

Regulatory Impact Statement: Reform of Te Ture Whenua Māori Act 1993

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by Te Puni Kōkiri. It accompanies the Cabinet Paper titled *Te Ture Whenua Māori Bill: Implementation*.

This RIS provides an analysis of options to improve the institutional and legislative framework governing Māori land. It follows a review of Te Ture Whenua Māori Act 1993 (TTWMA), which aimed to identify what form of legislative interventions might best support owners of Māori land in reaching their aspirations, while enabling the better utilisation of their land.

This is an updated version of the RIS that accompanied the Cabinet Paper *Te Ture Whenua Māori Bill: Policy Approvals* [CAB Min (13) 31/7 refers]. The following sections of the RIS have been updated: Expected Impacts (pages 16-19); Consultation (pages 19-20); Conclusions and Recommendations (pages 20-21); Implementation Planning (pages 21-23); Risks (pages 23-24) and Monitoring, Evaluation and Review (pages 24-25).

This RIS summarises analysis of four options that represent differing levels of regulatory intervention and involvement in Māori land transactions. It also outlines analysis of the impacts of the preferred option, which would see light judicial oversight of Māori land transactions.

The proposed changes are expected to result in increased utilisation of Māori land through empowering Māori land owners and governors to make decisions themselves, supported by an enabling institutional environment.

There are some constraints on the analysis in this paper:

- the scope of the review was limited to legislative considerations, as set out in the TTWMA Review Panel's Terms of Reference;
- there is limited quantitative data on the current profile and utilisation of Māori land available to inform a detailed assessment of the scale of the problem, to develop aspects of proposed changes, and/or to predict the impacts of some proposed changes;
- it is difficult to predict how owners' behaviour and decision-making may change as a result of the increased choice and flexibility generated by the proposals; and
- the analysis of the financial implications is driven by a number of key assumptions, some of which have high degrees of uncertainty. Completion of more detailed costings will be required to inform Budget processes.



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Status quo and problem definition

Previous Consideration

1. On 21 May 2012, Cabinet agreed that a Te Ture Whenua Māori Act 1993 (TTWMA) Review Panel (the Panel) be established to undertake work on what form of legislative interventions might best support Māori land owners in reaching their aspirations, while enabling the better utilisation of their land [CAB Min (12) 17/1C refers].
2. The review of TTWMA has been identified as Action 39 under the Natural Resources component of the Business Growth Agenda. The TTWMA review also has implications for the Government's better public services priority in terms of configuring the Māori land institutional framework to best support the achievement of Māori land utilisation.
3. He kai kei aku ringa: the Crown-Māori Economic Growth Partnership (HKAR) [CAB Min (12) 40/7 refers] complements the legislative and institutional focus of the review of TTWMA by actively seeking to enable growth (Goal 4) and develop natural resources (Goal 5) through identifying and targeting resources to land blocks with development potential (Recommendation 17).
4. On 25 February 2013, Cabinet approved the 2013 Legislation Programme, including a Te Ture Whenua Māori Bill to be referred to a select committee in 2013 (Category 5) [CAB Min (13) 5/7].
5. On 25 March 2013, Cabinet agreed to publicly release the Panel's Discussion Document to seek feedback on propositions to improve Māori land utilisation and invited the Associate Minister of Māori Affairs to report Cabinet Economic Growth and Infrastructure Committee (EGI) with a final proposal [CAB Min (13) 9/11 refers].
6. On 9 September 2013, Cabinet agreed in principle, subject to agreement to an implementation plan, to a set of proposals to improve the utilisation of Māori land; authorised the Associate Minister of Māori Affairs to issue drafting instructions to Parliamentary Counsel Office on that basis; and invited the Associate Minister to report back to EGI with an implementation plan [CAB Min (13) 31/7 refers].
7. An earlier version of this RIS explored the impacts of those policy proposals, and accompanied the Cabinet Paper: *Te Ture Whenua Māori Bill: Implementation*. This RIS has now been updated to include further analysis that has taken place since 9 September 2013.

Status quo

8. Māori land is defined and governed by its own legislation: TTWMA. The preamble to TTWMA recognises that land is taonga tuku iho, of special significance to Māori that should be retained and developed for the benefit of the owners, their whānau and hapū. TTWMA also establishes the objectives, jurisdiction and powers of the Māori Land Court (MLC). The general objectives of the MLC are to promote and assist in the retention, effective use, management and development of Māori land.

9. Māori land comprises 1.466 million hectares¹ (ha), which is approximately 5.5 percent of New Zealand's land mass. Most Māori land is situated in the north, centre and east of the North Island. There are 27,308 separate Māori freehold land titles with an average size of 53.7 ha. The smallest 10 percent of titles average 0.79 ha and the largest 10 percent of titles average 487 ha. The total number of ownership interests in all Māori land blocks is 2,710,214, with approximately 100 owners per title on average.

Problem definition

10. The Māori share of the total New Zealand asset base is estimated at \$36.9 billion. Around \$10.6 billion is held by Māori collectives such as Māori land entities.² Research estimates that 80 percent of Māori land is under-performing³ and that Māori land could generate an extra \$8 billion in gross output and 3,600 jobs over a ten year period.⁴
11. Successful Māori land businesses are likely to operate on the most versatile and productive Māori land and are likely to succeed regardless of the legislative framework. More marginal or start-up businesses are likely to be impacted by the legislative framework, which makes it important to ensure that the framework is appropriate.
12. Research into the current legislative framework suggests that it does not adequately facilitate the utilisation of land.⁵ The Panel's work and consultation supports this hypothesis. In the absence of any change to the legislative framework governing Māori land, owners will continue to face high compliance costs in making decisions and effecting transactions relating to their land. Utilisation of Māori land (for economic or other purposes) is unlikely to achieve its potential, and the benefits that could flow from utilisation are unlikely to be realised by owners of Māori land.
13. The Panel identified and consulted on three key areas (ownership, governance, institutional framework) within the current system which create barriers to owners achieving their aspirations with regard to their land. While there are other, non-legislative challenges with the current system, these are not within the scope of the Panel's recommendations.
14. The following table sets out a description of the current system in relation to each of the three areas, and identifies nine key problems:
- owners are not able to make decisions themselves;
 - unengaged owners can inhibit decision making;
 - unengaged owners may result in Māori land not being utilised;

¹ Māori Land Court (2012). *Māori Land Update – Ngā Āhuetanga o te Whenua*, June 2012.

² Business and Economic Research Limited (BERL), 2011. *The Asset Base, Income, Expenditure and GDP of the 2010 Māori Economy*. Wellington, New Zealand.

³ Ministry of Agriculture and Forestry (2011). *Māori Agribusiness in New Zealand: A study of the Māori freehold land resource*. Wellington, New Zealand.

⁴ Ministry for Primary Industries (2013). *Growing the Productive Base of Māori Freehold Land*. Wellington, New Zealand.

⁵ Noted, for example, in Dewes, Whaimutu, Walz, Tony and Martin, Doug (2011). *Owner Aspirations Regarding the Utilisation of Māori Land*. Wellington, New Zealand.

- lack of choice and flexibility in establishing governance structures;
- lack of accountability for Māori land governors;
- the current mediation option is not comprehensive or efficient;
- lack of succession to Māori land;
- fragmentation of Māori land ownership; and
- the identification of Māori land by status has not been effective.

15. The key issue identified in the assessment of the status quo, and in the Panel's review of TTWMA, is that the current framework is structured so that most matters relating to Māori land require some sort of judicial involvement. This disempowers owners' autonomous decision-making, and hinders choices about utilisation for Māori land owners as judicial involvement can be time consuming, expensive and complicated.

<p>Status Quo Description of the current framework</p> <p>Ownership</p>	<p>Problem Definition Why the current framework creates barriers for owners</p>
<p>The current legislative framework governing Māori land is structured so that many decisions cannot be taken by Māori land owners themselves, because the decisions are required to be endorsed by the MLC. For example, TTVMA requires the MLC to:</p> <ul style="list-style-type: none"> • approve sale/long-term lease of Māori land; • establish governance structures and appoint trustees; and • in the absence of a governance structure, confirm decisions made at meetings of assembled owners. <p>Two examples of owner decision-making processes are provided below.</p> <p>A long-term lease (more than 52 years) over Māori land requires the consent of at least 50% of owners (by number or by shareholding). The sale of land requires offering the right of first refusal to purchase the land to the preferred class of alienees (children and family of the owner seeking to alienate the land, other owners and their descendants) as well as the consent of 75% of owners (by number or by shareholding) and the approval of the MLC.</p> <p>An application to the MLC is required to establish a governance structure and appoint trustees. In the absence of a governance structure, TTVMA requires owners to apply to the MLC to call a meeting of assembled owners. All resolutions passed at the meeting are then subject to confirmation by the MLC, and the MLC may set aside any resolution if the meeting was conducted in a manner that was unfair to any owner or group of owners.</p>	<p>Owners are not able to make decisions themselves</p> <p>The current regime governing Māori land is structured so that many decisions cannot be taken by Māori land owners themselves because they are subject to endorsement by the MLC. Currently, this ranges from long-term lease decisions, to the establishment of trusts and incorporations, to ratifying the decisions of assembled owners. This serves to disempower owners and makes many decision-making processes unnecessarily complex. This can hinder choices about utilisation for Māori land owners as judicial involvement can be time consuming, expensive and complicated, which creates barriers to making and effecting utilisation decisions.</p>

<p>Status Quo Description of the current framework</p>	<p>Problem Definition Why the current framework creates barriers for owners</p>
<p>Ownership</p> <p>Many land ownership bases are also large and fragmented. The fragmentation of Māori land ownership interests has resulted in varying levels of engagement by potential and actual owners of Māori land. The level of engagement ranges from potential owners who are unaware of their ability to succeed to land ownership interests, through to those who have succeeded and actively participate in decision-making. Ownership registers may also include a number of owners who cannot be located or contacted, or who may be deceased.</p>	<p>Unengaged owners can inhibit decision-making</p> <p>Unengaged owners sometimes impact on the ability of engaged owners (defined as those who exercise a vote) to make decisions and effect land transactions because of the practical difficulties in locating and contacting unengaged owners. In some cases (for example, with deceased owners, or owners who are unaware of their potential ownership interests), this is impossible.</p>
<p>Governance</p> <p>As noted above, there are varying levels of owners' engagement with their land today. Some Māori land titles have a majority of owners who cannot or will not succeed to their ownership interests, despite attempts to encourage them to succeed. Owner-driven utilisation of the land cannot occur in these situations. TTVMA enables the MLC to appoint Te Tumu Paeroa (formerly the Māori Trustee) as an external manager to administer Māori land in the absence of engaged owners, if it is satisfied that the appointment of Te Tumu Paeroa would be broadly acceptable to the beneficiaries of the trust.</p>	<p>Unengaged owners may result in Māori land not being utilised</p> <p>Some Māori land titles have a majority of owners who cannot or will not succeed to their ownership interest despite attempts to encourage them to succeed. This makes owner-driven utilisation of the land problematic. There is an opportunity to broaden the range of organisations eligible to be appointed as external managers to assume administration responsibility for a Māori land title(s) in order to maintain or develop the land, identify potential owners and return the land.</p>
<p>TTVMA prescribes specific land governance structures currently available to owners of Māori land (Māori incorporation, or one of five types of trust). These structures are unique to Māori land and have specific restrictions and functions. The structures available include those that enable pooling and collective management of shares in Māori land and are designed to reduce the impact of fragmentation of the ownership base (whānau, kaitiaki and putea trusts, and Māori reservations) and to facilitate land management (ahu whenua and whenua tōpū trusts and Māori incorporations). Only approximately 41% of Māori land titles have a governance structure. Approximately 98% of governance structures on Māori land are ahu whenua trusts (68%), Māori reservations (28%) or Māori incorporations (2%).</p>	<p>Lack of choice and flexibility in establishing governance structures</p> <p>There is a lack of choice and flexibility in providing for governance structures to be established on Māori land. There is an opportunity to provide Māori land owners with greater choice and flexibility in the governance and management of their land, and to better align the legislative framework governing this with laws that apply to general land and corporate bodies. This includes providing for the ability to establish governance structures themselves and to establish other types of governance entities beyond those prescribed in TTVMA.</p>

Status Quo <i>Description of the current framework</i> Governance	Problem Definition <i>Why the current framework creates barriers for owners</i>
<p>TTWMA sets out a series of generic functions and powers of trustees for Māori land. The functions include responsibility for carrying out the terms of the trust, the proper administration and management of the business of the trust, the preservation of the assets of the trust and the collection and distribution of the income of the trust. Trustee powers include all such powers and authorities as may be necessary for the effective management of the trust and the achievement of its purposes.</p> <p>TTWMA enables the MLC to impose limitations or restrictions on trustees through the trust order, or to require a governor to appear before the MLC regarding non-compliance with trustee duties or statutory requirements. TTWMA empowers the MLC to make an order to remove a trustee at any time if certain conditions are met.</p>	<p>Lack of accountability for Māori land governors</p> <p>The current functions and duties for governors of Māori land prescribed by the legislation are not specific enough to provide sufficient clarity to governors or accountability to Māori land owners. Instead, the current framework provides for the MLC to maintain accountability through establishing the entity, vetting trustees and being able to intervene if it considers necessary. The current framework also does not align with general trust and company law.</p>
<p>Institutional framework</p> <p>The current legislation provides for the MLC to determine or facilitate the settlement of disputes. However, TTWMA only explicitly provides for mediation in prescribed circumstances: in relation to applications under the Māori Fisheries Act 2004, the Māori Commercial Aquaculture Claims Settlement Act 2004, and in relation to applications to determine the representation of Māori groups. TTWMA requires significant MLC involvement in these mediation processes. For example, in the event of successful mediation, the mediator is required to present the terms of the resolution to a Judge of the MLC, who may then include it in a MLC order. In the event of an unsuccessful mediation, the mediator must refer the matter to a Judge, stating what issues have, and have not been resolved. The Judge is then able to refer the unresolved issues back to mediation or to the MLC for determination.</p>	<p>The current mediation option is not comprehensive or efficient</p> <p>The limitations on mediation (in that it must be judicially-led and is only provided for in certain circumstances) mean owners are required to go to the MLC in the first instance, which can be time consuming, expensive, and complicated. The mediation options available can also be seen as more formal and adversarial in nature.</p>

<p>Status Quo <i>Description of the current framework</i> Institutional framework</p>	<p>Problem Definition <i>Why the current framework creates barriers for owners</i></p>
<p>The legislative framework requires an extensive process for confirming succession to Māori land ownership interests. When an owner of Māori land passes away, TTVMA requires that an application for a succession order be made to the MLC in order for the land ownership interest(s) to be transferred to the person(s) entitled to receive them (usually an owner's children or siblings). In the presence of a will, the extent of the ownership interest is prescribed. Without a will, the ownership interest is divided equally among the owner's children or siblings. A surviving spouse also receives a life interest. A significant proportion of owners recorded on titles have passed away and their interests have not been succeeded to.</p>	<p>Lack of succession to Māori land The current system has overseen a lack of succession to Māori land. This results in dissociation of owners from their land, and presents issues regarding administration and decision-making (as discussed above). The simplification of succession processes can contribute to addressing this issue.</p>
<p>The legislative framework does not allow for the collective ownership of Māori land. Ownership interests increase with each generation. The 27,308 Māori freehold land titles are currently held in 2,710,214 individual succeeded ownership interests – this is comparable to the number of interests represented in the rest of New Zealand's land area.</p>	<p>Fragmentation of Māori land ownership The current system of succession has resulted in the fragmentation of Māori land ownership interests. This results in dissociation of owners from their land.</p> <p>An individualised system of ownership does not reflect the traditional nature of Māori land tenure, where land was collectively owned. While whānau trusts provide a vehicle to enable a trustee or trustees to hold individual ownership interests on behalf of a collective class, they do not provide for collective ownership of land parcels. An application to the MLC is required.</p>

<p>Status Quo <i>Description of the current framework</i> Institutional framework</p>	<p>Problem Definition <i>Why the current framework creates barriers for owners</i></p>
<p>Māori land status is embedded in the title information of individual land parcels, rather than being immediately identifiable. Key points relating to this include:</p> <ul style="list-style-type: none"> • The MLC has jurisdiction to determine and change land status. Almost all such determinations are historic. • Māori land is subject to the Māori land regime, including protections to recognise its cultural significance, and most dealings cannot be effected by simply registering an instrument of conveyance. An order of the MLC is usually necessary and the dealing takes effect in the land transfer system when the order is registered. There are a number of examples of this where the courts have held that registration in breach of the protection regime nevertheless confers an indefeasible interest. • Because ownership determinations by freehold order are historic, many have been affected or overridden by subsequent orders of the MLC dealing with status or by the operation of previous Native/Māori land legislation. 	<p>The identification of Māori land by status has not been effective</p> <p>Status is not always apparent or easy to ascertain, and often requires the formality of a status determination by the MLC. This carries compliance and judicial transaction costs to Māori land owners and the MLC. It also carries risks of status-based protections being overlooked or unrecognised. The complexity of this regime contributes to the barriers to more effective utilisation of Māori land.</p>

Objectives

16. The policy proposals are aimed at focussing legislation on Māori land owners and their aspirations, by freeing up utilisation decision-making for engaged owners, while maintaining high thresholds for sale of Māori land. This aim aligns with the objectives set out in the current legislation:
 - to promote the retention of that land in the hands of its owners, their whānau, and their hapū, and to protect wāhi tapu; and
 - to facilitate the occupation, development, and utilisation of that land for the benefit of its owners, their whānau and their hapū.
17. The development of the options explored in this RIS has been guided by five propositions that were developed by the Panel and consulted on publicly:
 - utilisation of Māori land should be able to be determined by a majority of engaged owners;
 - all Māori land should be capable of utilisation and effective administration;
 - Māori land should have effective, fit for purpose, governance;
 - there should be an enabling institutional framework to support owners of Māori land to make decisions and resolve any disputes; and
 - excessive fragmentation of Māori land should be discouraged.
18. The feedback received during the Panel's consultation was generally supportive of the overall thrust of the propositions.
19. Although not represented in the five propositions listed above, a further policy objective of protection of Māori land has also guided the development of policy options explored in this RIS. Protection of Māori land as taonga tuku iho to be passed down to future generations has been a strong theme in the Panel's work and was strongly supported during the Panel's consultation.

Regulatory impact analysis

20. This RIS sets out four possible options for reforming the framework governing Māori land in order to better meet owners' aspirations for their land. The options are based on differing levels of regulatory intervention and involvement in transactions relating to Māori land:
 - **Option 1:** This option considers the impact of maintaining the status quo.
 - **Option 2:** This option proposes a strong degree of judicial oversight, with specific laws and judicial forum for Māori land, and a strong focus on protecting the retention of the land. This option maintains many features of the status quo framework, as well as empowering the MLC to pro-actively seek facilitation of under-utilised land.
 - **Option 3:** This option proposes light oversight of owner-driven decision-making, removing MLC involvement in most transactions, but maintaining protections for the retention of Māori land.
 - **Option 4:** This option proposes minimal specialist judicial involvement by removing the specific rules and judicial forum for Māori land, with Māori land to be governed under general law.

Options for a legislative and institutional framework that better supports aspirations of Māori land owners

Problem statement	Option 1: Status Quo	Option 2: Strong judicial oversight	Option 3: Light judicial oversight	Option 4: Minimal judicial oversight
Ownership				
Owners are not able to make decisions themselves	<ul style="list-style-type: none"> Judicial process required for most transactions 	<ul style="list-style-type: none"> (status quo) 	<ul style="list-style-type: none"> Remove requirement for extensive judicial involvement in transactions relating to Māori land except in case of sale 	<ul style="list-style-type: none"> Remove requirement for judicial involvement in any transactions relating to Māori land – removing specialist MLC jurisdiction and specific protections on Māori land
Unengaged owners can inhibit decision making	<ul style="list-style-type: none"> Owners required to obtain approval of portion of entire ownership base MLC acts on behalf of unengaged owners 	<ul style="list-style-type: none"> (status quo) 	<ul style="list-style-type: none"> Reduce onus on owners to obtain approval of unengaged owners in decisions, except in the case of sale (noting that safeguards such as minimum notice periods will apply and all owners will always be free to engage or re-engage simply by participating in decisions) Extensive judicial involvement no longer required except in case of sale (as proposed above) Incentivise engagement by enabling absentee voting 	<ul style="list-style-type: none"> Reduce onus on owners to obtain approval of unengaged owners (noting that notice requirements will apply and owners will always be free to participate in decisions) Extensive judicial involvement no longer required Incentivise engagement by enabling absentee voting

Problem statement	Option 1: Status Quo	Option 2: Strong judicial oversight	Option 3: Light judicial oversight	Option 4: Minimal judicial oversight
Governance				
Unengaged owners may result in Māori land not being utilised	<ul style="list-style-type: none"> MLC able to appoint Te Tumu Paeroa as external manager 	<ul style="list-style-type: none"> (status quo) MLC to pro-actively seek opportunities to appoint external managers to under-utilised parcels of land 	<ul style="list-style-type: none"> Broaden the range of organisations eligible to be appointed as external managers (by specifying eligibility criteria) Reduce the judicial burden by making appointment and supervision of external managers an administrative function 	<ul style="list-style-type: none"> No specific provision for the appointment of external managers to under-utilised Māori land – external managers may be appointed under general legislation if circumstances require
Lack of choice and flexibility in governance structures	<ul style="list-style-type: none"> Prescribed set of governance structures (five types of Māori trust and incorporation) Judicial process required to establish entities 	<ul style="list-style-type: none"> (status quo) 	<ul style="list-style-type: none"> Remove prescribed structures but maintain minimum provisions (aligned with other legislation such as Trustees Act and Companies Act), within which owners can choose entity structure of their choice Remove requirement for judicial involvement in Māori land transactions (as proposed above) will allow owners to establish governance entities without judicial involvement MLC to have jurisdiction to hear breaches of duty 	<ul style="list-style-type: none"> Remove prescribed structures and minimum provisions Remove requirement for judicial involvement in Māori land transactions (as proposed above) will allow owners to establish governance entities without judicial involvement
Lack of accountability for Māori land governors	<ul style="list-style-type: none"> Prescribed but generic functions and powers 	<ul style="list-style-type: none"> (status quo) 	<ul style="list-style-type: none"> Prescribe specific duties and obligations of governors (including penalties) that are better aligned with general trust and company law 	<ul style="list-style-type: none"> Remove prescribed but generic functions and powers, subject to the general law

Problem statement	Option 1: Status Quo	Option 2: Strong judicial oversight	Option 3: Light judicial oversight	Option 4: Minimal judicial oversight
<i>Institutional framework</i>				
The current mediation option is not comprehensive or efficient	<ul style="list-style-type: none"> Judicial process required for most transactions 	<ul style="list-style-type: none"> (status quo) 	<ul style="list-style-type: none"> Remove judicial involvement in many transactions (as noted above), with mediation services being provided separately Require disputes to be referred to mediation in the first instance, with MLC as a forum of last resort 	<ul style="list-style-type: none"> Rely on general mediation
Lack of succession to Māori land	<ul style="list-style-type: none"> Succession via a judicial process 	<ul style="list-style-type: none"> (status quo) 	<ul style="list-style-type: none"> Simplify succession through making it an administrative process 	<ul style="list-style-type: none"> Simplify succession through utilising general law
Fragmentation of Māori land ownership	<ul style="list-style-type: none"> Individualised shareholding system Succession processes require judicial involvement 	<ul style="list-style-type: none"> Phase in collective tenure system where all owners hold undefined interests in common Maintain involvement in judicial succession processes 	<ul style="list-style-type: none"> Provide an option for owners to transition to a collective tenure system where all owners hold undefined interests in common, if they wish Transfer responsibility for confirming succession from judiciary to an administrative function 	<ul style="list-style-type: none"> Maintain individualised shareholding system Transfer responsibility for confirming succession from judiciary to an administrative service
The identification of Māori land by status has not been effective	<ul style="list-style-type: none"> Māori land status embedded in title information 	<ul style="list-style-type: none"> (status quo) 	<ul style="list-style-type: none"> Consider provisions to ensure Māori land is clearly identified within the land titles register. 	<ul style="list-style-type: none"> Remove special status of Māori land altogether

Preliminary impact analysis

21. In a preliminary analysis, the four options were qualitatively assessed at a high level. This analysis sought to identify which option(s) should be considered for more detailed impact analysis. The four options were assessed in terms of whether each option:

- achieved the desired policy objectives; and
- addressed the nine issues identified in the problem definition.

22. Analysis was based on feedback received during public consultation on the Panel's Discussion Document, and on the experience and knowledge of officials and Panel members. A summary of this analysis is presented in the table below.

Preliminary impact analysis of four options	Option 1	Option 2	Option 3	Option 4
Extent to which option meets policy objectives				
Māori land is taonga tuku iho that should be protected and passed down to future generations	✓	✓	✓	x
Utilisation of Māori land should be able to be determined by a majority of engaged owners	x	x	✓	✓
All Māori land should be capable of utilisation and effective administration	x	x	✓	✓
Māori land should have effective, fit for purpose, governance	x	x	✓	✓
There should be an enabling institutional framework to support owners of Māori land to make decisions and resolve any disputes	x	x	✓	✓
Excessive fragmentation of Māori land should be discouraged	x	✓	✓	x
Extent to which option addresses issues in problem definition				
<i>Ownership</i>				
Owners are not able to make decisions themselves	x	x	✓	✓
Unengaged owners can inhibit decision making	x	x	✓	✓
<i>Governance</i>				
Unengaged owners may result in Māori land not being utilised	x	✓	✓	x
Lack of choice and flexibility in governance structures	x	x	✓	✓
Lack of accountability for Māori land governors	x	x	✓	✓
<i>Institutional Framework</i>				
The current mediation option is not comprehensive or efficient	x	x	✓	✓
Lack of succession to Māori land.	x	x	✓	✓
Fragmentation of Māori land ownership	x	✓	✓	x
The identification of Māori land by status has not been effective	x	x	✓	x

23. Options 1 and 2 (status quo and high judicial involvement) maintain the current regulatory protection of retention of Māori land, which extends to requiring a judicial process for many other transactions relating to Māori land (for example, the establishment of governance entities, the appointment of trustees and succession to ownership interests).
24. This high level of judicial oversight carries compliance costs for owners of Māori land, which contributes to these options being assessed as failing to meet several other policy outcomes (such as facilitating utilisation and empowering engaged owners to make their own decisions about land). It also means these options fail to address many of the problems associated with high compliance costs in the status quo problem definition.
25. Option 2 differs from Option 1 with the introduction of two new measures to address problems with the status quo: firstly, Option 2 would see the MLC proactively seeking opportunities to appoint external managers to under-utilised parcels of Māori land (without engaged owners), and secondly, it would see the phasing out of the current individualised shareholding tenure of Māori land.
26. Overall however, the analysis found Options 1 and 2 would not adequately achieve the desired policy outcomes or address the problems with the current Māori land system. These two options were not considered further.
27. Of the four options considered, Option 3 (light judicial involvement) was found to best achieve the policy outcomes and address the issues in the problem definition. This option was found to maintain protection of the retention of Māori land (achieving the first desired policy outcome) without imposing judicial processes on other transactions relating to Māori land. This would reduce compliance costs for owners of Māori land, therefore better empowering them to make autonomous decisions relating to their land (achieving several other policy objectives and addressing several aspects of the problem). Option 3 would also provide owners of Māori land with an option to transition to a system of collective ownership of parcels of land, satisfying the final policy objective and addressing a further issue associated with the status quo.
28. Option 4 (minimal judicial involvement) represents the largest departure from the status quo. This option would see all Māori land effectively converted to general freehold land and the specific legislative framework governing Māori land removed. The impacts of this option would likely address several of the problems associated with the current regulatory framework. However, it failed to meet two of the five policy objectives. In particular, it does not recognise Māori land as taonga tuku iho, which was a central tenet of the review of Māori land. On further consideration, this option was also found to carry significant political and legal risks (in terms of potential breach of the Treaty of Waitangi). These risks would also apply if Māori land status was retained (but all other specialist judicial oversight was removed). This option was therefore not further considered.
29. Following Cabinet agreement in principle to Option 3 in September 2013 [CAB Min (13) 31/7 refers], Te Puni Kōkiri undertook more detailed analysis to better understand the impacts of Option 3. This was undertaken in consultation with the Ministry of Justice, LINZ, the Ministry of Business, Innovation and Employment, the Ministry for Primary Industries and central agencies.
30. The expected impacts of implementing Option 3 are summarised below. This has been informed by both initial impact analysis undertaken by Te Puni Kōkiri and more detailed analysis following Cabinet's decisions in September 2013.

Expected impacts of implementing Option 3 (light judicial oversight)

Overall

31. Legislation empowering Māori land owners is a necessary but not a sufficient condition to achieve the step change in Māori land utilisation that the Government is seeking. Allied to this is the need for a more proactive approach to the channelling of resources to this sector. This is occurring already through the Treaty settlement process. There is also a need to separately address other long standing issues such as building capability, improving access to finance, reducing debt (including rates arrears) and providing robust information and data. However, ensuring the rules governing Māori land are appropriately tailored to the needs of Māori land owners, particularly those who are wanting to make decisions, with appropriate safeguards, is crucial in underpinning both the achievement of Māori aspirations and Māori land utilisation.
32. Option 3 seeks to strike a balance between maintaining protections around the sale and governance of Māori land, and supporting the utilisation and development of land. In this context, the policy proposals are designed to:
 - remove requirements that no longer provide the intended benefits relative to the costs they impose. For example, it is proposed that the requirement for the MLC to approve the establishment of a governance entity is removed. These changes benefit owners and governors by reducing the need for them to spend time dealing with governance processes, so they can instead focus on value-adding activities;
 - streamline and improve the efficiency of the processes and functions that support the framework. For example, the proposed administrative services include an independent, purpose-designed mediation service to provide efficient and effective dispute resolution services for disputes relating to Māori land. The introduction of efficient and streamlined processes, such as the mediation service, makes it easier and cheaper for owners and governors of land to utilise the TTWMA framework; and
 - increase the flexibility of the framework, as an enabler for owners and governors of land. For example, under the proposals owners of land will have the flexibility to choose a governance or management entity structure of their choice. The changes are designed to provide sufficient flexibility to meet the changing needs of the owners of Māori land and support social and economic development.
33. The financial implications for the Crown of the implementation of the new proposed services have been analysed at a high level. The estimated impact on operational expenditure is expected to be fiscally neutral (with a forecasted near zero net impact) with estimated one-off costs of approximately \$6.0-9.6 million. This represents a modest one-off investment to implement the proposals but these costs will need to be considered as part of Budget processes.
34. The expected net benefits of the proposal are broad efficiency and effectiveness benefits to owners of Māori land, enabling improvements in land utilisation. In this context, the proposal is designed to reduce compliance costs associated with setting up governance entities for managing land use, make it easier for engaged owners to make decisions about the use of land and simplify the functions that support the land governance framework. It is assumed that these improvements will empower owners to make decisions, which will lead to greater utilisation and positive social and economic impacts.

35. While it is difficult to quantify these benefits, analysis commissioned by Te Puni Kōkiri estimates that the policy proposals could result in greater use of the land governance framework and, as a result, an increase in land utilisation decisions and a resulting uplift in the economic utilisation of approximately 300 currently under or not fully utilised land blocks. Continued improvements in utilisation will be better enabled by Option 3, the impacts of which will be monitored over time.
36. Wider benefits are more difficult to quantify given that it is difficult to predict how owners' behaviour may change as a result of increased choice. It is also difficult to attribute legislative change with wider benefits given the contribution of other factors. However, research provides an estimate of the potential ceiling that could be reached: an extra \$8 billion in gross output and 3,600 new jobs for the primary sector over a ten year period.⁶

Impacts on owners of Māori land

37. Implementing Option 3 is expected to result in increased utilisation of Māori land through improvements to the governance framework and a reduction of the compliance burden for owners and governors of Māori land. In particular, engaged owners will enjoy faster and simpler processes when making utilisation decisions and resolving disputes – for example, they will not be required to obtain MLC approval of decisions in order to effect transactions (other than sale). Option 3 aims to extend to owners of Māori land many of the same freedoms and obligations enjoyed by owners of general freehold land, while retaining the protections accorded to that land as taonga tuku iho.
38. Unengaged owners of Māori land are also likely to be impacted. Unengaged owners may be incentivised to become engaged with their land and participate in decision-making due to reduced transaction costs and easier engagement processes (such as enabled absentee voting). Their land will be more likely to be utilised, either through the decisions of engaged owners, or through the appointment of external managers. The proposal to broaden the range of organisations eligible for appointment as external managers will create competition (in both cost and quality of service), which is expected to provide further benefit to unengaged owners.
39. It is important to note that unengaged owners will always have the option to re-engage, simply by participating in decision-making relating to the land. Prescribing the duties and obligations of Māori land governance entities is likely to support better awareness of these obligations among owners of Māori land, and may lead to better decision-making by governance entities of Māori land.
40. The proposal that officials give considerations to provisions to ensure Māori land is clearly identified is expected to give owners of Māori land greater certainty in the classification of their land under the proposed new title system, reducing the risk that protections are overlooked or unrecognised.
41. Owners of Māori land will enjoy the option of transitioning to a system of collective ownership of their land, if they wish. This would reduce compliance and transaction costs for those owners and will prevent the further fractionalisation of ownership interests for those owners. Those owners who prefer to maintain existing defined ownership interests would not be impacted.

⁶ Ministry for Primary Industries (2013). *Growing the Productive Base of Māori Freehold Land*. Wellington: New Zealand.

Impacts on government agencies

42. The proposed changes to the institutional framework supporting Māori land require the following services to be delivered by government agencies:
- supporting owner decision-making processes;
 - appointing and overseeing external managers;
 - maintaining the record of Māori land ownership and titles;
 - providing information services for Māori land ownership and title;
 - providing registry services for Māori land governance entities; and
 - administering a mediation service for Māori land disputes.
43. It is proposed that the MLC and Land Information New Zealand (LINZ) continue to deliver services to Māori land owners. However, given the transition from a judicial to an administrative system, the mix of services to Māori land owners will change.
44. Ongoing access to the MLC, as a judicial forum, remains an important part of the institutional framework supporting Māori land owners. The MLC will be responsible for ensuring that Māori land retention thresholds are adhered to, resolving serious disputes unable to be resolved through mediation, clarifying and interpreting the law and enabling governors to be held to account. It is proposed that the Ministry of Justice continues to provide support services to the MLC.
45. The preference is for LINZ to deliver administrative Māori land services primarily through an online channel supplemented by face to face services. I propose that the Minister for Land Information and myself, in consultation with the Minister of Māori Affairs, the Minister of Justice and the Minister for Courts, jointly report back to EGI in June 2014 for a final decision on LINZ as the preferred provider and with the next stage of the implementation plan.
46. The expected financial implications for LINZ (and the Crown more broadly) are mentioned above. There will also be implications for LINZ's systems and capabilities. LINZ is able to scope the functionality required to deliver increased access to digitised processes for Māori land owners as part of the report back to EGI by September 2014 on the Detailed Business Case for the implementation of the Advanced Survey and Title Services (ASATS) [CAB Min (13) 40/5 refers].
47. The role and jurisdiction of the MLC in terms of judicial processes would be refocused under Option 3, with the MLC focussing on retention decisions, greater accountability, complex disputes and existing specialist areas. Option 3 will reduce the judicial workload of the MLC, freeing up resources to work on processing complex cases more quickly, or allowing cost savings to be realised. These changes also represent significant impacts on the workload and resourcing of the Ministry of Justice.

Impacts on other parties

48. The proposal to broaden the range of organisations that may be eligible for appointment as external managers of Māori land will also impact on Te Tumu Paeroa, (who is currently the only agency eligible for appointment as an external manager of Māori land). Other prospective external managers, including Māori trusts and incorporations or professional trustee companies such as Guardian Trust will have the opportunity to provide services to new clients. The impacts on

these organisations are unable to be assessed at this time, due to the uncertainty about how many appointments of external managers could be made in future and the limited data on the profile of under-utilised Māori land.

Consultation on options

Consultation on Discussion Document

49. On 3 April 2013, the Minister and Associate Minister of Māori Affairs publicly released a Discussion Document developed by the Panel. 195 written submissions were received and 20 public hui were held.
50. The targeted feedback received during the consultation hui was generally supportive of the overall thrust of the propositions to improve the utilisation of Māori land through the empowerment of Māori land owners. Overall, discussion focussed on what the propositions mean in practice and how they would be implemented. The common themes from the hui and submissions included:

Ownership

- general support for an engaged owner concept;
- agreement that remaining Māori land must not be sold and support for the retention of the current high threshold for the sale of Māori land;

Governance

- agreement that robust and accountable governance is crucial;
- differing views on the concept of an external manager, but general support from written submissions;

Institutional Framework

- general support for mediation;
 - general support for resolving fragmentation issues but no consensus on how this might be achieved;
 - differing views on collective or individual ownership and voting by shareholding or by owner; and
 - rejection of the Panel's suggestion that decision-making rights be limited to owners that have a minimum ownership interest.
51. A wide range of other issues were also raised that are beyond the scope of the propositions and the review.
 52. Feedback received through this consultation has informed the development of the policy proposals set out in the accompanying Cabinet paper: *Te Ture Whenua Māori Bill: Implementation*.

Consultation on further policy development

53. The Treasury; Ministry of Justice; Ministry for Primary Industries; Ministry of Business, Innovation and Employment; Ministry for the Environment; Land Information New Zealand; Department of Conservation; Department of Internal Affairs and the Office of Treaty Settlements were consulted on the Cabinet paper: *Te Ture Whenua Māori Bill: Policy Approvals* and the previous version of this RIS [CAB Min (13) 31/7 refers].

54. The Department of the Prime Minister and Cabinet was also informed of that Cabinet paper.
55. The Ministry of Justice, Ministry for Primary Industries, Ministry of Business, Innovation and Employment, Land Information New Zealand, Department of Conservation, Ministry for the Environment and Department of Internal Affairs have been consulted on the Cabinet paper: *Te Ture Whenua Māori Bill: Implementation* that this RIS accompanies.
56. The Treasury, the Department of the Prime Minister and Cabinet and the State Services Commission have been informed.
57. The Minister of Māori Affairs has agreed to the submission of the Cabinet paper: *Te Ture Whenua Māori Bill: Implementation*.

Consultation on RIS

58. The Treasury; State Services Commission, Ministry of Justice; Ministry for Primary Industries; Ministry of Business, Innovation and Employment; Ministry for the Environment; Land Information New Zealand; Department of Conservation and Department of Internal Affairs have been consulted on the RIS.
59. The Department of the Prime Minister and Cabinet has been informed of the RIS.

Conclusions and recommendations

60. As set out in this paper, Te Puni Kōkiri has analysed four options for reforming the legislative and institutional framework governing Māori land, and undertaken more detailed impact analysis of one of those options (Option 3). Based on that analysis, Te Puni Kōkiri recommends progressing Option 3. In summary, Option 3 contains the following recommendations:

Ownership

- enable engaged Māori land owners to make utilisation decisions without the need for judicial involvement;
- continue to include protections for the retention of Māori land;

Governance

- improve the mechanisms for the appointment of external managers to administer under-utilised Māori land blocks;
- allow Māori land owners to establish governance entities themselves;
- prescribe the duties and obligations of Māori land governance entities and align these with the general law;

Institutional Framework

- support Māori land owners with administrative services to be provided by an existing government agency or agencies including:
 - i. administering a mediation service;
 - ii. appointing and overseeing of external managers in appropriate cases;
 - iii. managing decision-making processes for owners to establish governance entities;

- iv. maintaining the record of Māori land ownership and titles;
 - v. providing information and registry services;
 - refocus the jurisdiction of the MLC to primarily retention decisions, complex disputes and existing specialised areas;
 - ensure Māori land is correctly identified; and
 - provide an option to transition to collective ownership.
61. It is proposed that the MLC and LINZ continue to deliver services to Māori land owners. Ongoing access to the MLC, as a judicial forum, remains an important part of the institutional framework supporting Māori land owners. The preference is for LINZ to deliver administrative Māori land services primarily through an online channel supplemented by face to face services. It is proposed that the Minister for Land Information and the Associate Minister of Māori Affairs; in consultation with the Minister of Māori Affairs, the Minister of Justice and the Minister for Courts; jointly report back to EGI in June 2014 for a final decision on LINZ as the preferred provider and with the next stage of the implementation plan.
 62. Analysis undertaken by Te Puni Kōkiri has found that this option best achieves the desired policy objectives for Māori land, and best addresses the problems associated with the current framework.
 63. The option seeks to provide the conditions in which greater owner-driven utilisation of Māori land can occur. Ensuring the rules governing Māori land are appropriately tailored to the needs of Māori land owners, particularly those who are wanting to make decisions, with appropriate safeguards, is crucial in underpinning the achievement of Māori aspirations and Māori land development.
 64. The proposed changes are designed to result in increased utilisation of Māori land through empowering Māori land owners and governors to make decisions themselves, supported by an enabling institutional environment.
 65. The financial implications for the Crown of the implementation of the new proposed services have been analysed at a high level. The estimated impact on operational expenditure is expected to be fiscally neutral (with a forecasted near zero net impact) with estimated one-off costs of approximately \$6.0-9.6 million. This represents a modest one-off investment to implement the proposals but these costs will need to be considered as part of Budget processes.
 66. Subject to the proposed June report back, Te Puni Kōkiri will work with LINZ to monitor the impacts of the proposed changes, in terms of how well the framework supports Māori land owners to achieve their aspirations, and in terms of the fiscal impacts see Monitoring, evaluation and review section below).
 67. Te Puni Kōkiri therefore recommends proceeding with Option 3. Cabinet agreement is sought to progress the proposals under this option through the introduction of a Te Ture Whenua Māori Bill in early 2014.

Implementation

Implementation planning

68. The significance of the changes required for the preferred option (Option 3) to be adopted requires the development of new legislation. As noted above, proposed changes to the institutional framework mean government agencies will need to deliver the following services in future:

- supporting owner decision-making processes;
 - appointing and overseeing external managers;
 - maintaining the record of Māori land ownership and titles;
 - providing information services for Maori land ownership and title;
 - providing registry services for Māori land governance entities; and
 - administering a mediation service for Māori land disputes.
69. Subject to the proposed June 2014 report back, a phased transition from a judicial to an administrative system could occur over a three period. This takes into account the need to maintain continuity of service delivery to Māori land owners, to progressively roll out legislative change as and when the new services are able to be delivered and to allow for more detailed consideration of the Budget implications and organisational changes required. The impact on current staff will be addressed as part of the next stage of a detailed implementation plan. The timing may be impacted by legislative priorities.
70. The preference is for the primary service delivery channel to be Landonline, which allows land information to be accessed and land transactions to be conducted remotely, supported by face to face services. This recognises that some of the Māori land services will not be able to be delivered through or are unsuitable for an online medium only, that online access is not available or is limited for some Māori land owners and that some prefer to engage on a *kanohi ki te kanohi* basis. This could involve a community outreach programme, where procured providers will provide information and assistance directly to Māori land owners at appropriate venues including marae rather than owners having to visit regional offices. Face to face services could be rolled out with online services in late 2016. These services include mediation, external management, support for owner decision making and information provision through community outreach services.
71. It is intended that mediation in the Māori land context be a broader alternative dispute resolution concept involving Māori land owners being able to directly access mediation to provide assistance with working through the underlying issues and encouraging resolution of them through the use of a facilitative approach which encourages the parties to reach their own settlements. Mediation will be focussed on assisting the relationship between the parties as a whole without necessarily being constrained by a legally defined cause of action. There will be a requirement for most disputes to enter into mediation in the first instance and for the parties to have attempted to resolve the dispute amongst themselves before mediation can be entered into.
72. Under this scenario, Māori land ownership information currently held in electronic or physical forms by the Ministry of Justice on behalf of the Māori Land Court would be migrated to Landonline. There are clear efficiency gains to be had by consolidating these records with LINZ-held records relating to the legal title into a single system. This will greatly assist in improving the integrity and accessibility of Māori land information for Māori land owners.
73. It is proposed that the Bill be introduced and passed in 2014 with the legislation coming into force in two stages. Commencement of non-service related provisions will occur six months after enactment. The service-related provisions will commence subject to the roll out of Māori land services.

74. It is proposed that Te Puni Kōkiri administer the new legislation and be responsible for assessing its impact. Quantitative and qualitative assessment will be undertaken, culminating in a review of the legislation five years after commencement. Further detailed planning needs to be undertaken prior to the enactment of the Bill. It is proposed that the Minister for Land Information and the Associate Minister of Māori Affairs; in consultation with the Minister of Māori Affairs, the Minister of Justice and the Minister for Courts; jointly report back to EGI in June 2014 for a final decision on LINZ as the preferred provider and with the next stage of the implementation plan.

Risks of the policy proposals

75. There is a risk that legislative change will not achieve the expected gains in the productivity of Māori land. The analysis cited in the Impacts section of this RIS. However, legislative change alone will not be sufficient to achieve the step change in Māori land utilisation the Government is seeking. Other issues will also need to be addressed (such as access to finance, building capability and the provision of robust data). This risk can be managed by continuing to consider policy options to address these issues. This risk and possible mitigations will be considered as implementation planning progresses.

Ownership

76. The view that the current system of vetting governance and utilisation decisions by the MLC enables poor decisions to be avoided is based on the assumption that Judges will decline to approve decisions that, in their judgement, are poor or risky. Empowering engaged owners to make decisions free from judicial scrutiny could, therefore, be argued to carry a risk of increased exposure to the consequences of poor decision-making or poor governance appointments.
77. This risk is acknowledged, but it needs to be re-evaluated given the objectives and focus of the proposals, which recognise that owners of Māori land should not be treated by the framework paternalistically as requiring extra protections, but rather as holders of rights who are capable and should be empowered to exercise those rights and make decisions about their land based on their free and informed consent. In this regard the proposals are consistent with the approach taken by the beneficiaries of significant Treaty settlement assets and their Post Settlement Governance Entities. It is important to note that the high threshold for the permanent alienation of Māori land will be maintained. Other safeguards (for example, the mandatory provisions applying to governance entities) will be prescribed in legislation.
78. There is a risk that the proposal to reduce the onus on engaged owners to obtain the approval of unengaged owners in decisions (except in the case of sale) will be perceived as disempowering unengaged owners. It is important to note in this context that safeguards such as minimum notice periods for major transactions will continue to apply, and that all owners will always be free to engage or re-engage, simply by participating in decisions relating to the land.

Governance

79. The risks associated with external management include the perception that Māori land is essentially being transferred to a third party and that, in the event of failure, the land will bear any outstanding debt. These risks will be mitigated by setting clear and transparent processes and accountabilities for the appointment and operation of external managers.

80. The risks associated with empowering engaged owners to establish governance entities themselves could carry a risk of poor decision-making or governance appointments. However, it is important to note that the high threshold for the sale of Māori land will be retained and other safeguards for utilisation decisions (for example, clearly prescribed governors' duties and obligations) will be prescribed in legislation.
81. The key risk of specifying the duties of Māori land governors is that it will discourage people from becoming governors or bind existing governors who were appointed before these obligations were prescribed. This is a particular concern given the low numbers of Māori land governors. This risk will be managed through implementation of the new system supported by information and training.

Institutional framework

82. There is potential risk that under the proposed changes, the specialist expertise of the MLC bench will be under-utilised. As with any court, the jurisdiction of the MLC does not remain static and will always be subject to policy changes from time to time. In the case of MLC Judges, less demand for sitting time or other judicial work in the MLC will lead to greater availability to act as Presiding Members in the Waitangi Tribunal, both for inquiries and for urgency applications, and increases their potential to be warranted as Alternate Environment Judges in appropriate cases.

Implementation

83. Te Puni Kōkiri and other agencies identified the following implementation risks:
- potential under-estimation of transition or on-going costs;
 - potential negative impacts change management processes may have on the productivity of the MLC before and during implementation;
 - anxiety about change among stakeholders; and
 - potential lack of sector capacity to support the number and type of mediations resulting from the changes.
84. The risk of under-estimation will be mitigated by further detailed implementation planning. This further planning will also include the development of a comprehensive communications plan and consideration of how to build further capacity in the mediation sector to support the proposed new mediation service.

Monitoring, evaluation and review

85. Te Puni Kōkiri will continue to administer the new legislation. As the administering agency, Te Puni Kōkiri will be responsible for monitoring the impacts of the new institutional framework on owners of Māori land, and measuring the extent to which the framework supports owners to achieve their aspirations.
86. Te Puni Kōkiri proposes to monitor and evaluate these impacts within a framework comprising two levels: firstly, measurement of volumes and efficiency of owner engagement with government agencies related to Māori land decisions and transactions; and secondly, engagement with Māori land owners to receive feedback and understand their perceptions and experiences of the new institutional framework.

87. Te Puni Kōkiri intends to work with LINZ and the Ministry of Justice to develop baseline data and to put in place ongoing measurement of:
- volume of enquiries received from Māori land owners, the distribution across subject of enquiry (e.g. information on governance structure options; information on succession), channel of enquiry (e.g. online, face to face), the time taken to respond to the enquiry, and a sample of customer feedback on this engagement;
 - volume and impacts of Crown-appointed external management of Māori land. This will include quantitative and qualitative data (for example, case studies) on assessments and appointments;
 - volume of transactions which require updates to Māori land ownership and title records, including the number of successions;
 - the level of data relating to Māori land that is available online for land owners to search and access records;
 - volume of new Māori land governance entities established; and
 - volume of mediations initiated and completed, and the outcome of those mediations.
88. Some baseline data is available, and will enable the impacts to be compared with the status quo. Te Puni Kōkiri intends to report on this monitoring and evaluation one, three and five years after all of the changes come into force.
89. At the second level, Te Puni Kōkiri will engage with owners of Māori land by way of written or online survey two and four years following full commencement. This will be followed with broader engagement (including regional hui) five years following full commencement.
90. This monitoring and evaluation will inform a review of the changes to be undertaken five years following implementation. This review will be undertaken by Te Puni Kōkiri (or on behalf of Te Puni Kōkiri). Full terms of reference will be developed at the appropriate time, but the review will in general aim to assess how effective the legislative changes have been in supporting Māori land owners to achieve their aspirations and increase the utilisation of Māori land. The review will also consider the relationships between the policy and operational agencies (that is, Te Puni Kōkiri, Ministry of Justice and Land Information New Zealand) and identify any areas for improved governance, effectiveness or efficiency.

Consultation on Cabinet and Cabinet Committee Submissions

Certification by Department

Guidance on consultation requirements for Cabinet/Cabinet committee papers is provided in the CabGuide (see Procedures: Consultation): <http://www.cabguide.cabinetoffice.govt.nz/procedures/consultation>

Departments/agencies consulted: The attached submission has implications for the following departments/agencies whose views have been sought and are accurately reflected in the submission:
Ministry of Justice; Ministry for Primary Industries; Ministry of Business, Innovation and Employment; Ministry for the Environment; Land Information New Zealand; Department of Conservation and Department of Internal Affairs.

Departments/agencies informed: In addition to those listed above, the following departments/agencies have an interest in the submission and have been informed:
The Department of the Prime Minister and Cabinet, The Treasury and State Services Commission.

Others consulted: Other interested groups have been consulted as follows:

Name, Title, Department: KIM NGARIMU, DEPUTY SECRETARY, POLICY.

Date:

27 / 11 / 13

Signature

K. Ngaru

Certification by Minister

Ministers should be prepared to update and amplify the advice below when the submission is discussed at Cabinet/Cabinet committee.

The attached proposal:

Consultation at Ministerial level

- ☒ has been consulted with the Minister of Finance
[required for all submissions seeking new funding]
- ☒ has been consulted with the following portfolio Ministers: JUSTICE, LINZ, COURTS, MAORI AFFAIRS.
- ☐ did not need consultation with other Ministers

Discussion with National caucus

- ☐ has been or ☐ will be discussed with the government caucus
- ☒ does not need discussion with the government caucus

Discussion with other parties

- ☒ has been discussed with the following other parties represented in Parliament:
- ☐ Act Party ☒ Maori Party ☐ United Future Party
- ☐ Other [specify]
- ☐ will be discussed with the following other parties represented in Parliament:
- ☐ Act Party ☐ Maori Party ☐ United Future Party
- ☐ Other [specify]
- ☐ does not need discussion with other parties represented in Parliament

Portfolio

Ass. Maori Affairs

Date

27 / 11 / 2013

Signature

E. J. Finlayson