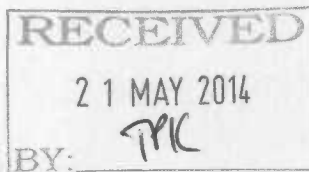




# Cabinet

CAB Min (14) 17/13



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## Minute of Decision

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### A New Maori Language Strategy: Revised Ownership Arrangements for Maori Language Entities (Paper 2)

Portfolio: Maori Affairs

On 19 May 2014, following reference from the Cabinet Social Policy Committee, Cabinet:

#### Background

- 1 **noted** that on 19 May 2014, Cabinet agreed to a new Maori Language Strategy [CAB Min (14) 17/12];
- 2 **noted** that in April 2014, Cabinet invited the Minister to convene a group of Ministers comprising the Leader of the House, the Minister of Education, the Minister for Treaty of Waitangi Negotiations, and the Minister of State Services, in consultation with other relevant portfolio Ministers, to:
  - 2.1 give further consideration to the overall proposals and the next steps;
  - 2.2 further develop the proposal to create an establishment board for Te Matawai, including the terms of reference, timeframe and membership;
  - 2.3 report back to Cabinet on the next steps in respect of the proposals;

[CAB Min (14) 14/12-13]

#### Establishing Te Matawai

- 3 **agreed** to establish an independent statutory entity, to be known as Te Matawai, by way of amendment to the Maori Language Act 1987;
- 4 **agreed** that the purpose of Te Matawai be as follows:

“Te Matawai will be an agent of iwi and Maori. It will provide leadership for the kaitiakitanga of iwi and Māori with regard to the health and wellbeing of the Maori language. It will give practical effect to this leadership through its direction and oversight of Te Taura Whiri i te Reo Maori and Te Mangai Paho. It will provide direction and oversight for MTS in conjunction with the Minister of Maori Affairs and the Minister of Finance. It will maintain a close working relationship with the Minister of Maori Affairs to give effect to the Crown-iwi and Maori relationship envisaged within the Treaty of Waitangi”;

- 5 **agreed** that Te Matawai undertake the following functions:
- 5.1 the preparation and publication of directions to Te Taura Whiri i te Reo Maori and Te Mangai Paho about the overall direction of these entities;
  - 5.2 the appointment, reappointment, and removal of all members of the board of Te Taura Whiri i te Reo Maori;
  - 5.3 the appointment, re-appointment, and removal of all members of the board of Te Mangai Paho;
  - 5.4 the appointment, re-appointment, and removal of four of the seven members of the board of the Maori Television Service (MTS);
  - 5.5 confirmation of the services to be delivered by Te Taura Whiri i te Reo Maori and Te Mangai Paho (not including specific funding decisions);
  - 5.6 negotiation and confirmation of contract instruments with the Crown (via Te Puni Kokiri) for the purchase and delivery of Maori language programmes and services from Te Taura Whiri i te Reo Maori and Te Mangai Paho;
  - 5.7 confirmation of the statement of intent of MTS, jointly with the Minister and the Minister of Finance;
  - 5.8 management of the spectrum management rights in line with the provisions of the Maori Television Service Act 2003;
  - 5.9 any and all other functions currently undertaken by Te Putahi Paoho, as set out in the Maori Television Service Act 2003;
  - 5.10 the provision of advice to the Minister about Maori language issues, including advice on updating and developing the Maori Language Strategy (the Strategy) on a three year cycle;
  - 5.11 other functions that may be required to give effect to its purpose statement;

### **Implications for Te Taura Whiri and Te Mangai Paho**

- 6 **agreed** that Te Taura Whiri i te Reo Maori cease to be a Crown entity, by way of amendment to Part 2 of Schedule 1 of the Crown Entities Act 2004;
- 7 **agreed** that Te Mangai Paho cease to be a Crown entity, by way of amendment to Part 2 of Schedule 1 of the Crown Entities Act 2004;
- 8 **agreed** that Te Taura Whiri i te Reo Maori be re-established as a statutory entity overseen by Te Matawai;
- 9 **agreed** that Te Mangai Paho be re-established as a statutory entity that is overseen by Te Matawai;
- 10 **agreed** that the functions of Te Taura Whiri i te Reo Maori be “to take steps to give effect to the status of Maori as an official language and promote the Maori language, and, in particular, its use as a living language and as an ordinary means of communication”;

- 11 **agreed** that the function of Te Mangai Paho be “to promote Maori language and Maori culture by making funding available, on such terms and conditions as it thinks fit, for broadcasting and the production of programmes to be broadcast”;
- 12 **agreed** that Te Taura Whiri i te Reo Maori and Te Mangai Paho retain such powers as are necessary to give effect to their respective functions;
- 13 **agreed** to transfer the relevant provisions from the Broadcasting Act 1989, as they relate to the powers of Te Mangai Paho, to the Mori Language Amendment Bill;
- 14 **agreed** that Te Matawai be prevented from giving direction to Te Mangai Paho, MTS, 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 Maori Television Service and Te Putahi Paoho**

- 15 **agreed** to disestablish Te Putahi Paoho by way of amendments to the Maori Television Service Act 2003;
- 16 **agreed** to transfer all of the roles, responsibilities, functions, and assets and liabilities currently held by Te Putahi Paoho to Te Matawai by way of amendments to the Maori Television Service Act 2003;

### **Appointments to Te Matawai**

- 17 **agreed** that Te Matawai comprise 12 members;
- 18 **agreed** that seven members of Te Matawai be appointed by seven regional clusters of iwi (that is, each regional cluster will appoint one member to Te Matawai);
- 19 **agreed** that, for the purposes of Te Matawai, an “iwi” will be an entity with one or more of the following characteristics:
  - 19.1 a mandated iwi organisation under the Maori Fisheries Act 2004;
  - 19.2 a body that has been established through the settlement of Treaty of Waitangi claims as a post-settlement governance entity;
  - 19.3 a body that has been confirmed by the Crown as holding a mandate for purposes of negotiating Treaty of Waitangi claims;
- 20 **agreed** that the seven regional clusters of iwi be grouped as follows:
  - 20.1 Taitokerau;
  - 20.2 Tainui;
  - 20.3 Mataatua;
  - 20.4 Te Arawa;
  - 20.5 Te Tairāwhiti;
  - 20.6 Te Taihauāuru;

- 20.7 Te Waipounamu;
- 21 **noted** that the various iwi proposed to be included within each regional cluster are listed in Appendix 3 to the paper under CAB (14) 248;
- 22 **agreed** that three members of Te Matawai are to be appointed by a Maori language stakeholders group, to be known as Te Reo Tukutuku;
- 23 **agreed** that Te Reo Tukutuku consist of:
- 23.1 Te Kohanga Reo National Trust;
  - 23.2 Te Runanganui o nga Kura Kaupapa Maori;
  - 23.3 Te Ringa Raupa o Nga Kura-a-Iwi;
  - 23.4 Te Tauihu o nga Wananga;
  - 23.5 Te Ataarangi;
  - 23.6 Te Whakaruruhau o nga Reo Irirangi Maori o Aotearoa;
  - 23.7 Nga Aho Whakaari;
  - 23.8 Nga Kaiwhakapumau i te Reo Maori;
  - 23.9 Maori Women's Welfare League;
  - 23.10 Te Huarahi Tika Trust;
- 24 **agreed** that each regional cluster and the Maori language stakeholders group be responsible for determining their own processes for appointing members to Te Matawai, and for meeting their own costs;
- 25 **agreed** that the regional clusters and the Maori language stakeholder group will cease to exist when they have completed their sole function of appointing members to Te Matawai, but that they may reconvene from time to time for the purpose of appointing and reappointing members;
- 26 **agreed** that, if any of the regional clusters or the Maori language stakeholders group is unable to make an appointment for any reason, the Minister may make these appointments;
- 27 **agreed** that the Minister appoint two members to Te Matawai on behalf of the Crown;
- 28 **noted** the Minister will discuss the persons to be appointed to the board with the chair and deputy chair of Te Matawai, with a view to ensuring that the board contains members with the appropriate mix of knowledge, skills, and experience to assist Te Matawai to achieve its objectives and perform its functions;
- 29 **agreed** that the Minister may remove the Crown members of Te Matawai 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 **agreed** that Te Matawai be responsible for determining its process to appoint its chair and a deputy chair from among its members;

**Appointments to Te Taura Whiri, Te Mangai Paho, and the Maori Television Service**

- 31 **agreed** that Te Matawai be responsible for its own processes to appoint, re-appoint, and remove members to Te Taura Whiri i te Reo Maori, Te Mangai Paho, and MTS;
- 32 **agreed** that Te Matawai must advise the Minister on an annual basis about the processes that it has adopted for appointments, re-appointments and removals and the current membership of Te Taura Whiri i te Reo Maori, Te Mangai Paho, and MTS;
- 33 **agreed** to decrease the number of appointments to Te Mangai Paho, from seven to five;
- 34 **agreed** that Te Matawai may not appoint persons to Te Taura Whiri i te Reo Maori, Te Mangai Paho, or the MTS who would otherwise be disqualified by section 30 of the Crown Entities Act 2004;
- 35 **agreed** that Te Matawai may not appoint its own members to Te Taura Whiri i te Reo Maori, Te Mangai Paho, or MTS;

**Terms of office, duties, and remuneration**

- 36 **agreed** that members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho may be appointed for terms of three years;
- 37 **agreed** that members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho may be re-appointed from time to time, but that members cannot serve more than three consecutive terms;
- 38 **agreed** that members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho will continue to hold office until they are re-appointed, or formally notified that their membership has concluded;
- 39 **agreed** that members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho may resign at any time by giving written notice to Te Matawai;
- 40 **agreed** that members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho will be considered to have vacated their office if they die, or are adjudged bankrupt under the Insolvency Act 2006;
- 41 **agreed** to reflect in legislation similar provisions to those contained in the Crown Entities Act 2004 governing:
- 41.1 the individual duties of members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho;
  - 41.2 the collective duties of members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho;
  - 41.3 arrangements for the management of conflicts of interest among members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho;
- 42 **agreed** that members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho be entitled to receive fees at a rate and of a kind determined jointly by the responsible Minister and the chairperson of Te Matawai, in accordance with the appropriate fees framework determined by the government;

- 43 **agreed** that members of Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho be entitled to receive reimbursement of actual and reasonable expenses incurred in the performance of their duties;

#### **Appointment of Crown advisors**

- 44 **agreed** that the Minister be able, in certain circumstances, to appoint up to two Crown advisors to Te Taura Whiri i te Reo Maori and Te Mangai Paho;
- 45 **agreed** that these Crown advisors have the necessary powers to investigate and report on matters including:
- 45.1 situations where Te Taura Whiri i te Reo Maori or Te Mangai Paho has not, or is not likely to be able to, fulfil commitments as stipulated in the purchase agreement with Te Puni Kokiri;
  - 45.2 situations in which, in the Minister's sole opinion, the public confidence in Te Taura Whiri i te Reo Maori or Te Mangai Paho has been brought in disrepute through the acts of the entity, including its board or staff;
  - 45.3 other situations in which the Chair of Te Taura Whiri i te Reo Maori or Te Mangai Paho requests that Crown advisors be appointed;

#### **Appointment of Statutory Managers**

- 46 **agreed** that the Minister be able, in certain circumstances and as an instrument of last resort, appoint a Statutory Manager to Te Taura Whiri i te Reo Maori or Te Mangai Paho;
- 47 **agreed** that the Statutory Manager would have powers to make all decisions instead of the board of Te Taura Whiri i te Reo Maori and Te Mangai Paho, and to retain or remove any or all board members;
- 48 **agreed** that the circumstances where a Statutory Manager would be appointed include, but not be limited to:
- 48.1 situations where an entity has, in the opinion of the Minister, significantly failed to deliver on the purchase agreement with Te Puni Kokiri, or is likely to do so;
  - 48.2 situations where there are 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
  - 48.3 situations when the board itself, or the Te Matawai board, requests that the Minister appoint a Statutory Manager;

#### **Other measures to maintain public accountability**

- 49 **agreed** that Te Matawai be required to prepare and publish a statement of strategic direction and operating intentions on an annual basis, following consultation with the Minister;
- 50 **agreed** that Te Matawai be required to submit an annual report to the Minister, who will table that report in Parliament, about its activities, including its oversight of Te Taura Whiri i te Reo Maori, Te Mangai Paho, and MTS;

- 51 **agreed** that Te Puni Kokiri, on behalf of the Crown, will negotiate an annual contract for the purchase of Maori language programmes and services that align with the overall Strategy from Te Taura Whiri i te Reo Maori and Te Mangai Paho, following tripartite negotiations with Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho;
- 52 **agreed** that Te Puni Kokiri provide separate reporting about services purchased from Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho;
- 53 **agreed** that Te Matawai, Te Taura Whiri i te Reo Maori, Te Mangai Paho, and MTS be subject to the Ombudsmen Act 1975 and the Official Information Act 1982;

#### **Operating arrangements for Te Matawai**

- 54 **agreed** that Te Matawai 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;
- 55 **agreed** that Te Matawai 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;
- 56 **invited** the Minister of Maori Affairs to recommend to Te Matawai that it develop memoranda of understanding with Te Puni Kokiri, Te Taura Whiri i te Reo Maori, Te Mangai Paho, and MTS;
- 57 **agreed** that Te Matawai:
- 57.1 may appoint a chief executive, who shall not be a member of Te Matawai;
  - 57.2 may delegate the power to the chief executive to appoint any other employees that he or she thinks necessary for the efficient performance of its functions;
  - 57.3 may determine the terms and conditions of employment of the chief executive, in consultation with the State Services Commission (SSC);
  - 57.4 must operate a personnel policy that complies with the principle of being a good employer;

#### **Operating arrangements for Te Taura Whiri i te Reo Maori and Te Mangai Paho**

- 58 **agreed** that Te Taura Whiri i te Reo Maori and Te Mangai Paho must each provide a statement of intent to Te Matawai on an annual basis, and that Te Matawai must approve these statements of intent by 20 July in each year;
- 59 **agreed** that Te Taura Whiri i te Reo Maori and Te Mangai Paho must provide quarterly and annual reporting to Te Matawai about the delivery of their programmes and services;
- 60 **agreed** that, to avoid a potential reduction in competition in the Maori television broadcasting sector with regard to the allocation of funding for Maori television programming between Te Mangai Paho and MTS:
- 60.1 Te Matawai be prevented from giving direction to Te Mangai Paho about particular funding decisions;

- 60.2 Te Puni Kokiri will undertake an annual audit of the provision of funding by Te Mangai Paho to ensure that transparent, contestable, objective, and fair procedures have been used at all times;
- 61 **noted** that Te Matawai may wish to purchase other Maori language programmes and services from Te Taura Whiri i te Reo Maori and Te Mangai Paho with funding provided by iwi and Maori, or third parties;

### Transitional arrangements

- 62 **agreed** that existing board members of Te Taura Whiri i te Reo Maori and Te Mangai Paho remain in office for the duration of their current terms;
- 63 **agreed** that the chief executives and other staff of Te Taura Whiri i te Reo Maori and Te Mangai Paho be retained on their current employment terms and conditions for the time being;
- 64 **noted** that Te Puni Kokiri will work with Te Taura Whiri i te Reo Maori and Te Mangai Paho, 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

- 65 **noted** that the above proposals will have an impact on the operating balance corresponding to the public equity held by both Te Taura Whiri i te Reo Maori and Te Mangai Paho, which was \$3.303 million as at 30 June 2013;
- 66 **noted** that there will be no impact on the operating balance of MTS, and that its public equity will not transfer to Te Matawai;
- 67 **noted** that the impact on the operating balance will be recorded on the Crown Accounts at the settlement date, which will be when Te Matawai assumes ownership of Te Taura Whiri i te Reo Maori and Te Mangai Paho;
- 68 **noted** that any funding required for Te Matawai's establishment will be fiscally neutral and will be sourced through reprioritisation from within Vote Maori Affairs;
- 69 **noted** that Te Matawai's ongoing operational funding will be fiscally neutral through ongoing reprioritisation from within Vote Maori Affairs of an estimated \$2.000 million per annum;
- 70 **noted** that any future funding requests for Te Matawai, Te Taura Whiri i te Reo Maori, and Te Mangai Paho will occur through the annual Budget process, and will be identified in Te Puni Kokiri's Four Year Plan;
- 71 **invited** the Minister to report to Cabinet (through the relevant Cabinet committee) on the impact on the operating balance and on Vote Maori Affairs, including seeking agreement to a settlement date;