

24 Hōngongoi 2025

File Ref: OIA 50473

Tēnā koe [REDACTED]

Official Information Act request

Thank you for your information request dated 1 Hōngongoi 2025. You asked for the following information:

1. *“Any advice, feedback or other information provided by Te Puni Kōkiri to the Ministry for Regulation or the Minister for Regulation on the Regulatory Standards Bill.*
2. *Any internal emails or messages including teams messages, text messages or messages on any other application relating to the Regulatory Standards Bill.”*

On 14 Hōngongoi 2025 we wrote to you in respect of the second part of your request and invited you to consider refining the scope.

On 16 Hōngongoi 2025, you reframed your request as follows:

1. *“Any advice, feedback or other information provided by Te Puni Kōkiri to the Ministry for Regulation or the Minister for Regulation on the Regulatory Standards Bill.*
2. *Any internal emails or messages including teams messages, text messages or messages on any other application relating to the Regulatory Standards Bill to which the Secretary for Māori Development was a party.*
3. *Any internal emails or messages including teams messages, text messages or messages on any other application relating to the Regulatory Standards Bill to which the Deputy Secretary Policy was a party.*

It would seem that this would exclude a large number of unnecessary emails etc. I am aware that in many cases substantive comments that are not formal advice or feedback are found in internal communications.”

Your request has been considered in accordance with the Official Information Act 1982 **(Act)**.

Eight documents have been identified as in scope of part one of your request. The documents and my decisions with regard to the release of information is set out in the table attached as Appendix A.

Some information has been withheld in accordance with the Act on the following grounds:

- Section 9(2)(a) - to protect the privacy of natural persons, including that of deceased natural person
- Section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- Section 9(2)(h) - to maintain legal professional privilege.

In relation to information that has been withheld under section 9 of the Act, I am of the opinion that there are no countervailing considerations that make it desirable, in the public interest, to make the information available at this time.

In regard to parts two and three of your request, we have decided to grant your request. However, it will take us some time to prepare the information for release. We will provide this information to you by 22 Whiringa-ā-nuku 2025. We anticipate that some information will be withheld under sections 9(2)(a), 9(2)(g)(i) and 9(2)(h).

I trust my response to part one satisfies your request.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that Te Puni Kōkiri publishes some of its Official Information Act responses on its website, after the response is sent to the requester. The responses published are those that are considered to have a high level of public interest. We will not publish your name, address or contact details.

If you wish to discuss any aspect of your request with us, including this decision, please feel free to contact us at oiia@tpk.govt.nz.

Ngā mihi



Paula Rawiri
Hautū, Te Puni Kaupapa | Deputy Secretary, Policy

Appendix A: Documents - OIA request from [REDACTED] dated 1 Hōngongoi 2025

Item	Date	Document description	Decision
1.	15 October 2024	Email: <i>Updated draft preliminary Treaty Impact Analysis for the RSB</i>	Released with some information withheld under section 9(2)(a) of the Act
		Attachment one: Preliminary Treaty Impact Analysis for an amended RSB_ (002) TPK Comments (with TPK comment about liberty principle highlighted)”	Released with some information withheld under sections 9(2)(g)(i) and 9(2)(h) of the Act
		Attachment two: Draft Preliminary Treaty Impact Analysis for an amended RSB (004) TPK officials' comment highlighted”	Withheld in full under section 9(2)(g)(i) of the Act
2.	30 October 2024	Email: <i>RE Question regarding whether information should be marked legally privileged</i>	Released with some information withheld under the sections 9(2)(a) and 9(2)(h) of the Act
3.	17 February 2025	Email: <i>RE RSB - Decisions needed for proceeding on the basis of the discussion document proposal</i>	Released with some information withheld under section 9(2)(a) of the Act
4.	28 February 2025	Email, <i>RE For feedback please updated Treaty Impact Analysis for a proposed Regulatory Standards Bill</i>	Released with some information withheld under sections 9(2)(a), 9(2)(g)(i), 9(2)(h) of the Act
		Attachment: The Treaty of Waitangi/te Tiriti o Waitangi Impact Analysis for the Regulatory Standards Bill	Released with some information withheld under sections 9(2)(g)(i) and 9(2)(h) of the Act

Item	Date	Document description	Decision
5.	12 March 2025	Email: <i>RE Updated Treaty Impact Analysis for review please</i>	Released with some information withheld under the sections 9(2)(a), 9(2)(g)(i) and 9(2)(h) of the Act
		Attachment: Draft – Assessment of the proposed Bill in relation to the Treaty of Waitangi/te Tiriti o Waitangi articles	Released with some information withheld under sections 9(2)(g)(i) and 9(2)(h) of the Act
6.	12 March 2025	Email: <i>Draft Cabinet paper consultation - Regulatory Standards Bill</i>	Released with some information withheld under section 9(2)(a) of the Act
7.	7 April 2025	Email: <i>RE Preparing for release of RSB papers</i>	Released with some information withheld under sections 9(2)(a) and 9(2)(h) of the Act
8.	16 April 2025	Email: <i>Departmental comment in RSB Cabinet paper</i>	Released with some information withheld under sections 9(2)(a) and 9(2)(h) of the Act, and as out of scope

Monique Holmes

From: [REDACTED]
Sent: Tuesday, 22 October 2024 2:10 pm
To: s9(2)(a)@regulation.govt.nz
Cc: [REDACTED]
Subject: RE: Updated draft preliminary Treaty Impact Analysis for the RSB
Attachments: Preliminary Treaty Impact Analysis for an amended RSB_ (002) TPK Comments (with TPK comment about liberty principle highlighted).docx; Draft Preliminary Treaty Impact Analysis for an amended RSB (004) TPK officials' comment highlighted.docx

Kia ora [REDACTED]

I confirm that [REDACTED] wanted you please to shift the text from the properties principle section to the liberties principle section.

Ngā mihi
[REDACTED]

<p>[REDACTED] Senior Solicitor Poutoko Ture Matua Te Puni Kōkiri, Te Tari Matua</p>	<p>Tauwaea DDI : Waea Pūkoro M : s9(2)(a) Waea Whakaahua F : 0800 875 329 Paetukutuku W : www.tpk.govt.nz Te Puni Kōkiri, Te Puni Kōkiri House, 143 Lambton Quay, Wellington 6011, New Zealand PO Box 3943, Wellington 6140, New Zealand</p>
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From: [REDACTED] s9(2)(a)@tpk.govt.nz
Sent: Tuesday, 22 October 2024 2:02 pm
To: [REDACTED] s9(2)(a)@tpk.govt.nz
Subject: FW: Updated draft preliminary Treaty Impact Analysis for the RSB

Kia ora [REDACTED]

Can you help with this question from [REDACTED]

If it is easy, please respond to her directly and cc me and [REDACTED]

Ngā mihi
[REDACTED]

From: [REDACTED] s9(2)(a)@regulation.govt.nz
Sent: Tuesday, 22 October 2024 1:59 pm
To: [REDACTED] s9(2)(a)@tpk.govt.nz
Subject: FW: Updated draft preliminary Treaty Impact Analysis for the RSB

You don't often get email from s9(2)(a)@regulation.govt.nz. [Learn why this is important](#)

Kia ora [REDACTED]

Thank you for your email. My apologies, I forwarded the wrong email to you.

Please see the email from [redacted] from Thursday – do you know if she sent a second attachment with changes? Or did she want me to simply shift the text from the properties principle section to the liberties principle section – which is easy to do. I just wasn't sure if she wanted any additional changes to the wording.

Ngā mihi
[redacted]

From: [redacted]
Sent: Tuesday, 22 October 2024 8:15 am
To: [redacted] <9(2)(a)@tpk.govt.nz>
Subject: Updated draft preliminary Treaty Impact Analysis for the RSB

Ata mārie [redacted]

Thanks heaps for this. Could I please check whether this feedback came through in an attached document as I can't seem to see it.

Ngā mihi
[redacted]

From: [redacted] <9(2)(a)@tpk.govt.nz>
Sent: Thursday, October 17, 2024 4:32 PM
To: [redacted] <9(2)(a)@regulation.govt.nz>
Cc: [redacted] <9(2)(a)@tpk.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>
Subject: RE: Updated draft preliminary Treaty Impact Analysis for the RSB

Kia ora [redacted]

Some feedback on the draft TIA. A comment from TPK was made around the proposed principle relating to liberties but the comment has been attributed to a TPK objection to the taking of property principle. Can this please be amended?

Ngā mihi
[redacted]

*Policy Manager, Māori Public Policy | Kaiārahi
Kaupapa Here, Kaupapa Here Māori Tūmatanui
Te Puni Kōkiri, Te Tari Matua*

*Tauwaea DDI : | Waea Pūkoro M : 9(2)(a)
Waea Whakaahua F : 0800 875 329 | Paetukutuku W : www.tpk.govt.nz
Te Puni Kōkiri, Te Puni Kōkiri House, 143 Lambton Quay, Wellington 6011, New Zealand
PO Box 3943, Wellington 6140, New Zealand*

From: [redacted] <9(2)(a)@regulation.govt.nz>
Sent: Tuesday, 15 October 2024 2:15 pm
To: [redacted] <9(2)(a)@tpk.govt.nz>
Subject: Updated draft preliminary Treaty Impact Analysis for the RSB

Kia ora [redacted]

Congrats on your latest appointment!

Please find attached the updated draft preliminary Treaty Impact Analysis for the Regulatory Standards Bill. This will be going to agencies for consultation tomorrow alongside a draft Cabinet paper seeking agreement to release the discussion document *Have your say on the Regulatory Standards Bill*.

We appreciated all your really helpful feedback in the very short timeframe which we worked to reflect throughout the paper.

Feel free to get in touch if you have any questions or concerns.

Ngā mihi nui

[Redacted]

[Redacted] (she/her)

Principal Advisor, Policy and Strategy Team

Ministry for Regulation

īmēra: [s9\(2\)\(a\)@regulation.govt.nz](mailto:s9(2)(a)@regulation.govt.nz)



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Confidentiality notice: This email may be confidential or legally privileged. If you have received it by mistake, please tell the sender immediately by reply, remove this email and the reply from your system, and don't act on it in any other way. Ngā mihi.

Preliminary Treaty Impact Analysis for the Regulatory Standards Bill

Overview and Summary

1. The Ministry for Regulation is undertaking a preliminary, high-level Treaty Impact Analysis (TIA) for policy proposals on an updated Regulatory Standards Bill (the Bill). The purpose of this analysis is to provide an indication of the possible Treaty impacts of the policy proposals, the nature of Māori rights and interests, and implications for Treaty settlements. A full TIA will be taken following a proposed engagement phase that would include public release of a discussion document along with targeted consultation once public consultation and engagement has concluded.
2. In considering the application of the Treaty of Waitangi to the Bill, the Ministry has followed guidance set out in Cabinet Circular CO (19)5 and taken advice from the Crown Law Office. While public consultation has been undertaken on several occasions for different versions of the Regulatory Responsibility Bill and Regulatory Standards Bill, this is the first time the proposed features in this particular version of the Bill have gone to consultation. This means that preliminary analysis has necessarily been limited to the views of officials only.
3. The final TIA will have the benefit of being strengthened by the findings of proposed consultation, while acknowledging that this will also be subject to the extent to which Māori engage with the discussion document.
4. The Treaty of Waitangi/te Tiriti o Waitangi (referred to as 'the Treaty/te Tiriti' for the purposes of this document) is recognised as a founding document of government in New Zealand¹ and of 'vital constitutional importance.'² The Bill focuses on the setting and application of key standards for good law-making, legislative design and regulatory stewardship **9(2)(h)**

Commented [redacted]: Was there any mitigation measure if this does not occur, or if there is strong opposition.

Commented [redacted]: Has there been any engagement at this point? Might want to make this explicit? Do you need to link this to the consultation principle within the Bill?

9(2)(h)

9(2)(h)

¹ Cabinet Office, Cabinet Manual 2023 (Wellington: Department of Prime Minister and Cabinet, 2023), Appendix A, p 155.

² 2021 Legislation Design and Advisory Committee Guidelines, page 24.

9(2)(h)

9(2)(h)

8. Particularly significant is the decision to not include a principle related to the Treaty/te Tiriti and its role as part of good law making. This results in the Bill being effectively silent about how the Crown will meet its duties under the Treaty/te Tiriti in the space of lawmaking. While this does not prohibit the Crown complying with the Bill in a manner consistent with the Treaty/te Tiriti, we anticipate that the absence of an explicit reference may be seen as of political significance to Māori.

Commented : Was this ministerial or Cabinet decision? What was the main reasoning behind this decision. And what was CLO advice on the matter of including or not including a reference to a Treaty principle? What was their recommendation - include or not include?

9. The standards in the Bill are inconsistent in some respects with current legal norms, both in non-statutory guidance like the Legislation Guidelines, and from more conventional legal descriptions in other legislation and the Standing Orders.

Commented : Need to identify and advise the Cabinet on all possible risks and benefits (if any) of this absence

Commented : Was there any feedback from LDAC?

9(2)(g)(i)

9(2)(h)

9(2)(g)(i)

9(2)(h)

9(2)(g)(i)

Principles of responsible regulation

10. The Bill includes principles of responsible regulation that the Government would be required to have sufficient regard to when developing legislative proposals or exercising stewardship over regulatory systems. There are a range of principles in the Bill that will likely have implications for Māori rights and interests, including (but not limited to) principles related to the taking of property, liberties, equality before the law, and good law making. These are discussed in further detail below.

Absence of a principle relating to the Treaty/te Tiriti

11. The proposal does not involve inclusion of a principle relating to the Treaty/te Tiriti when developing legislation.

12. Kāwanatanga and tino rangatiratanga are interconnected in New Zealand's law-making and constitutional arrangements, embodying partnership under the

Commented : Does this mean that Minister Seymour has decided not to consult on the inclusion of a principle of consistency/ sufficient regard to Treaty principles/the Treaty?

Treaty. Kāwanatanga provides the framework for the government's authority to legislate, while tino rangatiratanga emphasises Māori self-determination.

13. In its stage 2 report of the Te Paparahi o Te Raki Inquiry, the Waitangi Tribunal discussed the connected Crown duties to foster tino rangatiratanga, not undermine it, and to ensure that Treaty/te Tiriti rights and guarantees were recognised in laws and policies. The Waitangi Tribunal also noted the Crown's obligation to engage and negotiate with Māori where questions of relative authority arose between the exercise of tino rangatiratanga and kāwanatanga.³

Commented : Is this engagement and negotiations going to happen - if so, when and how?

14. We anticipate that the absence of an explicit reference to the Treaty may be seen as politically significant for Māori, and 9(2)(h)

[Redacted]

9(2)(h)

15. Further, the Crown has an obligation to actively protect the rights and interests of Māori under the Treaty/te Tiriti. 9(2)(h)

[Redacted]

[Redacted] The absence of a principle relating to the Treaty/te Tiriti may be seen as implying that it is of lesser importance, with ministers not needing to disclose and justify inconsistencies with the Treaty/te Tiriti as part of law-making.

Commented Agree. This paper identified several risks like this one, but does not include much info on suggestions how they can be addressed - one way to do this to provide some options to the Cabinet eg. Option1 - include a principle relating to the Treaty, Option 2 - not include a principle but consider alternative measures etc

Taking of property

16. The proposed principle relating to taking of property is:

Legislation should not take or impair, or authorise the taking or impairing of, property without the consent of the owner unless:

- o there is good justification for the taking or impairment
- o fair compensation for the taking or impairment is provided to the owner
- o compensation is provided to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or impairment.

Commented What about protection mechanisms for whenua Māori? Alienation of whenua Māori is associated with poor wellbeing outcomes for whānau Māori and ought to be avoided in all but extreme situations and accompanied with a serious commitment to mitigating, if not recompensing any losses.

17. New Zealand does not have set down in legislation a general protection of property rights from expropriation. 9(2)(h)

[Redacted]

9(2)(h)

18 9(2)(h)

³ Waitangi Tribunal, *Tino Rangatiratanga me te Kaawanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*

9(2)(h)

Commented This sentence doesn't make grammatical sense.

19. Given the Bill does not explicitly refer to the Treaty/te Tiriti or tino rangatiratanga, there may be uncertainty as to how law-makers will be required to consider Māori cultural values and systems of law relating to property, including tikanga, under the new system. 9(2)(g)(i)

9(2)(g)(i)

Libert

20. The proposed principle relating to liberties is:

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person.

Commented How does this principle fit with te ao Māori environmental concerns that aren't directly about the protection of a person's liberty, freedom or rights?

21. New Zealand does not have set down in legislation a description of "liberties", or a statutory recognition of liberties in this form. Providing for liberties in the Bill could be interpreted as not only aligning with Article 2 of the Treaty/te Tiriti, but also actively supporting the strengthening of Māori rights.

Does this principle allow for the protection of the rights and wellbeing of whānau, hapū and iwi, (including future generations) or the environment?

22

9(2)(h)

This principle may also conflict with collective property ownership and the status of land as a taonga tuku iho. Te Ture Whenua Māori Act 1993 restricts individuals' rights to alienate interests in Māori land because of this, rather than because of a need to protect liberties of individuals. The restrictions could therefore be interpreted as "unduly diminish[ing] rights to dispose of property etc"

23. A regulatory responsibility principle relating to liberties in primary legislation could also be seen as a step towards advancing Māori rights under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). 9(2)(h)

9(2)(h)

9(2)(h)

The rule of law

25. The proposed principle relating to the rule of law is:

The importance of maintaining consistency with the following aspects of the rule of law:

- o the law should be clear and accessible
- o the law should not adversely affect rights and liberties, or impose obligations, retrospectively
- o every person is equal before the law
- o there should be an independent, impartial judiciary
- o issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion.

Commented [redacted]: Wherever existing legislation is subject to review and recommendations for change by the Regulatory Standards Board, this will require careful decisions to produce a fair transition from the existing legislation to the new.

26. New Zealand currently has no equivalent formal statutory recognition for observing the right to equality before the law. When considering rights impacted under the Treaty/te Tiriti, the difference between equality in the administration of the law and substantive equality is significant and the Bill does not clearly delineate which interpretation it favours. 9(2)(h)

27. 9(2)(g)(i)

28. 9(2)(g)(i)

29. 9(2)(h)

9(2)(h)

Good law-making

30. The proposed principle relating to good law-making is:

The importance of consulting, to the extent practicable, the persons or representatives of the persons that the Government considers will be substantially affected by the legislation.

The importance of carefully evaluating:

- o the issue concerned
- o the effectiveness of any relevant existing legislation and common law
- o whether the public interest requires that the issue be addressed
- o any options (including non-legislative options) that are reasonably available for addressing the issue
- o who is likely to benefit, and who is likely to suffer a detriment, from the legislation.

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons.

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available.

Commented : These are all good principles that are consistent with Legislation Guidelines principles eg Legislation should only be made when it is necessary, should be consistent with existing legislation and the common law.

Commented What bout iwi/Māori interests?

Commented : It should not always be about cost and benefits, meeting the Treaty obligations and respecting existing settlement agreements should also be part of it.

31. The Treaty/te Tiriti principles expectation of properly informed and good faith decision making, and that of partnership generally, indicates that the Crown should take reasonable steps to make informed decisions on matters that affect Māori interests.

32



33. However, given the Bill does not explicitly refer to the Treaty/te Tiriti, there may also be uncertainty for how law makers will uphold the principle of partnership guaranteed by the Treaty.

34. When negotiating Treaty settlements, the Crown is obligated to engage in meaningful and good-faith consultation with Māori. Once agreements are reached, the Crown must continue to uphold these obligations by implementing the terms of the settlements effectively and maintaining ongoing engagement with Māori. Given the Bill does not explicitly discuss Treaty/te Tiriti settlements there may be questions for how the provision relating to consultation will uphold this.

Recourse

35. The Bill proposes a Regulatory Standards Board be established in the Executive branch of government to consider the consistency of regulation in response to complaints.

Commented : How will appointments be made to the Board? Will there be iwi / Māori representation, particularly there may be an absence of a principle relating to the Treaty/te Tiriti

36. A recourse mechanism in the Bill could enable Māori to raise concerns about regulation that may adversely affect Māori rights and interests under the Treaty/te Tiriti. While the findings of the Board would be recommendatory, the process of providing another avenue to raise these concerns may support the Treaty/te Tiriti principle of active protection.

Commented [redacted]: Again, proper representation and skill set is required for this board if there are recommendations made around Māori rights and interests and active protection. Also, what role will the Board play in the wider system given the role of the Waitangi Tribunal.

Treaty settlement commitments

37. The impact on Treaty settlement commitments has been discussed throughout this analysis. 9(2)(h)

38. 9(2)(h)

Waitangi Tribunal and the Constitutional Kaupapa inquiry

39. The Bill may be relevant to current and upcoming matters before the Waitangi Tribunal, including the Constitutional Kaupapa inquiry (Wai 3300) which pertains to claims that include grievances relating to the constitution and self government.⁴

40. The Waitangi Tribunal has made an indication that some of the central themes of the inquiry will likely include tino rangatiratanga, mana motuhake, autonomy, and self-governance; kāwanatanga, constitutional legitimacy and sovereignty; parliamentary sovereignty and systems; tikanga tuku iho me ngā ture pākehā; national models of Māori self-government; and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Te Tiriti o Waitangi.

41. 9(2)(h)

⁴ <https://www.justice.govt.nz/justice-sector-policy/tomokia-nga-tatau-o-matangireia-constitutional-kaupapa-inquiry-wai-3300> (accessed 6 October 2024)

[Redacted]

From: [Redacted]
Sent: Wednesday, 30 October 2024 10:20 am
To: [Redacted]
Cc: [Redacted]
Subject: RE: Question regarding whether information should be marked legally privileged

Kia ora [Redacted]

Thank you for the email. I have reconsidered this paragraph in light of your legal team's suggestion. This paragraph could potentially fall within legal advice and therefore we would like this to be marked "legally privileged."

Ngā mihi

[Redacted]

<p>[Redacted]</p> <p>Senior Solicitor Poutoko Ture Matua Te Puni Kōkiri, Te Tari Matua</p>	<p>Tauwaea DDI : Waea Pūkoro M: 9(2)(a) Waea Whakaahua F : 0800 875 329 Paetukutuku W : www.tpk.govt.nz Te Puni Kōkiri, Te Puni Kōkiri House, 143 Lambton Quay, Wellington 6011, New Zealand PO Box 3943, Wellington 6140, New Zealand</p>
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From: [Redacted] <9(2)(a)@regulation.govt.nz>
Sent: Wednesday, 30 October 2024 10:01 am
To: [Redacted] <9(2)(a)@tpk.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>
Subject: Question regarding whether information should be marked legally privileged

Some people who received this message don't often get email from 9(2)(a)@regulation.govt.nz. [Learn why this is important](#)

Kia ora [Redacted]

Thanks again for your feedback on the Preliminary Treaty Impact Analysis for an amended Regulatory Standards Bill.

Our legal team has suggested I check back with you regarding whether para 29 (below) should be

9(2)(h)

I'd be grateful for your advice on this.

Ngā mihi

[Redacted]

[Redacted] (she/her)
Principal Advisor, Policy and Strategy Team
Ministry for Regulation

īmēra: **s9(2)(a)** regulation.govt.nz



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RELEASED UNDER THE
OFFICIAL INFORMATION ACT

From: [REDACTED]
Sent: Tuesday, 4 March 2025 1:28 pm
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: RSB - Decisions needed for proceeding on the basis of the discussion document proposal

Ata mārie [REDACTED]

I hope you are well. We are looking forward to receiving the Treaty Impact Analysis Statement.

I'm just following up on the conversation you had with [REDACTED] on Thursday 27 February on the draft briefing on decisions needed to proceed to a Cabinet paper on the Regulatory Standards Bill proposal. We were keen to follow up that conversation in writing noting:

- Our support for the Ministry's recommendations about the focus of the bill on legislation rather than "regulation" more broadly at para 17 and the purpose recommendation at paragraph 25.
- We also think it is positive that the Ministry proposes that the types of secondary legislation that will need to be reviewed for consistency is limited (for the reasons the Ministry sets out at para 55).
- We also support the Ministry's recommendations about the need to limit the Board's scope to "avoid duplication and focus its resources where it is most likely to make a difference."
- regarding the exclusion and exemptions at para 50, it is positive that Treaty Settlement Bills are excluded.

We also propose that Māori Purposes Bills are included as a bill to be specifically excluded as they are similar to Statutes Amendment Bills that the Ministry proposes excluding.

For broader context:

- Māori Purposes Bills are omnibus bills authorised by Standing Order 266(1)(d), the same standing order that authorises Statutes Amendment bills
- A Māori Purposes Bill may
 - (i) amend one or more Acts relating to Māori affairs, or
 - (ii) deal with authorisations, transfers, and validations in respect of Māori land and property:
- MPBs have a long history. Previous editions of the Standing Orders have authorised MPBs (up until 1947 called Native Purposes Bills). The oldest principal Māori Purposes Act in force is the Māori Purposes Act 1931.
- TPK currently administers around 38 principal Māori Purposes Acts.
- The Māori Purposes Act 2022 and the [Māori Purposes Bill](#) before the House were exempted from RIS requirements because of the minor nature of the amendments. Much of what is being done through the current Māori Purposes Bill could meet the criteria for a revision bill (e.g. repeal of spent Acts and provisions, modernisation of provisions to align with modern technology).

The next Māori Purposes Bill is similar to a revision bill exercise (as it will modernise provisions and consolidate the existing Māori Purposes Acts), together with some modernising amendments to appointment procedures of some Māori statutory bodies.

We are happy to discuss further if required.

Policy Manager, Māori Sector Partnerships

Tauwaea DDI : 9(2)(a) | Waea Pūkaro M : 9(2)(a)
Waea Whakaaahua F : 0800 875 329

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 Cc: 9(2)(a) regulation.govt.nz; 9(2)(a) regulation.govt.nz; 9(2)(a) regulation.govt.nz; 9(2)(a) regulation.govt.nz; 9(2)(a) regulation.govt.nz; 9(2)(a) regulation.govt.nz
 Subject: RSB - Decisions needed for proceeding on the basis of the discussion document proposal

IN-

Kia ora koutou

Please find attached for your information a draft briefing on decisions needed to proceed to a Cabinet paper on the Regulatory Standards Bill proposal. We're looking to get the briefing over to the Minister tomorrow.

This briefing essentially takes the proposal in the discussion document (as we have now been directed to do by the Minister) and goes through the detailed decisions that are needed in a Cabinet paper, for the Minister's approval. It also contains some further advice based on PCO's views on legislative design, our assessment of the workability of aspects of the proposal, and (in a few areas) some further thinking we have done.

It does not attempt to address any of the feedback from the consultation process.

You'll note that it does not yet have recommendations, nor does it have the drafting attached as yet – we are still working with PCO on this. The Crown Law Office are also in the process of reviewing the briefing.

We'd appreciate the opportunity to talk this through more and wondered if we could line up a time to meet via teams **today at 3.30pm**, noting of course that this is extremely short notice. Please let us know if you think you won't be able to manage to attend, or an alternative time that may work this afternoon. I am very mindful, however, that lining up calendars at short notice can be very challenging.

We have factored in (some) time for broader departmental; and Ministerial consultation on the Cabinet paper as well – this is likely to be around 10 March for departmental consultation and 20 March for Ministerial consultation. The aim is for a Cabinet paper to EXP on 8 April.

Please don't hesitate to get in touch if you have any questions.

Hei konā mai

[redacted] (she/her)

Principal Advisor

Regulatory Strategy

waea pūkoro: s9(2)(a)

IN-

From: [redacted]

Sent: Monday, 24 February 2025 6:37 pm

To: [redacted] s9(2)(a) regulation.govt.nz>; [redacted] s9(2)(a) tearawhiti.govt.nz>

[redacted] s9(2)(a) @tpk.govt.nz; [redacted] s9(2)(a) @tpk.govt.nz>; [redacted] s9(2)(a) @tpk.govt.nz

Cc: [redacted] s9(2)(a) regulation.govt.nz>; [redacted]

[redacted] s9(2)(a) regulation.govt.nz>; [redacted] s9(2)(a) tearawhiti.govt.nz>; [redacted]

[redacted] s9(2)(a) regulation.govt.nz>; [redacted] s9(2)(a) regulation.govt.nz>

Subject: RE: Proposed Regulatory Standards Bill: initial findings from public consultation and possible next steps

Kia ora koutou

Please see attached (fyi) a briefing that went over to the Minister today.

Further to [redacted] note below, we're hoping to have another briefing with you for review once we hear back from the Minister on his preferred option from the briefing. We'll keep you updated.

If you have any concerns, or wish to discuss this further, then please don't hesitate to call me on [redacted] s9(2)(a)

Ngā mihi

[redacted] (she/he)

Principal Advisor, Policy and Strategy Team

Ministry for Regulation

imēra: s9(2)(a) regulation.govt.nz



From: [redacted] s9(2)(a) regulation.govt.nz>

Sent: Friday, 21 February 2025 4:50 pm

To: [redacted] s9(2)(a) tearawhiti.govt.nz>; [redacted] s9(2)(a) @tpk.govt.nz; [redacted]

<9(2)(a)@tpk.govt.nz>

Cc: s9(2)(a)regulation.govt.nz; s9(2)(a)regulation.govt.nz; s9(2)(a)regulation.govt.nz; s9(2)(a)tearawhiti.govt.nz; s9(2)(a)regulation.govt.nz; s9(2)(a)regulation.govt.nz

Subject: RE: Proposed Regulatory Standards Bill: initial findings from public consultation and possible next steps

IN-

Kia ora koutou

Please find attached an updated briefing that went to the Minister today - please disregard the previous version.

We're as yet unsure how this will impact on next steps and our previously proposed timeframes. We will aim to update you on Monday.

If you have any questions, please feel free to call me.

Hei konā mai

(she/her)

Lead Advisor

Regulatory Strategy

waea pūkoro: 9(2)(a)



From: s9(2)(a)regulation.govt.nz

Sent: Thursday, 20 February 2025 6:21 pm

To: s9(2)(a)tearawhiti.govt.nz; 9(2)(a)@tpk.govt.nz;

9(2)(a)@tpk.govt.nz

Cc: s9(2)(a)regulation.govt.nz; s9(2)(a)regulation.govt.nz;

s9(2)(a)regulation.govt.nz; s9(2)(a)regulation.govt.nz;

s9(2)(a)tearawhiti.govt.nz; Papers2review@tearawhiti.govt.nz

Subject: RE: Proposed Regulatory Standards Bill: initial findings from public consultation and possible next steps

Kia ora

First of all, many thanks for turning around your really helpful and constructive comments in very short timeframes. I'm very appreciative.

Attached is the updated briefing that went to the Minister today.

We really appreciated all your helpful feedback in the very short timeframe which we carefully considered and worked to reflect throughout the paper, as appropriate. You will also see that we added further information in the Annex around an option for the Ministry to provide further ministerial advice around:

- recognising and providing for appropriate, meaningful, and effective engagement and participation for Māori, iwi and hapū across the Bill, including as part of the principle relating to good law making and the proposed regulatory review process
- ensuring customary rights and interests are honoured and upheld in the Bill, including how the principle relating to property rights is intended to apply to Māori land interests and customary rights (including those recognised under the Marine and Coastal Area (Takutai Moana) Act 2011).

We are currently planning for a second briefing to the Minister for next Thursday seeking in-principle decisions to inform drafting of the Bill. Given the transfer of functions we will be looking to email a draft to @9(2)(a) @tpk.govt.nz on Monday afternoon again with feedback sought by COP Tuesday. @9(2)(a) @tpk.govt.nz would it be helpful for me to meet with you on Monday to discuss our work in further detail? Please note we are also connecting with [redacted] and her team.

Feel free to get in touch if you have any questions or concerns.

Ngā mihi nui

[redacted] (she/her)
Principal Advisor, Policy and Strategy Team
Ministry for Regulation
īmēra: s9(2)(a)@regulation.govt.nz



From: [redacted] s9(2)(a)@tearawhiti.govt.nz
Sent: Tuesday, 18 February 2025 2:35 pm
To: [redacted] s9(2)(a)@regulation.govt.nz
Cc: [redacted] s9(2)(a)@regulation.govt.nz; [redacted] s9(2)(a)@regulation.govt.nz; [redacted] s9(2)(a)@regulation.govt.nz; [redacted] s9(2)(a)@regulation.govt.nz; [redacted] s9(2)(a)@tearawhiti.govt.nz; Papers2review@tearawhiti.govt.nz
Subject: RE: Proposed Regulatory Standards Bill: initial findings from public consultation and possible next steps

From: [REDACTED]
Sent: Thursday, 6 March 2025 1:06 pm
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: For feedback please: updated Treaty Impact Analysis for a proposed Regulatory Standards Bill
Attachments: For agencies draft updated Treaty Impact Analysis for an amended RSB.docx

Kia ora [REDACTED]

Thank you for the opportunity to provide feedback on your updated draft Treaty Impact Analysis for the Regulatory Standards Bill. Please find our comments below for your consideration:

- We acknowledge that the draft TIA highlights the potential impacts of the various policy proposals in the Regulatory Standards Bill on Māori rights and interests, as well as the likely implications for Treaty settlements and agreements.
- 9(2)(g)(i) [REDACTED]
- 9(2)(g)(i) [REDACTED]
- Given that the Bill raises numerous significant concerns and only less than 1% of submissions either partially supported or supported it, further consultation is warranted. Considering the substantial unanswered questions regarding the Treaty implications, we recommend proper engagement with Māori, and with their representatives where appropriate.
- It is not clear how the interpretation guidelines provide guidance on the treaty issues identified in paragraph 29, given the absence of a principle relating to the Treaty? Does this interpretation process needs input and participation from Māori and their representatives?
- The Draft TIA currently does not identify any aspects of the Bill which could potentially have positive impacts for Iwi/Hapū and tangata whenua or Māori such as:
 - the potential for the property principle (if interpreted in a way which encompasses collective rights) to have benefits in terms of discouraging impairment of those rights;
 - the acknowledgement of the importance of consultation in the good lawmaking principles, while (as noted in the Draft TIA) it provides no guarantees for meaningful engagement with Iwi, Hapū, whānau or other Māori groups, potentially depending on its final wording having positive impacts for the extent of engagement those groups;
 - the regulator capability principle (if 'capability' included capability to engage with Iwi, Hapū, whānau and other Māori groups, understanding Te Ao Māori perspectives, and acting in accordance with te Tiriti | Treaty rights and obligations); and
 - the proportionate response principle.
- The Draft TIA could also include an equivalent paragraph to that in the Interim Treaty Impact Analysis which discusses the issues of whether the skills and experience of the Board will be representative of Māori perspectives or Treaty/te Tiriti rights and obligations.

- It is unclear from paragraphs 17 and 18 whether any submissions were made on the Discussion Document by Māori groups that were not representatives of iwi or hapū (e.g. was a submission made by Te Kaunihera Māori o Aotearoa | New Zealand Māori Council) and, if so, how those submissions were treated in the analysis process.
- The Draft TIA could identify that the matters discussed in paragraphs 20 to 29 relate to the Preamble of te Tiriti | the Treaty as well as Article One.
- The provision of social services in way that works for Māori is, generally, an Article 3 matter, rather than an Article 2 one. Therefore, it might be better to:
 - delete the reference to “social services” from paragraph 32.2; and
 - 9(2)(g)(i) [REDACTED]
- As is reflected in paragraph 17, te Tiriti | the Treaty both recognises the rights and responsibilities of Iwi, Hapū and tangata whenua (Article 2) and created the rights and responsibilities of Māori as citizens (Article 3). To avoid confusion between the two distinct sets of rights and responsibilities.
 - the phrase “based on partnership between Māori and the Crown” (paragraphs 8 and 22.2) could be amended to “based on partnership between Iwi and Hapū and the Crown and the creation of rights and responsibilities for Māori as citizens”;
 - references to “Māori rights and interests” in the draft TIA (paragraphs 2 and 22.2) and “Māori interests” (para. 26) could be amended to “rights and responsibilities recognised or created by the Treaty” and where it is used in para. 32.2 could be replaced with “the rights and responsibilities of Iwi, Hapū and tangata whenua”;
 - the reference to “the Māori-Crown relationship” (para.12) could be amended to “the relationships between Iwi and Hapū, whānau and other Māori groups and the Crown”;
 - “Māori collective rights” and “collective Māori rights” (paragraphs 22.1 and 25) could be amended to read “the collective rights of tangata whenua”;
 - the word “Māori” could be deleted from the phrase “Māori tino rangatiratanga” in para. 29; and
 - the word “Māori” where it is used in paragraphs 32.1, 32.2, 32.3, 33 and 40 could be replaced with “tangata whenua” (except where the term “Māori land” is used), the phrase “Māori/Iwi” in para. 32.3 could be replaced with “Iwi/Hapū,” the phrase “tikanga Māori” in para. 34 could be simplified to “tikanga”, and the phrase “the Crown and Māori” in para. 45 could be replaced with “Iwi or Hapū and the Crown”.

Need to clarify the point about “the property principle” as being the “taking of property principle”:

- the potential for the taking of property principle (if interpreted in a way which encompasses collective rights) to have benefits in terms of discouraging impairment of those rights;

According to the discussion document there are two property related principles:

- **Liberties:** Legislation should not unduly diminish a person’s liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person.
- **Taking of property:** Legislation should not take or impair, or authorise the taking or impairing of, property without the consent of the owner unless:
 - there is good justification for the taking or impairment
 - fair compensation for the taking or impairment is provided to the owner
 - compensation is provided to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or impairment.

9(2)(h) [REDACTED]

Regarding the point about the TIA not covering Board make-up, we gave some previous feedback about the consultation feedback about Board make-up being something that the Ministry could advise the Minister further on before proceeding.

Some minor feedback:

- Paragraph 11: "Consultation feedback has raised concerns around the content of the proposed Bill and its potential to affect significant constitutional change, and its implications for the role of the Treaty/te Tiriti as part of law-making." We think this should be effect rather than affect, or "its potential to make significant constitutional change"
- Paragraph 12: "Progressing the proposed Bill largely on the basis of the proposals included in the consultation discussion document risks a perception that the proposed Bill process did not take into account the significant concerns raised by Māori during consultation." Could this be strengthened to "creates a perception"?
- Paragraph 23 : "The proposed Bill does not include a principle relating to the Treaty/te Tiriti in relation to the development of legislation. This could be seen to not recognise the current status of the Treaty/te Tiriti principles across a range of instruments that shape executive decision-making and Parliament's law-making." I suggest the document name some of these instruments, such as the *Legislation Guidelines*.
- Paragraph 24: Submitters indicated that Te Ao Māori includes a focus on collective ownership and responsibility for whenua, as well as a collective nature in the way that social and cultural interests are portrayed. What is meant by "are portrayed"? Portrayed by whom? Is this referring to how Māori and Iwi and Hapu perceive their collective social and cultural interests.
- Paragraph 43: "Legislation that may have an impact on [Treaty settlements], but is not Settlement Legislation itself ..."
- Paragraph 44: "As not all Treaty/te Tiriti settlements of historical claims are complete, the proposed Bill could mean that iwi and hapū who have not yet entered into Settlement Legislation. Should be "have not yet had Settlement Bills enacted" or "have not yet signed a Deed of Settlement."
- References in the document to "may be uncertainty for how " should be "may be uncertainty about how"

We hope you find this feedback helpful. If you have any questions, please feel free to reach out to us.

Ngā mihi

Principal Analyst
Māori Sector Partnerships, Policy Puni
Te Tari Matua – National Office

Tauwaea DDI: 9(2)(a) Waea Pūkoro M: 9(2)(a)
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Te Puni Kōkiri Website



Kōkiri Magazine



Facebook

From: 9(2)(a) <9(2)(a)@regulation.govt.nz>
 Sent: Wednesday, 5 March 2025 1:14 pm
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 9(2)(a) <9(2)(a)@tpk.govt.nz>; 9(2)(a) <9(2)(a)@justice.govt.nz>;
 9(2)(a) <9(2)(a)@justice.govt.nz>; 9(2)(a) <9(2)(a)@tpk.govt.nz>; 9(2)(a) <9(2)(a)@tpk.govt.nz>;
 9(2)(a) <9(2)(a)@tpk.govt.nz>; 9(2)(a) <9(2)(a)@tpk.govt.nz>;
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s9(2)(a) regulation.govt.nz>; s9(2)(a) regulation.govt.nz>;
s9(2)(a) regulation.govt.nz>; s9(2)(a) regulation.govt.nz>

Subject: For feedback please: updated Treaty Impact Analysis for a proposed Regulatory Standards Bill
Importance: High

Kia ora koutou

Thanks so much for your helpful engagement so far on the proposed Regulatory Standards Bill. As signalled late last week, please find attached a draft Treaty Impact Analysis (TIA) to accompany our upcoming Cabinet paper.

Further agency consultation on the Cabinet paper and TIA is likely to take place next week, but we are looking to seek your initial review of the TIA prior to this if possible.
Please note that we have also just received a direction from the Minister to narrow consultation principle from “substantially affected” to “directly and materially affected”. We expect this will have an impact on the analysis and are yet to reflect this in the paper.

Apologies for the short turn around, but we are asking for **feedback by COP tomorrow**. This will enable us to incorporate your feedback prior to seeking sign out.

Ngā mihi

(she/her)
Principal Advisor, Policy and Strategy Team
Ministry for Regulation
īmēra: s9(2)(a) regulation.govt.nz



From: s9(2)(a)
Sent: Friday, 28 February 2025 3:51 pm
To: s9(2)(a) @tpk.govt.nz; s9(2)(a) @tpk.govt.nz; s9(2)(a) @tpk.govt.nz;
s9(2)(a) justice.govt.nz; s9(2)(a) justice.govt.nz;
<s9(2)(a) @tpk.govt.nz>; s9(2)(a) @tpk.govt.nz>;
<s9(2)(a) @tpk.govt.nz>
Cc: s9(2)(a) regulation.govt.nz>;
s9(2)(a) regulation.govt.nz>; s9(2)(a) regulation.govt.nz>;
s9(2)(a) regulation.govt.nz>

Subject: Short turn around review sought on upcoming Treaty Impact Analysis
Importance: High

Kia ora koutou

I hope your week has gone well. As discussed with many of you, we're currently working on an updated Treaty Impact Analysis (TIA) to accompany an upcoming Cabinet paper.

We're working to tight timeframes and would be looking to get a draft TIA to you on Wednesday morning, seeking any comments you may have by COP Thursday.

We're anticipating that wider agency consultation on the Cabinet paper and draft TIA will take place week commencing 10 March but we are keen to get the TIA to you for an initial review prior to this, if possible.

Would this be ok?

Ngā mihi

[Redacted] (she/her)

Principal Advisor, Policy and Strategy Team

Ministry for Regulation

īmēra: [s9\(2\)\(a\)@regulation.govt.nz](mailto:s9(2)(a)@regulation.govt.nz)



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The Treaty of Waitangi/te Tiriti o Waitangi Impact Analysis for the Regulatory Standards Bill

1. The Ministry for Regulation (the Ministry) is undertaking a Treaty Impact Analysis (TIA) on the proposal for a Regulatory Standards Bill (the Bill). This analysis updates the preliminary Treaty Impact Analysis published by the Ministry in November 2024 and incorporates feedback received as part of public consultation on the *Have your say on a proposed Regulatory Standards Bill* discussion document between 19 November 2024 to 13 January 2025. It also identifies and analyses the impacts of further policy decisions proposed following public consultation.
2. The analysis identifies the Treaty of Waitangi/te Tiriti o Waitangi (the Treaty/te Tiriti) impacts of the range of policy proposals in the Bill on Māori rights and interests, and the implications for Treaty settlements and agreements. This TIA follows guidance for policy makers set out in Cabinet Circular CO (19)5¹ and is informed by advice from the Crown Law Office.
3. This TIA covers:
 - 3.1. an overview of the key aspects of the Bill which are relevant to this analysis
 - 3.2. submissions from Māori groups on the Bill
 - 3.3. assessment of the Bill against articles of the Treaty/te Tiriti, and
 - 3.4. assessment of implications of the Bill for the Treaty/te Tiriti settlements and agreements.

Key aspects of the Bill

4. The Regulatory Standards Bill has four key aspects², it:
 - 4.1. sets **principles for responsible regulation** which responsible Ministers and agencies will need to assess their legislation is consistent with over time
 - 4.2. establishes a **Regulatory Standards Board** to also assess legislation for consistency with the principles for responsible regulation

¹ Cabinet Office, *Cabinet Office Circular CO (19) 5 Te Tiriti o Waitangi/Treaty of Waitangi Guidance 2019*.

² For greater detail on the key aspects of the Regulatory Standards Bill, please refer to cabinet paper **REF TO COME**.



- 4.3. sets a **regulatory stewardship principle** that Chief executives of government agencies must uphold, and
 - 4.4. provides the Ministry for Regulation with **information-gathering powers** for regulatory reviews.
5. The principles for responsible regulation now include most of those presented in the discussion document (the regulatory stewardship principle has become part of a regulatory stewardship responsibility on agencies, sitting outside the principles for responsible regulation). The remaining principles for responsible regulation are the consulted on principles relating to: the rule of law; liberties; taking of property; taxes, fees and levies; the role of the courts; and good law-making.
 6. The other policy proposals are substantially similar also, except for the following substantive policy shifts:
 - 6.1. The proposed Regulatory Standards Board would have a role to assess new legislation and proposed amendments to legislation for consistency with the principles for responsible regulation, as well as assessing existing legislation
 - 6.2. The obligations on government agencies for regulatory stewardship have been reframed as a specific responsibility for Chief executives of government agencies, supported by guidance, rather than as one of the principles for responsible regulation in the proposed Bill, and
 - 6.3. The proposed information-gathering powers would apply to third party service providers and entities that make or administer secondary legislation (only where the information is not already available via a government agency), as well as applying to government agencies.
 7. The summary of analysis, and each of the components of the analysis which follow, considers the collective impacts of the key aspects of the proposed Bill.

Summary of analysis

8. The Treaty of Waitangi/Te Tiriti o Waitangi (referred to as 'the Treaty/te Tiriti' for the purposes of this document) is recognised as a founding document of government in



New Zealand³ and of “vital constitutional importance”.⁴ It has created a foundational relationship for New Zealand based on partnership between Māori and the Crown.

9. 9(2)(g)(i)
- [Redacted text]

10. Further, while the proposed Bill acknowledges the right to equality for all New Zealanders, it is silent on how it will provide for equity. Submitters have suggested this could call into question the Crown’s responsibilities under Article Three of the Treaty/te Tiriti, and how systemic disparities will continue to be addressed as part of New Zealand’s regulatory framework.

11. Consultation feedback has raised concerns around the content of the proposed Bill and its potential to affect significant constitutional change, and its implications for the role of the Treaty/te Tiriti as part of law-making. Submissions from Māori groups, and others, questioned whether legislative change is required, and how any change should incorporate orthodox reflections of the importance of the Treaty/te Tiriti in the law-making process. Many submitters proposed the government either abandon the proposed Bill or halt further development until further consultation and engagement has taken place.

12. 9(2)(g)(i)

³ Cabinet Office, Cabinet Manual 2023 (Wellington: Department of Prime Minister and Cabinet, 2023), Appendix A, p 155.

⁴ Legislation Design and Advisory Committee *Legislation Guidelines* 2021 Edition, p 24.



9(2)(g)(i)

Submissions from Māori groups on the proposed Bill

15. The consultation process on the *Have your say on a proposed Regulatory Standards Bill* discussion document opened on 19 November 2024 and closed on 13 January 2025, with approximately 23,000 submissions received. The submission process asked for feedback on what a Bill should aim to do, and what it should include, rather than the specific provisions or wording of a Bill. The public consultation process was supported by an accompanying interim Regulatory Impact Statement, and a preliminary Treaty Impact Analysis.
16. Most public submissions, around 88%, opposed the proposal for a Regulatory Standards Bill, around 11% did not state a clear view, and under 1% either partially supported or supported the proposed Bill. Of the 116 submitters who stated they were submitting on behalf of iwi or hapū, 91 were identified as opposing the Bill and 25 not stating a clear view. Please see *Consultation on the proposed Regulatory Standards Bill: Summary of Submissions* report.⁵ [Note these numbers may change as quantitative analysis is finalised and quality checks completed.]
17. The Ministry has undertaken specific analysis of submissions from self-identified Māori groups including iwi, hapū, and post-settlement governance entities (PSGEs) in recognition of their status as representatives of the Crown's Treaty/te Tiriti partner. We have not differentiated between individually self-identified Māori submitters and others.
18. Key themes from Māori group submissions are opposition to the proposed Bill due to:
 - 18.1. [to come]

⁵ **FOR REVIEWERS:** The summary of submissions report will be published in early April 2025.

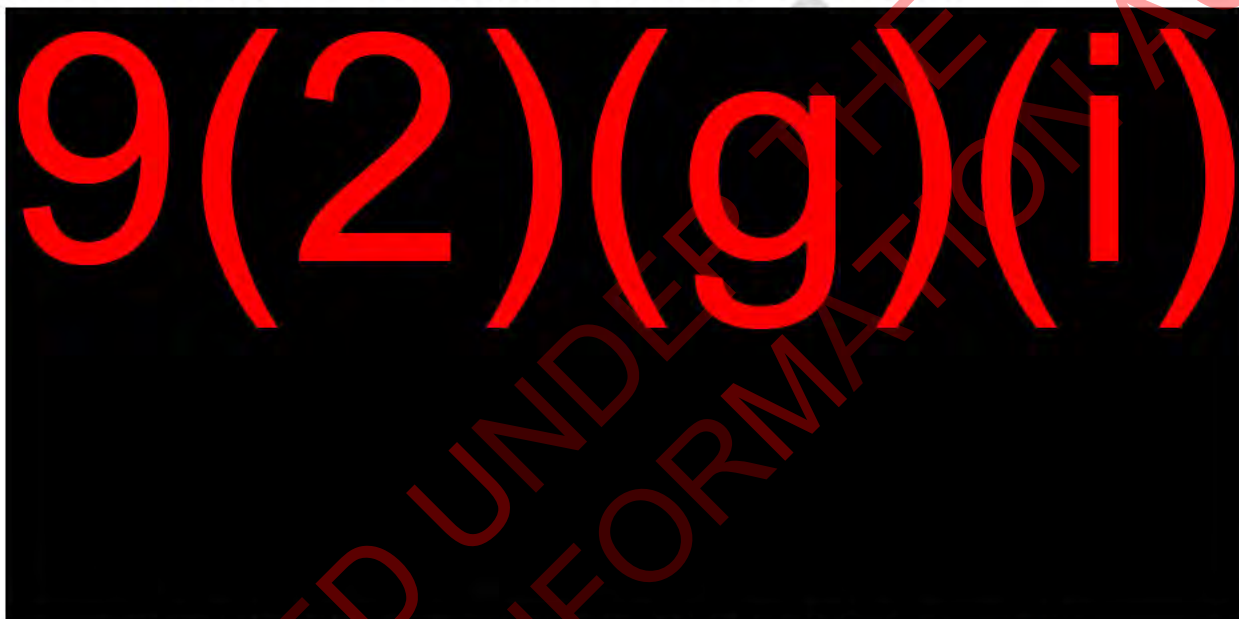


Assessment of the proposed Bill in relation to te Tiriti o Waitangi/the Treaty of Waitangi articles

19. This section assesses the proposed Bill in relation to the Treaty/te Tiriti articles.

Te Tiriti o Waitangi – Article One: the government gained the right to govern (kāwanatanga)

20. Put simply, by Article One the government gained the right to govern.⁶



22.2. *Lack of adequate engagement with Māori on the development of the proposed Bill:* the Treaty/te Tiriti enshrines a partnership between the Crown and Māori, with an expectation that the Crown takes reasonable steps to make informed decisions on matters that affect Māori rights and interests. In the submissions, we heard from Māori groups the view that there was inadequate consultation and engagement on the development of the proposed Bill and that this disregarded the Crown's partnership obligations and undermined the intent and spirit of the Treaty/te Tiriti principles and the Treaty/te Tiriti settlements. **9(2)(g)(i)**

⁶ Cabinet Office, *Cabinet Office Circular CO (19) 5 Te Tiriti o Waitangi/Treaty of Waitangi Guidance 2019*, p 4.



Assessment of the proposed principles of responsible regulation against Article One of the Treaty of Waitangi/te Tiriti o Waitangi

Absence of a principle relating to the Treaty of Waitangi/te Tiriti o Waitangi

23. The proposed Bill does not include a principle relating to the Treaty/te Tiriti in relation to the development of legislation. This could be seen to not recognise the current status of the Treaty/te Tiriti principles across a range of instruments that shape executive decision-making and Parliament’s law-making. Strong concerns were voiced around this omission from Māori groups and others as part of consultation. They highlighted the potential of the proposed Bill to sideline and limit the Treaty/te Tiriti protections in both current and future laws.

Taxes, fees and levies

24. Submitters indicated that Te Ao Māori⁷ includes a focus on collective ownership and responsibility for whenua, as well as a collective nature in the way that social and cultural interests are portrayed. By contrast, the taxes, fees and levies principles focus on what could be interpreted as financial “benefits” and “costs” that particular classes of stakeholder may face as a result of legislation. It is difficult to reconcile this stakeholder-specific “costs” and “benefits” language with intangible outcomes like an impact on wairua⁸ or the ability to exercise kaitiakitanga.

25. 9(2)(g)(i)
[Redacted text block]

Good law-making

26. 9(2)(g)(i)
[Redacted text block]

⁷ Footnote with explanation to come

⁸ [add footnote]



27

9(2)(g)(i)

28. Under this principle, agencies will also need to assess whether the recommended legislation is likely to be the most effective, efficient and proportionate response to the issue. 9(2)(g)(i)

Regulatory stewardship

29. 9(2)(g)(i) there may be uncertainty for how effective stewardship would provide for a Treaty/te Tiriti compliant approach that recognises the interconnectedness of people, land, and future generations. It is also unclear how this principle would provide for Māori tino rangatiratanga and governance to help shape policies and legislation that affect their communities. This uncertainty could be addressed in the development of guidelines for how agencies and the Board would interpret the principles.

Te Tiriti o Waitangi – Article Two: The Crown promises that Māori will have the right to make decisions over resources and taonga which they wish to retain (rangatiratanga)

30. Article Two of the Treaty/te Tiriti promises that Māori will have the right to make decisions over resources and taonga which they wish to retain (rangatiratanga).

31. The proposed Bill in its current form does not explicitly recognise or provide for tino rangatiratanga or the collective rights held by iwi and hapū. 9(2)(g)(i)



9(2)(g)(i)
[Redacted]
[Redacted]
[Redacted]

32. In addition to the above, there are a range of areas that may impact the Crown’s ability to meet Treaty/te Tiriti commitments under Article Two including:

32.1. 9(2)(g)(i)
[Redacted]

32.2. 9(2)(g)(i)
[Redacted] Māori rights and interests are accorded special recognition through existing legislation as it relates to areas such as natural resources, the environment, social services, and local government.

9(2)(g)(i)
[Redacted]

32.3. 9(2)(g)(i)
[Redacted] the proposed Bill does not clearly delineate how it will provide for the ability of Māori to express tino rangatiratanga over their lands, natural resources and taonga. 9(2)(h)

[Redacted]
[Redacted] 9(2)(g)(i)
[Redacted]

[Redacted] Māori frameworks of governance, such as tino rangatiratanga and kaitiakitanga, emphasise adaptability, collective *wellbeing*, and the intergenerational stewardship of natural resources. The proposed Bill does not explicitly provide mechanisms for Māori/lwi partnership or co-governance including local, diverse representation in and on regulatory bodies.



Assessment of the proposed principles of responsible regulation against Article Two of the Treaty of Waitangi/te Tiriti o Waitangi

Liberties

33.



Takings

34. Given the Bill does not explicitly refer to the Treaty/te Tiriti or tino rangatiratanga, there may be uncertainty as to how law-makers would be required to consider Māori cultural values and systems of law relating to property, including collective ownership and customary rights central to tikanga Māori. 9(2)(g)(i)

Te Tiriti o Waitangi – Article Three: The Crown promises that its obligations to New Zealand citizens are owed equally to Māori (Oritetanga)

35. Put simply, by Article Three the Crown promises that its obligations to New Zealand citizens are owed equally to Māori.⁹ Equity derives from Article Three of the Treaty/te Tiriti, and confirms that Māori have the rights and privileges of British subjects (in the modern context, the same as all other New Zealand citizens).¹⁰ The Waitangi Tribunal has asserted that the principle requires "the Crown to act fairly to both settlers and Māori to ensure that settlers' interests were not prioritised to the disadvantage of Māori. Where disadvantage did occur, the principle of equity, along with those of active

⁹ Cabinet Office, *Cabinet Office Circular CO (19) 5 Te Tiriti o Waitangi/Treaty of Waitangi Guidance 2019*, p 11.

¹⁰ Waitangi Tribunal, *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness*, Wai 2750 (Wellington: Legislation Direct, 2023), p 33.



protection and redress, required that there be an active intervention to restore the balance.”¹¹

36. While the proposed Bill provides for the importance of equality before the law, it is silent on **how it will provide for equity**. 9(2)(g)(i)

37. 9(2)(g)(i)

Further, many laws and policies recognise the need for specific Māori protections (e.g. Whānau ora and Treaty/te Tiriti settlements). Under the proposed Bill, there is a risk that such policies would be measured against a benchmark of equal treatment for all citizens (formal equality), as opposed to recognising the impact of individuals’ circumstances to ensure equal outcomes (substantive equality).

38. 9(2)(g)(i)

Assessment of the proposed principles of responsible regulation against Article Three of te Tiriti o Waitangi/the Treaty of Waitangi

Rule of law

39. The proposed principle includes a specification that “every person is equal before the law.” The principle does not clearly delineate whether equality means individuals, including Māori, are treated the same (formal equality) as opposed to recognising the impact of individuals’ circumstances on equal outcomes and the unique disparities faced by Māori (substantive equality). 9(2)(g)(i)

¹¹ Waitangi Tribunal, *Tino Rangatiratanga me te Kaawanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, vol 1, (Wai 1040), (Wellington: Legislation Direct 2022), p 52.



Assessment of implications of the proposals for Treaty of Waitangi/te Tiriti o Waitangi settlement commitments and agreements

40. Treaty Settlement Bills, or legislation that gives effect to, or is otherwise related to, full and final Treaty settlements (“Settlement Legislation”) are excluded from consistency assessments for regulatory proposals, or from the Board’s purview. Settlement Legislation will also be excluded from regular reviews of existing legislation for consistency with the principles of responsible regulation, and therefore the general scope of the proposed Regulatory Standards Bill. 9(2)(g)(i) [REDACTED]
41. This approach addresses concerns that Settlement Legislation may not be protected if there are no Treaty/te Tiriti provisions in the proposed Bill. It also addresses concerns that the principles of responsible regulation could override settlement provisions and diminish the mana of agreements tailored to address specific historical grievances.
42. Excluding Settlement Legislation from the requirements in the proposed bill means the principles for responsible regulation do not need to be considered within the context of treaty settlements and subsequent legislation that gives effect to such agreements. This approach may provide certainty to PSGEs and negotiating groups around the impact of the proposed Bill on current and future settlements as the proposed Bill appears to treat previous and future claimant groups consistently, to ensure future Settlement Legislation is not subject to different legislative requirements.
43. However, while Settlement Legislation itself will not be subject to the requirements in the proposed Bill, ongoing Treaty/te Tiriti settlement processes would begin to occur within a changed context. Legislation that may have an impact on, but is not Settlement Legislation itself, would be developed in accordance with principles of responsible regulation that have not provided for the Treaty/te Tiriti as outlined above.
44. 9(2)(g)(i) [REDACTED]
45. PSGEs have also raised concerns that the proposed Bill could put the Crown in breach of agreement reached between the Crown and Māori under Settlements which commit to a renewed relationship of cooperation, mutual respect and honour based on the principles of the Treaty/te Tiriti. Some PGSEs have also advised that the limited nature



of engagement on the proposed Bill to date is insufficient to meet Settlement Legislation commitments, given the significance of the proposals. The proposed bill is not intended to impact on the way in which agreements made under Settlements are implemented in practice. Agreements made in settlements should continue to be implemented as intended. However, we note the changing context for the development of other legislation as outlined above may also impact on the environment in which settlements agreements are carried out within.

How the proposed Bill interacts with sources of rights/responsibilities to protect customary rights

46. The Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 provide statutory tests for the recognition of Māori customary rights.
47. There is an outstanding question around how the impact of the proposed Bill on customary marine title (CMT) decisions along with interlocutory applications, appeals, or re-hearings relating to CMT decisions. We expect this will be an area of significant interest for Māori as the proposed Bill progresses.

From: [REDACTED]
Sent: Friday, 14 March 2025 12:18 pm
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Updated Treaty Impact Analysis for review please
Attachments: 4. Draft Treaty Impact Analysis for an amended RSB_GM.docx

Kia ora [REDACTED]

We have provided [REDACTED] with our feedback on the draft Cabinet paper. Our additional comments on the updated Treaty Impact Analysis (TIA), informed by the content of the draft Cabinet paper, are detailed below and in the marked-up version of the TIA attached:

- Under the proposals in the draft Cabinet Paper the Minister for Regulation would appoint all members of the proposed Regulatory Standards Board on the basis of “the Minister’s assessment of members having the requisite knowledge, skills and experience”, and the Minister could direct the Board to carry out inquiries into particular matters. Therefore, the reference, in paragraph 4, to the proposed Board as “an *independent* board” isn’t accurate and the word ‘independent’ should be deleted. We also suggest that the TIA addresses the potential Treaty / te Tiriti impacts of the Minister’s proposed ability to direct the Board to undertake inquiries into particular matters and unilaterally determine what knowledge, skills and experience Board members require.
- We suggest the TIA also notes that the proposal that responsible agencies would be required to assess all existing primary and secondary legislation no later than 10 years after the proposed Bill came into force would likely impose a significant resourcing burden on those Iwi, Hapū and other Māori groups who are materially affected by, and would be engaged with on, a wide range and large number of pieces of primary and secondary legislation as part of the process.
- 9(2)(h) [REDACTED]
- We suggest that paragraph 25 be amended to read “in recognition of their status as, or as representatives of, the Crown’s Treaty / te Tiriti partners”.
- The section of the TIA that discusses “Good law-making” currently does not, and probably should, specifically analyse the Treaty / te Tiriti impacts of the proposal in the Cabinet Paper that (rather than there being an objective standard that people and groups who are directly or materially impacted should be consulted) there would be a more subjective standard relating to whether the relevant Minister (or secondary legislation maker?) considers someone is affected. One aspect we suggest is considered as part of that analysis is that a subjective standard could result in uncertainty for Iwi, Hapū and Māori groups as to whether they will be consulted in relation to matters affecting them or their members.
- 9(2)(g)(i) [REDACTED]
- 9(2)(g)(i) [REDACTED]

9(2)(g)(i)

- We suggest that the first sentence of paragraph 70 be amended to read “Treaty/te Tiriti settlement Bills, or legislation that gives effect to Treaty settlement deeds or is otherwise ...”.

We hope you find this feedback helpful. If you have any questions, please feel free to reach out to us.

Ngā mihi, nā

Policy Manager, Māori Sector Partnerships

Tauwaea DDI: 9(2)(a) | Waea Pūkoro M: 9(2)(a)
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MINISTRY OF MĀORI DEVELOPMENT

Te Puni Kōkiri Website | Kōkiri Magazine | Facebook

From: 9(2)(a) regulation.govt.nz
Sent: Wednesday, 12 March 2025 4:09 pm
To: 9(2)(a) @tpk.govt.nz; 9(2)(a) @tpk.govt.nz;
9(2)(a) @tpk.govt.nz; 9(2)(a) justice.govt.nz;
9(2)(a) justice.govt.nz; 9(2)(a) @tpk.govt.nz; 9(2)(a) @tpk.govt.nz;
9(2)(a) @tpk.govt.nz; 9(2)(a) @tpk.govt.nz;
9(2)(a) tearawhiti.govt.nz
Cc: 9(2)(a) regulation.govt.nz; 9(2)(a) regulation.govt.nz;
9(2)(a) regulation.govt.nz
Subject: Updated Treaty Impact Analysis for review please

Kia ora koutou

Thanks so much for your helpful feedback on the early draft Treaty Impact Analysis (TIA) for the proposed Regulatory Standards Bill. We’ve endeavoured to reflect all your feedback in the updated draft (attached).

Apologies for the short turn around, but we are asking for any further feedback you may have by COP Thursday (if possible). Otherwise COP Friday is fine.

Please also note that we’re actively working with the Office of Treaty Settlements and Takutai Moana – Te Tari Whakatau on further refinement of areas relating to Treaty Settlements and the recognition of customary interests under the Marine and Coastal Area (Takutai Moana) Act 2011.

Ngā mihi

(she/her)

Principal Advisor, Policy and Strategy Team

Ministry for Regulation

īmēra: [s9\(2\)\(a\)@regulation.govt.nz](mailto:s9(2)(a)@regulation.govt.nz)



From: [s9\(2\)\(a\)@regulation.govt.nz](mailto:s9(2)(a)@regulation.govt.nz)

Sent: Wednesday, 12 March 2025 10:29 am

To: [s9\(2\)\(a\)@regulation.govt.nz](mailto:s9(2)(a)@regulation.govt.nz)

Cc: [s9\(2\)\(a\)@regulation.govt.nz](mailto:s9(2)(a)@regulation.govt.nz); [s9\(2\)\(a\)@regulation.govt.nz](mailto:s9(2)(a)@regulation.govt.nz)

Subject: Draft Cabinet paper consultation - Regulatory Standards Bill

Kia ora

Please find attached for your review and feedback a draft Cabinet paper seeking policy approvals for progressing the Regulatory Standards Bill. Also attached:

- a draft copy of key aspects of the Bill is attached. Please note there has been no decisions from Cabinet, the drafting reflects the Minister's intentions to better assist with consultation on the paper.
- the draft RIS and Treaty Impact Analysis for your reference. Both the RIS and TIA are subject to change as we continue to work through our analysis.

We are also expecting Crown Law advice to support departmental consultation. We will circulate this advice as soon as possible but are sending you the Cabinet paper now in the interest of maximising your time with the paper.

Important note: the attached papers contain advice that is subject to Crown legal privilege and cannot be shared outside of the core Crown. Please take care in the handling of these papers to avoid any inadvertent disclosures. If you have received this email and are outside the Crown's legal privilege please do not open the attachments and contact us immediately to advise.

Impact on broader public sector agencies

You will see the proposal now includes all secondary legislation within scope of consistency assessment requirements. Classes of legislation may be excluded from requirements by notice

following approval by the House. We appreciate this proposal will have an impact on a broad range of agencies who are empowered to make secondary legislation. We ask in your feedback that you give consideration to the potential impact on entities that fall within your policy areas and/or monitoring functions.

Drop-in session

Given the tight timeframes we are hosting a drop-in session via Teams at **11.30am Thursday 13 March**. We will provide a short overview of the proposals in the paper and give you an opportunity to ask the team any questions. I will shortly send out an invite to this session, please feel free to forward on within your agency, including to legal colleagues if required. As this session is likely to include discussion on legal aspects of the proposal, please do not forward the invitation beyond your own agency.

Timing

Unfortunately, as we are working to tight timeframes, we are asking for agency feedback **no later than 5pm Friday 14 March**. This timeframe reflects an intention for ministerial consultation to be undertaken between Thursday 20 March – Friday 28 March. Given the tight timeframes, it would be helpful if you could indicate whether you want a departmental comment included and provide the content of such a comment, should we be unable to fully reflect your feedback in the paper.

Ngā mihi

[Redacted]

[Redacted] (she/her)

Principal Advisor, Regulatory Management System

Ministry for Regulation | Te Manatū Waeture

Īmēra: **s9(2)(a)** [regulation.govt.nz](https://www.regulation.govt.nz)



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The Treaty of Waitangi/te Tiriti o Waitangi Impact Analysis for the Regulatory Standards Bill

1. The Ministry for Regulation (the Ministry) is undertaking a Treaty Impact Analysis (TIA) on the proposal for a Regulatory Standards Bill (the proposed Bill). This analysis updates the preliminary [Treaty Impact Analysis TIA](#) published by the Ministry in November 2024, in light of amendments to the [proposed Bill](#)¹ and to incorporate feedback received as part of public consultation on the 'Have your say on a proposed Regulatory Standards Bill' discussion document between 19 November 2024 to 13 January 2025.
2. The analysis identifies the Treaty of Waitangi/te Tiriti o Waitangi (the Treaty/te Tiriti) impacts of the range of policy proposals in the [proposed Bill](#) on rights and responsibilities recognised or created by the Treaty/te Tiriti, and the implications for Treaty settlements and agreements [entered into under those settlements](#). This TIA follows guidance for policy makers set out in Cabinet Circular CO (19)5¹ and is informed by advice from the Crown Law Office.
3. This TIA covers:
 - 3.1. an overview of the key aspects of the proposed Bill which are relevant to this analysis
 - 3.2. submissions from Māori groups on the proposed Bill
 - 3.3. assessment of the proposed Bill against articles of the Treaty/te Tiriti, and
 - 3.4. assessment of implications of the proposed Bill for the Treaty/te Tiriti settlements and agreements.
4. The proposed Bill seeks to benefit all New Zealanders by improving the quality of regulation by establishing a framework for agencies and an independent board to assess the consistency of legislation with proposed principles of responsible regulation. Given the evolving statutory and legal landscape in which the Executive operates, and uncertainties around how the proposed Bill will be applied in practice, officials consider that each assessment will likely present its own unique

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¹ Cabinet Office, *Cabinet Office Circular CO (19) 5 Te Tiriti o Waitangi/Treaty of Waitangi Guidance 2019*.



considerations. This includes how individual ministers choose to address any unjustified inconsistencies with the principles for responsible regulation.

5. These features of the proposal mean that it is uncertain how the proposed Bill will influence regulatory settings and outcomes in practice. Officials also note that the extent of the analysis has been impacted through the decision to both progress largely on the basis of the proposals in the discussion document, coupled with the pace of timeframes for seeking further Cabinet decisions.

6. The proposed ~~Regulatory Standards~~ Bill has four key aspects², it:

- 6.1. sets **principles for responsible regulation**, and a requirement that agencies must assess the consistency of proposed and existing legislation with these principles, with Ministers justifying any inconsistencies.
- 6.2. establishes a **Regulatory Standards Board** to carry out inquiries into whether proposed or existing legislation is inconsistent with the principles for responsible regulation
- 6.3. sets a **regulatory stewardship principle** that Chief Executives of government agencies must uphold, and
- 6.4. sets a requirement that the Ministry ~~for Regulation~~ must produce a regular report assessing the overall performance of the Regulatory Management System, and provides ~~information-gathering powers~~ to support this role, as well as for regulatory reviews led by the Ministry, ~~for Regulation~~.

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7. Some other relevant policy proposal shifts include:

- 7.1. the consultation principle has been narrowed to require that it applies only in relation to those who would be “directly and materially affected” by the legislation rather than those “substantially” affected
- 7.2. consistency assessments would now be required for all secondary legislation, rather than limited to secondary legislation set out in a notice issued under the proposed Bill
- 7.3. responsible agencies would now be required to plan for all existing primary and secondary legislation they administer to be assessed for consistency no later than 10 years after the proposed Bill has come into force
- 7.4. in addition to carrying out inquiries in relation to existing primary and secondary legislation that is subject to consistency assessments, the

² For greater detail on the key aspects of the ~~proposed~~ Regulatory Standards Bill, please refer to cabinet paper REF TO COME.

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Regulatory Standards Board would now have the ability to assess agencies' statements on consistency with the principles upon introduction of a Bill, and provide a report of its assessment to the relevant Select Committee.

8. The overall purpose of the proposed Bill is to promote the accountability of the Executive to Parliament in relation to the development of high-quality legislation and regulatory stewardship, and support Parliament to scrutinise Bills and oversee the power to make delegated legislation.
9. Of relevance for this analysis is that the proposed Bill does not require legislation to be amended if a review concludes a piece of legislation is inconsistent, and no other legislation would be nullified by the proposed Bill coming into force. When inconsistencies occur the responsible Minister is required to provide a statement that briefly explains the Government's reasons for any inconsistency. There is no requirement to remedy the inconsistency (although a Minister needs to set out proposed actions (if any) they are choosing to take). At this time, we are unable to predetermine what a Minister may consider a valid reason for inconsistencies, as that determination would be in the purview of individual Ministers.
10. Further, the proposed Bill does not confer or impose any legal rights or duties or affect the validity of any legislation. This means that while there will be an (unknown) influence on legislation due to the application of the proposed principles over time, no existing legislation would be nullified by the introduction of the proposed Bill.
11. The summary of analysis, and each of the components of the analysis which follow, considers the collective impacts of the key aspects of the proposed Bill.

Summary of analysis

12. The Treaty of Waitangi/Te Tiriti o Waitangi (referred to as 'the Treaty/te Tiriti' for the purposes of this document) is recognised as a founding document of government in New Zealand³ and of "vital constitutional importance".⁴ It has created a foundational relationship for New Zealand based on partnership between Māori and the Crown.
13. Consultation feedback has raised concerns around the content of the proposed Bill and its potential to effect significant constitutional change, and its implications for the role of the Treaty/te Tiriti as part of law-making. Submissions from Māori groups, and others, questioned whether legislative change is required, and how any change should

³ Cabinet Office, *Cabinet Manual 2023* (Wellington: Department of Prime Minister and Cabinet, 2023), Appendix A, p 155.

⁴ Legislation Design and Advisory Committee *Legislation Guidelines 2021 Edition*, p 24.



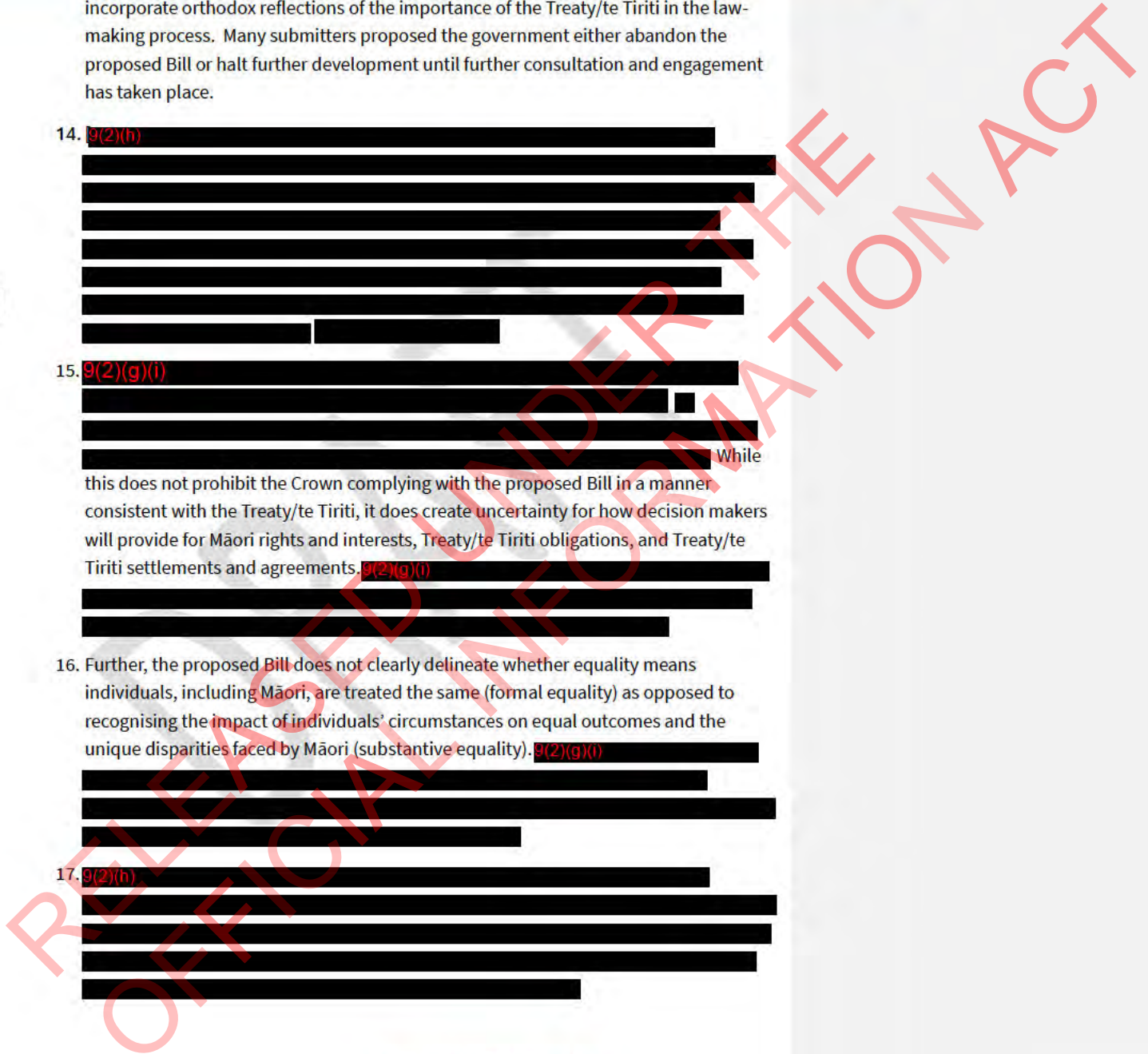
incorporate orthodox reflections of the importance of the Treaty/te Tiriti in the law-making process. Many submitters proposed the government either abandon the proposed Bill or halt further development until further consultation and engagement has taken place.

14. 9(2)(h) [Redacted]

15. 9(2)(g)(i) [Redacted] While this does not prohibit the Crown complying with the proposed Bill in a manner consistent with the Treaty/te Tiriti, it does create uncertainty for how decision makers will provide for Māori rights and interests, Treaty/te Tiriti obligations, and Treaty/te Tiriti settlements and agreements. 9(2)(g)(i) [Redacted]

16. Further, the proposed Bill does not clearly delineate whether equality means individuals, including Māori, are treated the same (formal equality) as opposed to recognising the impact of individuals' circumstances on equal outcomes and the unique disparities faced by Māori (substantive equality). 9(2)(g)(i) [Redacted]

17. 9(2)(h) [Redacted]





18. With regard to [the](#) Treaty/te Tiriti settlements, these are excluded from consistency assessments for regulatory proposals, the Board's purview, and regular reviews of existing legislation for consistency with the principles of responsible regulation. If these exclusions work as intended, future negotiated settlements would fall outside the scope of the Bill's authority. This may offer some reassurance to settlement [and](#) [claimant](#) groups regarding the Bill's potential impact on both current and future settlement protections, as well as the ability to seek future redress.
19. [9\(2\)\(g\)\(i\)](#) under [the](#) Treaty/te Tiriti settlement legislation, there may still be uncertainty around the broader interaction between the proposed Bill and future Treaty/te Tiriti settlements. This is because while the legislation itself would not be impacted by the proposed Bill, any new legislation that may be relevant to the context in which negotiations occur will need to be analysed against the principles of responsible regulation. As those principles do not include consideration of the Treaty/te Tiriti there may still be uncertainty for how the proposed Bill may impact the operation of the Treaty/te Tiriti settlement regime.
20. The proposed Bill does not exclude customary rights recognised under Marine and Coastal Area (Takutai Moana Act) 2011 and Ngā Rohe Moana o Ngā Hapū Porou Act 2019. This calls into question how the proposed Bill will ensure that these continue to be upheld and maintain the level of redress provided and we expect this will be a significant area of ongoing interest for Māori.
21. Given the uncertainties around how the proposed Bill will be applied in practice, there is a possibility that some of the above critiques may be mitigated through how individual ministers address inconsistencies with principles for responsible regulation and the approach taken with guidelines to support agencies and the Board with interpretation of the principles for responsible regulation.
22. In this context, and noting the constraints on this analysis, officials consider there are aspects of the proposed Bill that could be challenged as inconsistent with the Treaty/te Tiriti.
23. The public consultation process on the *Have your say on a proposed Regulatory Standards Bill* discussion document opened on 19 November 2024 and closed on 13 January 2025, with approximately 23,000 submissions received. The submission process asked for feedback on what a Bill should aim to do, and what it should include, rather than the specific provisions or wording of a Bill. The public consultation process



was supported by an accompanying interim Regulatory Impact Statement, and a preliminary Treaty Impact Analysis.

Submissions from Māori groups on the proposed Bill

24. Most public submissions, around 88%, opposed the proposal for a Regulatory Standards Bill, around 11% did not state a clear view, and under 1% either partially supported or supported the proposed Bill. Of the 116 submitters who stated they were submitting on behalf of iwi or Hapū, 91 were identified as opposing the Bill and 25 not stating a clear view. Please see *Consultation on the proposed Regulatory Standards Bill: Summary of Submissions report*.⁵ [Note these numbers may change as quantitative analysis is finalised and quality checks completed.]
25. The Ministry has undertaken specific analysis of submissions from self-identified Māori groups including iwi, Hapū, and post-settlement governance entities (PSGEs) in recognition of their status as representatives of the Crown's Treaty/te Tiriti partner. We have not differentiated between individually self-identified Māori submitters and others.
26. Key themes from Māori group submissions are opposition to the proposed Bill due to:
- 26.1. a lack of meaningful consultation and engagement with Māori on the development of the proposal, 9(2)(g)(i)
 - 26.2. a lack of recognition and provision for the Treaty/te Tiriti, both across the Bill more generally and with a principle for responsible regulation relating to the Treaty/te Tiriti
 - 26.3. 9(2)(g)(i)
 - 26.4. negative impacts on Māori sovereignty, governance and self-determination
 - 26.5. a lack of recognition for kaitiakitanga and the unique relationship between Māori and the environment under the Treaty/ te Tiriti, 9(2)(g)(i)
 - 26.6. a lack of provision for consultation and engagement with Māori more generally, and
 - 26.7. a need to uphold the Treaty/te Tiriti settlements and arrangements with iwi and hapū.

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⁵ FOR REVIEWERS: The summary of submissions report will be published in early April 2025.



Assessment of the proposed Bill in relation to the Treaty of Waitangi/te Tiriti o Waitangi articles

27. This section assesses the proposed Bill in relation to the Treaty/te Tiriti articles.

[The Treaty/te Tiriti Article One: the government gained the authority to govern \(kāwanatanga\)](#)

28. Put simply, by Article One the government gained the authority to govern.⁶

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29. The proposed Bill could be seen to elevate the kāwanatanga sphere as a singular authority in New Zealand, unencumbered by current Treaty/te Tiriti obligations and the Crown's guarantee of tino rangatiratanga.

30. The proposed Bill may impact the Crown's ability to meet the Treaty/te Tiriti commitments under Article One, in a range of ways, including:

30.1. *Prioritising individual property rights over collective rights and the Treaty/te Tiriti:* the framing of the principles of responsible regulation could be seen to create an expectation for the Government to prioritise individual property rights over tikanga Māori, the collective rights of tangata whenua, and tino rangatiratanga. This could result in uncertainty for how the Crown recognises the Treaty/te Tiriti guarantee of tino rangatiratanga in its decisions around law-making.

30.2. *Lack of adequate engagement with Māori on the development of the proposed Bill:* the Treaty/te Tiriti enshrines a partnership between the Crown and Māori, with an expectation that the Crown takes reasonable steps to make informed decisions on matters that affect rights and responsibilities recognised or created by the Treaty/te Tiriti. In the submissions, the Ministry heard from Māori groups the view that there was inadequate consultation and engagement on the development of the proposed Bill and that this disregarded the Crown's partnership obligations and undermined the intent and spirit of the Treaty/te Tiriti principles and the Treaty/te Tiriti settlements. Also, the limited nature of consultation on the policy proposals was insufficient to meet settlement commitments.

⁶ Cabinet Office, *Cabinet Office Circular CO (19) 5 Te Tiriti o Waitangi/Treaty of Waitangi Guidance 2019*, p 4.



Assessment of the proposed principles of responsible regulation against Article One of the Treaty of Waitangi/te Tiriti o Waitangi

Absence of a principle relating to the Treaty of Waitangi/te Tiriti o Waitangi

31. The proposed Bill does not include a principle relating to the Treaty/te Tiriti in relation to the development or review of legislation.

32. The Courts and the Waitangi Tribunal have given significant consideration to the balancing of the concepts of kawanatanga and tino rangatiratanga.⁷ The Waitangi Tribunal has recently noted its view that these concepts create a duty on the Crown to foster tino rangatiratanga, not to undermine it, and to ensure that its laws and policies adequately give effect to the Treaty/te Tiriti rights and guarantees.⁸

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33. 9(2)(h)

34. Further, the Crown has an obligation to actively protect the rights and interests of Māori under the Treaty/te Tiriti. The intent of the proposals is to set clear standards for regulatory quality and publicly hold responsible Ministers and departments to account in relation to them.]

35. 9(2)(h)

36. The absence of a principle relating to the Treaty/te Tiriti may be seen as implying that it is of lesser importance, with no obligation for Ministers to disclose and justify inconsistencies with the Treaty/te Tiriti as part of law-making.

37. 9(2)(h)

⁷ Te Puni Kōkiri *He Tirohanga o Kawa ki te Tiriti o Waitangi*, Wellington, 2001, p 49.

⁸ Waitangi Tribunal, *Tino Rangatiratanga me te Kaawanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, vol 1, (Wai 1040), (Wellington: Legislation Direct 2022), p 69.



9(2)(h)

Taxes, fees and levies

38. Te Ao Māori⁹ includes a focus on collective ownership and responsibility for whenua and the collective nature of social and cultural interests. By contrast, the taxes, fees and levies principles focus on what could be interpreted as financial “benefits” and “costs” that particular classes of stakeholder may face as a result of legislation. It is difficult to reconcile this stakeholder-specific “costs” and “benefits” language with intangible outcomes like an impact on wairua¹⁰ or the ability to exercise kaitiakitanga.
39. Given this principle does not explicitly recognise the Treaty/te Tiriti there may be a risk that it prioritises economic considerations over the collective rights of tangata whenua, and social and cultural interests. There is a range of legislation that recognises the need for redistributive policies to address systemic inequity. Under the proposed Bill, there is a risk that such policies could be measured against a benchmark of economic considerations, as opposed to recognising collective Māori rights and unique socioeconomic realities and needs.

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Good law-making

40. The proposed principle provides for ‘the importance of consulting, to the extent practicable, the persons or representatives of the persons that the Government considers will be directly and materially affected by the legislation’. This could signal a narrowing of scope of the proposal included in the discussion document, which provided for consultation with those ‘substantially affected.’
41. As noted above, the Treaty/te Tiriti principles create an expectation of properly informed and good faith decision making, and that of partnership generally. These can be interpreted as that the Crown should take reasonable steps to make informed decisions on matters that affect Māori interests¹¹.
42. The principles relating to good law-making could be seen as recognising in legislation the importance of consulting with both Māori and non-Māori who are impacted by legislation. They could also suggest greater accountability by the Executive around consultation therefore reinforcing the principles of partnership and active protection.

⁹ Footnote with explanation to come

¹⁰ [add footnote]

¹¹ *New Zealand Māori Council v Attorney-General (the Lands case)* [1987] 1 NZLR 641, at 683 per Richardson J. See also *New Zealand Māori Council v the Attorney-General* [1996] 3 NZLR 140 per Thomas J at 169.



43. 9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

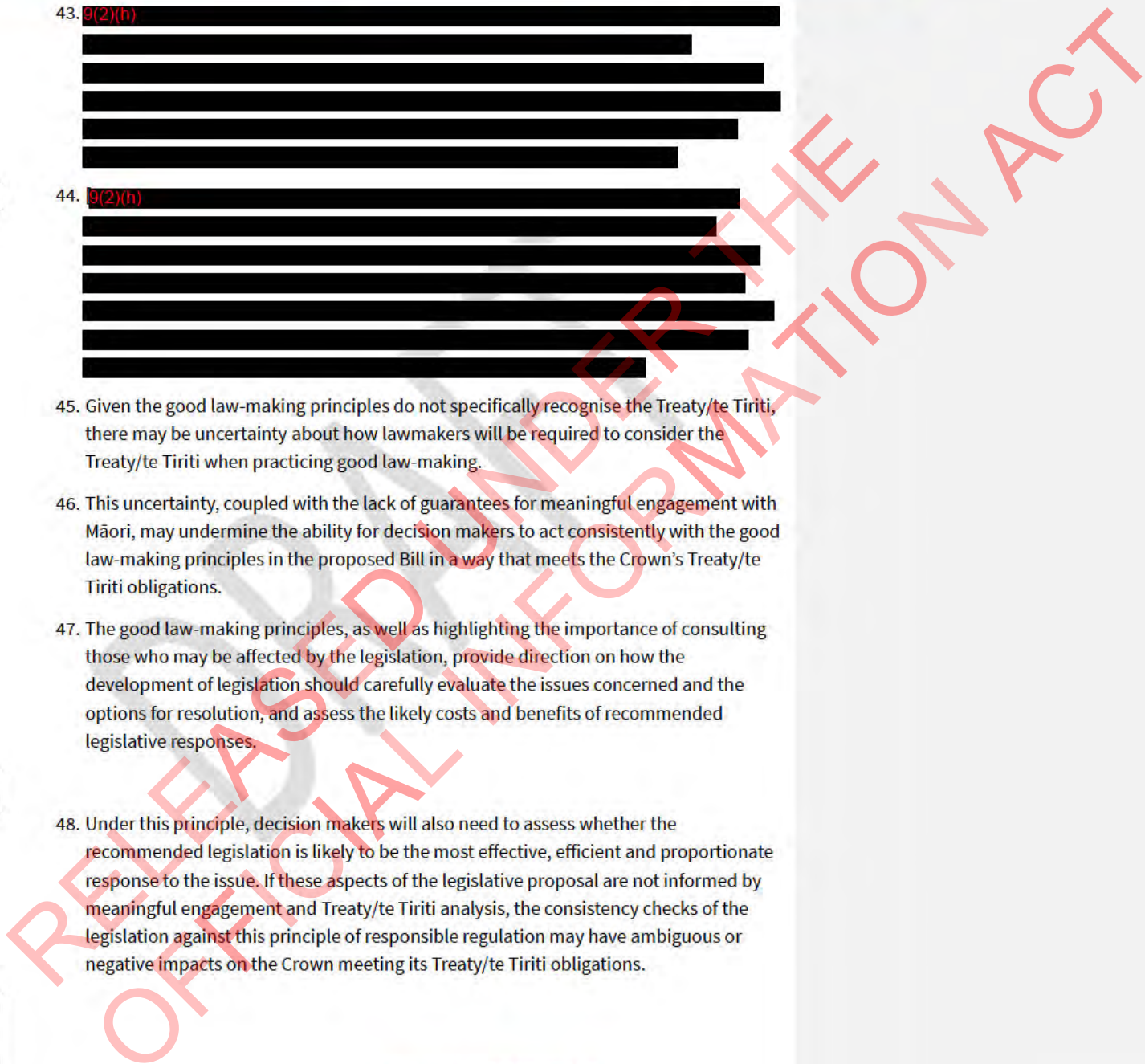
44. 9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

45. Given the good law-making principles do not specifically recognise the Treaty/te Tiriti, there may be uncertainty about how lawmakers will be required to consider the Treaty/te Tiriti when practicing good law-making.

46. This uncertainty, coupled with the lack of guarantees for meaningful engagement with Māori, may undermine the ability for decision makers to act consistently with the good law-making principles in the proposed Bill in a way that meets the Crown's Treaty/te Tiriti obligations.

47. The good law-making principles, as well as highlighting the importance of consulting those who may be affected by the legislation, provide direction on how the development of legislation should carefully evaluate the issues concerned and the options for resolution, and assess the likely costs and benefits of recommended legislative responses.

48. Under this principle, decision makers will also need to assess whether the recommended legislation is likely to be the most effective, efficient and proportionate response to the issue. If these aspects of the legislative proposal are not informed by meaningful engagement and Treaty/te Tiriti analysis, the consistency checks of the legislation against this principle of responsible regulation may have ambiguous or negative impacts on the Crown meeting its Treaty/te Tiriti obligations.





Regulatory stewardship

- 49. There are currently relatively few formal checks and balances in place in relation to the performance of existing regulation, or monitoring of department's stewardship of their regulatory systems.
- 50. The proposed responsibility relating to regulatory stewardship would recognise and provide for these oversight arrangements in legislation. 9(2)(h)

[Redacted text block containing several lines of blacked-out content]

The Treaty/Te Tiriti Article Two: The Crown promises that Māori will have the right to make decisions over resources and taonga which they wish to retain (rangatiratanga)

- 51. Article Two of the Treaty/te Tiriti promises that Māori will have the right to make decisions over resources and taonga which they wish to retain (rangatiratanga).
- 52. The proposed Bill in its current form does not explicitly recognise or provide for tino rangatiratanga or the collective rights held by iwi and hapū. This could raise questions for how the Treaty/te Tiriti, tikanga Māori, collective rights, and tino rangatiratanga will continue to be provided for and upheld across New Zealand's constitutional arrangements as part of law-making. This omission could also be perceived as signalling a shift towards a regulatory framework that prioritises individual property rights over spiritual, cultural, and environmental dimensions that are seen as critical to Māori decision-making.
- 53. In addition to the above, there are a range of areas in the proposed Bill that may impact the Crown's ability to meet Treaty/te Tiriti commitments under Article Two including:

53.1. *A lack of protection and recognition of kaitiakitanga and the unique relationship between tangata whenua and the environment:* the proposed Bill is silent on how it will recognise kaitiakitanga and the unique relationship between tangata whenua and the environment under the Treaty/te Tiriti. This could result in uncertainty for how the application of the principles will ensure the Crown continues to protect ecosystems, including rivers, oceans and land



which are vital to the health, ~~and~~ cultural, social, and economic wellbeing of Māori.

53.2. *Upholding sources of rights/responsibilities included in legislation that protects Māori rights and interests:* the rights and responsibilities of Iwi, Hapū and tangata whenua are accorded special recognition through a range of statutes governing physical resources and the environment, where Māori have strong Iwi and Hapū relationships, including land, water, important sites, wahi tapu and other taonga. Legislating the Crown's commitment to upholding Māori rights and interests and ~~the~~ Treaty/te Tiriti in any particular context could be seen as helping to hold the Crown to account for its future actions and contributing towards advancing the Māori Crown relationship. There is a risk that the proposed Bill could be used to challenge existing laws that give effect to the Treaty/te Tiriti when considered inconsistent with the proposed Bill's principles.

53.3. *Safeguarding Māori authority over lands, customary rights, taonga and natural resources:* the proposed Bill does not clearly delineate how it will provide for the ability of tangata whenua to express tino rangatiratanga over their lands, natural resources and taonga. This means that there is uncertainty for how lawmakers will be required to consider Māori cultural values and systems of law relating to property, including tikanga and customary rights. Without recognition of the Treaty/te Tiriti in the proposed Bill, there is a risk that these laws could be challenged or weakened.

53.4. *Lack of provision for Māori governance and self-determination:* Māori frameworks of governance, such as tino rangatiratanga and kaitiakitanga, emphasise adaptability, collective wellbeing, and the intergenerational stewardship of natural resources. The proposed Bill is silent ~~for on~~ how it will provide mechanisms for Iwi/Hapū partnership or co-governance including local, diverse representation in and on regulatory bodies. It is also silent around how it will provide for these mechanisms as part of the Board and support the capability and capacity of Māori to participate in recourse.

9(2)(g)(i)

[Redacted text block]



Assessment of the proposed principles of responsible regulation against Article Two of the Treaty of Waitangi/te Tiriti o Waitangi

Liberties

54. New Zealand does not have set down in legislation a description of “liberties” or a statutory recognition of liberties in this form. Providing for liberties in the proposed Bill could be interpreted as not only aligning with Article Two of the Treaty/te Tiriti, but also actively supporting the strengthening of Māori rights.
55. Conversely, it could also be seen to prioritise individual liberties while not providing for collective wellbeing, collective ownership of property and tino rangatiratanga as guaranteed under Article Two of The Treaty/te Tiriti. If unsupported by guidance emphasising the relationship of terms like “kaitiakitanga” with terms like “liberties”, the individualistic focus in this principle may undermine protections for Māori cultural practices and legal frameworks rooted in tikanga and the unique relationship tangata whenua have with their whenua, wai, and taonga tuku iho.

56.

57.

58.



Taking of property

59. New Zealand does not have set down in legislation a general protection of property rights from expropriation.



60. [9\(2\)\(h\)](#)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted] This may also encourage the seeking of protection for Māori rights to own and use property currently recognised under legislation (such as the Marine and Coastal Area (Takutai Moana) Act 2011) when that legislation is reviewed in the future.

61. [9\(2\)\(h\)](#)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

62. Māori land is ancestral land, a taonga tuku iho ~~as~~ parliament has acknowledged in Te Ture Whenua Māori Act [1993](#). Any policy that affects land needs to be cognisant of the inherent characteristics of Māori land. This includes protection of Māori land interests that are compatible with the types of tenure and land ownership structure associated with Māori land.

63. Given the Bill does not explicitly refer to the Treaty/te Tiriti or tino rangatiratanga, there may be uncertainty as to how law-makers would be required to consider Māori cultural values and systems of law relating to property, including collective ownership and customary rights central to tikanga. This could result in uncertainty for how this principle would apply to Māori land or resources with the potential to undermine kaitiakitanga and tino rangatiratanga. This critique also applies to how the Bill would protect the rights and wellbeing of whānau, [Iwi and Hapū](#) ~~and iwi~~, (including future generations) or the environment.

64. Further, Treaty/te Tiriti settlement land has unique characteristics that distinguishes it from other land. It has an underlying collective or communal dimension. Claimant groups accept redress in return for agreeing their historical Treaty/te Tiriti claims are



settled and can never again be pursued in any court, tribunal or other forum (a very significant thing in constitutional terms).

65. The Office for Treaty Settlements and Takutai Moana – Te Tari Whakatau advise that the value of land provided as settlement redress is only ever able to represent a small fraction of the value of what was lost through the Treaty/te Tiriti breaches. ^{9(2)(h)}

[REDACTED]

The Treaty/Te Tiriti Article Three: The Crown promises that its obligations to New Zealand citizens are owed equally to Māori (Oritetanga)

66. Put simply, by Article Three the Crown promises that its obligations to New Zealand citizens are owed equally to Māori.¹² While the proposed Bill provides for the importance of equality before the law, it does not clearly delineate whether equality means individuals, including Māori, are treated the same (formal equality) as opposed to recognising the impact of individuals' circumstances on equal outcomes and the unique disparities faced by Māori (substantive equality).
67. Without explicit recognition of equity, the proposed Bill could make it more difficult to justify laws and policies designed to address disparities in outcomes experienced by Māori. The proposed Bill might also be used to challenge existing laws that seek to create conditions which allow Māori to receive their citizenship rights in ways that work for them. Further, many laws and policies recognise the need for specific Māori protections (e.g. Whānau Ora and Treaty/te Tiriti settlements). Under the proposed Bill, there is a risk that such policies would be measured against a benchmark of equal treatment for all citizens (formal equality), as opposed to recognising the impact of individuals' circumstances to ensure equal outcomes (substantive equality).
68. This could also impact the rights of Māori to access justice to have their rights under the Treaty/te Tiriti realised. For example, current access to legal aid and hwi led restorative justice initiatives may be challenged as giving unfair advantage rather than addressing systemic inequities.

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Assessment of the proposed principles of responsible regulation against Article Three of te Tiriti o Waitangi/the Treaty of Waitangi

Rule of law

¹² Cabinet Office, *Cabinet Office Circular CO (19) 5 Te Tiriti o Waitangi/Treaty of Waitangi Guidance 2019*, p 11.



69. The proposed principle includes a specification that “every person is equal before the law.” The principle does not clearly delineate whether equality means individuals, including Māori, are treated the same (formal equality) as opposed to recognising the impact of individuals’ circumstances on equal outcomes and the unique disparities faced by Māori (substantive equality). This could raise a risk that the proposed Bill could be seen to equate the rights of all individuals with those of Treaty partners, creating uncertainty for how it will uphold the unique status of Māori as Treaty partners.

Assessment of implications of the proposals for Treaty of Waitangi/te Tiriti o Waitangi settlement commitments and agreements

70. Treaty/te Tiriti settlement Bills, or legislation that gives effect to, or is otherwise related to, full and final Treaty/te Tiriti settlements (“Settlement Legislation”) are excluded from consistency assessments for regulatory proposals, or from the Board’s purview. Settlement Legislation will also be excluded from regular reviews of existing legislation for consistency with the principles of responsible regulation, and therefore the general scope of the proposed Bill. This means that the proposed Bill acknowledges Māori rights to the extent negotiated and agreed in Settlement Legislation.

71. This approach addresses concerns that Settlement Legislation may not be protected if there are no Treaty/te Tiriti provisions in the proposed Bill. It also addresses concerns that assessing whether legislation is consistent with the principles of responsible regulation could override Treaty/te Tiriti settlement provisions and diminish the mana of agreements tailored to address specific historical grievances.

72. Excluding Settlement Legislation from the requirements in the proposed Bill means the principles of responsible regulation do not need to be considered within the context of Treaty/te Tiriti settlements and subsequent legislation that gives effect to such agreements. This approach may provide certainty to [post-settlement governance entities \(PSGEs\)](#) and negotiating groups around the impact of the proposed Bill on current and future settlements as the proposed Bill appears to treat previous and future claimant groups consistently, to ensure future Settlement Legislation is not subject to different legislative requirements.

73. However, while Settlement Legislation itself will not be subject to the requirements in the proposed Bill, ongoing Treaty/te Tiriti settlement processes would begin to occur within a changed context. Legislation that may have an impact on Treaty/te Tiriti settlements, but is not Settlement Legislation itself, would be expected to be developed or reviewed in accordance with principles of responsible regulation that



have not specifically provided for the Treaty/te Tiriti. [9\(2\)\(g\)\(i\)](#)

[REDACTED]

74. PSGEs have also raised concerns that the proposed Bill could put the Crown in breach of agreement reached between Iwi or Hapū and the Crown under Treaty/te Tiriti settlements which commit to a renewed relationship of cooperation, mutual respect and honour based on the principles of the Treaty/te Tiriti. Some PGSEs have also advised that the limited nature of engagement on the proposed Bill to date is insufficient to meet Settlement Legislation commitments, given the significance of the proposals.

75. Public consultation was undertaken on the proposed Bill, enabling PGSEs to provide feedback on the potential implications for Treaty/te Tiriti settlement legislation, however no specific engagement directly with Iwi, Hapū or PGSEs was undertaken separately to the public consultation process.

76. [9\(2\)\(g\)\(i\)](#) [REDACTED] This means agreements made in settlements should continue to be implemented as intended and should not be changed as a result of the proposed Bill. However, we note the changing context for the development of other legislation as outlined above may also impact on the environment in which settlements agreements are carried out within.

How the proposed Bill interacts with sources of rights/responsibilities to protect customary rights

77. The proposed Bill does not provide an exemption for the Marine and Coastal Area (Takutai Moana Act) 2011 and the Ngā Rohe Moana o Ngā Hapū Porou Act 2019 as is provided for Settlement Legislation. Both Acts provide statutory tests for the recognition of Māori customary rights in the marine and coastal area.

78. Both Acts and any secondary legislation made under either Act will be subject to the requirement for all existing and future legislation to be reviewed for consistency with the principles of responsible regulation and will come within the Regulatory Standards Board's purview.



79. This is likely to create uncertainty around whether the proposed Bill will limit or impede the existing and future rights of Iwi and Hapū to exercise kaitiakitanga in customary marine title areas.

80. The changed context could impact Iwi and Hapū who have active customary marine title (CMT) claims, interlocutory applications, appeals, or re-hearings relating to CMT decisions. 9(2)(g)(i)

[Redacted text]

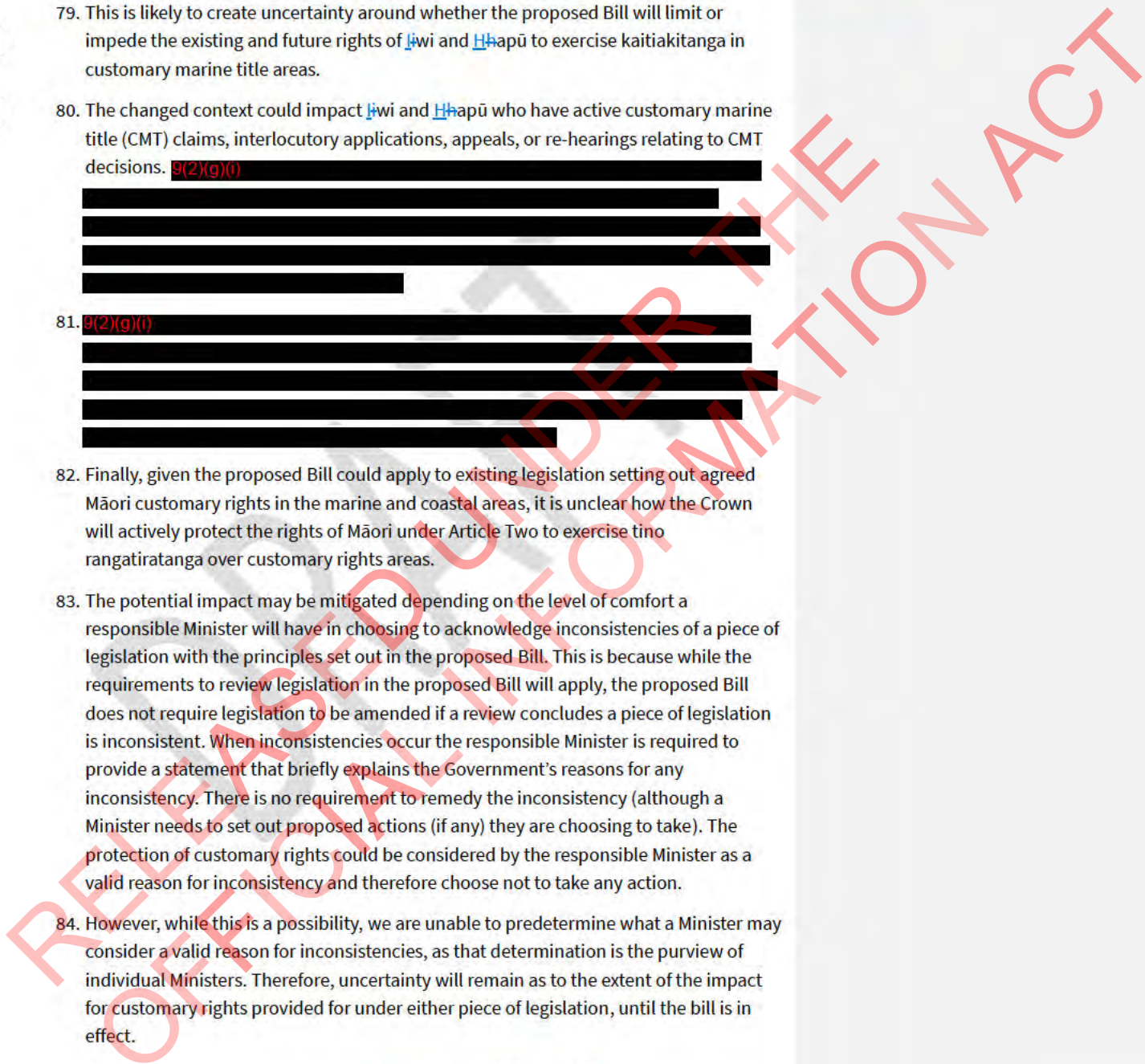
81. 9(2)(g)(i)

[Redacted text]

82. Finally, given the proposed Bill could apply to existing legislation setting out agreed Māori customary rights in the marine and coastal areas, it is unclear how the Crown will actively protect the rights of Māori under Article Two to exercise tino rangatiratanga over customary rights areas.

83. The potential impact may be mitigated depending on the level of comfort a responsible Minister will have in choosing to acknowledge inconsistencies of a piece of legislation with the principles set out in the proposed Bill. This is because while the requirements to review legislation in the proposed Bill will apply, the proposed Bill does not require legislation to be amended if a review concludes a piece of legislation is inconsistent. When inconsistencies occur the responsible Minister is required to provide a statement that briefly explains the Government's reasons for any inconsistency. There is no requirement to remedy the inconsistency (although a Minister needs to set out proposed actions (if any) they are choosing to take). The protection of customary rights could be considered by the responsible Minister as a valid reason for inconsistency and therefore choose not to take any action.

84. However, while this is a possibility, we are unable to predetermine what a Minister may consider a valid reason for inconsistencies, as that determination is the purview of individual Ministers. Therefore, uncertainty will remain as to the extent of the impact for customary rights provided for under either piece of legislation, until the bill is in effect.





Ministry for Regulation
Te Manatū Waeture

85. Additionally, as outlined above in relation to Settlement Legislation, future legislation that may have an impact on customary rights in the marine and costal area would also be developed in accordance with principles of responsible regulation that have not specifically provided for [the Treaty](#)/te Tiriti/~~the Treaty~~. This will also mean the negotiation of future rights under either Act will be occurring within a changed context that could disadvantage claimants.

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- NOT GOVERNMENT POLICY

[Redacted]

From: [Redacted]
Sent: Monday, 17 March 2025 4:16 pm
To: [Redacted]
Cc: [Redacted]
Subject: RE: Draft Cabinet paper consultation - Regulatory Standards Bill

Thanks [Redacted] anytime between 9:30-10:30 suits if you want to send a teams invite?

Mā te wa

Policy Manager, Māori Sector Partnerships



Te Puni Kōkiri
MINISTRY OF MĀORI DEVELOPMENT

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From: [Redacted] <9(2)(a)@regulation.govt.nz>
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Cc: [Redacted] <9(2)(a)@regulation.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>
Subject: RE: Draft Cabinet paper consultation - Regulatory Standards Bill

Kia ora [Redacted]

Thank you very much for your feedback both on the paper and ongoing comments on the TIA.

I hope you don't mind that I'm coming back on one specific matter at this stage (while we work our way through the rest of the departmental feedback). But I wanted to pick up quickly with you the point around the definition of a Treaty settlement Bill as contained in our drafting being narrower than the definition in the Principles of the Treaty of Waitangi Bill. I want to make sure we have not inadvertently narrowed the definition compared with the policy intent, so would be grateful to understand what legislation may be excluded from the scope of the RSB compared with the Treaty settlement Bill.

I'd be happy to have a quick chat tomorrow morning if that would be easier – that may provide also provide an opportunity to give you a quick update on some of the other feedback as well.

Ngā mihi
[Redacted]

From: [redacted] <9(2)(a)@tpk.govt.nz>
Sent: Friday, 14 March 2025 12:00 pm
To: [redacted] <9(2)(a)@regulation.govt.nz>
Cc: [redacted] <9(2)(a)@regulation.govt.nz>; [redacted] <9(2)(a)@regulation.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>
Subject: RE: Draft Cabinet paper consultation - Regulatory Standards Bill

Some people who received this message don't often get email from [redacted] <9(2)(a)@tpk.govt.nz>. [Learn why this is important](#)

Arohamai [redacted] I pressed play too soon. See the below feedback which includes an additional bullet point on Māori Purposes Bills being treated in the same vein as the Statute Amendment Bills due to their nature.

Te Puni Kōkiri's comments on the Draft Cabinet Paper are set out below:

Departmental Comment

Te Puni Kōkiri considers it would be helpful if you include the following departmental comment in the Cabinet Paper:

“Te Puni Kōkiri considers that the coalition commitment to pass a Regulatory Standards Bill to improve the quality of regulation could be met by passing legislation that respects the diverse range of perspectives and values New Zealanders have, including the perspectives and values of Iwi, Hapū and Māori, and does not elevate values of more importance to some New Zealanders above values of more importance to others. Te Puni Kōkiri does not consider that the proposals in the Cabinet Paper achieve that (which is reflected in the proportion of submissions on the discussion document which oppose the Bill). Te Puni Kōkiri is also concerned:

- *that the Regulatory Standards Bill (as currently proposed) does not recognise either the rights and interests of Iwi, Hapū and Māori recognised or created by Te Tiriti o Waitangi | the Treaty of Waitangi (Te Tiriti) or the constitutional importance of Te Tiriti; and*
- *at the resourcing and cost burden that would be imposed on the public service and, therefore, the Crown by the proposal that initial consistency assessments of all primary and secondary legislation must be undertaken not later than 10 years after any Regulatory Standards Bill comes into force.”*

Specific comments on the Draft Cabinet Paper

- The definition of 'Treaty settlement Bill' contained in the early legislation draft is a bit narrower than the definition of 'Treaty settlement Act' in the Principles of the Treaty of Waitangi Bill. We would be happy to work with the Ministry should you consider altering the definition which covered all relevant legislation.
- The Treaty settlement legislation needs to be excluded from review requirements (whether Bills or Acts).
- As noted in our feedback to Laura on 2 March, we also propose that Māori Purposes Bills are included as a bill to be specifically excluded as they are similar to Statutes Amendment Bills that the Ministry proposes excluding.
- (In relation to paragraph 29.6 and recommendation p. vi), not only Treaty Settlement Bills and other Bills that provide redress for Treaty claims but Treaty Settlement Acts and other Acts that provide redress for Te Tiriti claims should be excluded from the consistency requirements in the proposed Bill (or else the proposed legislation would require existing Treaty Settlement Acts to be reviewed for consistency, potentially opening up Treaty settlements and adversely impacting the honour of the Crown (which entered into the Deeds of Settlement those Acts implement). All those Acts

which are covered by the definition of “Treaty Settlement Act” in [clause 4](#) of the Principles of the Treaty of Waitangi Bill should be excluded from review requirements.

- The Cabinet paper should be clearer that Acts arising from Bills that are excluded from consistency requirements would also be exempt from consistency requirements.
- Given the principles in the Bill would apply to secondary legislation, as well as primary legislation, the proposed requirement (in paragraph 20.6 and recommendation d. vi. first bullet point) for ‘the responsible Minister’ to determine who is directly and materially affected by legislation should probably be changed to a reference to ‘the responsible Minister or maker’.
- It is unclear from the Cabinet Paper whether any thought has been given to imposing clear limits on the information that the Ministry for Regulation could require third-party service providers to provide (as proposed in para.s 44.1.5 and 45.1 and recommendation z. iii) e.g., would third party service providers potentially be required to provide the Ministry with sensitive information in relation to clients they provide services to and, if so, why would that be necessary to meet the purposes of the proposed Bill?
- The Cabinet Paper does not advise Cabinet Ministers that a contemporary Te Tiriti claim (Wai 3440) in relation to the proposed Regulatory Standards Bill is currently before the Waitangi Tribunal and an application for an urgent inquiry into that claim is currently being considered by the Tribunal. Therefore, the Cabinet Paper does not currently advise Cabinet Ministers of the potential risks and implications arising from that claim.
- The Cabinet Paper does not make clear (in paragraph 32 and recommendation s. i) what “knowledge, skills and experience” members of the proposed Regulatory Standards Board would have. Instead, the Cabinet Paper appears to propose that that would be a matter that is left solely to the discretion of the Minister for Regulation (without the Minister’s exercise of that discretion being subject to any Parliamentary or Cabinet oversight). We could express the view to the Ministry for Regulation that Cabinet and Parliament should be involved in making the decision about what knowledge, skills and experience should be represented on any Regulatory Standards Board and that that should include knowledge, skills and experience relating to te ao Māori and whenua Māori.
- The comma after “the law should be clear and accessible” in paragraph 20.1 and recommendation d. o. should be a semi-colon, as without that the meaning of the immediately following statements in those paragraphs becomes ambiguous.
- There is nothing to indicate that any assessment has been done of the likely resourcing requirements for Government of the proposed requirement (in paragraph 25.1 and recommendation k.) for initial consistency assessments of all primary and secondary legislation to be undertaken not later than 10 years after any Regulatory Standards Bill comes into force. That requirement could place a significant resourcing strain on the public service, and therefore the Crown, resulting in a need to either engage more public service staff or pay external consultants to undertake assessments (at consultancy rates).
- Paras 3 and 13 state that “Often when government regulates, key questions remain unanswered – including whether there is a real problem to solve, whether the benefits of regulating outweigh the costs and where costs and benefits fall.
- No evidence has been provided for this statement. The RIA system is supposed to address whether there is a problem to solve and the Legislation Guidelines include principles relating to only legislating when necessary and understanding the policy objective. This statement contrasts with the information in the RIS about the quality of NZ legislation – “NZ legislation rates reasonably well in international comparison.”
- Para 13 “Furthermore, because rules and regulations stay in place for a long period of time, it is difficult for the public to know who to hold account for the costs they face from poor quality or unnecessary regulation.” Again, there is no evidence for this statement. The Legislation website generally states which department administers the Act or secondary legislation.
- Para 12 states that a RIS and Treaty Impact Analysis have been completed but the paper does not discuss these further, when the paper is proposing a bill that differs in important respects from the Ministry’s preferred options in the RIS (see discussion in the RIS about the Ministry preferring to exclude secondary legislation and to not have a Board etc) and the Treaty Impact Analysis has

identified significant concerns. Similarly, the consultation paragraph notes the number of submissions but does not note the percentage opposed to the Bill.

Excluding secondary legislation within scope of consistency assessment requirements

Secondary legislation empowered under TPK legislation that is not made by Order in Council

Most of the secondary legislation empowered by legislation that TPK administers will be secondary legislation made by Order in Council (such as all the Regulations under TTWMA, the Māori Trustee Act 1953, MCDA etc). However, there is some secondary legislation under our legislation that is not made by Order in Council. We identify these below:

- The Trustees of Lake Rotoaira are authorised under the [Rotoaira Trout Fishing Regulations 1979](#) to set trout bag and size limits and prohibit fishing in certain waters (Regulations 26, 28 and 30). The Regulations provide that notices made under these provisions are secondary legislation. So, the Trustees of Lake Rotoaira will be affected by the proposal.
- Section 14(11) of the Maori Land Amendment and Maori Land Claims Adjustment Act 1926 provides that the Minister of Conservation may with the concurrence of the Tuwharetoa Maori Trust Board, by notice,—
 - (a) fix the forms and classes of fishing licences:
 - (b) fix the scope and effect of fishing licences or any specified class of fishing licences:
 - (c) fix the fees payable for any fishing licence.
- Subsection (12) provides that notices under subsection(11) are secondary legislation, so the Tuwharetoa Maori Trust Board is affected by this proposal.

Other impacts on entities by including secondary legislation

- We note that the Māori Land Court Rules are secondary legislation so will also be affected by the proposal. The Rules are made on the recommendation of the Chief Judge of the MLC and at least 2 members of the Rules Committee.
- Orders to validate/invalidate Māori Trust Board elections under sections 55 and 55A of the Māori Trust Board Act 1955 are secondary legislation so will also be caught by this proposal. There are currently 10 such orders (made between 2010 and 2024). The making of these orders can be an urgent matter for Māori Trust Boards since either members cannot take office until a validation order is made or a Board cannot run a new election until an irregular election is invalidated. This impacts the Boards and their beneficiaries.
- The Māori Land Court District Orders and the Māori incorporation orders should also be excluded from the secondary legislation review requirements.

We request that the secondary legislation identified above be excluded on the basis that:

- some are made by “makers” outside the executive and relate to fishing on lakes or rivers where ownership is vested with iwi or hapū. Requiring review of these would be an unnecessary administration burden on iwi.
- Māori Trust Board orders should be exempt as they do not affect the public, are routine, amendments would affect board authority, and review of proposed orders would cause unnecessary and harmful delay.
- The Māori Land Court Rules should be exempt as being technical rules of court and because these are made on the recommendation of the Māori Land Court Rules Committee.

We will provide [REDACTED] with any additional comments we have regarding the revised Treaty Impact Analysis.

We hope you find this feedback helpful. If you have any questions, please feel free to reach out to us.

Ngā mihi, nā
[REDACTED]

Policy Manager, Māori Sector Partnerships

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<9(2)(a)@tpk.govt.nz>; [redacted] <9(2)(a)@tpk.govt.nz>
Subject: RE: Draft Cabinet paper consultation - Regulatory Standards Bill

Kia ora [redacted]

Te Puni Kōkiri's comments on the Draft Cabinet Paper are set out below:

Departmental Comment

Te Puni Kōkiri considers it would be helpful if you include the following departmental comment in the Cabinet Paper:

"Te Puni Kōkiri considers that the coalition commitment to pass a Regulatory Standards Bill to improve the quality of regulation could be met by passing legislation that respects the diverse range of perspectives and values New Zealanders have, including the perspectives and values of Iwi, Hapū and Māori, and does not elevate values of more importance to some New Zealanders above values of more importance to others. Te Puni Kōkiri does not consider that the proposals in the Cabinet Paper achieve that (which is reflected in the proportion of submissions on the discussion document which oppose the Bill). Te Puni Kōkiri is also concerned:

- that the Regulatory Standards Bill (as currently proposed) does not recognise either the rights and interests of Iwi, Hapū and Māori recognised or created by Te Tiriti o Waitangi | the Treaty of Waitangi (Te Tiriti) or the constitutional importance of Te Tiriti; and*
- at the resourcing and cost burden that would be imposed on the public service and, therefore, the Crown by the proposal that initial consistency assessments of all primary and secondary legislation must be undertaken not later than 10 years after any Regulatory Standards Bill comes into force."*

Specific comments on the Draft Cabinet Paper

- The definition of 'Treaty settlement Bill' contained in the early legislation draft is a bit narrower than the definition of 'Treaty settlement Act' in the Principles of the Treaty of Waitangi Bill. We would be happy to work with the Ministry should you consider altering the definition which covered all relevant legislation.
- The Treaty settlement legislation needs to be excluded from review requirements (whether Bills or Acts).
- As noted in our previously, all Māori Purposes Bills need to be excluded from review requirements.

- (In relation to paragraph 29.6 and recommendation p. vi), not only Treaty Settlement *Bills* and other *Bills* that provide redress for Treaty claims but Treaty Settlement Acts and other Acts that provide redress for Te Tiriti claims should be excluded from the consistency requirements in the proposed Bill (or else the proposed legislation would require existing Treaty Settlement Acts to be reviewed for consistency, potentially opening up Treaty settlements and adversely impacting the honour of the Crown (which entered into the Deeds of Settlement those Acts implement). All those Acts which are covered by the definition of “Treaty Settlement Act” in [clause 4](#) of the Principles of the Treaty of Waitangi Bill should be excluded from review requirements.
- The Cabinet paper should be clearer that Acts arising from Bills that are excluded from consistency requirements would also be exempt from consistency requirements.
- Given the principles in the Bill would apply to secondary legislation, as well as primary legislation, the proposed requirement (in paragraph 20.6 and recommendation d. vi. first bullet point) for ‘the responsible Minister’ to determine who is directly and materially affected by legislation should probably be changed to a reference to ‘the responsible Minister or maker’.
- It is unclear from the Cabinet Paper whether any thought has been given to imposing clear limits on the information that the Ministry for Regulation could require third-party service providers to provide (as proposed in para.s 44.1.5 and 45.1 and recommendation z. iii) e.g., would third party service providers potentially be required to provide the Ministry with sensitive information in relation to clients they provide services to and, if so, why would that be necessary to meet the purposes of the proposed Bill?
- The Cabinet Paper does not advise Cabinet Ministers that a contemporary Te Tiriti claim (Wai 3440) in relation to the proposed Regulatory Standards Bill is currently before the Waitangi Tribunal and an application for an urgent inquiry into that claim is currently being considered by the Tribunal. Therefore, the Cabinet Paper does not currently advise Cabinet Ministers of the potential risks and implications arising from that claim.
- The Cabinet Paper does not make clear (in paragraph 32 and recommendation s. i) what “knowledge, skills and experience” members of the proposed Regulatory Standards Board would have. Instead, the Cabinet Paper appears to propose that that would be a matter that is left solely to the discretion of the Minister for Regulation (without the Minister’s exercise of that discretion being subject to any Parliamentary or Cabinet oversight). We could express the view to the Ministry for Regulation that Cabinet and Parliament should be involved in making the decision about what knowledge, skills and experience should be represented on any Regulatory Standards Board and that that should include knowledge, skills and experience relating to te ao Māori and whenua Māori.
- The comma after “the law should be clear and accessible” in paragraph 20.1 and recommendation d. o. should be a semi-colon, as without that the meaning of the immediately following statements in those paragraphs becomes ambiguous.
- There is nothing to indicate that any assessment has been done of the likely resourcing requirements for Government of the proposed requirement (in paragraph 25.1 and recommendation k.) for initial consistency assessments of all primary and secondary legislation to be undertaken not later than 10 years after any Regulatory Standards Bill comes into force. That requirement could place a significant resourcing strain on the public service, and therefore the Crown, resulting in a need to either engage more public service staff or pay external consultants to undertake assessments (at consultancy rates).
- Paras 3 and 13 state that “Often when government regulates, key questions remain unanswered – including whether there is a real problem to solve, whether the benefits of regulating outweigh the costs and where costs and benefits fall.
- No evidence has been provided for this statement. The RIA system is supposed to address whether there is a problem to solve and the Legislation Guidelines include principles relating to only legislating when necessary and understanding the policy objective. This statement contrasts with the information in the RIS about the quality of NZ legislation – “NZ legislation rates reasonably well in international comparison.”
- Para 13 “Furthermore, because rules and regulations stay in place for a long period of time, it is difficult for the public to know who to hold account for the costs they face from poor quality or

unnecessary regulation.” Again, there is no evidence for this statement. The Legislation website generally states which department administers the Act or secondary legislation.

- Para 12 states that a RIS and Treaty Impact Analysis have been completed but the paper does not discuss these further, when the paper is proposing a bill that differs in important respects from the Ministry’s preferred options in the RIS (see discussion in the RIS about the Ministry preferring to exclude secondary legislation and to not have a Board etc) and the Treaty Impact Analysis has identified significant concerns. Similarly, the consultation paragraph notes the number of submissions but does not note the percentage opposed to the Bill.

Excluding secondary legislation within scope of consistency assessment requirements

Secondary legislation empowered under TPK legislation that is not made by Order in Council

Most of the secondary legislation empowered by legislation that TPK administers will be secondary legislation made by Order in Council (such as all the Regulations under TTWMA, the Māori Trustee Act 1953, MCDA etc). However, there is some secondary legislation under our legislation that is not made by Order in Council. We identify these below:

- The Trustees of Lake Rotoaira are authorised under the [Rotoaira Trout Fishing Regulations 1979](#) to set trout bag and size limits and prohibit fishing in certain waters (Regulations 26 28 and 30). The Regulations provide that notices made under these provisions are secondary legislation. So, the Trustees of Lake Rotoaira will be affected by the proposal.
- Section [14\(11\)](#) of the Maori Land Amendment and Maori Land Claims Adjustment Act 1926 provides that the Minister of Conservation may with the concurrence of the Tuwharetoa Maori Trust Board, by notice,—
 - (a) fix the forms and classes of fishing licences:
 - (b) fix the scope and effect of fishing licences or any specified class of fishing licences:
 - (c) fix the fees payable for any fishing licence.
- Subsection (12) provides that notices under subsection(11) are secondary legislation, so the Tuwharetoa Maori Trust Board is affected by this proposal.

Other impacts on entities by including secondary legislation

- We note that the Māori Land Court Rules are secondary legislation so will also be affected by the proposal. The Rules are made on the recommendation of the Chief Judge of the MLC and at least 2 members of the Rules Committee.
- Orders to validate/invalidate Māori Trust Board elections under sections [55](#) and [55A](#) of the Māori Trust Board Act 1955 are secondary legislation so will also be caught by this proposal. There are currently 10 such orders (made between 2010 and 2024). The making of these orders can be an urgent matter for Māori Trust Boards since either members cannot take office until a validation order is made or a Board cannot run a new election until an irregular election is invalidated. This impacts the Boards and their beneficiaries.
- The Māori Land Court District Orders and the Māori incorporation orders should also be excluded from the secondary legislation review requirements.

We request that the secondary legislation identified above be excluded on the basis that:

- some are made by “makers” outside the executive and relate to fishing on lakes or rivers where ownership is vested with iwi or hapū. Requiring review of these would be an unnecessary administration burden on iwi.
- Māori Trust Board orders should be exempt as they do not affect the public, are routine, amendments would affect board authority, and review of proposed orders would cause unnecessary and harmful delay.
- The Māori Land Court Rules should be exempt as being technical rules of court and because these are made on the recommendation of the Māori Land Court Rules Committee.

We will provide [REDACTED] with any additional comments we have regarding the revised Treaty Impact Analysis.

We hope you find this feedback helpful. If you have any questions, please feel free to reach out to us.

Ngā mihi, nā

Policy Manager, Māori Sector Partnerships

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Waea Whakaahua F : 0800 875 329

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PO Box 3943, Wellington 6140, New Zealand



From: s9(2)(a) <[redacted]@regulation.govt.nz>
Sent: Wednesday, 12 March 2025 10:29 am
To: s9(2)(a) <[redacted]@regulation.govt.nz>
Cc: s9(2)(a) <[redacted]@regulation.govt.nz>; s9(2)(a) <[redacted]@regulation.govt.nz>
Subject: Draft Cabinet paper consultation - Regulatory Standards Bill

Some people who received this message don't often get email from s9(2)(a) <[redacted]@regulation.govt.nz>. [Learn why this is important](#)

Kia ora

Please find attached for your review and feedback a draft Cabinet paper seeking policy approvals for progressing the Regulatory Standards Bill. Also attached:

- a draft copy of key aspects of the Bill is attached. Please note there has been no decisions from Cabinet, the drafting reflects the Minister's intentions to better assist with consultation on the paper.
- the draft RIS and Treaty Impact Analysis for your reference. Both the RIS and TIA are subject to change as we continue to work through our analysis.

We are also expecting Crown Law advice to support departmental consultation. We will circulate this advice as soon as possible but are sending you the Cabinet paper now in the interest of maximising your time with the paper.

Important note: the attached papers contain advice that is subject to Crown legal privilege and cannot be shared outside of the core Crown. Please take care in the handling of these papers to avoid any inadvertent disclosures. If you have received this email and are outside the Crown's legal privilege please do not open the attachments and contact us immediately to advise.

Impact on broader public sector agencies

You will see the proposal now includes all secondary legislation within scope of consistency assessment requirements. Classes of legislation may be excluded from requirements by notice following approval by the House. We appreciate this proposal will have an impact on a broad range of agencies who are empowered to make secondary legislation. We ask in your feedback that you give

consideration to the potential impact on entities that fall within your policy areas and/or monitoring functions.

Drop-in session

Given the tight timeframes we are hosting a drop-in session via Teams at **11.30am Thursday 13 March**. We will provide a short overview of the proposals in the paper and give you an opportunity to ask the team any questions. I will shortly send out an invite to this session, please feel free to forward on within your agency, including to legal colleagues if required. As this session is likely to include discussion on legal aspects of the proposal, please do not forward the invitation beyond your own agency.

Timing

Unfortunately, as we are working to tight timeframes, we are asking for agency feedback **no later than 5pm Friday 14 March**. This timeframe reflects an intention for ministerial consultation to be undertaken between Thursday 20 March – Friday 28 March. Given the tight timeframes, it would be helpful if you could indicate whether you want a departmental comment included and provide the content of such a comment, should we be unable to fully reflect your feedback in the paper.

Ngā mihi

[Redacted]

[Redacted] (she/her)

Principal Advisor, Regulatory Management System

Ministry for Regulation | Te Manatū Waeture

Īmēra: **s9(2)(a)** regulation.govt.nz



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From: [Redacted]
Sent: Monday, 7 April 2025 1:51 pm
To: [Redacted]
Cc: [Redacted]
Subject: RE: Preparing for release of RSB papers

Kia ora [Redacted]

We don't have any issue with the proposed redactions on the grounds of legal privilege (covering CLO advice and other legal advice s9(2)(h) [Redacted]). We don't think there is anything else in the attachments that should be redacted.

Please note, our comment at paragraph 85 of the Cabinet paper is the TPK Policy view, rather than legal advice, so it should be retained in the released documents.

Ngā mihi
[Redacted]

[Redacted]
Principal Analyst
Māori Sector Partnerships, Policy Puni
Te Tari Matua – National Office



Tauwaea DDI: s9(2)(a) [Redacted] Waea Pūkoro M s9(2)(a) [Redacted]
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From: [Redacted] s9(2)(a) [Redacted] regulation.govt.nz>
Sent: Monday, 7 April 2025 12:45 pm
To: [Redacted] s9(2)(a) [Redacted] regulation.govt.nz>
Cc: [Redacted] s9(2)(a) [Redacted] regulation.govt.nz>; [Redacted] s9(2)(a) [Redacted] regulation.govt.nz>; [Redacted] s9(2)(a) [Redacted] regulation.govt.nz>
Subject: Preparing for release of RSB papers

Kia ora

We are currently working through announcement options and proactive release of relevant documents relating to the proposed Regulatory Standards Bill in anticipation of Cabinet decisions. We will let agencies know when documents have been published.

As you may be aware the Waitangi Tribunal is currently considering a request for an urgent hearing regarding the proposed RSB. We are working on the assumption that most of our documents will need to be provided to the Waitangi Tribunal on a short turn around (i.e some documents will need to be made available within 48 hours of Cabinet decisions). **Please note there is a high bar for any information to be withheld from documents going to the Waitangi Tribunal, therefore we are anticipating it is unlikely any information will be withheld other than for legal privilege. As the Waitangi Tribunal will make information provided to it publicly available, our proactive release**

is also likely to reflect this approach. I have reattached the Cabinet paper and departmental feedback appendix so you can see where we are proposing to withhold legally privileged information.

Given the documents we have circulated contain legally privileged information we would encourage you to transfer any OIAs you receive to us (when transfer grounds under the OIA are available) or engage with our ministerial team (hello@regulation.govt.nz) on any proposed releases.

Action: If you believe there is any additional information that should be withheld as legally privileged, we ask that you let us know as soon as possible – i.e within the next 24 hours. This is particularly relevant for agencies that have provided a departmental comment in the Cabinet paper. Apologies for the short timeframe, we are again working to a tight deadline.

Additionally, if there is information (particularly in Appendix 5: Summary of departmental feedback) that you consider should be withheld from proactive release and OIA requests please let us know the grounds and reasons. This will be helpful information for us, however, note the possibility that it may still need to be released through the Waitangi Tribunal process.

Ngā mihi

[Redacted] (she/her)
Principal Advisor, Regulatory Management System
Ministry for Regulation | Te Manatū Waeture
Īmēra: [s9\(2\)\(a\) \[Redacted\]@regulation.govt.nz](mailto:s9(2)(a)[Redacted]@regulation.govt.nz)



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Out of scope



From: [redacted] s9(2)(a) [redacted] regulation.govt.nz>
Sent: Tuesday, 22 April 2025 12:21 pm
To: [redacted] s9(2)(a) [redacted] @tpk.govt.nz>
Cc: [redacted] s9(2)(a) [redacted] @tpk.govt.nz>; [redacted] s9(2)(a) [redacted] @tpk.govt.nz>; [redacted] s9(2)(a) [redacted] @tpk.govt.nz>
Subject: RE: Departmental comment in RSB Cabinet paper

Hi [redacted]

Thank you I've updated the Cabinet paper as per the below. And my apologies I should have been clearer in my original email that the ability to bring legislation in via notice hadn't been changed.

In terms of timing from here we are still working towards lodging an updated paper tomorrow for Cabinet on 28 April but will keep you posted if there are any further developments.

Thanks again – and hope you had a lovely break over the long weekend!

Ngā mihi
[redacted]

From: [redacted] s9(2)(a) [redacted] @tpk.govt.nz>
Sent: Tuesday, 22 April 2025 11:23 am
To: [redacted] s9(2)(a) [redacted] regulation.govt.nz>
Cc: [redacted] s9(2)(a) [redacted] @tpk.govt.nz>; [redacted] s9(2)(a) [redacted] @tpk.govt.nz>; [redacted] s9(2)(a) [redacted] @tpk.govt.nz>

s9(2)(a) [redacted] tpk.govt.nz>

Subject: FW: Departmental comment in RSB Cabinet paper

Kia ora anō

My team meeting was cancelled so we are able to reply. [redacted] and I have considered your question about amending our comment. We would like to retain a comment about administrative burden if the proposal does include the ability to include secondary legislation. From our understanding of the option the Ministry for Regs are currently considering of a mechanism that would allow for secondary legislation to be included, this is our amended comment :

at the resourcing and cost burden that would be imposed on the public service and, therefore, the Crown, by the potential review requirements for classes of secondary legislation

Ngā mihi

[redacted]

[redacted]
Senior Solicitor | Poutoko Ture Matua
Te Puni Kōkiri, Te Tari Matua

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PO Box 3943, Wellington 6140, New Zealand

From: [redacted] s9(2)(a) [redacted] @tpk.govt.nz>
Sent: Tuesday, 22 April 2025 10:53 am
To: [redacted] s9(2)(a) [redacted] regulation.govt.nz>
Cc: [redacted] <s9(2)(a) [redacted] @tpk.govt.nz>; [redacted] <s9(2)(a) [redacted] @tpk.govt.nz>; [redacted] s9(2)(a) [redacted] tpk.govt.nz>
Subject: RE: Departmental comment in RSB Cabinet paper

Kia ora [redacted]



Ngā mihi

Senior Solicitor | Poutoko Ture Matua
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Waea Whakaahua F : 0800 875 329 | Paetukutuku W : www.tpk.govt.nz

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PO Box 3943, Wellington 6140, New Zealand

From: 9(2)(a)@regulation.govt.nz

Sent: Wednesday, 16 April 2025 3:21 pm

To: 9(2)(a)@tpk.govt.nz

Cc: 9(2)(a)@tpk.govt.nz; 9(2)(a)@tpk.govt.nz

Subject: RE: Departmental comment in RSB Cabinet paper

Hi

s9(2)(h)

Hopefully that makes sense but more than happy to have a chat 😊

Ngā mihi
[REDACTED]

From: [REDACTED] 9(2)(a) [REDACTED] <[REDACTED]@tpk.govt.nz>

Sent: Wednesday, 16 April 2025 12:52 pm

To: [REDACTED] s9(2)(a) [REDACTED] <[REDACTED]regulation.govt.nz>

Cc: [REDACTED] 9(2)(a) [REDACTED] <[REDACTED]@tpk.govt.nz>; [REDACTED] 9(2)(a) [REDACTED] <[REDACTED]@tpk.govt.nz>

Subject: RE: Departmental comment in RSB Cabinet paper

Kia ora [REDACTED]

9(2)(h)

RELEASED UNDER THE OFFICIAL INFORMATION ACT

9(2)(h)

Ngā mihi

[Redacted]

[Redacted]
Senior Solicitor | Poutoko Ture Matua
Te Puni Kōkiri, Te Tari Matua

Tauwaea DDI : | Waea Pūkoro M: 9(2)(a)
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PO Box 3943, Wellington 6140, New Zealand

From: [Redacted] <9(2)(a)@regulation.govt.nz>
Sent: Wednesday, 16 April 2025 11:23 am
To: [Redacted] <9(2)(a)@tpk.govt.nz>
Cc: [Redacted] <9(2)(a)@tpk.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>
Subject: RE: Departmental comment in RSB Cabinet paper

Thanks [Redacted] really appreciate that and will make sure we reinstate the original wording if those changes are not reflected in the final paper.

9(2)(h)

More than happy to have a chat if needed otherwise have a lovely break! 😊

From: [Redacted] <9(2)(a)@tpk.govt.nz>
Sent: Wednesday, 16 April 2025 10:32 am
To: [Redacted] <9(2)(a)@regulation.govt.nz>
Cc: [Redacted] <9(2)(a)@tpk.govt.nz>; [Redacted] <9(2)(a)@tpk.govt.nz>
Subject: RE: Departmental comment in RSB Cabinet paper

Ata mārie [Redacted]

Thanks for the update. We are happy for you to remove our departmental statement, as highlighted in your email, on the condition that it will be reinstated if the final paper includes a timeframe for reviews of existing legislation and existing secondary legislation will be included in the initial review requirements.

Have a great Easter break

Policy Manager, Māori Sector Partnerships

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From: 9(2)(a) <9(2)(a)@regulation.govt.nz>
Sent: Wednesday, 16 April 2025 8:41 am
To: 9(2)(a) <9(2)(a)@tpk.govt.nz>
Cc: 9(2)(a) <9(2)(a)@tpk.govt.nz>; 9(2)(a) <9(2)(a)@tpk.govt.nz>
Subject: Departmental comment in RSB Cabinet paper

Hi [redacted]

Hope you're having a lovely short week!

I'm coming initially with an apology that we haven't been in touch before now with the update that the RSB policy paper has been deferred to 28 April for consideration by Cabinet – although you may have already seen this via CabNet.

But we are currently working through two key changes we understand our Minister is proposing to make (caveated that nothing is finalised yet) including the requirement for legislation to be reviewed within 10 years and excluding existing secondary legislation from review requirements. The paper would no longer include a timeframe for reviews of existing legislation and existing secondary legislation will be excluded from initial review requirements.

Given those changes would you like to either remove or edit the final sentence of your departmental comment in the paper (highlighted below)? Of course if those changes do not eventuate in the final paper we will revert to your current wording.

Ideally if you could let me know today it would be hugely appreciated.

Thanks very much and happy to chat!

Ngā mihi
[redacted]

Te Puni Kōkiri considers that the coalition commitment to pass a Regulatory Standards Bill to improve the quality of regulation could be met by passing legislation that respects the diverse range of perspectives and values New Zealanders have, including the perspectives and values of Iwi, Hapū and Māori, and does not elevate values of more importance to some New Zealanders above values of more importance to others. Te Puni Kōkiri does not consider that the proposals in the Cabinet Paper

achieve that (which is reflected in the proportion of submissions on the discussion document which oppose the Bill). Te Puni Kōkiri is also concerned:

1.1 that the Regulatory Standards Bill (as currently proposed) does not recognise either the rights and interests of Iwi, Hapū and Māori recognised or created by the Treaty/te Tiriti or the constitutional importance of the Treaty/te Tiriti

1.2 at the resourcing and cost burden that would be imposed on the public service and, therefore, the Crown by the proposal that initial consistency assessments of all primary and secondary legislation must be undertaken not later than 10 years after any Regulatory Standards Bill comes into force.

[redacted] (she/her)
Principal Advisor, Regulatory Management System
Ministry for Regulation | Te Manatū Waeture
īmēra: **s9(2)(a)** regulation.govt.nz



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