issues	Low
Public Accountability	High
Stewardship of Public Interests	High

Option C2: Establishing Te Mātāwai as an Independent Statutory Entity.

73. In this option, Te Mātāwai would be established as an independent statutory entity within a revised Māori Language Act. It would be necessary to specify form, functions and other operating parameters for Te Mātāwai within the revised legislation. Te Mātāwai would not be subject to the Crown Entities Act 2004. It would be necessary to disestablish Te Taura Whiri and Te Māngai Pāho as Crown Entities, and establish them as independent statutory entities that are subsidiaries of Te Mātāwai. It will also be necessary to specify the form, functions and other operating parameters of Te Taura Whiri and Te Māngai Pāho in legislation. Iwi would appoint seven members to Te Mātāwai, Māori language stakeholders would appoint three members, and the Minister of Māori Affairs would appoint two members on behalf of the Crown.

74. This option should be considered in conjunction with Option A3 above.

Option Two: Regulatory Impact Analysis

75. This option provides positive results in terms of the objectives that the Government is seeking through this work (in particular, it scores well in terms of the priority objectives). The proposed arrangements provide effective service delivery arrangements for Māori language programmes

and services, because (a) the current programmes and services delivered by Te Taura Whiri and Te Māngai Pāho would be retained, and there would be some specific planning, reporting and accountability requirements to support the effectiveness of service delivery. The Māori language programmes and services to be provided by Te Taura Whiri and Te Māngai Pāho will be connected to other elements of the MLS through: (a) the contract negotiations that will be undertaken by Te Puni Kōkiri; (b) the coordinating role of Te Puni Kōkiri across the entire MLS; and (c) the envisaged relationship between Te Mātāwai and the Minister of Māori Affairs. In addition, this option will ensure that iwi and Māori aspirations for the Māori language are reflected in the provision of programmes and services. This provides a *high* assessment in terms of support for the Māori language.

76. The proposed arrangements provide for high levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis, at a range of levels (for example, appointment of members to Te Mātāwai; consultation on overall direction; reporting; and opportunities for regular engagement on Māori language issues). There will also be high levels of opportunities for iwi and Māori leadership because iwi and Māori will set the overall direction for Te Mātāwai and its subsidiaries. There will be high levels of public accountability, and high levels of stewardship of public interests because there will be (a) Crown membership of Te Mātāwai and (b) several purpose-built mechanisms to manage public accountability that will have the force of legislation to support them.

Criteria	Assessment
Support for the Māori Language	High
Strengthen Crown-iwi and Māori relationships	High
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	High
Stewardship of Public Interests	High

Option C3: Establishing Te Mātāwai as a Private Entity

77. In this option, Te Mātāwai would be established as a private entity. It would not be subject to legislation, but would be governed by the terms and conditions of its establishment instruments (for example, a trust deed). In addition, Te Taura Whiri and Te Māngai Pāho would cease to be Crown Entities. Te Mātāwai would reconfigure these entities as subsidiary private entities, in the form that it considered to be most appropriate. In this option, iwi and Māori would determine the form and functions of Te Mātāwai, and Te Taura Whiri and Te Māngai Pāho. Iwi and Māori would also appoint the board members to Te Mātāwai, and Te Mātāwai would in turn appoint members to Te Taura Whiri and Te Māngai Pāho. The Crown would purchase Māori language programmes and services from Te Taura Whiri and Te Māngai Pāho through a tripartite negotiation between the Crown, Te Mātāwai and Te Taura Whiri or Te Māngai Pāho. The Crown will have

no insight into the form, functions and other operating parameters of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho.

78. This option should be considered in conjunction with **Option A4** above.

Option C3: Regulatory Impact Analysis

79. In this option, the Crown will have limited opportunity to specify how Māori language programmes and services should be delivered by Te Mātāwai, Te Taura Whiri and Te Māngai Pāho. It will only be able to monitor the delivery of programmes and services through contract management, and will have less opportunity to manage how these programmes and services should be priced. These factors are likely to impact negatively on the effectiveness of service provision of Māori language spend. There will be no connections to other aspects of the Māori Language Strategy, because Te Mātāwai will have a limited relationship with government. This provides a medium-low assessment with regard to *Support for the Māori Language*.

80. In this option, leadership of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho will reside exclusively with iwi and Māori, providing a high assessment of this objective. On the other hand, there will be limited Crown-iwi/Māori relationships, with the Crown positioned solely as a purchaser of programmes and services. There will be much less external probity that is the case for Crown Entities or the proposed statutory entity (set out in Option C2 above). This means that public accountability will have to be managed through blunt instruments (for example, contract management). There will be few or no opportunities for the Crown to intervene to protect the public interest if this is required, because it will have no mandate for intervention in a private entity.

Criteria	Assessment
Support for the Māori Language	Medium-Low
Strengthen Crown-iwi and Māori relationships	Low
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	Low
Stewardship of Public Interests	Nil

Conclusion and Recommendation

81. Te Puni Kōkiri considers that the Government can best achieve its objectives in regards to establishing Te Mātāwai if the entity is established as an independent statutory entity. This option balances the various objectives, and best achieves the priority objectives of strengthening Crown-iwi and Māori relationships and strengthening iwi and Māori leadership of Māori language issues.

82. Te Puni Kōkiri considers that establishing Te Mātāwai as a Crown Entity is unsatisfactory, because it rates poorly against the priority objectives. The option of establishing Te Mātāwai as a private entity is unsatisfactory,

because of the very poor ratings achieved for public accountability and the stewardship of public interests.

Criteria	Option 1 Crown Entity	Option 2 Independent Statutory Entity	Option 3 Private Trust
Support for the Māori Language	Medium-High	High	Medium-low
<i>Strengthen Crown-iwi and Māori relationships</i>	<i>Low</i>	<i>High</i>	<i>Low</i>
<i>Strengthen iwi and Māori leadership of Māori language issues</i>	<i>Low</i>	<i>High</i>	<i>High</i>
Public Accountability	High	High	Low
Stewardship of Public Interests	High	High	Nil
		Preferred	

Implementation Plan

83. Te Puni Kōkiri has not had the opportunity to develop a detailed implementation plan for the preferred options in the available time. Te Puni Kōkiri considers that further work is required to develop the implementation plan. A general overview of implementation is provided below.
84. Pending confirmation of policy decisions by Cabinet, Te Puni Kōkiri will prepare drafting instructions for the Parliamentary Counsel Office for amendments to the Māori Language Act 1987 to give effect to the preferred options. A Māori Language Amendment Bill has been included in the Legislation Programme for 2014 with a priority 3 (to be passed if possible in the current year). The Minister of Māori Affairs has indicated that he seeks to introduce the necessary legislation in July 2014, to be followed by a first reading before the House rises for the 2014 General Election. Following the resumption of Parliament, the Minister of Māori Affairs intends that the legislation be enacted in 2015. It is expected that the legislation will include a significant level of detail about the functions, form and operating parameters of Te Mātāwai and a reconfigured Te Taura Whiri and Te Māngai Pāho. In addition, the Minister of Māori Affairs has proposed to establish a small group of iwi and Māori language experts to provide a 'sounding board' for the details that will be required to underpin the agreed options.
85. Following enactment, the iwi, Māori and Crown appointment process for Te Mātāwai will be activated. It is expected that the initial appointment process will take no longer than three months. Following appointment of the initial members of Te Mātāwai, Te Puni Kōkiri will facilitate an induction process for these members. Following that, Te Mātāwai will appoint a chief executive and undertake work to prepare various planning documents (in particular, a statement of its strategic direction over a 3-5 year window, and its operating directions for Te Taura Whiri and Te Māngai Pāho). The new arrangements for Te Taura Whiri and Te Māngai Pāho will commence on 1 July in the year following the establishment of Te Mātāwai.
86. During this transition period, the current board members of Te Taura Whiri, Te Māngai Pāho and MTS will remain in place, and the Crown will continue to purchase the current Māori language programmes and services from these entities. In short, it will be 'business as usual' for these entities until Te Mātāwai is established and positioned to assume its functions.

Monitoring, Evaluation and Review

87. It is proposed that a 'first principles' review of the preferred options be undertaken after three years (that is, three years from the enactment of the necessary legislation). This will provide for consideration of the impact of these arrangements on the objectives that are sought. It is expected that Te Mātāwai will lead this review, but the Government will be closely involved in the development of the terms of reference for the review, the

selection of the review team, and the assessment of the review findings. The establishment of Te Mātāwai as an independent statutory entity will enable future Parliaments to make changes to these arrangements based on the review, or as they otherwise see fit.

88. In addition, it is proposed that Te Mātāwai be required to prepare and publish its strategic direction and operating intentions on an annual basis, in consultation with the Minister of Māori Affairs. It will also be required to submit an annual report to Parliament, and Te Puni Kōkiri will prepare a stand-alone report to Parliament about the services purchased from Te Mātāwai, Te Taura Whiri and Te Māngai Pāho as an adjunct to its annual report. It is also proposed that Te Mātāwai be subject to the Ombudsmen Act 1975 and the Official Information Act 1982.
89. Finally, it is proposed that the Minister of Māori Affairs retains some 'reserve powers' to appoint board advisors or a statutory manager if circumstances require it (the particular circumstances will be specified in the necessary legislation).