

Office of Te Minita Whanaketanga

Cabinet Social Wellbeing Committee

Report back on developing a Declaration plan

Proposal

- 1 This paper:
 - 1.1 updates Cabinet on the development of a plan to implement the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration plan); and
 - 1.2 seeks Cabinet approval to resource activities that will increase understanding of, and support for, the Declaration.

Relation to government priorities

- 2 Increasing understanding of the Declaration within Aotearoa New Zealand aligns with the Government's priority to lay the foundations for the future in Aotearoa New Zealand. Supporting an Indigenous-led process to build capacity of iwi, hapū and whānau to engage in this discussion will contribute to the Government's priority to strengthen Māori Crown relations and promote equity and fairness in the Māori Crown partnership. These next steps will benefit all New Zealanders by:
 - 2.1 fostering greater social cohesion through a better understanding of Indigenous peoples' rights in our country; and
 - 2.2 continuing our journey towards a more mature society where all individuals and peoples have a better understanding of what moving towards Declaration compliance means for Aotearoa New Zealand.
- 3 Maintaining momentum with this work will also assist Aotearoa New Zealand comply with our international obligations under the Declaration and signal our ongoing commitment to Indigenous peoples' rights on the international stage.

Executive Summary

- 4 In June 2021, Cabinet invited me to report back on a draft Declaration plan. While working in partnership with Pou Tikanga representatives of the National Iwi Chairs Forum (NICF) and the Human Rights Commission on the development of a draft Declaration plan has been constructive it has not been possible to produce a draft that is ready for Cabinet consideration in the time available. As a result, we do not have enough time to undertake a robust wider public consultation on a draft before the end of the year, as initially intended. Therefore, I am seeking Cabinet agreement to defer the report on a draft Declaration plan until early 2024.

- 5 While we shift our focus away from the immediate task of developing a draft Declaration plan, I want to reaffirm the Government's commitment to continue to progress this kaupapa with our partners.
- 6 A more considered approach is needed if we want to bring the whole country along on this journey. We need to increase the public's knowledge of the Declaration and ensure our many and diverse communities have a good understanding of what we seek to achieve with a Declaration plan through an open and informed conversation.
- 7 The Governance Group has agreed to focus on supporting activities to achieve greater momentum and to increase understanding of the Declaration amongst whānau and communities. I propose to progress a range of work over the next calendar year to build a better understanding of the Declaration. This was one of the early actions being considered as part of the draft Declaration plan and to some degree mirrors the approach in Canada where First Nations are leading an engagement and planning process.
- 8 To resource the activities needed to improve knowledge and understanding, I seek Cabinet approval for \$2.5 million from the Between Budget Contingency for 2022/23 only to enable the work to commence as soon as possible. I also seek delegated authority, in consultation with delegated Ministers, to approve the work programme and relevant funding arrangements.
- 9 We have a window of opportunity over the next six months to initiate improvements in the information available to the public and ensure we are well placed to progress with resuming a Declaration plan at the end of 2023. It is important that we better articulate how a Declaration plan will deliver beneficial outcomes for Māori and a more equitable and prosperous future for all New Zealanders.

Previous Cabinet decisions

- 10 In 2014, New Zealand committed to "take concrete measures to ensure the implementation and promotion" of the Declaration [CAB Min (14) 17/5].
- 11 In March 2019, Cabinet agreed for te Minita Whanaketanga Māori to lead a process to develop a national plan of action, strategy or other measure to progress the realisation of the Declaration. [MCR-19-MIN-0003].
- 12 In June 2021, Cabinet agreed to a two-step process for the development of a Declaration plan including targeted engagement and wider public consultation on a draft Declaration plan and invited te Minita Whanaketanga Māori to report back on feedback from the targeted engagement and seek approval for next steps [SWC-21-MIN-0083].
- 13 The 2021 COVID-19 resurgence and uncertainty created by changing alert levels required adjustment to the reporting timeframes initially planned.
- 14 On 6 April 2022, te Minita Whanaketanga Māori reported back to Cabinet on feedback from targeted engagement. Cabinet approved a process for drafting

the Declaration plan and to continue working in partnership with Pou Tikanga representatives of the NICF and the Human Rights Commission on the development of a draft Declaration plan. Cabinet noted that te Minita Whanaketanga Māori intended to report back to Cabinet in June 2022 with the draft Declaration plan and a proposal for wider public consultation [SWC-22-MIN-0053].

Drafting process

Partnership approach

- 15 Since Cabinet decisions in June 2021, Te Puni Kōkiri, Pou Tikanga representatives of the NICF and the Human Rights Commission have worked together to develop a Declaration plan. This included formulating, implementing and considering feedback on the targeted engagement and developing an initial draft Declaration plan. This partnered approach, grounded in Te Tiriti o Waitangi, is consistent with the 2019 guidelines from the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and Cabinet-agreed guidelines on engagement with Māori.
- 16 The partnership approach is embodied by a Governance Group established to provide oversight at key stages of the process. The Governance Group is intended to achieve consensus on a draft plan before it is confirmed by Cabinet. The Governance Group is co-chaired by te Minita Whanaketanga Māori and Professor Margaret Mutu (Pou Tikanga chair), alongside the Minister for Māori Crown Relations, the Minister of Foreign Affairs, the Minister of Justice, Dayle Takitimu, Aroha Mead, Liana Poutū and Te Huia Bill Hamilton. The partnership is also reflected at the steering committee and working group level.

Drafting process to date

- 17 The partnership arrangement has largely been constructive and there have been important shifts in the design of the plan since April 2022. A draft Declaration plan is yet to be agreed for Cabinet consideration and there is insufficient time to engage with the public by the end of 2022 as was initially planned.
- 18 An initial draft was produced for the co-chairs on 3 June 2022, which was consistent with the timeframes we had committed to. The draft fell short of my expectations of a plan that would set Aotearoa New Zealand on a journey towards Declaration compliance. It did not strike the right balance between achieving our collective ambition in this area and taking the public with us in meeting our commitment to realising the Declaration.
- 19 I was not prepared for the Governance Group to consider the draft, nor to submit it to Cabinet. Instead, I asked the groups to continue working on the draft, recognising the complexity of what was needed, with a focus on the actions that could be taken over the next five years. The groups have worked constructively throughout but a draft is yet to be agreed by the Governance Group and Cabinet.

- 20 Following discussion at the Governance Group of the issues, I am of the view that more work is required on our approach to the Declaration plan, and we no longer have enough time to undertake a robust wider consultation before the end of the year, as initially intended when I reported to Cabinet earlier this year.
- 21 A Declaration plan should provide clarity on how New Zealand will realise the Declaration. It should ground greater coherence across Government in delivering beneficial outcomes for Māori leading to more equitable and prosperous future for everyone. Continuing to progress a draft will require us to establish stronger public buy-in to the work and I do not consider a draft will be achieved in 2023.
- 22 As a result, I intend to move the further development of a draft Declaration plan and public consultation on it out until such time as there is stronger understanding of, and support for, the Declaration. I also intend to defer the report on a draft Declaration plan until early 2024.

Proposed next steps

- 23 It is important, however, that the Government reaffirms its commitment to realising the Declaration in Aotearoa New Zealand and continues the conversation on this kaupapa.
- 24 If we want to bring all of Aotearoa New Zealand along on this journey, we need to increase knowledge of the Declaration and ensure our many and diverse communities have a good understanding of what we seek to achieve with a Declaration plan. Having an open and informed conversation requires more time and a more considered approach.

Key objectives for the next steps

- 25 As we shift our focus away from the immediate task of developing a draft Declaration plan, it is important that the next steps signal the Government's ongoing commitment to this kaupapa and build on the positive work achieved.
- 26 The targeted engagement completed earlier this year was an opportunity to raise the profile and increase understanding of the Declaration and Indigenous peoples' rights amongst the workshop participants. Pou Tikanga, the Human Rights Commission and Te Puni Kōkiri developed together documentation for the public outlining the rights in the Declaration, the relation between the Declaration and te Tiriti o Waitangi, and the process for developing a plan. Despite the positive work done over the targeted engagement period, and the clear vision that participants had regarding what is needed to realise their rights, the level of public understanding and across Māoridom remains low.
- 27 We need to build on this early momentum and increase our efforts to lift communities' understanding of, and support for, the Declaration, thus putting Aotearoa New Zealand in a more informed position when work on the Declaration plan resumes. We need to be able to better articulate how the development of a Declaration plan will deliver beneficial outcomes for Māori and a more equitable and prosperous future for everyone.

- 28 In taking these next steps we need to maintain the partnership approach. Since June 2021, when Cabinet agreed to a two-step process for the development of a Declaration plan, we have developed a novel way of working together to build trust and work with Pou Tikanga and the Human Rights Commission in a collaborative way at all levels. This is consistent with the 2019 EMRIP guidelines and demonstrate a level of maturity in the Crown Māori relationship. It is important that this continues at the governance level and that my Ministerial colleagues and I continue to have a forum for engaging rangatira ki te rangatira with our Pou Tikanga partners.

Proposed activities to be progress next year

- 29 The Governance Group has agreed to focus on supporting activities, to be progressed over the next calendar year, to achieve greater momentum and to increase understanding amongst whānau and communities about the Declaration.
- 30 Building an understanding of the Declaration from the bottom up is key and was one of the early actions that were being considered as part of the draft plan. The shift in focus is enabling us to start these actions now to increase knowledge of, and support for, the Declaration.
- 31 Undertaking such work would have similarities to early phases in the development of the Declaration work undertaken recently in Canada. While the initial approach we adopted was for targeted engagement followed by public consultation, Canada is spending more time in Indigenous-led engagement and planning, supported by some public engagement. The Canadian Government has provided more than \$25 million to support these activities.

Resourcing the next steps

- 32 The Governance Group has identified increasing communities' understanding of, and support for, the Declaration as a key next step that needs to commence as soon as possible if we are to build on the work achieved so far and maintain the current momentum.
- 33 Resources are needed now to develop activities and implement them over the next calendar year to continue to build on the progress made to date and raise understanding and awareness of the Declaration across all our communities. We have a window of opportunity over the next six months to undertake these conversations and ensure we are well placed to progress with a draft Declaration plan from the end of 2023.
- 34 While the Canadian Government has invested significantly in this work, my expectations are more modest.
- 35 This is not work that we have provisioned for over the coming year. I am therefore seeking Cabinet approval for additional funding of \$2.5 million for 2022/23 only, from the Between Budget Contingency to the Tāhūa Whanaketanga Māori | Māori Development Fund to enable the development of these activities and for their implementation to commence as soon as possible.

- 36 Securing this funding will send a strong signal that while the focus has shifted from developing a Declaration plan for immediate release to ensuring first that we all have a common understanding of what it means, the Government is committed to:
- 36.1 having a considered conversation about the Declaration;
 - 36.2 implementing activities that will build on what we have achieved to date and maintain momentum;
 - 36.3 putting Aotearoa New Zealand in a good position to engage when the Declaration plan project recommences; and
 - 36.4 continuing our trajectory to develop a Declaration plan that demonstrates our shared commitment to Indigenous peoples' rights and the Declaration.
- 37 Furthermore, subject to Cabinet approval of the \$2.5 million, I seek delegated authority for te Minita Whanaketanga Māori in consultation with the Minister for Māori Crown Relations: Te Arawhiti, the Minister of Foreign Affairs and the Minister of Justice to approve the work programme and funding arrangements to deliver on these commitments.

Risk analysis

- 38 I am seeking funding from the Between Budget Contingency in order to implement Declaration-related activities in the immediate term and to make the best use of the time we have to commence a public information programme. Having to wait until Budget Day 2023, or failing to secure any funding, would make it difficult to maintain the momentum on this programme.
- 39 It would also make the resumption of work on a draft Declaration plan at the end of next year more challenging as the necessary groundwork to build an understanding of, and support for, the Declaration across all of Aotearoa New Zealand will not have been undertaken.

Next Steps

- 40 Subject to your agreement to funding, the Governance Group will agree a communication strategy and key messages to update the public on the status of the draft plan and the next steps for this work. Professor Mutu and I will release a public statement announcing the development of activities, to be implemented over the next year, which will raise communities understanding of, and support for, the Declaration.

Financial Implications

- 41 I seek Cabinet approval for additional funding of \$2.5 million in 2022/23 only to the Tahua Whanaketanga Māori | Māori Development Fund for the design and implementation of information provision activities to increase awareness and understanding of the Declaration to be rolled out in early 2023.

- 42 The following changes to appropriations will have the following corresponding impact on the operating balance and net core Crown debt:

Vote: Māori Development Minister for Māori Development	\$m – increase/(decrease)				
	2022/23	2023/24	2024/25	2025/26	2025/26 & Outyears
Non-Departmental Output Expense: Tahua Whanaketanga Māori Māori Development Fund	2.500	-	-	-	-

Legislative Implications

- 43 There are no legislative implications for this paper.

Impact analysis

- 44 A regulatory impact statement and a climate implications of policy assessment are not required for this paper.

Population Implications

- 45 In line with the Declaration, particular attention needs to be given to the rights and needs, both as individuals and collectively, of Māori elders, Māori women, Māori youth, Māori LGBTQI+ people (takatāpui) and Māori disabled persons (tāngata whaikaha Māori) as part of the proposed activities.

Human Rights

- 46 Increasing understanding of, and support for, the Declaration aligns with New Zealand's existing human rights obligations and ensure that these are realised in practice.

Consultation

- 47 The Ministry for Foreign Affairs and Trade, the Ministry of Justice, the Office for Māori Crown Relations: Te Arawhiti and the Treasury were consulted on a draft version of this paper. The Department of Prime Minister and Cabinet and the Crown Law Office were informed.

Communications

- 48 Following Cabinet approval, I will make a statement alongside the Pou Tikanga announcing the development of activities to be implemented over the next year.

Proactive Release

- 49 Subject to Cabinet approval, please note my intention to release this Cabinet paper on the Te Puni Kōkiri website within 30 working days of Cabinet approval.

Recommendations

I recommend that the Committee:

- 1 **note** that in June 2021, Cabinet invited te Minita Whanaketanga Māori to report back to seek approval of a draft Declaration plan and a proposal for wider public consultation [SWC-21-MIN-0083];
- 2 **note** that te Minita Whanaketanga Māori, in consultation with delegated Ministers has worked with Pou Tikanga representatives of the National Iwi Chairs Forum and the Human Rights Commission to develop a draft Declaration plan however no draft Declaration plan has been agreed and time has run out for public engagement on that draft in 2022 as had initially been planned;
- 3 **agree** to defer the report back to the Cabinet Social Wellbeing Committee on a draft Declaration plan intended for public consultation until early 2024;
- 4 **note** that the Government remains committed to progressing this work further consistent with the obligations that have been signalled by Aotearoa New Zealand since committing to support the United Nations Declaration on the Rights of Indigenous Peoples in 2010;
- 5 **agree** to provide a one-off contribution of \$2.5 million, in 2022/23 only, to the Tahua Whanaketanga Māori | Māori Development Fund to support activities to build public awareness and understanding of the United Nations Declaration on the Rights of Indigenous Peoples;
- 6 **approve** the following changes to appropriations to give effect to the policy decision in recommendation 5 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote: Māori Development Minister for Māori Development	\$m – increase/(decrease)				
	2022/23	2023/24	2024/25	2025/26	2025/26 & Outyears
Non-Departmental Output Expense: Tahua Whanaketanga Māori Māori Development Fund	2.500	-	-	-	-

- 7 **agree** that the proposed change to appropriations for 2022/23 above be included in the 2022/23 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;
- 8 **agree** that the expenses incurred under recommendation 7 above be charged against the between-Budget contingency established as part of Budget 2023;

- 9 **agree** to delegate authority to te Minita Whanaketanga Māori, in consultation with the Minister for Māori Crown Relations: Te Arawhiti, the Minister of Foreign Affairs and the Minister of Justice, to approve the work programme and funding arrangements to increase Māori and public awareness and engagement with the Declaration.

Authorised for lodgement

Hon Willie Jackson
Te Minita Whanaketanga Māori

Released by the Minister
for Māori Development